

From: Eisenhuth, Gord TRAN:EX
Sent: Tuesday, August 30, 2011 12:02 PM
To: 'Mark Baron'
Subject: RE: Bridge at CNR mile 97.6 Okanagan Subdivision

Hi Mark. We did try to have the NTA (CTA) issue amending Orders to acknowledge the transfer of Road Authority responsibilities but they are of the opinion that if maintenance costs do not change an Order is not necessary. For obvious reasons I do not agree with that position.

No amending Order was issued. Read between the lines; the railway is still responsible.

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator, Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4B-940 Blanshard Street, P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5
Courier; 4B-940 Blanshard Street, VICTORIA BC V8W 3E6
Phone: 250-387-7733, Cell: 250-213-5966
e-mail: Gord.Eisenhuth@gov.bc.ca*

From: Mark Baron [<mailto:Baron@pushormitchell.com>]
Sent: Tuesday, August 30, 2011 11:50 AM
To: Eisenhuth, Gord TRAN:EX
Subject: RE: Bridge at CNR mile 97.6 Okanagan Subdivision

Thank you Gordon. I appreciate your assistance. After talking to you I had another look at the April 4th, 1996 letter from MOTH to the NTA. It would seem to me that based on the wording at the top of page 2 the railway is responsible for the full cost of the maintenance of the Evans Road crossing (or at least that was the Ministry's view of things back in 1996). The pretext for the letter was apparently a request for an order to be made by the federal government confirming MOTH's view of the respective responsibilities of the municipality and the railroad with respect to the Evans Road crossing. Do you know how I might go about determining whether in fact such an order was made and how I might obtain a copy of it?

Thanks in advance.

Mark Baron
Managing Partner
Direct Line: (250) 869-1155
Phone (Switchboard) : (250) 762-2108
Fax: (250) 869-1103
Email: Baron@pushormitchell.com
Web: <http://www.pushormitchell.com>
Pushor Mitchell LLP
Lawyers
301 - 1665 Ellis Street
Kelowna, BC V1Y 2B3

PUSHOR MITCHELL
LLP
LAWYERS & TRADE-MARK AGENTS

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From: Eisenhuth, Gord TRAN:EX [<mailto:Gord.Eisenhuth@gov.bc.ca>]
Sent: August-30-11 11:36 AM

To: Mark Baron
Subject: RE: Bridge at CNR mile 97.6 Okanagan Subdivision

Hi Mark. As discussed a few moments ago I have provided (below) a few web links to pages for information on the regulatory framework for rail-road crossings.

<https://www.otc-cta.gc.ca/eng/agency-role-canadas-rail-transportation-system>

<https://www.otc-cta.gc.ca/eng/road-crossings-railways>

As discussed the District of lake Country is now the Road Authority at the above mentioned location. In the Ministry's April 4th, 1996, letter to the National Transportation Agency (now the CTA) and copied to the municipality the Ministry was turning over all railway crossings on the road network to the Municipality. The Road Authority is responsible for roads at railway crossings. Maintenance costs are apportioned between the road and rail authorities in Orders or Agreements and are usually based on seniority.

I hope this helps.

Thank you,

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator, Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4B-940 Blanshard Street, P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5
Courier; 4B-940 Blanshard Street, VICTORIA BC V8W 3E6
Phone: 250-387-7733, Cell: 250-213-5966
e-mail: Gord.Eisenhuth@gov.bc.ca*

From: Mark Baron
Sent: August-02-11 11:47 AM
To: kevin.baskin@gov.bc.ca
Subject: Bridge at CNR mile 97.6 Okanagan Subdivision

Kevin, further to our telephone conversation of a few minutes ago attached is the letter from the Ministry of Transportation and Highways that I was referring to. The paragraph I read you over the phone is at the very top of page 2. I'm having a bit of difficulty interpreting the letter in light of the last paragraph at the bottom of the first page which appears to say that the District assumed the responsibility for maintenance of the roads including the crossings effective May 9, 1996. At first blush this appears to contradict what is stated at the top of page 2 and I'm trying to reconcile the 2 statements. Any assistance you can give would be greatly appreciated. If you wish you may call me on our toll free line (1-800-558-1155).

Thanks in advance.

Mark Baron
Managing Partner
Direct Line: (250) 869-1155
Phone (Switchboard) : (250) 762-2108
Fax: (250) 869-1103
Email: Baron@pushormitchell.com
Web: <http://www.pushormitchell.com>
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Eisenhuth, Gord TRAN:EX

From: Eisenhuth, Gord TRAN:EX
Sent: Tuesday, August 30, 2011 11:36 AM
To: 'Baron@pushormitchell.com'
Subject: RE: Bridge at CNR mile 97.6 Okanagan Subdivision

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<https://www.otc-cta.gc.ca/eng/agencys-role-canadas-rail-transportation-system>

<https://www.otc-cta.gc.ca/eng/road-crossings-railways>

As discussed the District of lake Country is now the Road Authority at the above mentioned location. In the Ministry's April 4th, 1996, letter to the National Transportation Agency (now the CTA) and copied to the municipality the Ministry was turning over all railway crossings on the road network to the Municipality. The Road Authority is responsible for roads at railway crossings. Maintenance costs are apportioned between the road and rail authorities in Orders or Agreements and are usually based on seniority.

I hope this helps.

Thank you,

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator, Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4B-940 Blanshard Street, P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5
Courier: 4B-940 Blanshard Street, VICTORIA BC V8W 3E6
Phone: 250-387-7733, Cell: 250-213-5966
e-mail: Gord.Eisenhuth@gov.bc.ca*

From: Mark Baron
Sent: August-02-11 11:47 AM
To: kevin.baskin@gov.bc.ca
Subject: Bridge at CNR mile 97.6 Okanagan Subdivision

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Thanks in advance.

Mark Baron**Managing Partner****Direct Line:** (250) 869-1155**Phone (Switchboard) :** (250) 762-2108**Fax:** (250) 869-1103**Email:** Baron@pushormitchell.com**Web:** <http://www.pushormitchell.com>**Pushor Mitchell LLP**

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BB

ORDER NO. 70984

THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

WEDNESDAY, THE 28TH DAY OF
JULY, A.D. 1948.

A. SYLVESTRE, K.C.,
Deputy Chief Commissioner.
F.M. MACPHERSON,
Commissioner.

RECEIVED
MINISTRY OF TRANSPORTATION & HIGHWAYS
VICTORIA, B.C.

JAN 24 1985

ANSWERED
NOTED
DATE

IN THE MATTER OF the
application of the Canadian
National Railways for an
Order, under Section 251 of
the Railway Act, authorizing
the reconstruction of bridge
over farm road crossing, in
the Province of British
Columbia, at mileage 97.6
Okanagan Subdivision, in
accordance with plan No.
E-2572.1 dated March 17th,
1948, on file with the Board
under file No. 16388.143:

UPON the recommendation of the Director of
Engineering of the Board--

IT IS ORDERED that the Canadian National
Railways be, and they are hereby, authorized to reconstruct
the said bridge over farm road crossing, in the Province
of British Columbia, at mileage 97.6 Okanagan Subdivision,
as shown on the said plan No. E-2572.1 dated March 17th,
1948, on file with the Board under file No. 16388.143.

Deputy Chief Commissioner,
The Board of Transport Commissioners for Canada.

From: Eisenhuth, Gord TRAN:EX
Sent: Thursday, August 11, 2011 11:03 AM
To: Guenard, Gislene TRAN:EX
Subject: RE: Evans Road Bridge District of Lake Country CNR mile 97.6 Okanagan Subdivision
Attachments: CN plan 1920.pdf; HWY plan 1910.pdf; CN-OKA-097_60.pdf; 37763.pdf

Hi Gislene.

This is what we can share without a FOI request. It is public information. Much of this information was shared with them previously.

A provincial public road provided access to the properties east of the railway in this area prior to railway construction (see attachment "HWY plan 1910.pdf"). The railway chose to replace this road with the overhead bridge on a slightly different alignment but serving these properties. This 'replacement' road fell under Provincial jurisdiction as a public road when the railway was constructed. It served Lots 10 and 11 and as such (serving two properties cut off from public roads) constituted a public road. All subdivided properties are required to have public access (road frontage). There could be no other classification for a road serving/accessing more than one property.

Some of these properties were further subdivided on the basis of having public road frontage. These public road frontages are accessed across the railway by using this public road bridge.

Please see attached drawings.

- "HWY plan 1910.pdf" = subdivision/road plan from 1910 (pre-railway)
- "CN plan 1920.pdf" = railway construction drawing showing original road alignment from 1920.

This public road and crossing were turned over to the District of Lake Country in 1996.

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator, Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4B-940 Blanshard Street, P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5
Courier; 4B-940 Blanshard Street, VICTORIA BC V8W 3E6
Phone: 250-387-7733, Cell: 250-213-5966
e-mail: Gord.Eisenhuth@gov.bc.ca*

From: Guenard, Gislene TRAN:EX
Sent: Wednesday, August 10, 2011 11:50 AM
To: Eisenhuth, Gord TRAN:EX
Subject: RE: Evans Road Bridge District of Lake Country CNR mile 97.6 Okanagan Subdivision

Hi Gord,

Do you know if any of these files listed below for "Evans" is the CNR bridge in question?

Thanks, Gislene

File Type	Location / Storage	Accession & Box Number	Paper Record Number	Electronic Record Number	Retrieval Code / Case Code	
Design - In-house	Access	92-9154-0008	14050-65	N/A	0	EVA
Bridge correspondence	Cube	90-7766-154	TRAN-22050-20/		7190	EVA
Bridge Corresp.	Cube Storage	91-9689-122	22050-20			EVA
IN HOUSE DESIGN	Access Storage	92-9154-0008	14050-65	N/A	0	EVA
Bridge Correspondence	P1	90-7766-217	TRAN-22050-20/1535711A		3300	Evar Builc

Gislene

Ph 250-356-2408

From: Baskin, Kevin TRAN:EX

Sent: Wednesday, August 10, 2011 9:32 AM

To: Guenard, Gislene TRAN:EX; Eisenhuth, Gord TRAN:EX

Subject: FW: Evans Road Bridge District of Lake Country CNR mile 97.6 Okanagan Subdivision

Gislene, Gord,

Can you look into how much documentation this is and then we should decide if we should just send it or if they should do a formal request thru FOI.

Kevin Baskin, P.Eng.
 Chief Bridge Engineer
 Ministry of Transportation and Infrastructure
 PO Box 9850 STN PROV GOVT
 Victoria, British Columbia, V8W 9T5
 (Location: 4B - 940 Blanshard Street, Victoria, BC)
 Phone: 250-387-7737
 Fax: 250-387-7735
 Cell: 250-812-5416
 Email: Kevin.Baskin@gov.bc.ca

From: Hazel Christy [mailto:hchristy@lakecountry.bc.ca]

Sent: Wednesday, August 10, 2011 8:50 AM

To: Baskin, Kevin TRAN:EX

Cc: Michael Mercer; csmith@okanagan.bc.ca

Subject: Evans Road Bridge District of Lake Country CNR mile 97.6 Okanagan Subdivision

Bridge Engineering Section
 Ministry of Transportation and Infrastructure
 PO Box 9850, Stn Prov Govt
 Victoria BC
 V8W9T5

Attention: Mr. Kevin Baskin, Chief Bridge Engineer

Dear Mr. Baskin

I would like to make a Freedom of Information Request for any material or correspondence that your branch may have pertaining to the use and maintenance of the Evans Road bridge at CNR mile 97.6 in the Okanagan Subdivision in the District of Lake Country. The District and residents are in discussions with CN concerning responsibility for bridge maintenance without any clear resolution. Recently we were made aware of the attached letter from your branch to the National Transportation Agency sent just after the District's incorporation in **1995** during a period when

responsibilities and files were being transferred from the Ministry of Transportation to the District of Lake Country. The letter was provided by the owners of one of the properties whose access is affected by the bridge. Does your branch have any other documents from around that time that pertain to the Evans Road bridge in particular? Perhaps a response from CN or the National Transportation Agency to this letter? The letter appears to be page 40 and 41 of some document. Do your files contain the rest of the document? Any information from your files on this item would be very helpful to us and we would appreciate your branch's assistance in this regard. Thank you.

Hazel Christy, MBA, MCIP
Corporate Officer
District of Lake Country



t: 250-766-5650 f: 250-766-2903 lakecountry.bc.ca

Eisenhuth, Gord TRAN:EX

From: Eisenhuth, Gord TRAN:EX
Sent: Wednesday, November 17, 2010 11:38 AM
To: 'Bethan Miller'
Subject: RE: Evans Road Bridge
Attachments: CN plan 1920.pdf; HWY plan 1910.pdf

Hi Bethan. All is well here.

Evans Road was always a difficult issue with the Ministry and CNR. CNR was always trying to abdicate responsibility for the bridge. CN incorrectly called it a Farm Crossing. When railways were constructed some public roads were wrongfully closed or called farm crossings. Most of these issues are now resolved.

A provincial public road provided access to the properties east of the railway in this area prior to railway construction (see attachment "HWY plan 1910.pdf"). The railway chose to replace this road with the overhead bridge on a slightly different alignment but serving these properties. This 'replacement' road fell under Provincial jurisdiction as a public road when the railway was constructed. It served Lots 10 and 11 and as such (serving two properties cut off from public roads) constituted a public road. All subdivided properties are required to have public access (road frontage). There could be no other classification for a road serving/accessing more than one property.

Some of these properties were further subdivided on the basis of having public road frontage. These public road frontages are accessed across the railway by using this public road bridge.

Please see attached drawings.

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- "CN plan 1920.pdf" = railway construction drawing showing original road alignment from 1920.

This public road and crossing were turned over to the District of Lake Country in 1996.

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator
Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4D-940 Blanshard Street
P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5*

*Phone: 250-387-7733
Cell: 250-213-5966
fax: 250-387-7735
e-mail: Gord.Eisenhuth@gov.bc.ca*

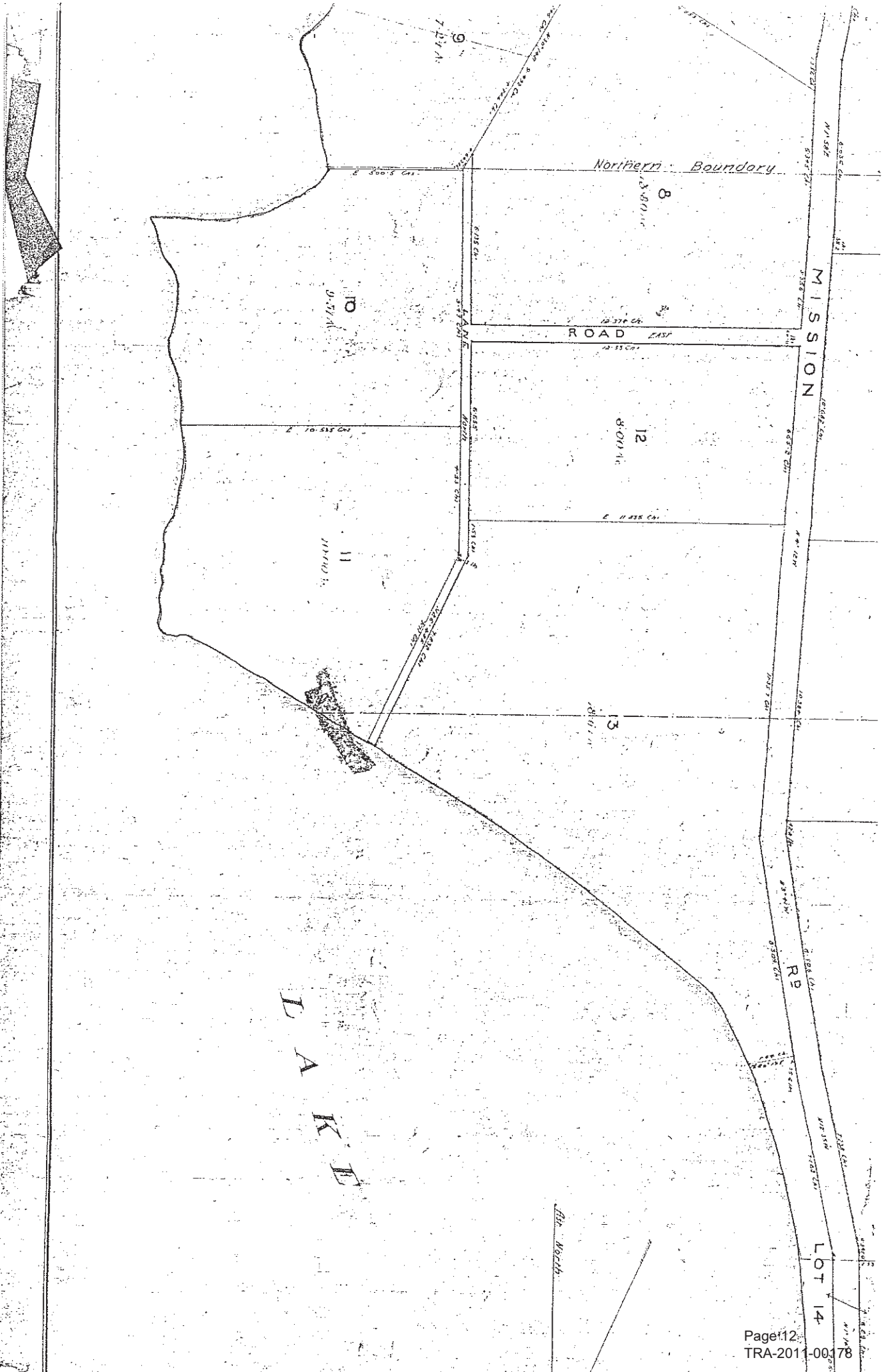
From: Bethan Miller [<mailto:bmiller@khawk.ca>]
Sent: Monday, November 15, 2010 2:36 PM
To: Eisenhuth, Gord TRAN:EX
Subject: Evans Road Bridge

Hi Gord: Hope everything is going well for you.

I have an overhead bridge crossing in Oyama at Mile 97.65 at Evans Road. Originally this was a farm crossing and then the farm was subdivided and a bunch of houses were built. According to the CTA, it looks like somehow MOTH became involved after that because when MOTH was applying to have all the crossings transferred to the District of Lake Country this crossing was listed as one of the crossings that MOTH was transferring. However, as it was never listed as a public crossing, and was still referred to as a farm/private crossing, the transfer was never made.

Can you shed any light on whether MOTH ever had jurisdiction over the crossing at Mile 97.65? Thanks for your help.

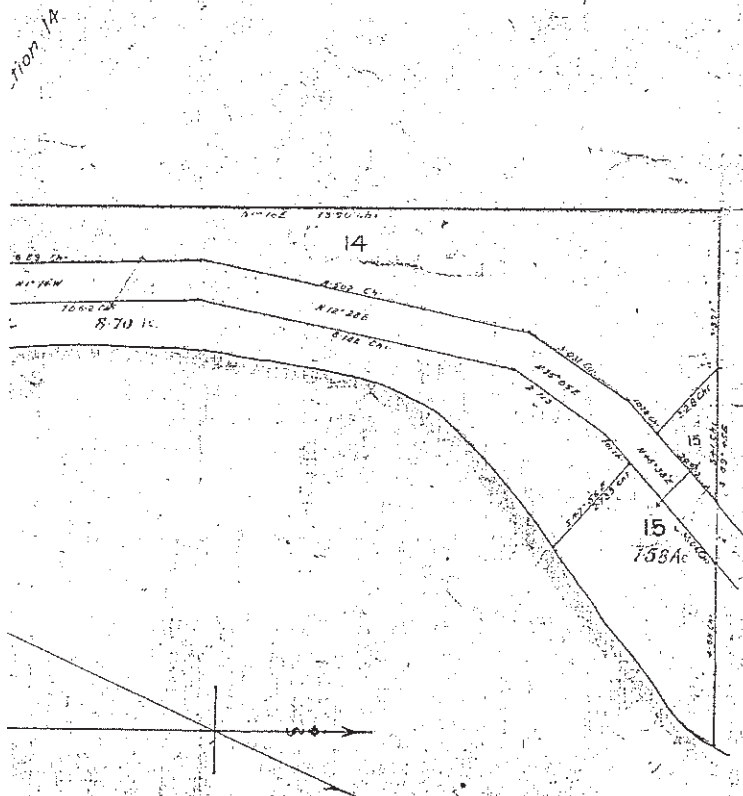
Sincerely,
Bethan Miller
Real Estate Administrator
Kelowna Pacific Railway
2806 - 27th Avenue
Vernon, B.C. V1T 9K4
bmiller@khawk.ca
Cell: 250-309-6762
Fax: 250-549-1589



OF

B. C.

Scale: 3 Chains = 1 inch



AP Commission
re³ Land Surveyor

17. E. M. Addicks
Per of E. M. Addicks

Winters A. J. Winters

Page 14
TRA-2011-00178

Attest

CANADIAN NATIONAL RAILWAYS
Plan Shewing Right of Way Required for
CANADIAN NORTHERN PACIFIC RAILWAY

THROUGH

LOTS 6, 7, 9, 10, 11, 12 & 13

in the subdivision of PARTS OF SECS. 11 & 14, TR. 14

(REG. PLAN No. 720)

& FR. S.W. 1/4 OF N.E. 1/4 SEC. 11, TR. 14

OSOYOOS DIVISION OF YALE DISTRICT

PROVINCE OF BRITISH COLUMBIA

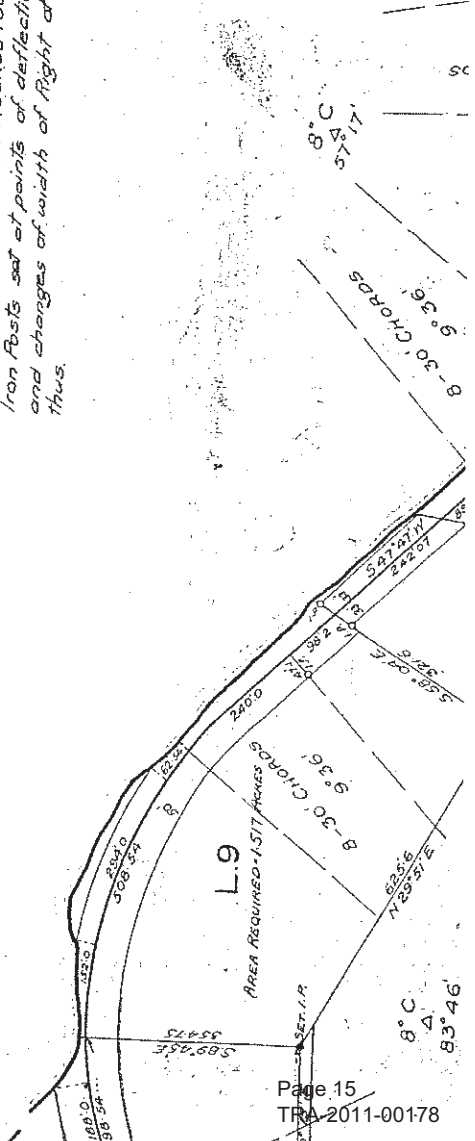
SCALE 1 INCH = 200 FEET

Note: All bearings are Astronomical derived from Observation
Iron Posts set at Lot corners are shown thus
Wooden Posts and Stone Mounds found are shown thus
Iron Posts set at points of deflection from tangents
and changes of width of Right of Way are shown thus.

I, Gerald M. Christie of the City of Vernon,
British Columbia Land Surveyor make oath
and say, that I was present at and did
personally superintend the Survey represented
by this Plan, and that the Survey and Plan
are correct. The said Survey was completed
on the 9th April, 1920.
Sworn before me this
12th day of April, 1920

G. M. Christie

Hughes, Surveyor





April 23, 2010

Our file: Z115-3-2/10-5

Mr. G. Eisenhuth
Rail, Navigable Waters Co-ordinator
Ministry of Transportation and Highways.
4D-940 Blanshard St.
Victoria BC
V6Z 2H2

Dear Ms Eisenhuth:

The Canadian Transportation Agency has received a request under the *Access to Information Act* for information relating to the overhead bridge on Evans Rd, Oyama, BC.

The information we retrieved relating to this request includes various documents provided to us by your institution. We are consulting with you with regards to the release of this information. Copies of these documents are enclosed..

You have 20 days from the mailing date of this Notice to make written representations to the undersigned as to why the information should not be disclosed. If you have not responded by the expiry of the 20-day period, the information will be disclosed. Any representations you make will result in a review of our intention to disclose the information.

Your representation should be mailed or sent by facsimile to the Canadian Transportation Agency, Access to Information and Privacy Coordinator, 15 Eddy Street, Gatineau, Quebec, K1A 0N9, Fax: (819) 997-6727.

Any questions that you may have regarding this matter may be directed to me at 819-994-2564, or patrice.bellerose@otc-cta.gc.ca.

Yours sincerely,

Patrice Bellerose
Access to Information and Privacy Coordinator

Enclosures

via fax # 819 953-5564

Bridge Engineering
Phone: 250 387-7733
FAX: 250 387-7735
File: CN-OKA-
March 6, 1997

Ian Spear
Director, Dispute Resolution
Canadian Transportation Agency
Ottawa Ont K1A 0N9

Dear Mr. Spear:

**Re: Crossing and Signal Maintenance Responsibility for Level Railway
Crossings of C.N. Okanagan Subdivision, District of Lake Country**

Please reference the Ministry's letter to your office dated April 4, 1996 requesting Orders to reflect the change in road authorities jurisdiction from the Ministry to the District of Lake Country. Attached please find a letter dated December 3, 1996 from the Municipality to this office indicating acceptance of the road authority's cost responsibilities at the following crossings:

Mile	Order No.
97.06	1994-R-9
98.76	105721
103.83	88017
104.48	R-28009

Other crossings requiring transfer where the road authority is not responsible for maintenance costs include the following:

Mile	Order No.
100.57	32073
101.16	32067
105.5	37641

Please advise of the status of this request.

Yours truly,

Gordon R. Eisenhuth

Gordon R. Eisenhuth
Rail, Navigable Waters Co-ordinator

CC: Al Erickson, Regulatory Support, CN West, Canadian National Railways.
10004-104 Avenue, Edmonton AB T5J 0K2. FAX # 403 421-6689(+)

*Please note - no further
reference to m 97.60,
in this letter so*

031



Bridge Engineering Branch
4D - 940 Blanshard Street
Victoria, BC V8W 3E6
Phone: 387-7734
Fax : 387-7735
April 4, 1996
File: CN-OKA

Marie-Paule Scott, Q.C.
Secretary, Rail Infrastructure
National Transportation Agency
15 Eddy Street
Ottawa, ON K1A 0N9

Dear Ms Scott:

**RE: Application for Change of Road of the following Crossings
from the Ministry of Transportation & Highways to the
District of Lake Country, B.C.**

Lake Access Road	CNR mile 97.06 Okanagan Subdivision
Evens Road	CNR mile 97.6 Okanagan Subdivision
Oyama Road	CNR mile 98.76 Okanagan Subdivision
Crawford Road	CNR mile 100.57 Okanagan Subdivision
Cliffe Road	CNR mile 101.16 Okanagan Subdivision
Woodsdale Road	CNR mile 103.83 Okanagan Subdivision
Lodge Road	CNR mile 104.48 Okanagan Subdivision
McCarthy Road	CNR mile 105.5 Okanagan Subdivision

Please find enclosed herewith a copy of the Letters Patent proclaiming the District of Lake Country dated February 24, 1995 and published in the B.C. Gazette May 25, 1995. The above mentioned crossings and highway approaches are within the municipality and the road authority is vested with the municipality

Municipal Act Part 13 division 2 sec 571

On behalf of the Minister of Transportation and Highways, I hereby make application under Section 41 of the National Transportation Act, for an Order naming the District of Lake Country, as the road authority at the above mentioned crossings. The Ministry will be maintaining the roads including the crossings on behalf of the District until May 8, 1996. Effective May 9, 1996, the District of Lake Country will assume all road maintenance. This approval will establish and safeguard the District of Lake Country's rights and responsibilities for the crossings.

.../2

040

At the following crossings the road authority is senior. The railway pays the maintenance of the crossings. Please note the District of Lake Country is the road authority.

Evans Road	CNR mile 97.6 Okanagan Subdivision
Cliffe Road	CNR mile 101.16 Okanagan Subdivision
McCarthy Road	CNR mile 105.5 Okanagan Subdivision

At the following crossings the road authority is senior. The road authority pays maintenance for 50% of the crossing signals and the railway pays the maintenance of the crossings and 50% of the crossing signals. Please amend orders Nos. 10572, 82575 and R-28009 naming the District of Lake Country responsible for the road authorities portion of the signal maintenance costs.

Oyama Road	CNR mile 98.76 Okanagan Subdivision
Woodsdale Road	CNR mile 103.83 Okanagan Subdivision
Lodge Road	CNR mile 104.48 Okanagan Subdivision

At the following crossing the railway is senior. The road authority pays maintenance of the crossings. Please amend orders Nos. 1994-R-9 and 37763 naming the District of Lake Country responsible for the crossing maintenance costs.

Lake Access Road	CNR mile 97.06 Okanagan Subdivision
Crawford Road	CNR mile 100.57 Okanagan Subdivision

Yours truly,

Brian G. DeCorte

Brian G. DeCorte
Regulatory Liaison Assistant

Enclosure

BGDC/mgh

CC: Terry Burtch, Director General, Railway Safety Directorate, Transport Canada,
344 Slater Street, 15th Floor, Canada Building, Ottawa, Ontario, K1A 0N5(+)
K. Tikkanen, Regional Director, Railway Safety Directorate, New Westminster, B.C.(+)
S.A. Cantin, General Solicitor, CN Rail, Montreal(+)
Rod Drennan, Municipal Clerk, District of Lake Country, 3250 B Berry Road Winfield,
BC V4V 1Y6 (+)

041

Eisenhuth, Gord TRAN:EX

From: Eisenhuth, Gord TRAN:EX
Sent: Thursday, April 1, 2010 9:52 AM
To: Parkes, Norm E TRAN:EX; Tekano, Murray M TRAN:EX
Cc: Richter, Kevin J TRAN:EX
Subject: RE: Evans Road Bridge
Attachments: Paul Lacoste.vcf; CN-OKA-97.pdf; CN-OKA-097_60.pdf

Hi Norm. This has always been a contentious issue with CNR (now KPR). CNR still own the infrastructure but KPR are the tenants and operators with responsibility to maintain. The lease agreement between CNR and KPR is a private document. CNR may and will ultimately be responsible to ensure KPR maintain its' infrastructure to a safe standard.

I have attached some past correspondence on this issue from Ministry files. Region properties may have more (please see file number references on the attached documents).

CNR, when building the railway were forced to ensure properties bisected by the railway were provided access. Evans Road Overhead was constructed to ensure continued public access to these lands. CNR, being the junior party, would be responsible to maintain the "crossing". It would be illegal for them to cut-off lands. While the bridge structure may be declared unfit by the railway and Transport Canada neither of these parties has the authority to close a public route. That responsibility resides with the parties by mutual consent and/or the Canadian Transportation Agency through the provisions of the Canadian Transportation Act.

The Canadian Transportation Agency has authority to resolve disputes (mediation being a first step) involving rights, privileges, costing issues and tenure of railway crossings. I have attached a business card for an Officer with the CTA. Below I have included a web link and an excerpt from their web page.



<http://www.otc-cta.gc.ca/index.php?lang=eng>

"Road Crossings of Railways

Road authorities are public or private bodies with the authority to construct and maintain roads. They may enter into or amend agreements with railway companies to construct, maintain or apportion the costs of road crossings of railways. Such crossings may be grade crossings (also called level crossings) or grade separations (subways and overhead bridges). When the parties file such agreements with the Agency, they become orders of the Agency authorizing the project as per the terms of the agreement. An Agency order establishes a

statutory right to cross at that location, is binding upon the parties, and can only be amended or rescinded using procedures set out in the *Canada Transportation Act*.

If the parties cannot agree on any issue related to constructing, maintaining or apportioning the costs of the crossing, either party may ask the Agency to resolve the dispute and to issue an order authorizing the crossing. Disputed issues may include the necessity of the crossing, the location, the costs of construction, the costs of maintenance, which party shall maintain the crossing, what rates are to be charged for construction or maintenance work, the type or size of crossing or supporting structure, the limits of a project, the project costs that will be shared, the duration of the agreement, liability, and other terms and conditions.

An interested party may also ask the Agency to vary or rescind an existing order respecting road crossings of railways."

*Gordon Eisenhuth
Rail, Navigable Waters Coordinator
Engineering Branch
Ministry of Transportation & Infrastructure
Province of British Columbia
4D-940 Blanshard Street
P.O. BOX 9850 STN PROV GOVT
VICTORIA BC V8W 9T5*

*Phone: 250-387-7733
Cell: 250-213-5966
fax: 250-387-7735
e-mail: Gord.Eisenhuth@gov.bc.ca*

From: Parkes, Norm E TRAN:EX
Sent: Wednesday, March 31, 2010 5:56 PM
To: Tekano, Murray M TRAN:EX; Eisenhuth, Gord TRAN:EX
Cc: Richter, Kevin J TRAN:EX
Subject: FW: Evans Road Bridge

Murray
Any of your long time staff have any insight into the tenure of the crossing?

Gord
Your thoughts would be appreciated? Any practices or policies on crossing maintenance?

Thanks
Norm

From: Letnick, Norm [mailto:N.Letnick@leg.bc.ca]
Sent: Wednesday, March 31, 2010 5:25 PM
To: Parkes, Norm E TRAN:EX
Subject: Evans Road Bridge

Any suggestions?

From: s.22
Sent: March-31-10 4:09 PM
To: Letnick, Norm; Ron Cannan. Email; Gilmore, Shelley
Subject: Fw: Evans Road Bridge

This is an issue that will likely require your assistance in getting resolved, please see below.

Phone me if you need more info s.22

Regards

Noreen Guenther

Sent on the TELUS Mobility network with BlackBerry

From: Alberto De Feo <administrator@lakecountry.bc.ca>
Date: Wed, 31 Mar 2010 13:18:14 -0700
To: Mayor and Council<mayorcouncil@lakecountry.bc.ca>
Cc: Kate Berniaz<kberniaz@lakecountry.bc.ca>; Michael Mercer<engineer@lakecountry.bc.ca>; Brian McEwan<bmcewan@lakecountry.bc.ca>
Subject: Evans Road Bridge

Mayor and Council,

I wish to offer the following information that you may share with the residents from the Evans Road Bridge area on the closure of the bridge:

HISTORICAL:

- We were told today by Transport Canada that the bridge belongs to CN and it was built by the Railway in 1924. This clarifies a long standing issue as to the ownership of the bridge. KPR and CN had denied or been vague at best in the past as to the ownership and tried to convince the municipality that we should fix or replace the bridge;
- The bridge is unsafe and cannot support heavy weight traffic any longer. The safety concern is becoming more of an issue with the passage of time;
- When Randy Rose was the administrator of the District, he tried to assist with the safety issue and began discussions with KPR to provide options to the residents. Randy's impression has always been that KPR was trying to deflect responsibility and liability over to the District. Notwithstanding the fact that we do not own the bridge, we did the following out of good intentions and in good faith, hoping that KPR would come to a more cooperative attitude:
 - Minor repairs to the decking of bridge to ensure further sustainability of the structure. Although not a permanent solution, it has helped in the last little while
 - Negotiated a temporary access crossing through Mr. Walsh property. Again this is a temporary situation and we are concerned when summer comes the kind of traffic that will be going through private property
 - We hired a consultant to inspect and provide us and KPR with an estimate for either repair or replacement of the bridge
 - Posted load limits on the bridge as recommended by the consultant

All this was done with District money, notwithstanding we do not own the bridge. I believe our good faith was shown more than once.

- Last week KPR informed us verbally that the bridge would be closed. We tried to contact Transport Canada and KPR but unsuccessfully. Our Director of Engineering, Michael Mercer, was finally able to reach Kevin Woods at KPR, who finally said: "It's my bridge, and I'm closing it."
- We found out that both KPR and Transport Canada have no protocol, nor any intention to have one, to deal with residents that may be affected by this kind of situations. In other words, they count on the heat be taken by local government as a natural conduit for individuals' frustration. It appears that there is no accountability and no desire to be accountable.

WHAT WE ARE DOING:

1. Michael is trying to contact KPR to discuss what they intend to do. I believe the reason of their behaviour is to force the District to take responsibility of the bridge altogether and pay for a replacement. The cost, affecting the taxpayers would be of a couple of million dollars, plus future maintenance. Again, why the taxpayers should be paying for infrastructure that does not belong to us?
2. Kate is putting together an information package for the residents to inform them of what's happening.
3. I am requesting a legal opinion to see if we can force KPR to take action to provide permanent access to the residents in the area.
4. Michael is dealing with Mr. Walsh to find options to address concerns of vehicular traffic increase in the area during the summertime.
5. We wish to prepare and send a press release explaining the situation.

A few final notes: There is public interest in keeping access to the beach and so the existing easement should be maintained and KPR needs to take responsibility over its infrastructure.

I hope this helps.



Alberto S. De Feo, Ph.D.(Law)
Chief Administrative Officer
District of Lake Country
Phone: (250) 766-6671
Fax: (250) 766-2903

Please consider the environment before printing this email.

This message is confidential. It may also be privileged or otherwise protected by work product immunity or other legal rules. If you have received it by mistake, please let us know by e-mail reply and delete it from your system; you may not copy this message or disclose its contents to anyone. Please send us by fax any message containing deadlines as incoming e-mails are not screened for response deadlines. The integrity and security of this message cannot be guaranteed on the Internet.



Bridge Engineering Branch
4D - 940 Blanshard Street
Victoria, BC V8W 3E6
Phone: 387-7734
Fax : 387-7735
April 4, 1996
File: CN-OKA

Marie-Paule Scott, Q.C.
Secretary, Rail Infrastructure
National Transportation Agency
15 Eddy Street
Ottawa, ON K1A 0N9

FILE COPY

Dear Ms Scott:

**RE: Application for Change of Road of the following Crossings
 from the Ministry of Transportation & Highways to the
 District of Lake Country, B.C.**

Lake Access Road	CNR mile 97.06 Okanagan Subdivision
Evens Road	CNR mile 97.6 Okanagan Subdivision
Oyama Road	CNR mile 98.76 Okanagan Subdivision
Crawford Road	CNR mile 100.57 Okanagan Subdivision
Cliffe Road	CNR mile 101.16 Okanagan Subdivision
Woodsdale Road	CNR mile 103.83 Okanagan Subdivision
Lodge Road	CNR mile 104.48 Okanagan Subdivision
McCarthy Road	CNR mile 105.5 Okanagan Subdivision

Please find enclosed herewith a copy of the Letters Patent proclaiming the District of Lake Country dated February 24, 1995 and published in the B.C. Gazette May 25, 1995. The above mentioned crossings and highway approaches are within the municipality and the road authority is vested with the municipality

Municipal Act Part 13 division 2 sec 571

On behalf of the Minister of Transportation and Highways, I hereby make application under Section 41 of the National Transportation Act, for an Order naming the District of Lake Country, as the road authority at the above mentioned crossings. The Ministry will be maintaining the roads including the crossings on behalf of the District until May 8, 1996. Effective May 9, 1996, the District of Lake Country will assume all road maintenance. This approval will establish and safeguard the District of Lake Country's rights and responsibilities for the crossings.

.../2

At the following crossings the road authority is senior. The railway pays the maintenance of the crossings. Please note the District of Lake Country is the road authority.

Evans Road	CNR mile 97.6 Okanagan Subdivision
Cliffe Road	CNR mile 101.16 Okanagan Subdivision
McCarthy Road	CNR mile 105.5 Okanagan Subdivision

At the following crossings the road authority is senior. The road authority pays maintenance for 50% of the crossing signals and the railway pays the maintenance of the crossings and 50% of the crossing signals. Please amend orders Nos. 105721, 82575 and R-28009 naming the District of Lake Country responsible for the road authorities portion of the signal maintenance costs.

Oyama Road	CNR mile 98.76 Okanagan Subdivision
Woodsdale Road	CNR mile 103.83 Okanagan Subdivision
Lodge Road	CNR mile 104.48 Okanagan Subdivision

At the following crossing the railway is senior. The road authority pays maintenance of the crossings. Please amend orders Nos. 1994-R-9 and 37763 naming the District of Lake Country responsible for the crossing maintenance costs.

Lake Access Road	CNR mile 97.06 Okanagan Subdivision
Crawford Road	CNR mile 100.57 Okanagan Subdivision

Yours truly,



Brian G. DeCorte
Regulatory Liaison Assistant

Enclosure

BGDC/mgh

CC: Terry Burtch, Director General, Railway Safety Directorate, Transport Canada,
344 Slater Street, 15th Floor, Canada Building, Ottawa, Ontario, K1A 0N5(+)
K. Tikkanen, Regional Director, Railway Safety Directorate, New Westminster, B.C.(+)
S.A. Cantin, General Solicitor, CN Rail, Montreal(+)
Rod Drennan: Municipal Clerk, District of Lake Country, 3250 B Berry Road Winfield,
BC V4V 1Y6 (+)



Bridge Engineering Branch
Phone: 387-7734
Fax : 387-7735
30 January, 1996
File: CN-OKA

Mr. Rod Drennan
Municipal Clerk
District of Lake Country
3250 B Berry Road
Winfield, BC V4V 1Y6

FILE COPY

Dear Sir:

RE: Change of Road Authority of the Railways Crossings to the Municipality of Lake Country

With the incorporation of the Municipality, the road authority for all unclassified roads have been turned over to the Municipality (Part 13 Division 2 of the Municipal Act). By agreement, the Ministry is committed to routine road maintenance until May 9, 1996.

Since the railway crossings mentioned below are on Municipal roads, I hereby request that the Municipality accept by letter, that the District of Lake Country is the road authority and will accept the road authority's share of the maintenance costs of the crossing surface, and crossing signals as of May 10, 1996.

At the following crossings the road authority is senior. The railway pays the maintenance of the crossings:

Evans Road	CNR mile 97.6 Okanagan Subdivision
Cliffe Road	CNR mile 101.16 Okanagan Subdivision
McCarthy Road	CNR mile 105.5 Okanagan Subdivision

At the following crossings the road authority is senior. The road authority pays maintenance for 50% of the crossing signals and the railway pays the maintenance of the crossings and 50% of the crossing signals.

Oyama Road	CNR mile 98.76 Okanagan Subdivision
Woodsdale Road	CNR mile 103.83 Okanagan Subdivision
Lodge Road	CNR mile 104.48 Okanagan Subdivision

Page 2

At the following crossing the railway is senior. The road authority pays maintenance of the crossing.

Crawford Road CNR mile 100.57 Okanagan Subdivision

After receipt of your letter I will submit a request to the National Transportation Agency asking them to amend the Orders to reflect the current jurisdiction at the crossings. This approval will establish and safeguard the Municipality's rights and responsibilities to the crossing. A copy of the Orders are enclosed for your easy reference.

Yours truly,

A handwritten signature in cursive script that reads "Brian G. DeCorte".

Brian G. DeCorte
Regulatory Liaison Assistant

Enclosure
BGDC/mgh



MEMORANDUM

August 14, 1991

Ministry of Transportation & Highways
940 Blanshard Street
Victoria, BC V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, BC V2C 2T9

Attention: Mr. G.R. Eisenhuth

Facsimile: 828-4229

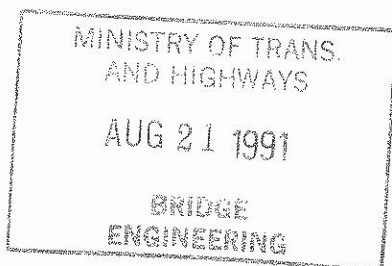
Telephone: 828-4279


Our File: PS 63288

RE: EVANS ROAD/CN OVERHEAD

Please advise this office of the status of your attempt to resolve our differences with CN. We have not heard from CN for quite some time, which surprises us as they seemed anxious to settle this matter.

Ross Dalpre
Regional Property Agent




Barry Patterson
Property Agent

BP:jpl



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

April 12, 1991

Ministry of Transportation
and Highways
940 Blanshard Street
Victoria, B.C. V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, British Columbia
V2C 2T9

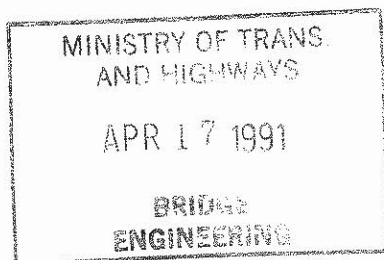
Attention: Mr. G.R. Eisenhuth
Regulatory Liaison Officer

Phone: 828-4279
Fax: 828-4229
File: PS 63288

RE: EVANS ROAD/CN OVERHEAD

Thank you for the information you left for me in Kamloops on the above matter.

I have reviewed my file and am attaching some correspondence that took place between this office and CN. Hopefully this will assist you in resolving this matter.



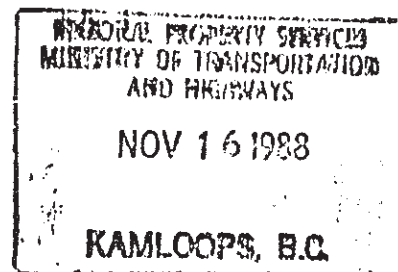
Ross Dalpre, AACI, RI(BC)
Regional Property Agent

Barry Patterson
Barry Patterson
Property Agent

BP:jp
attached

November 9, 1988

Our File: 805/548
Your File: PS 63288



Mr. G.A. Ward
Regional Property Negotiator
Ministry of Transportation and Highways
Regional Property Services
Province of British Columbia
523 Columbia Street
Kamloops, British Columbia
V2C 2T9

Attention: Barry Patterson, Property Agent

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision
B.C. M.O.T.H. Requirement for CN Property

I am sure you are aware that no progress has been made to settle the subject matter over the past year.

I understand the B.C. M.O.T.H. carried out an inspection of the bridge structure and recognized some possible deficiencies or problems. I verbally requested that, taking into consideration that assessment, a new offer be forwarded. It appears you have chose not to do so!

In your letters of April 15 and November 10, 1987, you requested evidence to support a position that the railway does not have a responsibility to continue to provide access to the area east of it's right-of-way. As stated in my letter of January 13, 1987, the bridge was constructed to provide access to the owners of Lots 10 and 11 only. It formed part of the acquisition of right-of-way settlement and no separate agreement exists. Canadian Northern Realties Ltd. acquired and have retained the triangular portion at the west end of the bridge for the approach thereto. Thus the structure spanned from Realty holdings on the west to private land on the east and conformed to a farm designation.

The bridge was never intended to accommodate Lot 13, commercial development and the general public. Through subdivision, consolidation, dedications and zoning on the east side, matters over which CN has no control, and with the M.O.T.H. widening of Evans Road, the bridge now spans between public roads. Obviously, these developments were never considered in 1920, whereby CN would be responsible for access and for maintenance costs, in perpetuity, for the benefit of the general public. I suggest the structure forms part of the highway system and the location of the road dedications on the east side appear to support that position.

I have recently circulated the background information relative to this matter through CN Rail seeking their advice which hopefully will serve as a basis for negotiating a settlement with you. In the meantime, perhaps you could re-consider Items 3, 4 and 7 of letter dated April 15, 1987 and determine any other terms on which the M.O.T.H. would be prepared to resolve our differences.

On receipt of CN Rail's response, I will contact you to arrange a meeting.

Yours truly,



W.C. Ramsay
Real Estate Officer
CN Real Estate

WCR/faw

Phone: (403) 421-6924



10004-104 Avenue
Edmonton, Alberta
T5J 0K2

10004-104^e avenue
Edmonton, Alberta
T5J 0K2

November 9, 1990

VIA FAXMITTAL, NO.: 1-604-828-4229

Your File: PS 63288
Our File: 805/548

PROPERTIES BRANCH
Ministry of Transportation & Highways

NOV 20 1990

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.,
PROPERTY AGENT

Dear Sir:

RE: MILE 97 - 98, OKANAGAN SUBDIVISION.

Further to my letter of November 6, 1990, I am reviewing our requirements in terms of re-instating and securing CN's property at this location.

I estimate that some 525 feet of fencing and 37 feet of concrete roadside barriers will have to be installed. Kindly advise if the Ministry wishes to supply the materials, materials and labour, or simply pay CN the costs and expenses related thereto. I want to arrange for completion of the work before year end.

In addition, I assume you will contact the owners of Lot 1 Plan 2120 and Lakeedge Estates Limited, as well as any other users the road was intended to accommodate.

The question of rentals and taxes for the unauthorized occupation will be addressed after November 30, 1990, assuming the Ministry decides to vacate CN's land.

Yours truly,


W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924

November 15, 1990

VIA FAXMITTAL, NO.: 1-604-828-4229

PROPERTIES BRANCH
Ministry of Transportation & Highways

Your File: PS 63288
Our File: 805/548

NOV 21 1990

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.,
PROPERTY AGENT

Dear Sirs:

RE: MILE 97-98 - OKANAGAN SUBDIVISION.

Thank you for your reply of November 13, 1990.

No, I was not aware that Gordon Eisenhuth was taking the issue of the overhead bridge crossing to the National Transportation Agency (N.T.A.) for a ruling. I requested clarification on the Ministry's letter of August 24, 1990, the context of which you were unable to explain. I received no response!

The N.T.A. has jurisdiction over crossings which in this case would include the bridge and the approaches thereto. Kindly elaborate on just what the Ministry of Transportation and Highways is seeking. On what is the N.T.A. being requested to rule and when can that decision be expected?

In terms of CN's right-of-way north of the bridge and land over which the N.T.A. has no jurisdiction, I must again emphasize that CN has no obligation, contractual or otherwise, to transfer the land in question, or any portion thereof, to the Ministry of Transportation and Highways. The Ministry entered upon and occupies CN land without authorization. To settle this matter, CN's offer, which relates to the bridge and the surrounding land, remains open for acceptance by the Ministry of Transportation and Highways until November 30, 1990.

Page 2/...

Ministry of Transportation and Highways
November 14, 1990
Page 2

Yes, it is indeed unfortunate that "some unnecessary aggravation", as you put it, will arise. Negotiating a settlement on all the issues, without the involvement of a third party, would have been preferable and in the best interests of both CN and the Ministry of Transportation and Highways. Addressing the issues in isolation may well produce a "no win" situation and give rise to extraordinary expenses to both parties.

I look forward to your response to the aforementioned.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9
Fax.: 828-4229
Telephone: 828-4268

Via Facsimile

Our File: PS 63288

November 19, 1990

C.N. Real Estate
10004 - 104th Avenue
Edmonton, Alberta
T5J 0K2

Attention: Mr. W.C. Ramsay
Senior Real Estate Representative

Dear Sir:

RE: MILE 97-98 - OKANAGAN SUBDIVISION

Thank you for your letter of November 15, 1990.

We have sent a copy of your letter to Gordon Eisenhuth to respond to your question about his application to the National Transportation Agency ("N.T.A.").

With respect to C.N.'s offer that this Ministry accept your offer, which includes the overhead, or vacate the land north of the overhead by November 30, 1990, is unacceptable. We feel that our proposal of November 13, 1990 to let the N.T.A. decide on who is responsible for providing access to the lots east of the overhead and you and I negotiate on the value of the land we require is the logical way to proceed.

It is not this Ministry's plan to vacate the road we have built on C.N.'s land by November 30, 1990. We have tried for several years to acquire this right-of-way from C.N. but your insistence that we assume the responsibility for the overhead has frustrated our efforts. It is obvious that C.N. sees this Ministry as a way of abdicating its responsibility of maintaining the said overhead. The decision of the N.T.A. should resolve this impasse and hopefully very shortly.

Yours truly,

Ross Dalpre, R.I. (B.C.), A.A.C.I.
A/Regional Property Agent

B. Patterson, A.I.M.A., C.R.A.
Property Agent

To

Barry Patterson

RE: EVAN'S ROAD / CN RAIL

Sorry I missed you on Tuesday, ~~was~~ the other meeting I had took longer than expected.

I have left you with this file for your review. Could you go through it and copy anything of interest for your file. Also I would like to have copies of letters etc. that are not on my file included and returned with the file. Once we can determine ~~that~~ what approach to take with CN Rail we can be prepared for a meeting with them when ever they pursue this matter.

Please call if you have any questions.

Glenn Eisenbach



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

Via Facsimile

Ministry of Transportation
and Highways
940 Blanshard Street
Victoria, B.C.
V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Fax.: 828-4229
Telephone: 828-4268 -
-427

Our File: PS 63288
Your File: 71-43-00

Attention: Mr. G.R. Eisenhuth
Regulatory Liaison Officer

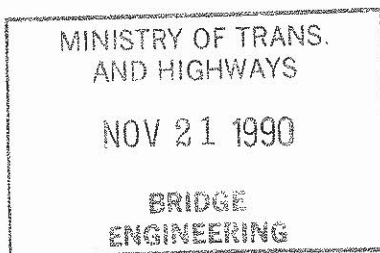
RE: MILE 97-98, OKANAGAN SUBDIVISION - EVANS ROAD

The attached letter was received in this office from C.N. I request that you respond to Mr. Ramsay's inquiry in the second paragraph. I will answer his other concerns.

Yours truly,

Yours truly,

R. Dalpre
A/Regional Property Agent




B. Patterson
Property Agent

BP:mc
Enclosure (1)



10004-104 Avenue
Edmonton, Alberta
T5J 0K2

10004-104 Avenue
Edmonton, Alberta
T5J 0K2

November 15, 1990

VIA FAXMITTAL, NO.: 1-604-828-4229

Your File: PS 63288
Our File: 805/548

PROPERTIES BRANCH
Ministry of Transportation & Highways

NOV 15 1990

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.,
PROPERTY AGENT

Dear Sirs:

RE: MILE 97-98 - OKANAGAN SUBDIVISION.

Thank you for your reply of November 13, 1990.

No, I was not aware that Gordon Eisenhuth was taking the issue of the overhead bridge crossing to the National Transportation Agency (N.T.A.) for a ruling. I requested clarification on the Ministry's letter of August 24, 1990, the context of which you were unable to explain. I received no response!

The N.T.A. has jurisdiction over crossings which in this case would include the bridge and the approaches thereto. Kindly elaborate on just what the Ministry of Transportation and Highways is seeking. On what is the N.T.A. being requested to rule and when can that decision be expected?

In terms of CN's right-of-way north of the bridge and land over which the N.T.A. has no jurisdiction, I must again emphasize that CN has no obligation, contractual or otherwise, to transfer the land in question, or any portion thereof, to the Ministry of Transportation and Highways. The Ministry entered upon and occupies CN land without authorization. To settle this matter, CN's offer, which relates to the bridge and the surrounding land, remains open for acceptance by the Ministry of Transportation and Highways until November 30, 1990.

Page 2/...

Ministry of Transportation and Highways
November 14, 1990
Page 2

Yes, it is indeed unfortunate that "some unnecessary aggravation", as you put it, will arise. Negotiating a settlement on all the issues, without the involvement of a third party, would have been preferable and in the best interests of both CN and the Ministry of Transportation and Highways. Addressing the issues in isolation may well produce a "no win" situation and give rise to extraordinary expenses to both parties.

I look forward to your response to the aforementioned.

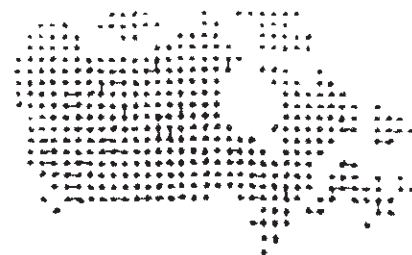
Yours truly,



W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658



TELECOPIER TRANSMISSION

DATE: November 21, 1990NO. OF PAGES TO FOLLOW: 2

TO:

NAME:

G.R. Eichenhuth

PHONE NUMBER:

CO. OR DEPT.:

Min. of Transp. & Highways

ADDRESS:

Province of British Columbia940 Blanchard StreetVictoria, B.C.

TELECOPIER NUMBER:

1-604-387-7735

ORIGINATOR:

NAME:

W.C. Ramsay

PHONE NUMBER:

1-403-421-6924

CN REAL ESTATE

#1000, 10004 - 104 AVENUE

EDMONTON, ALBERTA

T5J OK2

TELECOPIER NUMBER 1-403-421-6658

TELEPHONE NUMBER 1-403-421-6600

REMARKS:

OFFICE USE ONLY:

November 21, 1990

VIA FAXMITTAL, NO.: 1-604-828-4229

Your File: PS 63288
Our File: 805/548

Ministry of Transportation & Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.,
PROPERTY AGENT

Dear Sirs:

RE: MILE 97-98 - OKANAGAN SUBDIVISION.

Thank you for your letter of November 19, 1990.

Gordon Eisenhuth telephoned me on November 16, 1990. Apparently, he has not approached the "N.T.A." to date. After discussing matters related to the overhead bridge and the adjoining land, it was agreed that Mr. Eisenhuth would arrange for a meeting of CN and the Ministry of Transportation & Highways in Kamloops. The purpose, of course, would be to find a solution acceptable to both parties.

In view of your letter, I am not very optimistic. The Ministry found CN's offer unacceptable 4 years ago. Yet, that did not stop the Ministry from continuing on with their project, trespassing on CN's right-of-way without authority or concern. It does not surprise me that the Ministry now refuses to vacate CN land voluntarily.

Page 2/...

Ministry of Transportation & Highways
November 21, 1990
Page 2

Any further action to be taken by CN will be delayed pending the outcome of the proposed meeting.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

cc: Ministry of Transportation & Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

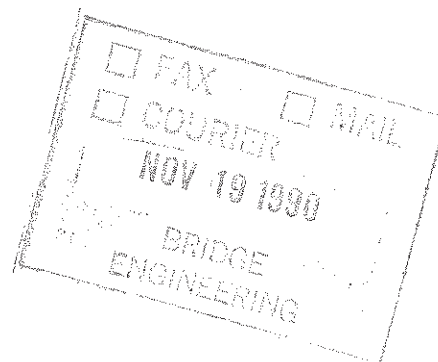


ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

VIA FAXMITTAL, NO.: 1-604-387-7735

Ministry of Transportation
and Highways

TELEX/FACSIMILE RECORD

Date November 19, 1990
File No PS 63288VIA: ☐ TELETYPE ☐ RADIO ☒ FACSIMILETO: Mr. G.R. Eisenhuth
940 Blanshard Street
Victoria, B.C.
Bridge Branch PHONE No. 387 7733FROM: Mr. B. Patterson
OFFICE OF THE REGIONAL PROPERTY AGENT
Ministry of Transportation & Highways
523 Columbia Street
Kamloops, B.C. V2C 2T9FAX No. 387 7735TELEX No. naFAX No. 828 4229PHONE No. 828 4279SUBJECT: MILE 97 98, OKANAGAN SUBDIVISIONEVANS ROAD, BRIDGE ENG. 71 43 00PAGES: 04
(including this sheet)MonicaPage 43
Operator's Signature TRA-2011-00178



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

Via Facsimile

Ministry of Transportation
and Highways
940 Blanshard Street
Victoria, B.C.
V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Fax.: 828-4229
Telephone: 828-4268

Our File: PS 63288
Your File: 71-43-00

Attention: Mr. G.R. Eisenhuth
Regulatory Liaison Officer

RE: MILE 97-98, OKANAGAN SUBDIVISION - EVANS ROAD

The attached letter was received in this office from C.N. I request that you respond to Mr. Ramsay's inquiry in the second paragraph. I will answer his other concerns.

Yours truly,

Yours truly,

R. Dalpre
A/Regional Property Agent


B. Patterson
Property Agent

BP:mc
Enclosure (1)



10004-104 Avenue
Edmonton, Alberta
T5J 0K2

10004-104 Avenue
Edmonton, Alberta
T5J 0K2

November 15, 1990

VIA FAXMITTAL, NO.: 1-604-828-4229

Your File: PS 63288
Our File: 805/548

PROPERTIES BRANCH
Ministry of Transportation & Highways

NOV 15 1990

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.,
PROPERTY AGENT

Dear Sirs:

RE: MILE 97-98 - OKANAGAN SUBDIVISION.

Thank you for your reply of November 13, 1990.

No, I was not aware that Gordon Eisenhuth was taking the issue of the overhead bridge crossing to the National Transportation Agency (N.T.A.) for a ruling. I requested clarification on the Ministry's letter of August 24, 1990, the context of which you were unable to explain. I received no response!

The N.T.A. has jurisdiction over crossings which in this case would include the bridge and the approaches thereto. Kindly elaborate on just what the Ministry of Transportation and Highways is seeking. On what is the N.T.A. being requested to rule and when can that decision be expected?

In terms of CN's right-of-way north of the bridge and land over which the N.T.A. has no jurisdiction, I must again emphasize that CN has no obligation, contractual or otherwise, to transfer the land in question, or any portion thereof, to the Ministry of Transportation and Highways. The Ministry entered upon and occupies CN land without authorization. To settle this matter, CN's offer, which relates to the bridge and the surrounding land, remains open for acceptance by the Ministry of Transportation and Highways until November 30, 1990.

Page 2/...

Ministry of Transportation and Highways
November 14, 1990
Page 2

Yes, it is indeed unfortunate that "some unnecessary aggravation", as you put it, will arise. Negotiating a settlement on all the issues, without the involvement of a third party, would have been preferable and in the best interests of both CN and the Ministry of Transportation and Highways. Addressing the issues in isolation may well produce a "no win" situation and give rise to extraordinary expenses to both parties.

I look forward to your response to the aforementioned.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

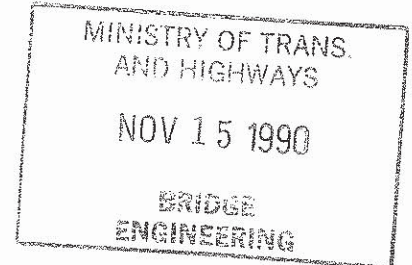
WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

November 6, 1990

VIA FAXMITTAL, NO.: 1-604-387-7735

Your Files: Bridge Eng.; 387-7733; & 71-43-00
Our File: 805/548



Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sir:

RE: MILE 97-98, OKANAGAN SUBDIVISION - EVANS ROAD - OYAMA, B.C.

I refer to my letter of September 10, 1990. Having received no response, am I correct in assuming that the Ministry is undertaking arrangements to provide alternate access to the users of CN property? If so, kindly advise when the Ministry has cleaned up our right-of-way such that an inspection can be carried out before snow covers the ground.

Alternatively, if I am incorrect in my assumption and the Ministry requires CN's property, I expect the Ministry to agree to settle the terms thereof by November 30, 1990. As of December 1, 1990, CN's offer is hereby withdrawn and any expenses and costs borne by CN to re-instate the property to a condition acceptable to CN will be to the Ministry's account.

Yours truly,


W. C. Ramsay
Senior Real Estate Representative

WCR/ms

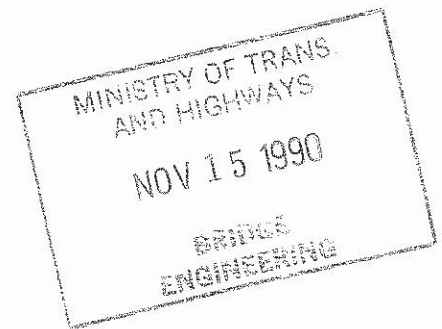
Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

Page 2/...

Ministry of Transportation and Highways
November 6, 1990
Page 2

cc: Barry Patterson
Property Agent
Regional Property Services
Ministry of Transportation and Highways
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

VIA FAXMITTAL, NO.: 1-604-828-4229





Province of
British Columbia

Ministry of
Transportation
and Highways

CN-OKA
940 Blanshard Street
Victoria
British Columbia
V8W 3E6

FAX: (604) 387-7735
August 24, 1990
Bridge Engineering
387-7733
71-43-00
YOUR FILE: 805/548

W.C. Ramsay
Real Estate Officer
C.N. Rail, Mountain Region
10004-104 Ave.
Edmonton, Alberta T5J 0K2

Dear Sir:

Reference: Railway Crossing at Oyama, B.C.
C.N.R. Mile 97.+ Okanagan Subdivision

Please reference your letter dated July 11, 1990 regarding the above mentioned crossing.

As you are aware, when a subdivision of lands occur, public access must be provided. This is usually provided by constructing a road to the divided lands. Since the railway is the junior party at this site it would appear that a public road on a road right-of-way was physically removed, effectively severing the subdivided properties from the public road network.

Since the railway is constructed in a deep "cut" at this location it is impractical to construct the road again in the same manner. In order to facilitate continued access to these lands the Ministry is prepared to reconstruct this road, less the costs of providing detouring and/or structure to overcome the railway cut. Any protection at a level railway crossing required as a result of the railway elevation would also be considered an extraordinary expense. As with any facility the Ministry would accept, certain standards and maintenance conditions must be met.

The subsequent subdivision mentioned in your letter was permitted based on the historical senior right of the road in this area.

Yours truly,

G. R. Eisenhuth
Regulatory Liaison Officer

GRE/vn
Enclosure

cc: Barry Patterson, Property Agent, Regional Property Services,
Thompson-Okanagan

EVANS RD.



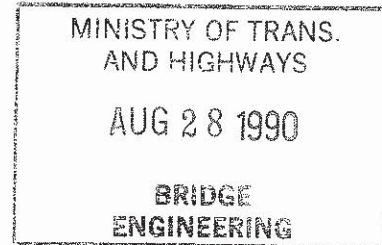
10004-104 Avenue
Edmonton, Alberta
T5J 0K2

10004-104^e avenue
Edmonton, Alberta
T5J 0K2

August 21, 1990

VIA FAXMITTAL: 1-604-387-7735

Your File: Bridge Eng.
387-7733
71-43-00
Our File: 805/548



Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sirs:

RE: MILE 97 - 98, OKANAGAN SUBDIVISION.

Kindly refer to the attached letter dated July 11, 1990.

May I have a reply.

Yours truly,


W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

cc: Barry Patterson
Property Agent
Regional Property Services
Ministry of Transportation and Highways
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Encls.

July 11, 1990.

Your File: Bridge Eng.
387-7733.
71-43-00.
Our File: 805/548.

Ministry of Transportation and Highways,
Province of British Columbia,
940 Blanshard Street,
Victoria, B.C.
V8W 3E6.

Attention: G. R. Eisenhuth,
Regulatory Liaison Officer.

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision.

Thank you for your prompt reply of July 3, 1990. I am, however, disappointed that the Ministry appears to be more concerned about "what provision will be made for a public crossing in this area by CN", rather than what the Ministry intends to do about having entered onto CN lands and constructed thereon without proper authority and without regard to the terms and conditions for the transfer thereof.

With respect to the second paragraph of your letter regarding the Ministry's examination of Plans 720 and A-334, you may have also noted that Plan A-334 does not indicate any severance. CN has never obtained title to that portion of lane crossing the right-of-way in order to provide for continuous ownership.

As part of the settlement agreement with the owners of Lots 10 and 11, Plan 720, east of the CN right-of-way, CN agreed to construct and maintain an overhead bridge and to reserve a triangular piece of land in Lot 10, west of the right-of-way, for the bridge approach.

The bridge was designated a farm overhead crossing, it was intended for private use and was not contemplated to augment the highway road system.

Ministry of Transportation and Highways,
Victoria -
July 11, 1990.
Page 2.

- - - - -

Subsequent Subdivision Plans B-4109, 4852, and 6738 appear to show the severance of the lake access lane and the establishment of the overhead bridge in lieu of cancellation--with the approval of the Ministry but not CN. Subdivision also created public ownership to land adjacent to the easterly approach of the bridge. In fact, by Plan 6738, the Ministry approved realignment of the lane between CN's right-of-way and the lake, tied to a farm crossing at grade, and allowed Lot 13 to gain access to the farm overhead crossing. Realignment of the lane, indeed, severed continuous ownership to public land shown on Plan 720, the lane being within CN's right-of-way, to the lane west of the right-of-way and to any other public land. As a result, the bridge now serves the public at large, including a business development on Lot 13.

If CN is to continue with the responsibility of providing access to Lots 10 and 11, or if the National Transportation Agency should become involved and determines that CN is obliged to provide public access, then CN must retain ownership of its land, allowing for flexibility in altering, reconstructing, and maintaining the structure, or perhaps in relocating the crossing.

As stated previously, CN has no obligation to sell the land at this location to the Ministry. CN wishes to cooperate in providing for the needs of the Ministry's project, but certainly not on the terms accepted by the Ministry to date.

Hopefully, upon reviewing the aforementioned, your involvement will lead to a speedy decision on this matter, be it to vacate CN's land or to settle on CN's terms.

I look forward to a response as soon as possible.

Yours truly,

W. C. Ramsay,
Senior Real Estate Representative,
CN Real Estate.

WCR/df
Phone: (403) 421-6924

Page 3/....

Real Estate
Immeubles

TELECOPIER TRANSMISSION

DATE: August 21, 1990NO. OF PAGES TO FOLLOW: 3EVANS ROAD

TO:

NAME: G. R. Eisenbuth

PHONE NUMBER: _____

CO. OR DEPT.: Min. of Transp. & HighwaysADDRESS: 940 Blanshard StreetVictoria, B.C.V8W 3E6

TELECOPIER NUMBER:

1-604-387-7735

ORIGINATOR:

NAME: W. C. Ramsay

PHONE NUMBER:

1-403-421-6924

CN REAL ESTATE

#1000, 10004 - 104 AVENUE

EDMONTON, ALBERTA

T5J 0K2

TELECOPIER NUMBER 1-403-421 6658

REMARKS:

Original copies to be
forwarded by mail.

OFFICE USE ONLY:

TIME SENT: _____

BY WHOM SENT: _____

DATE: _____



1004-104 Avenue
Edmonton Alberta
T5J 0K2

1004-104 Avenue
Edmonton Alberta
T5J 0K2

August 21, 1990

VIA FAXMITTAL: 1-604-387-7735

Your File: Bridge Eng.
387-7733
71-43-00
Our File: 805/548

Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sirs:

RE: MILE 97 - 98, OKANAGAN SUBDIVISION.

Kindly refer to the attached letter dated July 11, 1990.

May I have a reply.

Yours truly,

A handwritten signature in cursive script, appearing to read 'W. C. Ramsay'.

W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

cc: Barry Patterson
Property Agent
Regional Property Services
Ministry of Transportation and Highways
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Encls.

Real Estate
Insurance

Real Estate
Insurance

July 11, 1990.

Your File: Bridge Eng.
387-7733.
71-43-00.
Our File: 805/548.

Ministry of Transportation and Highways,
Province of British Columbia,
940 Blanshard Street,
Victoria, B.C.
V8W 3E6.

Attention: G. R. Eisenhuth,
Regulatory Liaison Officer.

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision.

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Ministry of Transportation and Highways,
Victoria -
July 11, 1990.
Page 2.

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I look forward to a response as soon as possible.

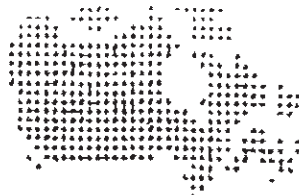
Yours truly,

W. C. Ramsay,
Senior Real Estate Representative,
CN Real Estate.

WCR/df
Phone: (403) 421-6924

CN Real Estate
Immobilier

TELECOPIER TRANSMISSION

DATE: November 6, 1990NO. OF PAGES TO FOLLOW: 2

TO: NAME: G. R. Eisenhuth
PHONE NUMBER: _____
CO. OR DEPT.: Min. of Transportation & Highways
ADDRESS: 940 Blanshard Street
Victoria, B.C.
V8W 3E6
TELECOPIER NUMBER: 1-604-387-7735

ORIGINATOR: NAME: W. C. Ramsay
PHONE NUMBER: 1-403-421-6924
CN REAL ESTATE
#1000, 10004 - 104 AVENUE
EDMONTON, ALBERTA
T5J 0K2
TELECOPIER NUMBER 1 403-421-6658
TELEPHONE NUMBER 1-403-421-6600

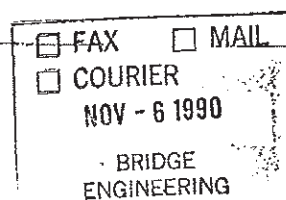
REMARKS: _____

OFFICE USE ONLY:

TIME SENT: _____

BY WHOM SENT: _____

DATE: _____



November 6, 1990

VIA FAXMITTAL, NO.: 1-604-387-7735

Your Files: Bridge Eng.; 387-7733; & 71-43-00
Our File: 805/548

Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sir:

RE: MILE 97-98, OKANAGAN SUBDIVISION - EVANS ROAD - OYAMA, B.C.

I refer to my letter of September 10, 1990. Having received no response, am I correct in assuming that the Ministry is undertaking arrangements to provide alternate access to the users of CN property? If so, kindly advise when the Ministry has cleaned up our right-of-way such that an inspection can be carried out before snow covers the ground.

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Yours truly,



W. L. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924

Fax No.: (403) 421-6658

Page 2/...

cc: Barry Patterson
Property Agent
Regional Property Services
Ministry of Transportation and Highways
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

VIA FAXMITTAL, NO.: 1-604-828-4229



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

600d

To: Mr. Readshaw
Director of Design and Surveys
Ministry of Transp. and Highways

Date: January 24, 1986
Branch/Dist: bridge
Address: 4d-940 Blanshard St.
Victoria, B.C.

Phone: 387-3275
Hdqtrs. File: 71-43-00
Region File:
District File:
Your File: L2-97-146

Attention: M.S. Ingram

RE: Proposed Relocation of Private
Crossing C.N.R. Mile 97.46 to
97.52 Okanagan Subdivision, Oyama

Please find enclosed herewith a copy of a C.N.R.
letter dated January 8, 1986.

Since the railway requires a letter of application
from the property owner we should contact Lakedge
Estates Limited about the proposal and indicate
that the Ministry will pay for all construction
costs and application fees required in the
relocation. They will be required to accept
the yearly rental fee in the application letter.
These matters should be taken up with them
in advance of the application which should
be made when the contract is awarded.

Please note the railway has indicated that
an easement for road purposes is required.

Could you please advise me of the negotiations
with the Estate Company and confirm that Property
Services is aware of the required easement so
I can keep C.N.R. informed.

A. C. Dimock
C.T.C. Liaison Engineer

GE/lf
Enclosure



	TO	INITIAL	DATE
OBE			
SEDE			
HCE			
APCE			
SES			
RII			
CTLL	✓		
CI			
ICLF			
QIM			
ICE			

Canadian National
Technical Services
454 Lorne Street
Kamloops, B.C.
V2C 1W3

Canadien National

8 January 1986

71-43-00

Reference E4705-OK-97.52

N/réf.

Province of British Columbia
Ministry of Transportation & Highways
940 Blanshard Street
Victoria, B.C.
V8W 3E6

Attention: Mr. A. C. Dimock, P. Eng.
C.T.C. Liaison Engineer

Dear Sir:

Re: Proposed Relocation of Private Crossing Mile 97.46 to Mile 97.52
Okanagan Subdivision, OKANAGAN


We acknowledge receipt of your letter dated January 02, 1986 together with Drawings R2-146-03A and 19A in response to the subject matter.

Locally, from an Engineering point of view the proposal as submitted appears to be satisfactory and therefore agreed in principal to the concept. Additionally, we would draw to your attention the requirement to purchase an easement of railway property for road purposes between the private crossing Mile 97.67 and Overhead Bridge Mile 97.73 Okanagan Subdivision. Also, it will be necessary for the current property owners Lakeedge Estates Limited to formally apply for a private crossing agreement which involves an application fee of \$250.00 and a yearly rental of \$50.00. The matter of all construction costs for the new private crossing and closure of the existing access is for the M.O.T.H. account.

We look forward to receiving your reply in this matter.

Yours truly

CANADIAN NATIONAL RAILWAYS


E.V. Bojda
Supervisor Technical Services

EVB:bac



QA/Good

Date: January 2, 1986
Branch/Dist.: bridge
Phone: 387-5377
Our File: 71-43-00
Your File:

Mr. E.R. Posyniak
C.N. Rail
454 Lorne Street
Kamloops, B.C.
V2C 1W3

Dear Sir:

RE: Private Crossing Relocation,
Mile 97.33 to
Mile 97.39 Okanagan Subdivision
Lakeedge Estates, Oyama

The Ministry hereby applies for the relocation of
the above mentioned private crossing.

Please find enclosed herewith one copy of drawing
number R2-146-03A and -19A showing the above
mentioned proposal.

This relocation is caused by nearby improvements
to Highway No. 97 which requires that the existing
highway access be closed.

The Ministry will pay for all construction work
including the closure of the existing crossing.

Since this is a private road the party named on
the private crossing agreement should be Lakeedge
Estates Limited, 4-3109 32nd Avenue, Vernon, B.C.

. . . /2



Although a construction date is not set the project supervisor will be in contact with your office when the Ministry is prepared to go ahead. If at this time we can get an agreement stating that the railway does not object to the relocated private crossing as shown on the above mentioned drawings it would be appreciated.

Yours very truly,

A. C. Dimock, P. Eng.
C.T.C. Liaison Engineer

GE/lf

Enclosure

cc: Mr. R.A. Walker, C.N.R., Edmonton

bcc: Mr. Readshaw, Director of Design and Surveys

Attn: Mr. M.S. Ingram



MEMORANDUM

To: Mr. A. C. Dimock
C.T.C. Liaison Engineer,
Bridge Branch

MINISTRY OF TRANS.

AND HIGHWAYS

DEC 17 1985

BRIDGE

ENGINEERING

Date:

Branch/Dist:

Address:

Phone:

Hdqtrs. File:

Region File:

District File:

December 16, 1985

Design & Surveys

4B, 940 Blanshard St.

Victoria, B.C. V8W 3E6

387-1264

L2-97-146

OYAMA

	TO	INITIAL	DATE
OBE			
SBDE			
BCE			
ABCE			
SPS			
BIE			
CTLE	✓		
CT			
CLE			
OM			
CF			

Re: Okanagan Highway Number 97
Oyama to Bailey Road
Project C-3619
Private Crossing C.N.R. Mile 97.39

Attached find one white print copy each of plan drawing number R2-146-03, profile drawing number R2-146-19 and a xerox copy of the key plan for the above project with the crossing circled in red.

Please forward the attached to the C.N.R. and request approval to relocate the existing crossing approximately 90 m south. This will be necessary for geometric reasons, and eliminates the direct access to Highway 97.

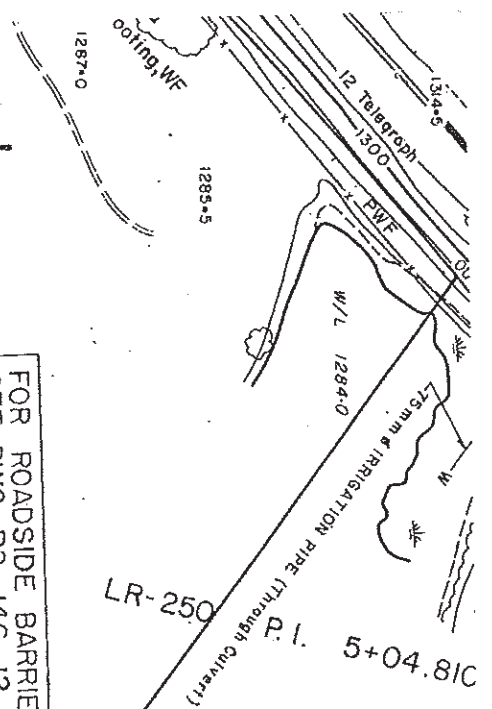
The property owner is Lakeedge Estates Ltd. at 4-3109 32nd Avenue, Vernon, B.C.

The construction date is not known at this time. We are hopeful that the project will be advertised in the near future but when is uncertain. You will be notified when the date becomes known.

Design and Surveys Branch
E. E. Readshaw, Director

M. S. Ingram
Senior Highway Design Engineer

WAB:kr
Attachment



FOR ROADSIDE BARRIER
SEE DWG. R2-146-12

APPROVED FOR R/W ACQUISITION

H 2 Story
CF, WF

DIRECTOR OF DESIGN AND SURVEYS

EXECUTIVE DIRECTOR ENGINEERING

DATE Nov 5/85

1985.11.05

20' R/W

SCALE 1 : 1000
DESIGNED M.N.S. DATE 85-11-22
CHECKED H.M.L. DATE 85-11-22

F	
E	
D	
C	
B	
A	ASPH. CURB & CULVERT

REVISIONS

	1	2	3	4
R	90	40	40	15
Δ	35° 15' 25"	Δ 83° 39' 50"	Δ 58° 44' 00"	Δ 57° 52' 50"
Tc	285.599	35.804	22.508	8.294
Arc	55.381	58.408	41.004	15.153
Ec	4.435	13.684	5.898	2.140
P.L.	1+30.916	4+56.380	5+04.810	5+42.051
B.C.	1+02.317	4+20.576	4+82.302	5+33.757
E.C.	1+57.698	4+78.984	5+23.306	5+48.910

LR-250 LINE

KALAMAL

Clearing & Grubbing
this sheet 6,560 ha

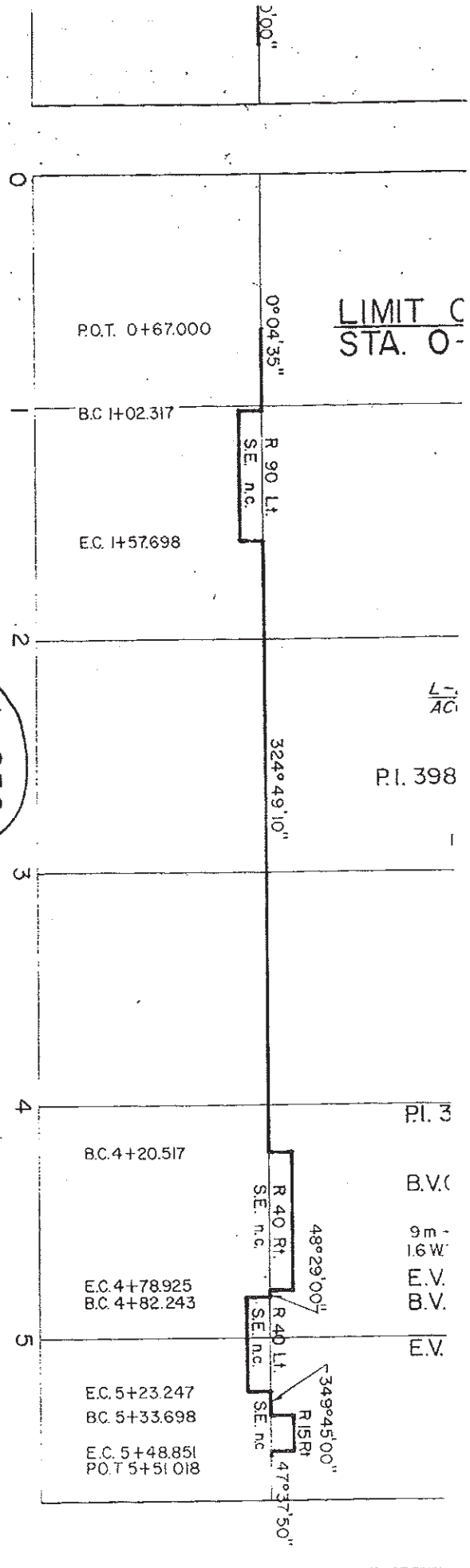


PROVINCE OF BRITISH COLUMBIA
MINISTRY OF TRANSPORTATION AND HIGHWAYS
DESIGN AND SURVEYS BRANCH

PLAN

OKANAGAN HIGHWAY No. 97
OYAMA - BAILEY RD.
STA. 19+08 to STA. 26+31

PREPARED UNDER THE DIRECTION OF <i>Heenan</i>		RECOMMENDED <i>Heenan</i>		ACCEPTED FOR CONSTRUCTION <i>McGee</i>	
DATE	Nov 22/85	DATE	Nov 6/85	DATE	Nov 5/85
INDEX	NEG. No.	FILE No.	PROJECT No.	REGION	DRAWING No.
			C3619	2	D2-112C 07



SCALE: HORIZ. 1"=2000 VERT. 1"=200

DESIGNED M.N.S. DATE 85-11-22
CHECKED H.J.L.L. DATE 85-11-22

F.	
E.	
D.	
C.	
B.	
A.	CULVERT

REVISIONS



PROVINCE OF BRITISH COLUMBIA
MINISTRY OF TRANSPORTATION AND HIGHWAYS
DESIGN AND SURVEYS BRANCH

PROFILE

OKANAGAN HIGHWAY No. 97
OYAMA - BAILEY RD.

L 200 ; L 225 ; L 250

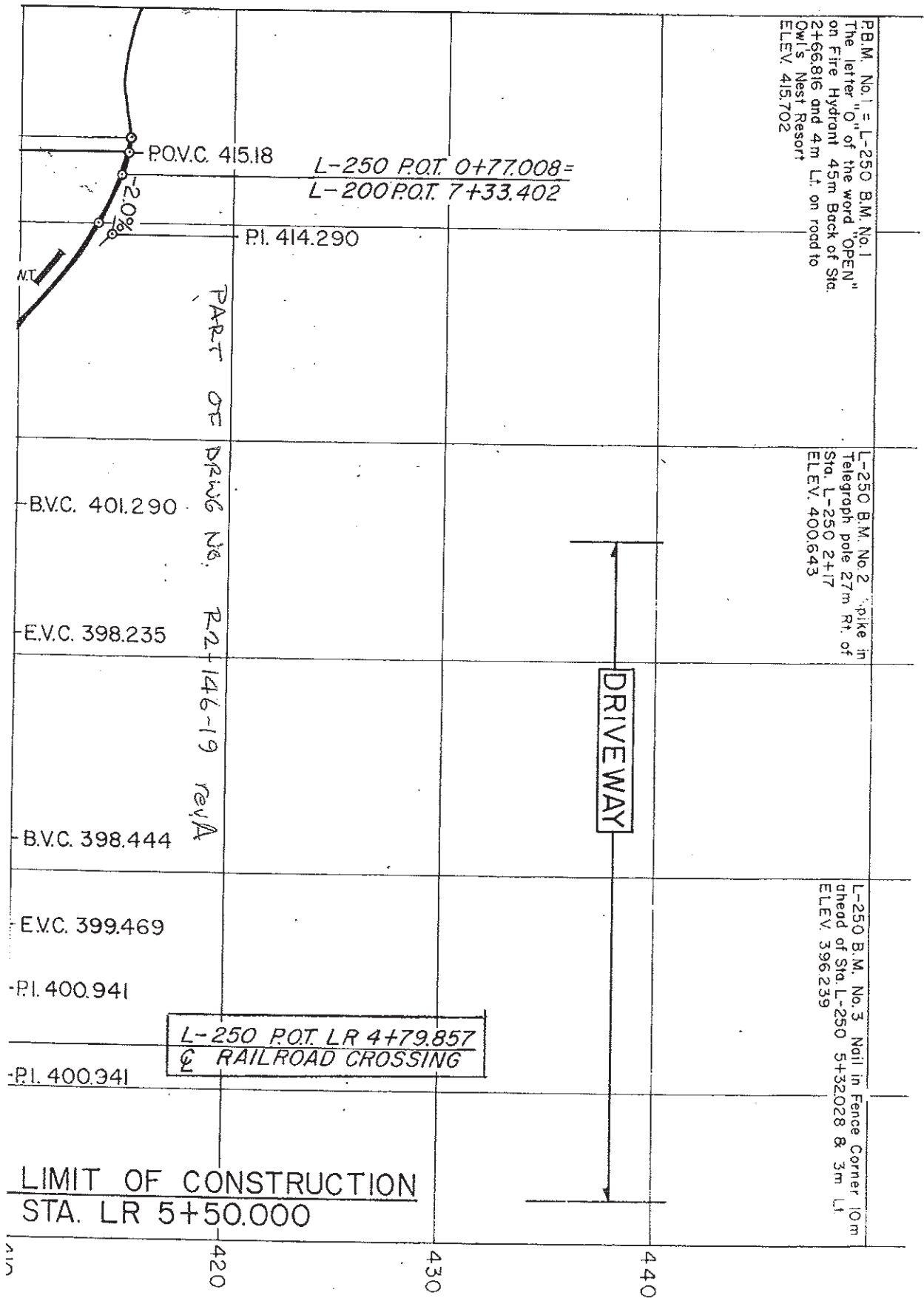
PREPARED UNDER THE DIRECTION OF		RECOMMENDED		ACCEPTED FOR CONSTRUCTION	
DATE	7 Nov 22/85	DIRECTOR OF HIGHWAY DESIGN AND SURVEYS	DATE	10 Dec 6/85	EXECUTIVE DIRECTOR OF TRANSPORTATION
INDEX	NEG. NO.	FILE NO.	PROJECT NO.	REGION	DRAWING NO.
			C 3619	2	R2-146-19
					A

CANCEL PRINTS BEARING EARLIER LETTER

STRUCTION

IO

P.O.G. 437.121



LIMIT OF CONSTRUCTION
STA. 9+25.000

400

MIT OF CONSTRUCTION
TA. 0+67.000

B.V.C. 415.190

P.O.V.C. 415.18

L-250

L-200

P.I. 414.290

V.C. SIDE ENTRANCE
15m-500 Ø C.S.P. 1.6 WT.

E.V.C. 409.610

-10.4%

SIDE ENTRANCE
10m-500 Ø C.S.P. 1.6 WT.

L-250 POT. 2+26.000 =
ACCESS Lt. & Rt. Side

B.V.C. 401.290

60 V.C.

P.I. 398.170

15m-500 Ø C.S.P. 1.6 WT.

E.V.C. 398.235

+0.219%

B.V.C. 398.444

40 V.C.

P.I. 398.488

E.V.C. 399.469

B.V.C. 399.960

40 V.C.

9m-500 Ø C.S.P.
1.6 WT. SKEW No. 115

E.V.C. 400.941

B.V.C. 400.941

P.I. 400.941

20 V.C.

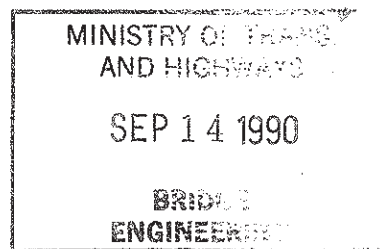
E.V.C. 399.988

P.I. 400.941

-9.529%

L-250 POT. L.
E RAILROAD

LIMIT OF CONSTRUCTION



September 10, 1990

Your Files: Bridge Eng.
387-7733
71-43-00
Our File: 805/548

Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sirs:

RE: MILE 97-98 OKANAGAN SUBDIVISION - OYAMA, B.C.

With respect to your letter of August 24, 1990, regarding matters at the subject location, I do not understand what the Ministry is proposing.

Referring to the third paragraph, third line - "these lands" - what lands? Fourth line - "reconstruct this road" - what road and from where to where? The remainder of this paragraph will be reviewed with CN Rail once the proposal, in detail, with perhaps a drawing, is received.

As to the "subsequent subdivision", you state that when a subdivision of lands occur, public access must be provided. I agree! Usually this requirement is covered by road dedication and that dedicated land would be tied to other public access. Do you agree? At the subject location, subdivision dedications were not connected to the senior road right-of-way. In fact, as I stated previously, by Plan 6738, the Ministry severed continuous ownership of the road right-of-way shown on Plan 720 between Evans Road and the lake.

Again, I draw your attention to Page 2, sixth and seventh paragraphs, of the July 11, 1990, letter.

Page 2/...

Ministry of Transportation and Highways
September 10, 1990
Page 2

Kindly give this matter priority.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924

Fax No.: (403) 421-6658

cc: Barry Patterson,
Property Agent,
Regional Property Services,
Ministry of Transportation and Highways,
Thompson-Okanagan,
523 Columbia Street,
Kamloops, B.C.,
V2C 2T9



FAX (604) 387-7735
August 24, 1990
Bridge Engineering
387-7733
71-43-00
YOUR FILE:805/548

W.C. Ramsay
Real Estate Officer
C.N. Rail, Mountain Region
10004-104 Ave.
Edmonton, Alberta T5J 0K2

Dear Sir:

Reference: Railway Crossing at Oyama, B.C.
C.N.R. Mile 97.+ Okanagan Subdivision

Please reference your letter dated July 11, 1990 regarding the above mentioned crossing.

As you are aware, when a subdivision of lands occur, public access must be provided. This is usually provided by constructing a road to the divided lands. Since the railway is the junior party at this site it would appear that a public road on a road right-of-way was physically removed, effectively severing the subdivided properties from the public road network.

Since the railway is constructed in a deep "cut" at this location it is impractical to construct the road again in the same manner. In order to facilitate continued access to these lands the Ministry is prepared to reconstruct this road, less the costs of providing detouring and/or structure to overcome the railway cut. Any protection at a level railway crossing required as a result of the railway elevation would also be considered an extraordinary expense. As with any facility the Ministry would accept, certain standards and maintenance conditions must be met.

The subsequent subdivision mentioned in your letter was permitted based on the historical senior right of the road in this area.

Yours truly,

G. R. Eisenhuth
Regulatory Liaison Officer

GRE/vn
Enclosure

cc: Barry Patterson, Property Agent, Regional Property Services,
Thompson-Okanagan

71-43-00

July 11, 1990.

Your File: Bridge Eng.
387-7733.
71-43-00.
Our File: 805/548.



Ministry of Transportation and Highways,
Province of British Columbia,
940 Blanshard Street,
Victoria, B.C.
V8W 3E6.

GENERAL OFFICE FILE

Attention: G. R. Eisenhuth,
Regulatory Liaison Officer.

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision.

Thank you for your prompt reply of July 3, 1990. I am, however, disappointed that the Ministry appears to be more concerned about "what provision will be made for a public crossing in this area by CN", rather than what the Ministry intends to do about having entered onto CN lands and constructed thereon without proper authority and without regard to the terms and conditions for the transfer thereof.

With respect to the second paragraph of your letter regarding the Ministry's examination of Plans 720 and A-334, you may have also noted that Plan A-334 does not indicate any severance. CN has never obtained title to that portion of lane crossing the right-of-way in order to provide for continuous ownership.

As part of the settlement agreement with the owners of Lots 10 and 11, Plan 720, east of the CN right-of-way, CN agreed to construct and maintain an overhead bridge and to reserve a triangular piece of land in Lot 10, west of the right-of-way, for the bridge approach.

The bridge was designated a farm overhead crossing, it was intended for private use and was not contemplated to augment the highway road system.

Ministry of Transportation and Highways,
Victoria -
July 11, 1990.
Page 2.

Subsequent Subdivision Plans B-4109, 4852, and 6738 appear to show the severance of the lake access lane and the establishment of the overhead bridge in lieu of cancellation--with the approval of the Ministry but not CN. Subdivision also created public ownership to land adjacent to the easterly approach of the bridge. In fact, by Plan 6738, the Ministry approved realignment of the lane between CN's right-of-way and the lake, tied to a farm crossing at grade, and allowed Lot 13 to gain access to the farm overhead crossing. Realignment of the lane, indeed, severed continuous ownership to public land shown on Plan 720, the lane being within CN's right-of-way, to the lane west of the right-of-way and to any other public land. As a result, the bridge now serves the public at large, including a business development on Lot 13.

If CN is to continue with the responsibility of providing access to Lots 10 and 11, or if the National Transportation Agency should become involved and determines that CN is obliged to provide public access, then CN must retain ownership of its land, allowing for flexibility in altering, reconstructing, and maintaining the structure, or perhaps in relocating the crossing.

As stated previously, CN has no obligation to sell the land at this location to the Ministry. CN wishes to cooperate in providing for the needs of the Ministry's project, but certainly not on the terms accepted by the Ministry to date.

Hopefully, upon reviewing the aforementioned, your involvement will lead to a speedy decision on this matter, be it to vacate CN's land or to settle on CN's terms.

I look forward to a response as soon as possible.

Yours truly,



W. C. Ramsay,
Senior Real Estate Representative,
CN Real Estate.

WCR/df
Phone: (403) 421-6924

Page 3/....

Ministry of Transportation and Highways,
Victoria -
July 11, 1990.
Page 3.

cc: Barry Patterson,
Property Agent,
Regional Property Services,
Ministry of Transportation and Highways,
Thompson-Okanagan,
523 Columbia Street,
Kamloops, B.C.
V2C 2T9.



Province of
British Columbia

Ministry of
Transportation
and Highways

940 Blanshard Street
Victoria
British Columbia
V8W 3E6

GENERAL OFFICE FILE

Fax (604) 387-7735
July 3, 1990
Bridge Eng.
387-7733
71-43-00
YR FILE: 805/548

W.C. Ramsay
Real Estate Officer
C.N. Rail, Mountain Region
10004-104 Ave.
Edmonton, Alberta, T5J 0K2

Dear Sir:

Reference: Railway Crossing at Oyama, B.C.
C.N.R. Mile 97 + Okanagan Subdivision

Please reference your letter dated June 12, 1990 directed to the Ministry's Regional office in Kamloops, B.C.

Be advised that the Ministry has found that the road to the subdivision on the lakeside was shown on Subdivision Plan No. 720, dated March 24, 1910. Since this road is also shown on the railway plan dated April 9, 1920 it appears that the roadway is senior. Copies of these plans are enclosed for your easy reference.

Based on the above mentioned information can you advise what provision will be made for a public crossing in this area.

Yours truly,

Brian G De Conte
for.

G. R. Eisenhuth
Regulatory Liaison Officer

GRE/vn
Enclosure

cc: Barry Patterson, Property Agent, Regional Property Services,
Thompson-Okanagan



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

June 11, 1990
PROPERTIES BRANCH
Thompson Okanagan
523 Columbia Street
Kamloops, B. C.
V2C 2T9
828-4279

G. R. Eisenhutch
Transport Canada Liaison Officer
Ministry of Transportation & Highways
4D - 940 Blanshard Street
Victoria, B. C.

PS 63288

Your file: 71-43-00

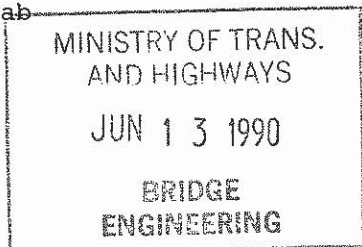
Re: CN Railway Crossing at Evans Road, Oyama

As per our telephone conversation on June 7, 1990, attached are prints of Plan 720 dated March 24, 1910 and Plan A-334 dated April 9, 1920.

Please determine who is senior and who is junior in this matter and advise us of the Ministry's position. If the Ministry is senior, how should we proceed?


Barry Patterson
Property Agent

BP/ab



Ministry of Transportation
and Highways

TELEX/FACSIMILE RECORD

Date

File No. June 19, 1990

VIA:

☐ TELETYPE☐ RADIO☐ FACSIMILE

PS2 50

TO:

~~Ministry of Highways~~
Transport Canada Liaison Officer
~~Victoria~~

FROM:

B. Patterson
Property Agent
Thompson-Okanagan
Kamloops

To: ~~C. Elsenbuth~~ PHONE No. ~~387-7733~~

FAX No. 387-7735 TELEX No.

FAX No. 828-4229 PHONE No. 828-4279

SUBJECT:

CN Overhead, Evans Road, Oyama, B.C.
File 71-43-00

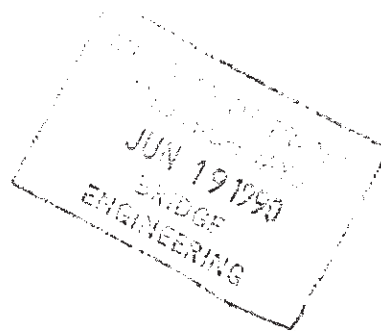
Attached are two letters from CN dated January 13/87 and November 9/88 which refer to CN's denial of being responsible for the overhead.

In the letter of January 13/87, only items #3 and 5 relate to the status of the overhead.

If we can provide any further information, please call me.

BP/ab

B. Patterson
B. Patterson
Property Agent



PAGES: 8
(including this sheet)



10004-104 Avenue
Edmonton, Alberta
T5J 0K2

10004-104th Avenue
Edmonton, Alberta
T5J 0K2

January 13, 1987.

Jane I. Fleming -- MCIP
Regional Manager

Directrice regionale

Our File: 805/548.
Your File: PN 63288.

Ministry of Transportation and Highways,
Regional Property Services,
Province of British Columbia,
523 Columbia Street,
Kamloops, B.C.
V2C 2T9.

Attention: G. A. Ward, B. Comm., R.I.(B.C.),
Regional Property Negotiator.

Dear Mr. Ward:

Re: Mile 97-98 Okanagan Subdivision -
B.C. M.O.T.H. Requirement for CN Property.

With reference to your letter of May 6, 1986 and to your subsequent discussions with our Mr. W. C. Ramsay on this matter, I am now providing you with some information upon which CN's proposal to the B.C. M.O.T.H. has been prepared.

Please refer to the attached drawings:

1. Plan A-334 -

CN right-of-way outlined green - relevant titles No. 31947F and No. 2081D.

CNRE land colored lime - title No. 31974F.

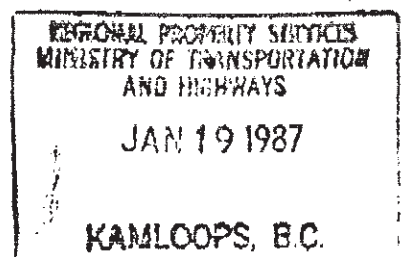
Unopened and unacquired road allowance colored brown.

2. B.C. M.O.T.H. Drawing -

CN right-of-way outlined green.

CNRE land colored lime.

Unopened road allowance hatched brown.



Ministry of Transportation and Highways,
Kamloops -
January 13, 1987.
Page 2.

- - - - -

2. B.C. M.O.T.H. Drawing - (Continued)

Proposed and/or existing public road allowances colored brown, excluding CN property.

CNR overhead bridge colored green, including approaches thereto.

Proposed private road colored black.

Access easement colored orange.

B.C. M.O.T.H. proposal to purchase CN lands - colored red (SW side only), yellow, and lime.

Private land colored purple, currently traversed by a good gravel road and possibly encroaching on CN property - colored red (NE side).

3. Overhead Bridge (Farm Crossing) - Mile 97.73 -

This bridge was constructed by the CNR in 1925 to provide access to the owners of Lots 10 and 11 only, from whom CN acquired right-of-way. No agreement exists to indicate that this interest automatically passes to heirs, successors and other parties. CN has been responsible for maintenance of the structure and reconstructed it in 1948. Apparently, it has a ten-ton load limit and is assessed at \$28,600.

4. Farm Crossing - Mile 97.67 -

No information has been found to determine what prompted installation of this crossing, nor why it was designated as a farm crossing. As you are probably aware, during the recent M.O.T.H. construction in this area, the owner of Lot 1, Plan 6738 (east of the CN

Ministry of Transportation and Highways,
Kamloops -
January 13, 1987.
Page 3.

- - - - -

5. Subdivision and Development - (Continued)

right-of-way) arranged to accept surplus material from west of the right-of-way. Without CN's permission, trucks hauling across the tracks damaged the planking to the extent that this crossing has now been removed and blocked off. CN does not intend to re-install and re-open this dangerous grade crossing at Mile 97.67.

5. Subdivision and Development -

Lot 11, Map 720, has been subdivided over the years, now forming four lots and creating the public road east of the overhead bridge.

Lot 2 of Lot 13, Plan 2120, and part of Lot 11, Map 720, have been subdivided, forming Lots 1 and 2, Plan 6738, and resulting in a realignment of the previous public road allowance between the CN right-of-way and Kalamalka Lake. The title of Lot 1, Plan 6738, also indicates a registered easement by Plan A-9206 (colored orange), granting access to the strata lots of Lot A, Plan 19539 (formerly Lot 12). This easement parallels the new public road allowance on the north side and is aligned with the farm crossing at Mile 97.67. In addition, the subdivision by Plan 6738 provided Lot 1 (formerly Lot 13) with title to a portion of Lot 11 (colored purple), thereby creating access to the overhead bridge. The bridge was never intended to serve as access to Lot 13.

In general, past and present developments in this area impact upon the status of both the grade and overhead crossings. They can no longer be considered farm crossings and are intended for more than private uses.

Page 4/....

Ministry of Transportation and Highways,
Kamloops -
January 13, 1987.
Page 4.

- - - - -

6. B.C. M.O.T.H. Requirements -

Sale of those CN lands colored red (SW side only), lime, and yellow will result in the following:

1. Reduction in CN's right-of-way width to less than 100 feet.
2. Loss of the southerly bridge approach and loss of land upon which the bridge itself may be located.
3. Creation of public road allowance on both sides of the overhead bridge and the farm crossing at Mile 97.67.

7. CN Proposal to B.C. M.O.T.H. -

1. CN wishes to retain a 100-foot right-of-way width and thus will not sell the area colored yellow.
2. CN offers to sell the red and lime areas southwest of the CN right-of-way--0.5 of an acre, more or less.
3. CN offers to sell the overhead bridge and a strip of land at the northeast end for the approach thereto.
4. CN will acquire title to the hatched brown area--between the new right-of-way boundary on the southwest side of our right-of-way to the existing CN right-of-way boundary on the northeast side--0.1 of an acre, more or less.
5. Legal survey and fencing costs will be borne by the M.O.T.H.

Ministry of Transportation and Highways,
Kamloops -
January 13, 1987.
Page 5.

- - - - -

7. CN Proposal to B.C. M.O.T.H. - (Continued)

6. CN administrative costs of \$500 will be borne by the M.O.T.H.
7. The M.O.T.H. will undertake the necessary submission to change the farm overhead bridge to public status.

I trust this lengthy response clarifies CN's concerns and position. Hopefully, our proposal will form the basis upon which to negotiate a settlement satisfactory to both parties.

Mr. W. C. Ramsay expects to be in Kamloops within a month and he will contact you beforehand to arrange a meeting. In the meantime, if you have any questions concerning the aforementioned, please contact Mr. Ramsay at the number indicated below.

Yours truly,



JIF (Miss) Jane I. Fleming,
Regional Manager Real Estate,
CN Real Estate.

WCR/JIF/df

Attachs.

Phone: (403) 421-6924

CN Real Estate
Immeubles

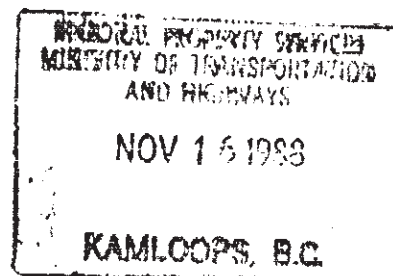
10004-104 Avenue
Edmonton, Alberta
T5J0K2

10004-104 Avenue
Edmonton, Alberta
T5J0K2

November 9, 1988

Our File: 805/548

Your File: PS 63288



Mr. G.A. Ward
Regional Property Negotiator
Ministry of Transportation and Highways
Regional Property Services
Province of British Columbia
523 Columbia Street
Kamloops, British Columbia
V2C 2T9

Attention: Barry Patterson, Property Agent

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision
B.C. M.O.T.H. Requirement for CN Property

I am sure you are aware that no progress has been made to settle the subject matter over the past year.

I understand the B.C. M.O.T.H. carried out an inspection of the bridge structure and recognized some possible deficiencies or problems. I verbally requested that, taking into consideration that assessment, a new offer be forwarded. It appears you have chose not to do so!

In your letters of April 15 and November 10, 1987, you requested evidence to support a position that the railway does not have a responsibility to continue to provide access to the area east of it's right-of-way. As stated in my letter of January 13, 1987, the bridge was constructed to provide access to the owners of Lots 10 and 11 only. It formed part of the acquisition of right-of-way settlement and no separate agreement exists. Canadian Northern Realties Ltd. acquired and have retained the triangular portion at the west end of the bridge for the approach thereto. Thus the structure spanned from Realty holdings on the west to private land on the east and conformed to a farm designation.

Page 2/....

Cont'd Requirement for CN Property
November 9, 1988
Page 2

The bridge was never intended to accommodate Lot 13, commercial development and the general public. Through subdivision, consolidation, dedications and zoning on the east side, matters over which CN has no control, and with the M.O.T.H. widening of Evans Road, the bridge now spans between public roads. Obviously, these developments were never considered in 1920, whereby CN would be responsible for access and for maintenance costs, in perpetuity, for the benefit of the general public. I suggest the structure forms part of the highway system and the location of the road dedications on the east side appear to support that position.

I have recently circulated the background information relative to this matter through CN Rail seeking their advice which hopefully will serve as a basis for negotiating a settlement with you. In the meantime, perhaps you could re-consider Items 3, 4 and 7 of letter dated April 15, 1987 and determine any other terms on which the M.O.T.H. would be prepared to resolve our differences.

On receipt of CN Rail's response, I will contact you to arrange a meeting.

Yours truly,



W.C. Ramsay
Real Estate Officer
CN Real Estate

WCR/faw

Phone: (403) 421-6924



G. A. Ward
Regional Property Agent
Ministry of Transportation
and Highways
Thompson-Okanagan, Kamloops

December 20, 1988
BRIDGE
4d-940 Blanshard St.
Victoria, B. C.
387-7733
71-43-00

RE: C.N. Railway Private Crossing Overhead at Evans Road
in Oyama, C.N.R. Mile 97.60 Okanagan Subdivision.

Reference your letter dated November 22, 1988 requesting information on the status of the above mentioned crossing. A search of my records did not indicate the existence of a public crossing at this location. C.N.R. did however, construct two farm crossings serving the properties severed at the time of the railway construction. These crossings must be maintained by the railway as long as those properties remain severed. I believe that the overhead is a farm crossing.

As you are aware a subdivider must provide public access to lands which are to be subdivided; this includes public railway crossings if the railway company is already in existence. The Ministry would then accept the future maintenance of the public crossing. At this time the subdivided properties do not have public access and are trespassing across railway lands on the overhead farm crossing.

Overheads carrying public roads must be maintained by the road authority regardless of seniority and we cannot accept an overhead which does not meet our standards. The existing overhead is railway property for the sole purpose of providing a farm access. It would then rest with the Ministry or subdivider to provide a suitable public crossing. I did however run across a few memorandums from 1958 which included a drawing with a right-of-way, apparently circa 1910, which would indicate this subdivision had a proposed public access in the pre railway years. If verification from the Land Registry Office is possible then the railway may be responsible for maintenance of a public level crossing for this route. In this case the railway may also be required to share in the extra costs incurred by constructing a suitable overhead or a detour to a level crossing. This could cause long, and protracted negotiations.

There are many other aspects which must be considered by this office before a public crossing is negotiated. Please advise.

G.R. Eisenhuth
TRANSPORT CANADA LIAISON OFFICER

Enclosure

GRE/sf

73rd day/292 to come

74th day/291 to come

80

WEDNESDAY
MARCH 15Temp:
Barom:

Weather:

Temp:
Barom:

WINNIE - HWYS
CNR MILE 8.83
ION.

FROM DIST
IRATION.

FEDERAL JURISDICTION.

ER BRETT - HWYS
XET# 2549 - CANADIAN
BRIDGE - HIT &

J HOLTZOLD, ENG & INSPEC.
MRS, RECREATION & CULTURE.
OF DAMAGED STRUCTURE.
BY HIS GROUP, COST
FOREST COMPANY.
- A.G.'S - TBC.

WNED STRUCTURE
PROTECTED, DO NOTHING.

PROPERTY SERVICES - KAMLOOPS (BERRY PIERCE)
CNR MILE 97.6 OKANAGAN SUB
EVAN'S ROAD OYAMA.

MEETING WITH CNR REAL ESTATE FRM EDMONTON

~~THE PROPOSED~~

- TOLD ME R/W FOR SUBDIVISION RD

PREDATES RAILWAY.

- TOLD HIM R/WY BRIDGE NOT UPTO STANDARD
AND ROAD AUTHORITY WILL NOT PAY FOR COSTS
ABOVE THAT OF A NORMAL R/WY (LEVEL) XING.
\$10,000.

GERRY FORGUARD - NANAIMO - TRAFFIC & DESIGN.

MUD BAY LEVEL CROSSING WIDENING

C.P.R. MILE 121.40 VICTORIA SUBD.

SIGNAL RELOCATION? \$10-15,000

CONTROLLER RELOCATION? \$5-15,000

it still within 23' & ROADWAY.



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

71-43-00

Gordon Eisenhuth
C.T.C. Liaison Officer
Ministry of Transportation & Highways
940 Blanshard Street
VICTORIA, B.C.
V8W 3E6

December 15, 1988
PROPERTY SERVICES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C. V2C 2T9
828-4261
PS 63288

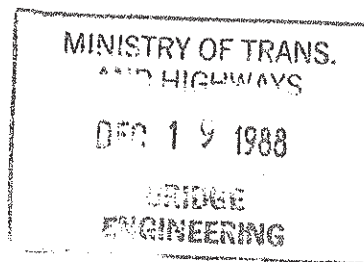
Re: C.N. Rail Overhead on Evans Road, Oyama

On November 22, 1988 we wrote to your office about the above matter. Since that date C.N. Rail has asked us if we could possibly have this matter expedited as it has been an ongoing situation since 1985.

Any assistance you can provide in this matter is greatly appreciated.

G.A. Ward
Regional Property Agent

BP/pr



REPLY DEC 20, 1988



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

Ministry of Transportation &
Highways
940 Blanshard Street
Victoria, B.C. V8W 3E6

71-43-00
November 22, 1988
PROPERTY SERVICES
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9
828-4279

PS 63288

Attention: Gordon Eisenhuth
C.T.C. Liaison Officer

Re: C.N. Railway Overhead on Evans Road, Oyama.

In 1986 this Ministry rebuilt part of and extended Evans Road at Oyama. This necessitated using some land belonging to the C.N.R. During our negotiations with C.N. they requested that we purchase their overhead bridge on Evans Road.

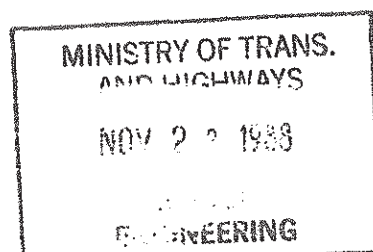
The C.N. right-of-way was built after the area was subdivided by Plan 720. Because of this C.N. was responsible for providing access to the 2 lots east of their new right-of-way. These two lots, Lots 10 and 11, have been subdivided over the intervening years. C.N. now claims that because of these subdivisions it is no longer responsible for providing access to this area.

The Ministry's Bridge Branch has inspected the structure and is not in favour of taking over the bridge even if C.N. carried out the necessary repairs due to the ongoing maintainance costs.

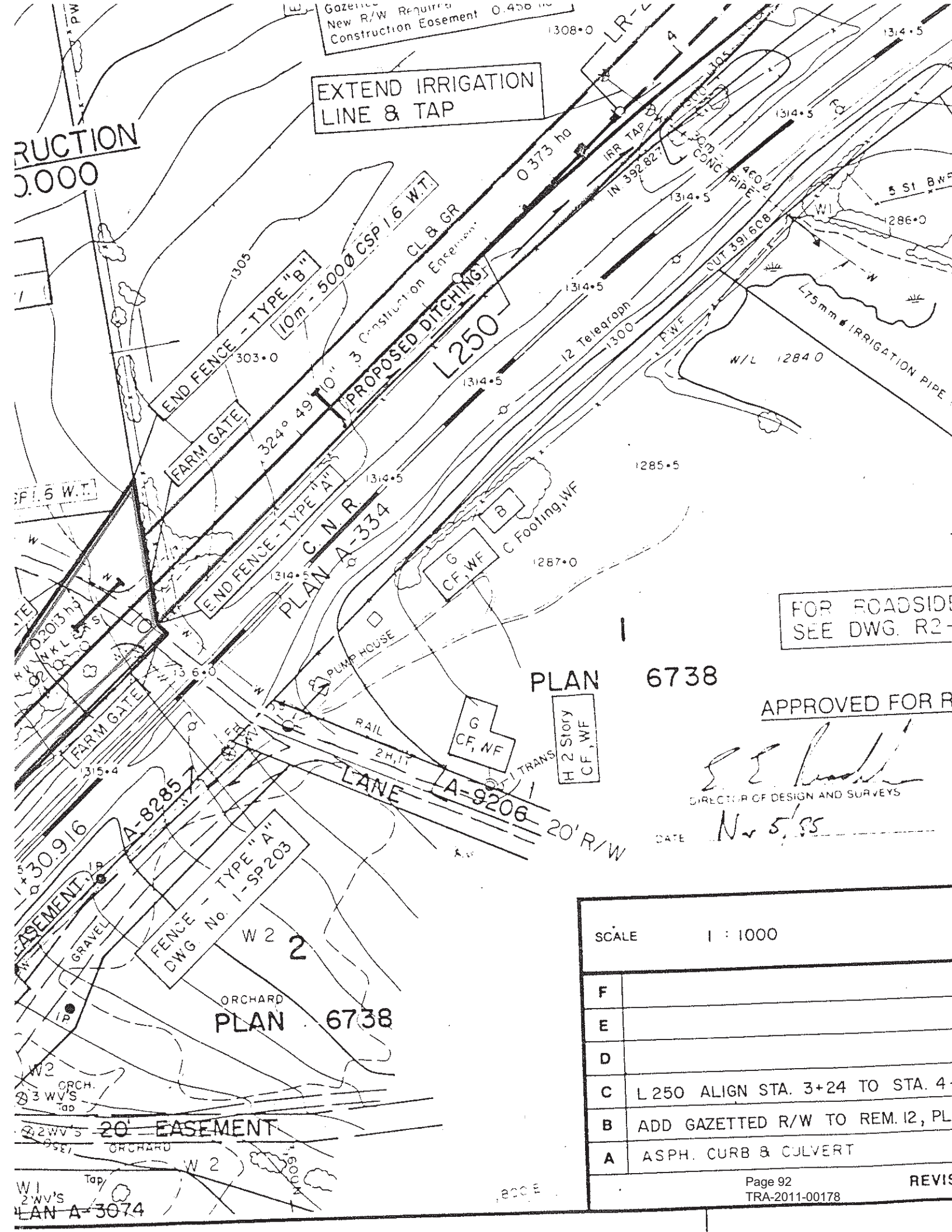
We are asking for your assistance to help clarify the Ministry's responsibility since it was the Ministry that approved the subdividing of the lots east of the C.N. right-of-way.

The attached right-of-way plan shows the area we need to purchase from C.N. and the subject overhead shaded in blue. The composite plan shows the overhead shaded in blue also and the subsequent subdivisions east of it.

BP/lf
Attach.



G.A. Ward
G.A. Ward
Regional Property Agent



EXTEND IRRIGATION LINE & TAP

CONSTRUCTION 0.000

END FENCE - TYPE "B"
10m - 5000 CSP 1.6 WT.

FARM GATE

END FENCE - TYPE "A"
PLAN A-334

PROPOSED DITCHING
L250

PUMP HOUSE

PLAN 6738

FOR ROADSIDE SEE DWG. R2-

APPROVED FOR R

[Signature]
DIRECTOR OF DESIGN AND SURVEYS

DATE Nov 5/85

FENCE - TYPE "A"
DWG. No. 1-SP203

ORCHARD
PLAN 6738

20' EASEMENT

LAN A-3074

SCALE 1 : 1000	
F	
E	
D	
C	L 250 ALIGN STA. 3+24 TO STA. 4+
B	ADD GAZETTED R/W TO REM. 12, PL
A	ASPH. CURB & CULVERT
Page 92 TRA-2011-00178	
REVIS	

PROVINCE OF BRITISH COLUMBIA
DEPARTMENT OF HIGHWAYS

5134

FROM RECEIVED DEPT. OF HIGHWAYS VICTORIA, B. C.	TO ASST. DEPUTY MINISTER VICTORIA, B. C.	DATE MAY 6, 1958 ELECTORAL DISTRICT NORTH OKANAGAN OUR FILE R2-21-7 YOUR FILE
SUBJECT MAY 8 1958 ANSWERED <i>APB</i> NOTED C.N.R. BRIDGE UNDERPASS, EVANS ROAD DATE <i>23-5-58</i>		REFERENCE YOUR LETTER

Please find attached copy of report submitted by A. F. Provenzano, together with three prints of railway crossings. The railway crossing on the Evans Road is an overpass, and I understand that it needs some maintenance. The other two have Board Orders, but Mr. Provenzano is interested in finding out whether the Department of Highways or the railway is responsible for these crossings.

I would refer you to the fourth paragraph of his letter on this.

Please advise me.

DRMCL*JVK
Atts.

D. R. McLeod
D. R. McLEOD
Regional Engineer

E. Hall
Would you please check Board Order on this Crossing.
JB

1235300

ASSISTANT
DEPUTY MIN HIGHWAYS

PROVINCE OF BRITISH COLUMBIA

DEPARTMENT OF HIGHWAYS

FROM A.F. Provenzano, District Engineer, Vernon, B.C.	TO D.R. McLeod, Regional Engineer, Dept. of Highways, Kamloops, B.C.	DATE April 30, 1958. ELECTORAL DISTRICT North Okanagan (A#) OUR FILE 23-20-150 YOUR FILE
SUBJECT C.N. Bridge Underpass Evans Road		REFERENCE YOUR LETTER

Regional Engineer's Office
DEPARTMENT OF HIGHWAYS
CORRESPONDENCE ONLY

MAY 2 1958

KAMLOOPS, B. C.

Attached find a pencil tracing showing Evans Road #150, crossing the C.N.R. at Mile 97.6 on their Okanagan subdivision.

This is a case similar to the one in Vernon on Highway #6.

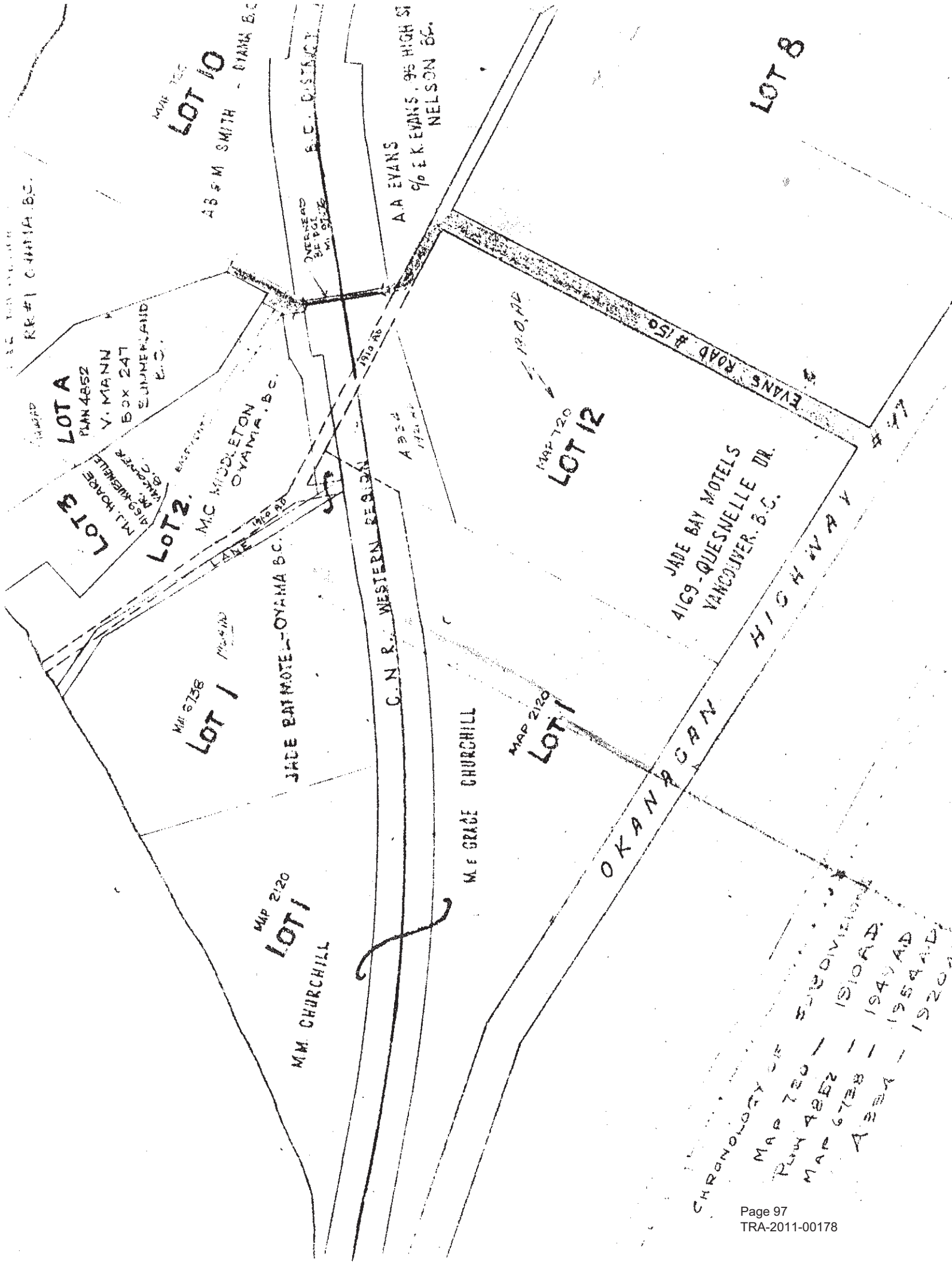
The Evans Road came into existence through subdivision in 1910. The railway came along in 1920 and it was necessary for them to build an overpass for the road. There is no record here of a Board Order on this and it would be interesting to know whether or not the Department has any arrangement for maintenance. Advise.

I have noted on C.N. Railway plans that they do show the full width of highway right-of-way across their railway right-of-way. To me it is significant that it is an acknowledgement of the priority of the highway. See attached tracings from C.N. Railway plans.

I would appreciate some information with regard to Railways vs Highways at crossings with regard to respective rights.

AFF:bc
enc.

A.F. Provenzano,
District Engineer.



71-43-00



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

60

To: Mr. Readshaw
Director of Design and Surveys
Ministry of Transp. and Highways

Date: January 24, 1986
Branch/Dist: bridge
Address: 4d-940 Blanshard St.
Victoria, B.C.

Phone: 387-3275
Hdqtrs. File: 71-43-00
Region File:
District File:
Your File: L2-97-146

Attention: M.S. Ingram

RE: Proposed Relocation of Private
Crossing C.N.R. Mile 97.46 to
97.52 Okanagan Subdivision, Oyama

Please find enclosed herewith a copy of a C.N.R.
letter dated January 8, 1986.

Since the railway requires a letter of application from the property owner we should contact Lakedge Estates Limited about the proposal and indicate that the Ministry will pay for all construction costs and application fees required in the relocation. They will be required to accept the yearly rental fee in the application letter. These matters should be taken up with them in advance of the application which should be made when the contract is awarded.

Please note the railway has indicated that an easement for road purposes is required.

Could you please advise me of the negotiations with the Estate Company and confirm that Property Services is aware of the required easement so I can keep C.N.R. informed.

A. C. Dimock
C.T.C. Liaison Engineer

GE/lf
Enclosure



MINISTRY OF TRANS.
AND HIGHWAYS

JAN 20 1986

BRIDGE
ENGINEERING

	TO	INITIAL	DATE
OBE			
SBDE			
BCE			
ABCE			
SPS			
BIE			
CTLE	✓	CS	
CT			
CLE			
OM			
CF			

Canadian National
Technical Services
454 Lorne Street
Kamloops, B.C.
V2C 1W3

Canadien National

8 January 1986

71-43-00

Reference E4705-OK-97.52

N/réf.

Province of British Columbia
Ministry of Transportation & Highways
940 Blanshard Street
Victoria, B.C.
V8W 3E6

RECEIVED
MINISTRY OF TRANSPORTATION & HIGHWAYS
VICTORIA, B.C.

JAN 16 1986

Attention: Mr. A. C. Dimock, P. Eng.
C.T.C. Liaison Engineer

ANSWERED CONST. BR. REPLIED
NOTED
DATE JUNE 0/86

Dear Sir:

Re: Proposed Relocation of Private Crossing Mile 97.46 to Mile 97.52
Okanagan Subdivision

We acknowledge receipt of your letter dated January 02, 1986 together with Drawings R2-146-03A and 19A in response to the subject matter.

Locally, from an Engineering point of view the proposal as submitted appears to be satisfactory and therefore agreed in principal to the concept. Additionally, we would draw to your attention the requirement to purchase an easement of railway property for road purposes between the private crossing Mile 97.67 and Overhead Bridge Mile 97.73 Okanagan Subdivision. Also, it will be necessary for the current property owners Lakeedge Estates Limited to formally apply for a private crossing agreement which involves an application fee of \$250.00 and a yearly rental of \$50.00. The matter of all construction costs for the new private crossing and closure of the existing access is for the M.O.T.H. account.

We look forward to receiving your reply in this matter.

Yours truly

CANADIAN NATIONAL RAILWAYS


E.V. Bojda
Supervisor Technical Services

EVB:bac

343793



60

Date: January 2, 1986
Branch/Dist.: bridge
Phone: 387-5377
Our File: 71-43-00
Your File:

Mr. E.R. Posyniak
C.N. Rail
454 Lorne Street
Kamloops, B.C.
V2C 1W3

Dear Sir:

RE: Private Crossing Relocation,
Mile 97.33 to
Mile 97.39 Okanagan Subdivision
Lakeedge Estates, Oyama

The Ministry hereby applies for the relocation of
the above mentioned private crossing.

Please find enclosed herewith one copy of drawing
number R2-146-03A and -19A showing the above
mentioned proposal.

This relocation is caused by nearby improvements
to Highway No. 97 which requires that the existing
highway access be closed.

The Ministry will pay for all construction work
including the closure of the existing crossing.

Since this is a private road the party named on
the private crossing agreement should be Lakeedge
Estates Limited, 4-3109 32nd Avenue, Vernon, B.C.

. . . /2



Although a construction date is not set the project supervisor will be in contact with your office when the Ministry is prepared to go ahead. If at this time we can get an agreement stating that the railway does not object to the relocated private crossing as shown on the above mentioned drawings it would be appreciated.

Yours very truly,

A. C. Dimock, P. Eng.
C.T.C. Liaison Engineer

GE/lf

Enclosure

cc: Mr. R.A. Walker, C.N.R., Edmonton

bcc: Mr. Readshaw, Director of Design and Surveys

Attn: Mr. M.S. Ingram

PLAN 720

PLAN

SHEWING SUBDIVISION

OF

FRACTIONAL ~ S $\frac{1}{2}$ OF NE $\frac{1}{4}$ & SE $\frac{1}{4}$ SEC. 14 & N $\frac{1}{2}$ OF NE $\frac{1}{4}$ SEC. 11,
AND THE

E $\frac{1}{2}$ OF SW $\frac{1}{4}$ SEC. 14 & NE $\frac{1}{4}$ OF NW $\frac{1}{4}$ SEC. 11, T14,

OSOYOOS DIV. YALE DISTRICT

B.C.

—= Scale ~ 3 Chains = 1 inch =—

16.73 CH

EAST 34.76 CH

5

37.18

Centre Section 14

14

LOT 14

R.P.

LOT

MISSION

Section 11

5

4

3

2

16.138 CH

10.357 CH

North

10.662 CH

11.015 CH

25.74

25.74

26

25

East 10.726 CH

10.164 CH

25.092 CH

6.42.112 CH

12.22.097 CH

11.11.112 CH
11.11.112 CH
11.11.112 CH

North

10 662 CH

10 015 CH

11 001 CH

4

2.0

3

2.0

2

2.5

Pooling Plan
See p. 7. 465 95.

Section II

10 164

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

10 008 CH

17. E. H. Adcock
Per R. E. Macdonald
Witnesses Appointments

I Arthur P. Cummins a British Columbia Land Surveyor certify that this plan is a correct representation of the survey which has been made by me upon the ground and is prepared under the provisions of the Land Registry Act, R.S.O. 1907, c. 240.

W. H. Garrison
3
New Land Surveyor

Page 106
TRA-2011-00178

MISSISSIPPI

6

7

8

12

10

11

L O N G

Northern Boundary

ROAD EAST

LAKE

9

8.00 Ac

7.81 Ac

8.81 Ac

8.00 Ac

9.31 Ac

24.11 Ac

A.33.1.
April 19/1920
R. L. Christie

CANADIAN NATIONAL RAILWAYS
Plan Shewing Right of Way Required for
CANADIAN NORTHERN PACIFIC RAILWAY

THROUGH

LOTS 6, 7, 9, 10, 11, 12 & 13
in the subdivision of PARTS OF SECS. 11 & 14, TR. 14

(REG. PLAN No. 720)

& FR. S.W. 1/4 OF N.E. 1/4 SEC. 11, TR. 14

OSOYOOS DIVISION OF YALE DISTRICT

PROVINCE OF BRITISH COLUMBIA

SCALE 1 INCH = 200 FEET

Note:-

All bearings are Astronomical derived from Observation
Iron Posts set at Lot corners are shown thus
Wooden Posts and Stone Mounds found are shown thus
Iron Posts set at points of deflection from tangents
and changes of width of Right of Way are shown
thus.

I, Gerald M. Christie of the City of Vernon
British Columbia Land Surveyor make oath
and say, that I was present at and did
personally superintend the Survey represented
by this Plan, and that the Survey and Plan
are correct. The said Survey was completed
on the 9th April, 1920.
Sworn before me this
12th day of April, 1920

R. L. Christie

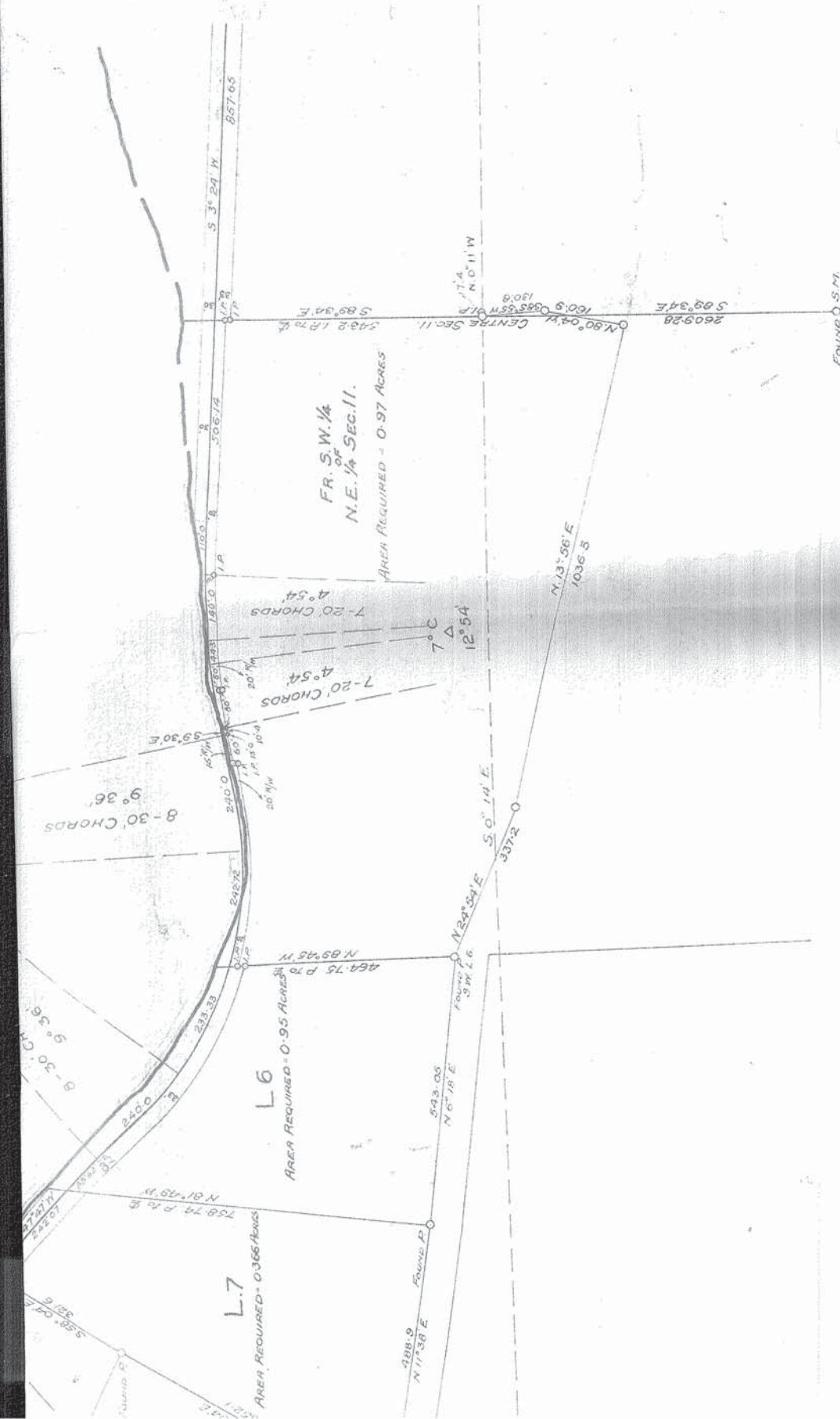
Hugh M. Christie

LONG LAKE

L.10.
AREA REQUIRED 216 ACRES

589°45'E

L.11.
AREA REQUIRED = 0.234 ACRES



110781-319467
110781-18774

For Other A...

Okanagan Hwy.
Oyama-Bailly No. 31947F
63288



Certificate of Indefeasible Title

Date of Application for registration, the 28th day of July, 1922
Register, Vol. 107

This is to certify that Canadian Northern Pacific Railway Company

absolutely and indefeasibly entitled in Fee-simple, subject to such charges, liens, and interests as are notified by endorsement hereon, and subject to the conditions, exceptions, and reservations set out hereon, to that piece of land situate in the Osoyoos Division Yale District and Province of British Columbia, and more particularly known and described as:-

That part 2.16 Acres more or less of Lot Ten (10). Map Seven

1107 81.31946 7
11. 8. 11. 11. 18774 A

For Other...
RELEASES.
Date.

Ontario Survey
Oyama Bailly No. 31947F



63288

Certificate of Indefeasible Title

Date of Application for registration, the 28th day of July, 1922
Register, Vol. 107

This is to certify that Canadian Northern Pacific
Railway Company

absolutely and indefeasibly entitled in Fee-simple, subject to such charges, liens, and interests as are notified by endorsement hereon, and subject to the conditions, exceptions, and reservations set out hereon, to that piece of land situate in the Osgoos Division Sale District and Province of British Columbia, and more particularly known and described as:-

That part 2.16 Acres more or less

of Lot: Ten (10). Map Seven

In witness whereof I have hereunto set my hand and Seal of

Office at

Rainloops.

Columbia, this

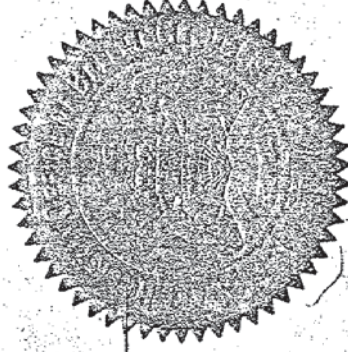
2^d day of August,

1922.

E. A. Sted.

Registrar.

[OVER]



Am
M.S.
R.S.S.

Okanagan Valley *Bailey*
Ogama 2081 D

This Indenture

63288

made in triplicate the Tenth day of September in the year of
our Lord one thousand nine hundred and twelve.

IN PURSUANCE OF THE REAL PROPERTY CONVEYANCE ACT:

BETWEEN

WILSON R. POWLEY, of Long Lake,
near the City of Vernon in the County
of Yale, Province of British Columbia
hereinafter called the Grantor
Of the First Part

AND

THE CANADIAN NORTHERN PACIFIC
RAILWAY, a body corporate, duly incorpo-
rated under the Laws of the Dominion of
Canada, hereinafter called the Grantee
Of the Second Part

WITNESSETH that in consideration of
the sum of four hundred and fifty dollars (\$450.00) of lawful
money of Canada now paid by the said Grantee to the said
Grantor (the receipt whereof is hereby acknowledged) the said
Grantor DOETH GRANT unto the said Grantee, its successors
and assigns FOR EVER,

ALL AND SINGULAR that certain parcel or tract
of land and premises, situate, lying and being in the Osoyoos
Division of Yale District in the Province of British Columbia

according to a map or plan of a subdivision of Section numbered Fourteen (14), in Township numbered Fourteen (14), deposited in the Land Registry Office at the City of Kamloops, in said Province, and therein numbered Seven hundred and twenty (720), more particularly described as follows:-

COMMENCING at the North East corner of Lot numbered twelve (12), thence following the North boundary thereof West, a distance of Two hundred and sixty-two and three tenths (262.3) feet (all bearing being astronomical); thence by a line bearing South forty-five degrees, thirty-three minutes East ($S.45^{\circ}33' E.$) a distance of Three hundred and sixty-seven and five tenths (367.5) feet, more or less, to its intersection with the East boundary of said Lot; thence following the said East boundary North a distance of Two hundred and fifty-nine and three tenths (259.3) feet, more or less, to the point of commencement, containing by admeasurement Seventy-nine hundredths of an acre, more or less, as shown on the map or plan attached hereto and coloured red.

TO HAVE AND TO HOLD unto the said Grantee, its successors and assigns, to and for their sole and only use forever; subject nevertheless to the reservations, limitations, provisions and conditions expressed in the original grant thereof from the Crown.

AND the said Grantee shall have quiet possession of the said lands, free from all encumbrances.

AND the said Grantor covenants with the said Grantee that he will execute such further assurances of the said lands as may be requisite.

2081

-3-

AND the said Grantor covenants with the said Grantee that he has done no acts to encumber the said lands.

AND the said Grantor RELEASES to the said Grantee ALL HIS CLAIMS upon the said lands.

AND the said Grantor HEREBY RELEASES the said Grantee its successors and assigns from all claims for any and all damage resulting to the said lands by reason of the taking of the said lands and the construction, maintenance and operation of the line of railway.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered

in the presence of

W. H. Parker.

Red Rivington

for Water.

I HEREBY CERTIFY that Wilton R. Fowley, personally known to me, appeared before me, and acknowledged to me that he is the person mentioned in the annexed instrument as the maker thereof, and whose name is subscribed thereto as party; that he knows the contents thereof, and that he executed the same voluntarily, and that he is of the full age of twenty-one years.

IN TESTIMONY WHEREOF, I have hereto set my Hand and Seal of Office at the City of Vernon, in the Province of British Columbia, this 14th day of Sept., in the year of our Lord one thousand nine hundred and twelve.

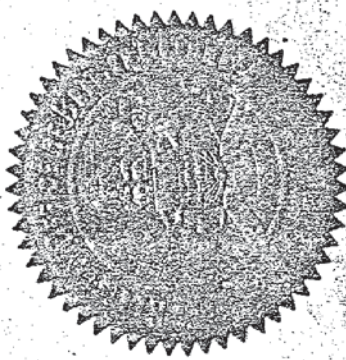
Red Rivington

A Notary Public in and for the Province of British Columbia.

175507

[over]

Registrar.



Wm. P. B.S.S.

ABBREVIATIONS:
 M. = Mortgage in fee.
 R.P. = Right to purchase.
 S.R.P. = Sub-right to purchase.
 L.P. = Les pendens.
 L. = Lease.
 R.C. = Restrictive Covenant.

Charges, Liens, and Interests. *L = Easement.*

LAND.	Nature of Charge.	No.	Date of Application.	Time.	OWNER OF CHARGE.	Value or Amount.	PARTICULARS, TERM, RATE, ETC.		RELEASES.	
									No.	Date
	E.	11249E	297 22	10.00 am	Canadian Northern Pacific Railway Company		Easement contained in R.D. 31941 &			
	C18	9.197								

August 14, 1991

Ministry of Transportation & Highways
940 Blanshard Street
Victoria, BC V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, BC V2C 2T9

Attention: Mr. G.R. Eisenhuth

Facsimile: 828-4229
Telephone: 828-4279

Our File: PS 63288

RE: EVANS ROAD/CN OVERHEAD

Please advise this office of the status of your attempt to resolve our differences with CN. We have not heard from CN for quite some time, which surprises us as they seemed anxious to settle this matter.

Ross Dalpre
Regional Property Agent

Barry Patterson
Property Agent

BP:jpl

April 12, 1991

Ministry of Transportation
and Highways
940 Blanshard Street
Victoria, B.C. V8W 3E6

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, British Columbia
V2C 2T9

Attention: Mr. G.R. Eisenhuth
Regulatory Liaison Officer

Phone: 828-4279
Fax: 828-4229
File: PS 63288

RE: EVANS ROAD/CN OVERHEAD

Thank you for the information you left for me in Kamloops on the above matter.

I have reviewed my file and am attaching some correspondence that took place between this office and CN. Hopefully this will assist you in resolving this matter.

Ross Dalpre, AACI, RI(BC)
Regional Property Agent

Barry Patterson
Property Agent

BP:jp
attached



Province of
British Columbia

Ministry of
Transportation
and Highways

REGIONAL PROPERTIES
Thompson-Okanagan
523 Columbia Street
Kamloops, B. C. V2C 2T9
Fax No. 828-4229
Telephone 828-4279

Your file: 805/548
Our file: PS 63288

April 26, 1990

CN Real Estate
10004 - 104 Avenue
Edmonton, Alberta
T5J 0K2

Attention: W. C. Ramsay, Real Estate Officer

Dear Sir:

Re: 1) Part of Lot 10, Plan 720 shown on Plan A334;
2) Part of Lot 10, Plan 720 shown on Plan B1686;
3) Part of Lot 12, Plan 720 shown on DD2081D;
Evans Road, Oyama, B. C.

As per our fax of April 25, 1990, attached is our offer for the right of way required from the noted properties as shown on Plan 39753, sketches attached.

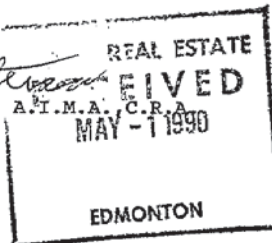
This offer is based on the per acreage value in your letter of February 27, 1990, \$8,000.00 and is calculated as follows:

1) Plan A334 - 148.6 m2 = 0.037 acre	
0.037 ac. x \$8,000	\$ 296.00
2) Plan B1686 - 121.4m2 = 0.03 acre	
0.03ac x \$8,000	240.00
3) DD2081D -0.1577 ha. = 0.39 acre	
0.39 ac. x \$8,000	<u>3,120.00</u>
Total Compensation	\$3,656.00

Yours truly,

G. A. Ward, B.Comm., R.I. (BC), A.A.C.I.
Regional Property Agent

Barry Patterson
Barry Patterson, A.I.M.A., C.P.A.
Property Agent



BP/ab
enc.

PROVINCE OF BRITISH COLUMBIA
MINISTRY OF TRANSPORTATION AND HIGHWAYS

Project OKANAGAN HIGHWAY 97
OYAMA TO BAILEY ROAD

File PS 63288
Agent B. Patterson
Tel: 828-4279

AGREEMENT TO TRANSFER OR DEDICATE LAND
Pursuant to the Highway Act and Ministry of Transportation and Highways Act

In consideration of the promise to pay the sum of THREE THOUSAND SIX HUNDRED
AND FIFTY-SIX -----00 /100 (\$ 3,656.00)(the "Sale Price")

I/We CANADIAN NORTHERN REALTIES LIMITED

of 10004 - 104 Avenue, Edmonton, Alberta T5J 0K2 (the "Vendor")

hereby promise to sell and to convey to HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Transportation
and Highways (the "Purchaser") the following described land(s):

P.I.D. No. 012-111-813

Legal Description That part of Lot 10 on Plan B1686, Section 14, Township 14,
ODYD, Plan 720, except Parcel B Plan B5985; that part of Lot 10 shown on Plan
A334, Section 14, Township 14, ODYD, Plan 720; and that part of Lot 12, Section
14, Township 14, ODYD, Plan 720, as shown on DD2081D, all shown outlined in red
as right of way on Plan 39753, comprising 121.4 m2, 148.6 m2 and 0.1577 ha.
respectively (the "Property")

Civic Address: EVANS ROAD, OYAMA, B. C.

on the following terms and conditions:

(1) The Sale Price shall be paid as follows:

100 % forthwith upon acceptance of this offer,

(2) The Purchaser will have vacant possession of the Property at 12:00 noon
on the 15th day of MAY, 19 90, ("the Possession Date")
or subject to the following existing tenancies, if any: Nil.

(3) The Vendor will pay all taxes, rates, local improvement assessments and
other charges for the calendar year 19 90.

(4) The Vendor agrees to transfer or dedicate the Property to the Purchaser
free and clear of all encumbrances except restrictive covenants, existing
tenancies, reservations and exceptions in the original grant from the
Crown and easements in favour of utilities and public authorities and
except as otherwise set out herein.

Purchaser _____

Vendor _____

H.179(P)
8(ab)

Page 1 of 2

- (5) The Purchaser shall attend to and bear the cost of preparing a reference or explanatory plan to effect the transfer or dedication of the Property and shall attend to the deposit for registration in the appropriate Land Title Office.
- (6) All documents required to give effect to this agreement shall be delivered by the vendor, in registerable form where necessary and, where required, shall be deposited in the appropriate Land Title Office.
- (7) The Property shall be and remain at the Vendor's risk until and including the Possession Date, and shall thereafter be at the Purchaser's risk. Pending possession, the Vendor shall hold all insurance policies (if any) and the proceeds thereof in trust for the parties as their interests may appear. In the event of substantial damage, the Purchaser shall be entitled to the proceeds of any insurance.
- (8) No representations, warranties, guarantees, promises or agreements other than those contained herein shall survive the completion of sale.
- (9) Time shall be of the essence hereof.
- (10) The Sale Price includes any buildings, improvements, fixtures, appurtenances and attachments thereto except: Nil
- (11) The Sale Price constitutes full and final payment for any and all claims arising out of the transfer or dedication of the property to the purchaser which, but for this agreement, would give rise to a claim under the Expropriation Act SBC 1987.
- (12) Compensation is payable to: CANADIAN NORTHERN REALTIES LIMITED

This offer shall be open for acceptance up to 5:00 o'clock p.m. on the 14th day of MAY 19 90. Upon acceptance by the Vendor signing this offer, there shall be a binding agreement of sale and purchase on the terms and conditions herein set forth.

Dated this 26th day of APRIL, 19 90.

Batterman

Witness
523 Columbia Street

Address
Kamloops, B. C. V2C 2T9

[Signature]

Regional Property Agent
for Minister of Transportation
and Highways

The Vendor hereby accepts the above offer and promises and agrees to complete the sale upon the terms and conditions set out above.

The Vendor acknowledges receipt of a copy of the Expropriation Act S.B.C. 1987, Chapter 23.

Signed, Sealed and Delivered
Dated this _____ day of _____, 19 ____.

Witness

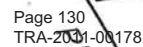
Address

Witness

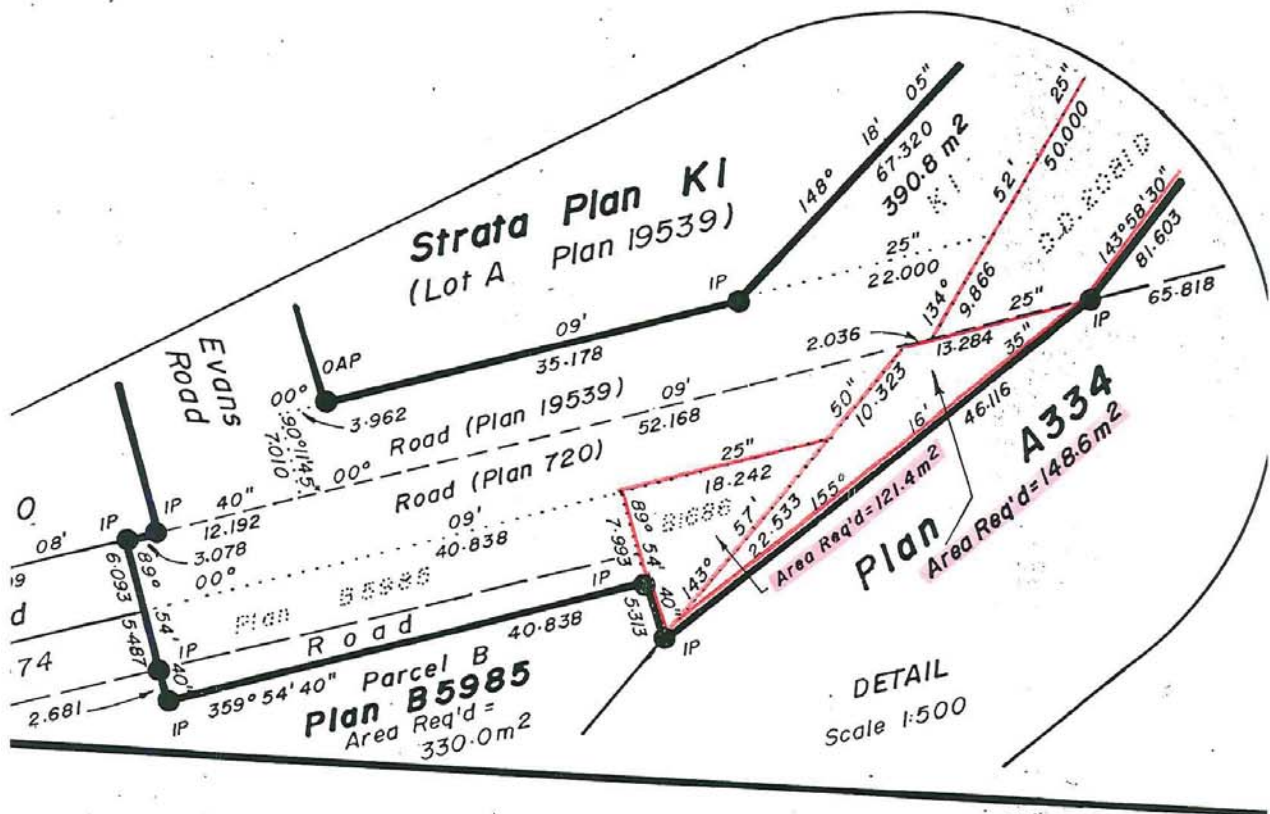
Address

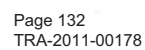
CANADIAN NORTHERN REALTIES LTD.

Description	Area
Section 14, Township 14, O.D.Y.D.	
Plan 720 - Lot 2 (Sec's 11 & 14)	0.4040ha.
Lot 3	0.9573ha.
Lot 4	0.7386ha.
Lot 5	0.5149ha.
Part of Lot 10 shown on Plan B1686 (exc. Plan B5985)	121.4 m ²
Lot 12 (except DD 2081D & Plan 19539)	0.1832 ha.
Lot 8 (Sec's 11 & 14)	0.2615ha.
Pt Lot 14 lying NW of Mission Road (exc. Plan A672)	0.3872ha.
Lot 15 (exc. DD 2079D & Plans A405 & 14722)	254.9 m ²
Part of Plan B1686 in Lot 10 - Plan B5985 (Parcel B)	330.0 m ²
Strata Plan K1 Common Property	392.4 m ²
Plan 2120 -- Lot 1	0.4801 ha
NW 1/4 (exc. Plan B9199)	0.3201 ha.
Frac. N1/2 of NE 1/4 (exc. DD2079D & Plans A405 & 14722)	3.582 ha.
DD 2081D (Part (0.79 Ac) of Lot 12 Plan 720)	0.1577ha.
Plan A334 (Part of Lot 10, Plan 720)	148.6 m ²
Section 23, Township 14, O.D.Y.D.	
SE 1/4 - Plan 12978, Lot 1	0.6858ha.
Plan 7615, Lot 1	1.738 ha.
Frac. E 1/2 (exc. Plans A405, 7615, DD2079D, 10071, 11292, 11812, 12978, 13041, 39390)	3.684 ha
Section 24, Township 14, O.D.Y.D.	
Frac. NW 1/4 (exc. DD2703F; Pcl. A, Plan B5826; Pcl. B, Plan B6488)	3.694 ha.
Plan B6488, Parcel B (exc. Plans 5844 & 8086)	0.3614ha.
Section 25, Township 14, O.D.Y.D.	
Frac. W1/2 (exc. DD2703F)	2.669 ha.
Section 36, Township 14, O.D.Y.D.	
Frac. SE 1/4 of SW 1/4 (exc. DD 2703F)	0.2135ha.
N 1/2 & the SW 1/4 of the SW 1/4	478.8 m ²
Frac. SE 1/4 (exc Plan A382)	0.2404ha.



Plan





VIA FAX

PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, BC V2C 2T9

Fax No. 828-4229
Telephone: 828-4268

November 13, 1990

Our File: PS 63288

CN Real Estate
10004-104 Ave.
Edmonton, Alberta
T5J 0K2

Attention: W.C. Ramsay
Senior Real Estate Representative

Dear Sirs:

Re: Mile 97-98 Okanagan Subdivision

Thank you for your letter of November 9, 1990.

You may be aware by now that Gordon Eisenhuth, Regulatory Liaison Officer, is taking the issue of the overhead on Evans Road to the National Transportation Agency for a ruling. Until that decision is reached, is CN willing to negotiate for the right-of-way north of the overhead only? This could save both parties some unnecessary aggravation.

Please consider this suggestion and advise me as soon as possible.

Yours truly,

Ross Dalpre, R.I.(BC) A.A.C.I.
A/Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/jp/18

District Highways Manager
South Okanagan District
Penticton

November 9, 1990
PROPERTIES BRANCH
Thompson-Okanagan
523 Columbia Street
Kamloops, B. C.
V2C 2T9
828-4279

PS 63288

Re: CN Overhead at Evans Road, Oyama

We have been negotiating with CN since 1986 for land north of the noted overhead without success. CN insists on making the disposition of the overhead part of our negotiations and we want to separate the two issues.


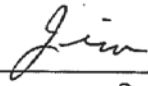
Mr. Gordon Eisenhuth, Regulatory Liaison Officer, Bridge Branch, is going to take the overhead issue to the National Transportation Agency for a decision. In the meantime, CN has given notice to the Ministry that if we had not acquiesced to their demands by November 30, 1990, the right of way north of the overhead will be closed and reinstated to a condition acceptable to CN.

This letter is to make you aware of this matter and to advise you to monitor the situation.

Ross Dalpre
A/Regional Property Agent

Barry Patterson
Property Agent

BP/ab
cc: John Hallam, Area Manager
South Okanagan District
Kelowna

Ministry of Transportation and Highways		TELEX/FACSIMILE RECORD		Date _____ File No. <u>Oct. 17/90</u> <u>PS 63288</u>
VIA: <input checked="" type="checkbox"/> TELETYPE		<input type="checkbox"/> RADIO	<input type="checkbox"/> FACSIMILE	
TO: _____ Attn: <u>Brian DeCord</u> <u>Bridge Engineering</u> <u>Ministry of Transportation & Highways</u> <u>940 Blanshard Street</u> <u>Victoria, BC</u> %: _____ PHONE No. _____		FROM: _____ <u>Barry Patterson</u> <u>Ministry of Transportation</u> <u>and Highways</u> <u>523 Columbia St.</u> <u>Kamloops, BC V2C 2T9</u> FAX No. <u>828-4229</u> PHONE No. <u>828-4279</u>		
FAX No. <u>387-7735</u> TELEX No. _____		FAX No. _____ PHONE No. _____		
SUBJECT: <u>CNR MILE 97 AND OKANAGAN SUBDIVISION</u>				
<p>Attached is a copy of the September 10, 1990 letter from CN as per our discussion.</p> <p>BP/jp</p> <p style="text-align: right;">  Barry Patterson Property Agent </p>				
H6 (88/05) MP-2040		PAGES: <u>3</u> (including this sheet)		
 Operator's Signature				

September 10, 1990

Your Files: Bridge Eng.
387-7733
71-43-00
Our File: 805/548

Ministry of Transportation and Highways
Province of British Columbia
940 Blanshard Street
Victoria, B.C.
V8W 3E6

ATTENTION: G. R. EISENHUTH,
REGULATORY LIAISON OFFICER

Dear Sirs:

RE: MILE 97-98 OKANAGAN SUBDIVISION - OYAMA, B.C.

With respect to your letter of August 24, 1990, regarding matters at the subject location, I do not understand what the Ministry is proposing.

Referring to the third paragraph, third line - "these lands" - what lands? Fourth line - "reconstruct this road" - what road and from where to where? The remainder of this paragraph will be reviewed with CN Rail once the proposal, in detail, with perhaps a drawing, is received.

As to the "subsequent subdivision", you state that when a subdivision of lands occur, public access must be provided. I agree! Usually this requirement is covered by road dedication and that dedicated land would be tied to other public access. Do you agree? At the subject location, subdivision dedications were not connected to the senior road right-of-way. In fact, as I stated previously, by Plan 6738, the Ministry severed continuous ownership of the road right-of-way shown on Plan 720 between Evans Road and the lake.

Again, I draw your attention to Page 2, sixth and seventh paragraphs, of the July 11, 1990, letter.

PROPERTIES BRANCH
Ministry of Transportation & Highways

Page 2/...

SEP 17 1990

KAMLOOPS, B.C.

Kindly give this matter priority.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

cc: Barry Patterson,
Property Agent,
Regional Property Services,
Ministry of Transportation and Highways,
Thompson-Okanagan,
523 Columbia Street,
Kamloops, B.C.,
V2C 2T9

PROPERTIES BRANCH
Ministry of Transportation & Highways

SEP 17 1990

KAMLOOPS, B.C.



Province of
British Columbia

**ACTION
REQUEST**

To **BARRY PATTERSON**
PROPERTY SERVICES
THOMPSON-OKANAGAN REG.
KAMLOOPS OFFICE.
From **GORDON EISENHUTH**

File No.

Date

OCT 23/90

<input type="checkbox"/> Please call	Tel. No. 387-7733	Ext.
<input type="checkbox"/> Returned your call	<input type="checkbox"/> Will call again	<input type="checkbox"/> Wants to see you
Date	Time	Message received by
<input type="checkbox"/> Action	<input type="checkbox"/> Approval	<input type="checkbox"/> Note & return
<input type="checkbox"/> Comments	<input type="checkbox"/> Draft reply	<input type="checkbox"/> Note & forward
<input type="checkbox"/> As requested	<input type="checkbox"/> Signature	<input type="checkbox"/> Note & file

Message

FOR YOUR INFO, BACKGROUND
FOR PRIVATE CROSSING IS ATTACHED.
NOTE THE LOCATION OF THE PROPOSED
GATE AT EVANS ROAD. WILL
BE IN TOUCH.

GORDIE

OP3351

MR-1148



MEMORANDUM

670d

To: Mr. Readshaw
Director of Design and Surveys
Ministry of Transp. and Highways

Date: January 24, 1986
Branch/Dist: bridge
Address: 4d-940 Blanshard St.
Victoria, B.C.

Phone: 387-3275
Hdqtrs. File: 71-43-00
Region File:
District File:
Your File: L2-97-146

Attention: M.S. Ingram

RE: Proposed Relocation of Private
Crossing C.N.R. Mile 97.46 to
97.52 Okanagan Subdivision, Oyama

Please find enclosed herewith a copy of a C.N.R.
letter dated January 8, 1986.

Since the railway requires a letter of application
from the property owner we should contact Lakedge
Estates Limited about the proposal and indicate
that the Ministry will pay for all construction
costs and application fees required in the
relocation. They will be required to accept
the yearly rental fee in the application letter.
These matters should be taken up with them
in advance of the application which should
be made when the contract is awarded.

Please note the railway has indicated that
an easement for road purposes is required.

Could you please advise me of the negotiations
with the Estate Company and confirm that Property
Services is aware of the required easement so
I can keep C.N.R. informed.

A. C. Dimock
C.T.C. Liaison Engineer

GE/lf
Enclosure

2

	TO	INITIAL	DATE
OBE			
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BCE			
ARCE			
SPS			
BIL			
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CT			
OLE			
OM			
ICF			

Canadian National
 Technical Services
 454 Lorne Street
 Kamloops, B.C.
 V2C 1W3

Canadien National

8 January 1986

71-43-00

Reference E4705-OK-97.52

N/rét.

Province of British Columbia
 Ministry of Transportation & Highways
 940 Blanshard Street
 Victoria, B.C.
 V8W 3E6

R
 L. O. 100-100

100-100

JAN 16 1986

Attention: Mr. A. C. Dimock, P. Eng.
 C.T.C. Liaison Engineer

NOTED

DATE

Dear Sir:

Re: Proposed Relocation of Private Crossing Mile 97.46 to Mile 97.52
 Okanagan Subdivision, OYAMA

We acknowledge receipt of your letter dated January 02, 1986 together with Drawings R2-146-03A and 19A in response to the subject matter.

Locally, from an Engineering point of view the proposal as submitted appears to be satisfactory and therefore agreed in principal to the concept. Additionally, we would draw to your attention the requirement to purchase an easement of railway property for road purposes between the private crossing Mile 97.67 and Overhead Bridge Mile 97.73 Okanagan Subdivision. Also, it will be necessary for the current property owners Lakeedge Estates Limited to formally apply for a private crossing agreement which involves an application fee of \$250.00 and a yearly rental of \$50.00. The matter of all construction costs for the new private crossing and closure of the existing access is for the M.O.T.H. account.

We look forward to receiving your reply in this matter.

Yours truly

CANADIAN NATIONAL RAILWAYS

E.V. Bojda

E.V. Bojda
 Supervisor Technical Services

EVB:bac

343793



24/600d

Date: January 2, 1986
Branch/Dist.: bridge
Phone: 387-5377
Our File: 71-43-00
Your File:

Mr. E.R. Posyniak
C.N. Rail
454 Lorne Street
Kamloops, B.C.
V2C 1W3

Dear Sir:

RE: Private Crossing Relocation,
Mile 97.33 to
Mile 97.39 Okanagan Subdivision
Lakeedge Estates, Oyama

The Ministry hereby applies for the relocation of
the above mentioned private crossing.

Please find enclosed herewith one copy of drawing
number R2-146-03A and -19A showing the above
mentioned proposal.

This relocation is caused by nearby improvements
to Highway No. 97 which requires that the existing
highway access be closed.

The Ministry will pay for all construction work
including the closure of the existing crossing.

Since this is a private road the party named on
the private crossing agreement should be Lakeedge
Estates Limited, 4-3109 32nd Avenue, Vernon, B.C.

. . . /2



Although a construction date is not set the project supervisor will be in contact with your office when the Ministry is prepared to go ahead. If at this time we can get an agreement stating that the railway does not object to the relocated private crossing as shown on the above mentioned drawings it would be appreciated.

Yours very truly,

A. C. Dimock, P. Eng.
C.T.C. Liaison Engineer

GE/lf

Enclosure

cc: Mr. R.A. Walker, C.N.R., Edmonton

bcc: Mr. Readshaw, Director of Design and Surveys

Attn: Mr. M.S. Ingram



MEMORANDUM

To: Mr. A. C. Dimock
C.T.C. Liaison Engineer
Bridge Branch

MINISTRY OF TRANS.
AND HIGHWAYS

Date: **DEC 17 1985**
Branch/Dist:
Address:

December 16, 1985
Design & Surveys
4B, 940 Blanshard St.
Victoria, B.C. V8W 3E6

BRIDGE
ENGINEERING

Phone: 387-1264
Hdqtrs. File: L2-97-146
Region File:
District File:

OYAMA

	TO	INITIAL	DATE
DBE			
SBDE			
BCE			
ABCE			
SPS			
BRE			
CTLE	✓		
CT			
CLE			
OM			
CF			

Re: Okanagan Highway Number 97
Oyama to Bailey Road
Project C-3619
Private Crossing C.N.R. Mile 97.39

Attached find one white print copy each of plan drawing number R2-146-03, profile drawing number R2-146-19 and a xerox copy of the key plan for the above project with the crossing circled in red.

Please forward the attached to the C.N.R. and request approval to relocate the existing crossing approximately 90 m south. This will be necessary for geometric reasons, and eliminates the direct access to Highway 97.

The property owner is Lakeedge Estates Ltd. at 4-3109 32nd Avenue, Vernon, B.C.

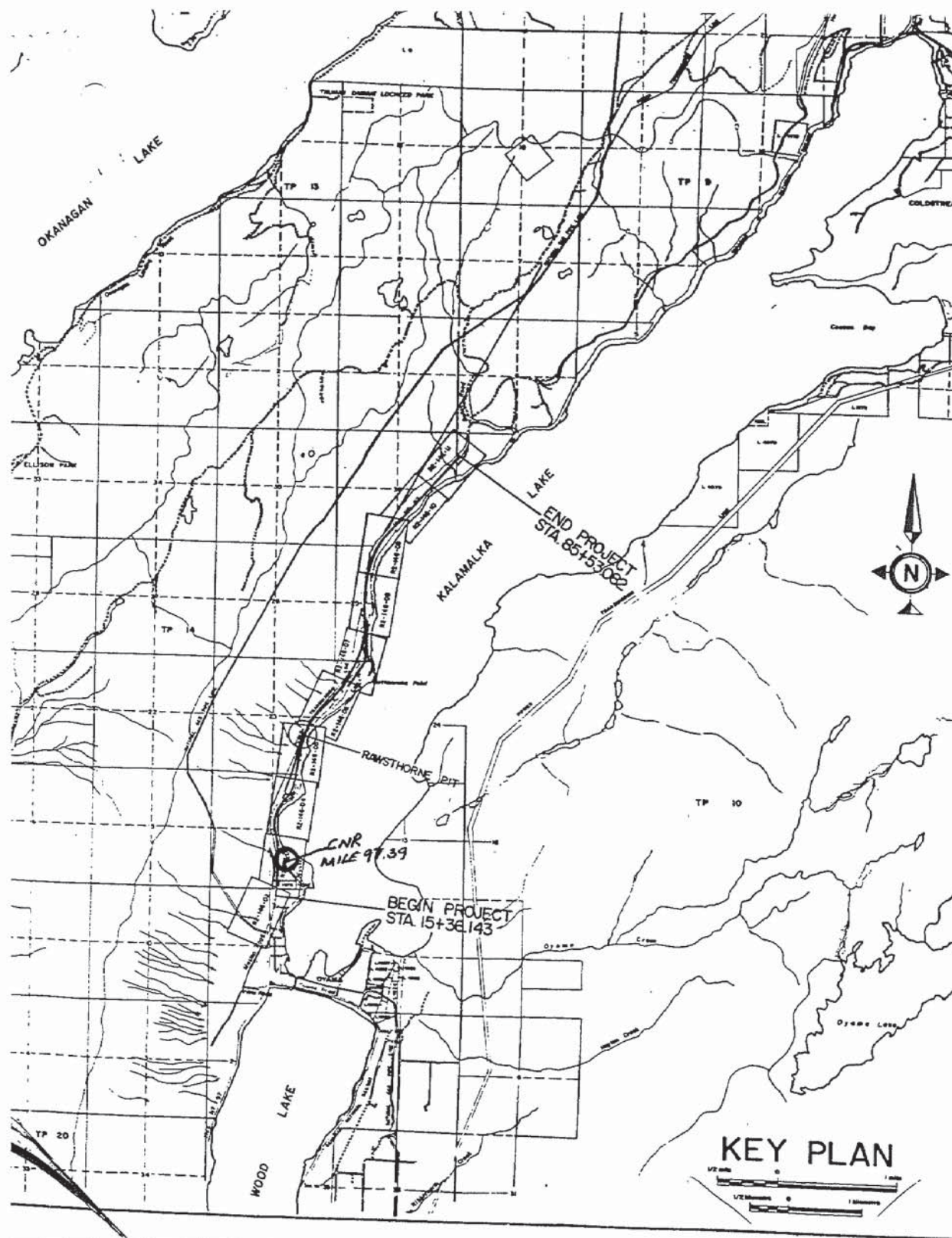
The construction date is not known at this time. We are hopeful that the project will be advertised in the near future but when is uncertain. You will be notified when the date becomes known.

Design and Surveys Branch
E. E. Readshaw, Director

M. S. Ingram

M. S. Ingram
Senior Highway Design Engineer

WAB:kr
Attachment



LIMIT C
STA. 0-

0°04'35"

P.O.T. 0+67.000

B.C. 1+02.317

E.C. 1+57.698

R 90 Lt.
S.E. n.c.

L-250

P.I. 398

324°49'10"

P.I. 3-

B.V.C

9 m -
1.6 W.

E.V.
B.V.

E.V.

R 40 Rt.
S.E. n.c.

R 40 Lt.
S.E. n.c.

R 15 Rt.
S.E. n.c.

48°29'00"

349°45'00"

B.C. 4+20.517

E.C. 4+78.925
B.C. 4+82.243

E.C. 5+23.247
B.C. 5+33.698

E.C. 5+48.851
P.O.T. 5+51.018



SCALE: HORIZ. 1:2000 VERT. 1:200

DESIGNED M.N.S. DATE 85-11-22
CHECKED H.J.J.L. DATE 85-11-22



PROVINCE OF BRITISH COLUMBIA
MINISTRY OF TRANSPORTATION AND HIGHWAYS
DESIGN AND SURVEYS BRANCH

PROFILE

OKANAGAN HIGHWAY No. 97
OYAMA - BAILEY RD.
L 200 ; L 225 ; L 250

PREPARED UNDER THE DIRECTION OF

RECOMMENDED

ACCEPTED FOR CONSTRUCTION

DATE	1701 22/85
INDEX	NEG NO
FILE NO.	
PROJECT NO.	C 3619
REGION	2
DRAWING NO.	R2-146-19
DATE	1085.12.06
EXECUTIVE DIRECTOR ENGINEER'S	

REVISIONS

85-12-11

CANCEL PRINTS BEARING EARLIER LETTER

CN Real Estate
Immeubles

TELECOPIER TRANSMISSION

DATE: June 12, 1990NO. OF PAGES TO FOLLOW: 1

TO:

NAME: Barry Patterson

PHONE NUMBER: _____

CO. OR DEPT.: Ministry of Transportation & HighwaysADDRESS: 523 Columbia StreetKamloops, B.C.V2C 2T9TELECOPIER NUMBER: 1-604-828-4229

ORIGINATOR:

NAME: Bill RamsayPHONE NUMBER: 1-403-421-6924CN REAL ESTATE#1000, 10004 - 104 AVENUEEDMONTON, ALBERTAT5J 0K2TELECOPIER NUMBER 1-403-421-6658REMARKS: _____

OFFICE USE ONLY:

TIME SENT: _____

BY WHOM SENT: _____
NAME: _____PROPERTIES BRANCH
Ministry of Transportation & Highways**JUN 13 1990**

Page 147

TRA-2011-00178

KAMLOOPS, B.C.



10004 104 Avenue
Edmonton, Alberta
T5J 0K2

10004 104 Avenue
Edmonton, Alberta
T5J 0K2

June 12, 1990

Your File: PS 63288
Our File: 805/548

VIA FAX #: 1-604-828-4229

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.
PROPERTY AGENT

Dear Sir:

RE: MILE 97-98 - OKANAGAN SUBDIVISION

With respect to our conversation of June 7, 1990, I understand the Ministry has contacted Mr. G. Eisenhuth for assistance in resolving this matter at Oyama. CN can expect a response from the Ministry very shortly.

Hopefully, that response will clearly indicate whether the Ministry is willing to accept CN's terms or to vacate CN's land, bringing this matter to a speedy conclusion.

Yours truly,

A handwritten signature in cursive script, appearing to read 'W.C. Ramsay'.

W.C. Ramsay
Sr. Real Estate Representative

WCR/jlf

Phone No.: (403) 421-6924

May 18, 1990

Your File: PS 63288
Our File: 805/548

Via Fax: 1-604-828-4229

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

PROPERTIES BRANCH
Ministry of Transportation & Highways

MAY 29 1990

KAMLOOPS, B.C.

Attention: G.A. Ward, B. Comm., R.I. (B.C.), A.A.C.I.
Regional Property Agent

Dear Sir:

Re: Mile 97 - 98, Okanagan Subdivision

Thank you for your letter dated May 8, 1990, received in Edmonton May 14, 1990. You now have my letter, dated May 3, 1990, sent by faxmittal on May 9, 1990.

Your latest response to Item 7 of our January 13, 1987 proposal only confirms what little progress has occurred since your letter of April 15, 1987. The revised Agreement is being returned unexecuted.

CN's position, as outlined in my letter of May 3, 1990, remains unchanged and we, accordingly, expect the Ministry to advise of their decision soon.

Yours truly,



W.C. Ramsay
Senior Real Estate Representative

WCR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

May 25, 1990

Your File: PS 63288
Our File: 805/548

Via Fax: 1-604-828-4229

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Attention: G. A. Ward, B. Comm., R.I. (B.C.), A.A.C.I.
Regional Property Agent

Dear Sir:

Re: Mile 97 - 98, Okanagan Subdivision

Further to my letter of May 18, 1990, and in response to your letter of May 15, 1990. I offer the following comments; referenced directly to your explanations.

- 1) The old road allowance, being between Lots 10 and 12, of Plan 720 and not being a part of either Lot, should be shown on Plan 39753, traversing the "Area Required = 148.6 square meters". The allowance lies between titles 31947 F (Lot 10) and 2081 D (Lot 12), CN's ownership.

CN does not object to the Ministry of Transportation and Highways offering to compensate CN on the basis of 148.6 square meters for a part of Lot 10. However, CN can only convey to the Ministry a part of Lot 10 to which it holds title, the area being less than 148.6 square meters. CN does not own the hatched area on the attached plan.

- 2) I agree the sale price of \$8,000 per acre was taken from my letter of February 27, 1990 - condition No. 4. You are overlooking the other three subject conditions. CN's proposal therein being rejected by your response of April 26, 1990.

PROPERTIES BRANCH
Ministry of Transportation & Highways

JUN - 4 1990

KAMLOOPS, B.C.

Page 2/...

-
- 3) Pursuing the bridge matter as a separate issue is unacceptable to CN. It is linked to this transaction as per Miss Jane I. Fleming's letter of January 13, 1987.

In CN's view the Ministry's past actions have had an affect on the bridge and your current right of way requirement only adds to that impact.

The reason why this transaction has not been concluded is because the Ministry insists on making offers based on terms and conditions, only acceptable to the Ministry.

I am still prepared to recommend acceptance of an offer based on \$8,000 per acre, considering value only. However, all the conditions of the proposal dated, January 13, 1987, must be addressed to CN's satisfaction by the Ministry before any recommendation can be advanced.

- 4) Isolating the bridge issue is not in the best interest of CN. The issue must be resolved now, as part of this transaction, regardless of the opposing views of the parties.

I question your suggestion that it is our responsibility to settle the right-of-way issue within any time frame. CN has no obligation, contractual or otherwise, to sell the subject lands to the Ministry, particularly on the Ministry's terms.

Again, I emphasize, CN's position remains firm.

The decision to acquire CN land or vacate it, remains in your hands.

Yours truly,



W. C. Ramsay
Senior Real Estate Representative

BR/ms

Phone No.: (403) 421-6924
Fax No.: (403) 421-6658

Regional Manager, Operations
Thompson-Okanagan Region
KAMLOOPS

June 5, 1990
REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9
828-4664
PS 63288

Re: C.N. Overhead, Evans Road, Oyama

Our negotiations with C.N. to acquire land for our right-of-way have broken down and C.N. has given the Ministry thirty (30) days to remove the road from C.N.'s property.

It is important that we have a meeting as soon as possible to discuss what we are going to do. Construction Branch entered the property without permission to build the road.

G.A. Ward
Regional Property Agent

GAW/pr

cc: John Coyne
Regional Bridge Engineer
Thompson-Okanagan Region



Province of
British Columbia

Ministry of
Transportation
and Highways

PS 63228
MEMORANDUM

To: Regional Director
Kamloops, B.C.

April 5, 1990

Attn: Barry Patterson
Property Agent

File: Evans Road, Oyama

Re: CN Overhead on Evans Road
Your Letter March 15, 1990

I have read the proposal made by the C.N.R. regarding the removal of the overhead and have the following comments:

The C.N.R. is responsible at their cost to establish access to all lots which had access prior to the railroad construction. This access should also be at the same points. The fact that some of these lots have been subdivided since makes no difference. This means that the railroad would have to remove the overhead at their cost and establish a level crossing at their cost. The right of way requirements for the level crossing may be more extensive than that for the overhead but the railroad is eliminating an ongoing maintenance cost and the periodic major capital costs of reconstruction of the overhead.

We would normally widen the twenty foot lane to twenty meters, or have the subdividers do that. I suggest that we would only purchase an additional amount of right of way which would have got us across the tracks along the original route and that the railroad should be required to supply any additional required.

If the railroad were not there, there would have been no problem. We are also trading an overhead for a level crossing which is less desirable.

B.D. Hunter, P. Eng.
District Highways Manager

BDE/rj

PROPERTIES BRANCH
Ministry of Transportation & Highways

APR 11 1990

KAMLOOPS, B.C.



H-118 (90/02)



MEMORANDUM

Barry Patterson
Property Agent
KAMLOOPS

March 20, 1990
Professional Services
523 Columbia Street
Kamloops, BC V2C 2T9

828-4241
File: B2-42-29-6370

RE: CN Overhead on Evans Road, Oyama, B.C.

I reviewed our file on this matter. I am pleased that the CNR has accepted our proposal for a level crossing to replace the overhead structure. The existing bridge would be a maintenance liability if the Ministry of Transportation and Highways took responsibility for it since the CNR has failed to make all the repairs requested by MOTH, and Mr. N. O'Neill discovered more rot in the structure in 1989. A level crossing has less maintenance costs than an overhead; however, it is not as safe. The bridge would require replacement eventually because the wood will continue to deteriorate.

I am not qualified to assess the responsibility for paying for these changes. Therefore, I do not wish to make any comments specific to the conditions that the CNR attached to their acceptance of the level crossing proposal.

My only general comment is: In the future MOTH will pay less to maintain a level crossing rather than upgrade and maintain the existing structure to present standards or replace the existing structure with a new one.

John Coyne
Regional Bridge Engineer
Thompson-Okanagan Region

JC:ds

J/CNOP

PROPERTIES BRANCH
Ministry of Transportation & Highways

MAR 21 1990

KAMLOOPS, B.C.



MEMORANDUM

Regional Bridge Engineer
Kamloops

March 15, 1990
PROPERTIES
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9
828-4262

Attention: John Coyne

PS 63288

Re: CN Overhead on Evans Road

During our last discussion about the noted overhead bridge, it was suggested that we approach CN about granting us a level public crossing north of this overhead. Attached is a copy of CN's reply.

May we please have your comments on their conditions.

G. A. Ward
Regional Property Agent

Barry Patterson
Property Agent

BP/jr
enc.

cc: R. Meidinger
Regional Manager Operations (comments, please)
cc: District Highways Manager
South Okanagan (comments, please)

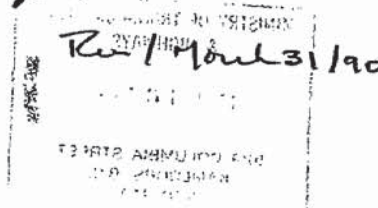
SEND COPIES TO

Barry Patterson (this page only) - Barry - whose idea was it to propose a level Xing in place of a bridge?

This → Pending

Date

Initial



February 27, 1990

PROPERTIES BRANCH
Ministry of Transportation & Highways

Your File: PS 63288
Our File: 805/548

MAR 06 1990

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Attention: Barry Patterson, A.I.M.A., C.R.A.
Property Agent

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision
Acquisition of CN Lands for Okanagan Highway 97
(and Evans Road), Oyama, B.C.

With respect to your letter of December 27, 1989 in which you offered a proposal for CN's consideration and as a follow up to our conversation of February 14, 1990, I am pleased to advise that CN is in agreement to a public crossing at grade at the former site of the farm crossing Mile 97.67 Okanagan Subdivision, subject to the following conditions:

1. The Ministry of Transportation and Highways shall make the necessary submission for a public crossing at grade and assume the full cost of construction and future maintenance.
2. Upon approval of a public crossing at grade in accordance with Item 1, the Ministry of Transportation and Highways shall assume the cost to remove the existing farm overhead bridge at Mile 97.73.
3. The Ministry of Transportation and Highways shall fence the east boundary of Evans Road and the west boundary of CN's right-of-way as earlier contemplated - shown in green on the attached plan.

Page 2/...

Ministry of Transportation and Highways
February 27, 1990
Page 2.

4. CN will convey to the Ministry of Transportation and Highways the area coloured red and the M.O.T.H. will transfer to CN the unopened road allowance coloured brown - the difference in area shall result in a payment by the M.O.T.H. to CN at the rate of \$8000 per acre.

Please consider the aforementioned. I look forward to your response.

Yours truly,



W.C. Ramsay
Real Estate Officer

WCR/shb

Phone: (403) 421-6924

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B. C. V2C 2T9
FAX NO. 828-4229
Telephone 828-4279

Our File: PS 63288
Your File: 805/548

December 27, 1989

CN Real Estate
10004 - 104th Avenue
Edmonton, Alberta
T5J 0K2

Attention: W. Ramsay, Real Estate Officer

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision

As per our telephone conversation on December 21, 1989, we ask that you consider the following proposal:

1. Grant a public crossing at the area shaded in green on the attached plan if this Ministry is able to acquire the necessary land from Lots 1 & 2, Plan 6738 that is needed to build a public road in the area shaded in pink.
2. The present overhead structure would then become redundant.

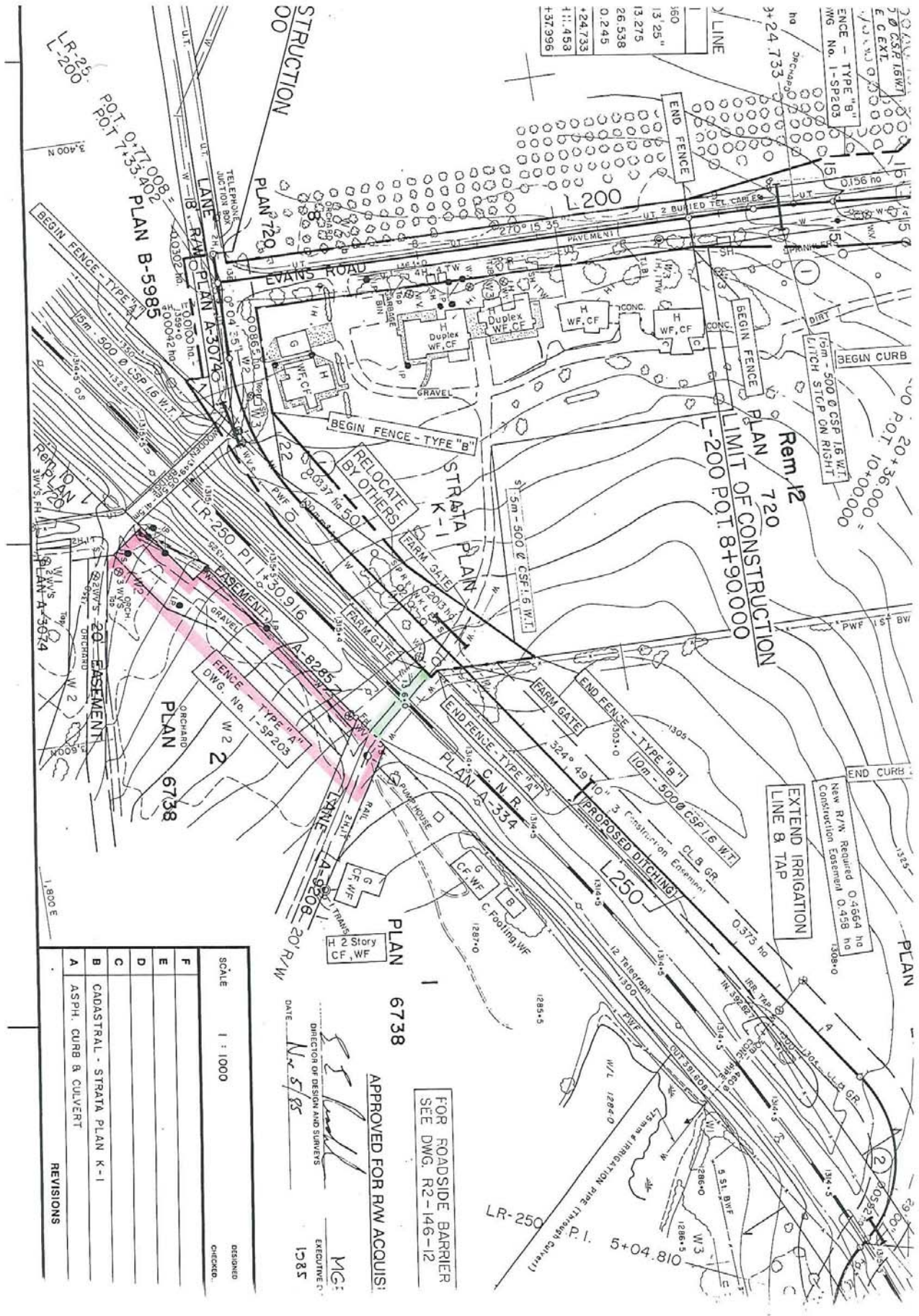
Please discuss this with the appropriate CN personnel and advise us accordingly.

Yours truly,

G. A. Ward, B.Comm, R.I.(BC)A.A.C.I.
Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/ab
attach.



November 3, 1989

Your File: PS 63288
Our File: 805/548

Ministry of Transportation and Highways
Regional Properties
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.
PROPERTY AGENT

Dear Sir:

RE: MILE 97-98 OKANAGAN SUBDIVISION
OVERHEAD BRIDGE & SALE OF CN LANDS

With respect to your letter dated September 18, 1989 regarding bore reports for the overhead structure, enclosed are the most recent drilling results obtained in 1974. These results are obviously out of date not only with the passage of time but also because several of the reject members have been replaced since then. However, the report can serve as reference material.

In 1989 a visual bridge inspection was carried out by CN structural engineers who requested that drilling be done in 1990. The drilling is tentatively scheduled for about May.

However, CN is desirous of completing the subject matter, now outstanding for some 4 years, as soon as possible. CN anticipates that some work will be required on the structure in the near future. The Ministry's offer to settle will no doubt take this aspect into consideration.

Yours truly,



W. Ramsay
Real Estate Officer
CN Real Estate

WR/pp
Attachs.
Phone: (403) 421-6924

PROPERTIES BRANCH
Ministry of Transportation & Highways

NOV 15 1989

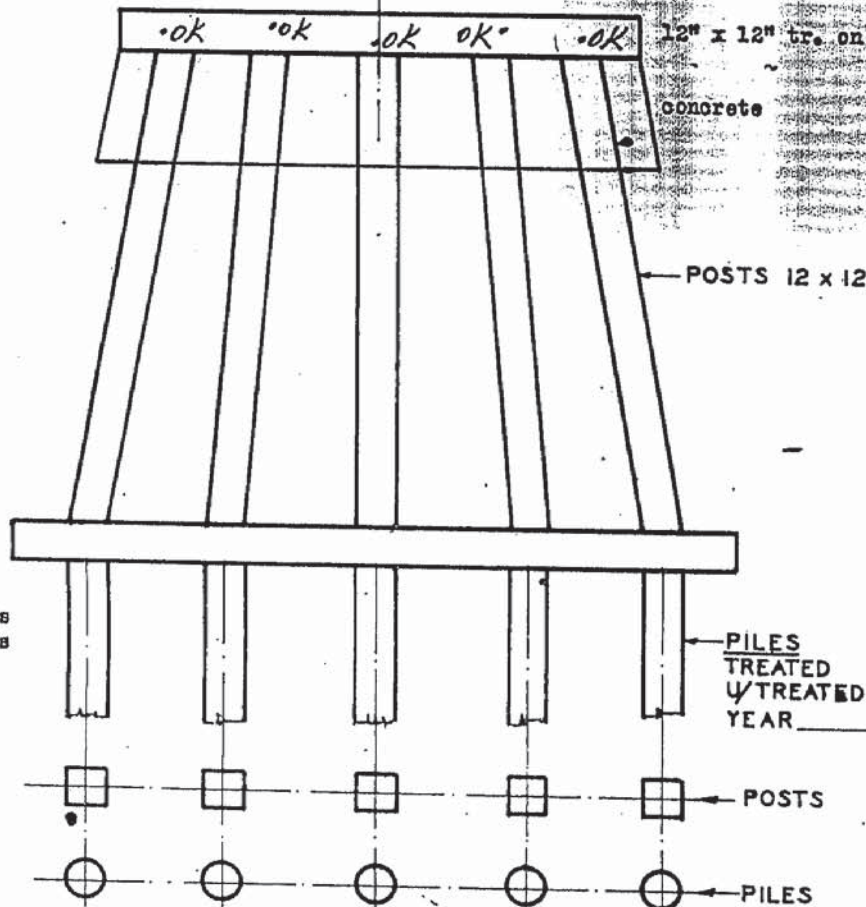
KAMLOOPS, B.C.

Frame Bent — Post Inspection

Bent N° 1

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

~~1ST STOREY~~



SILL:
TREATED ☐
U/TREATED ☐
SIZE _____
YEAR _____

no piles
no posts

PILES
TREATED ☐
U/TREATED ☐
YEAR _____

POST N° _____
END OF POST: TREATED ☐, UNTREATED ☐, YEAR _____
BORE HOLES IN POSTS AND CAPS - SILLS SHOWN AS • x •
DEPTH OF BORE HOLES: 10 to 11"
REMARKS: When looking in direction of increasing mileage, bents # 1, 2, 3, and # 4
are to the LEFT of track.

The 12" x 12" treated timber on concrete was sound drilling

NOTE: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness with all internal decay. Show checked or split piling (or posts). Piles numbered left to right when facing in direction of increasing mileage.

Symbols: D.R. - Decay removed
D.P. - Decay Pocket
W.P.H. - Woodpecker Hole
P.H. - Punky Heart
S.R. - Shell Rot
S.T. - Shell Thickness
V. - Void
C. - Check
S. - Split

Frame Bent — Post Inspection

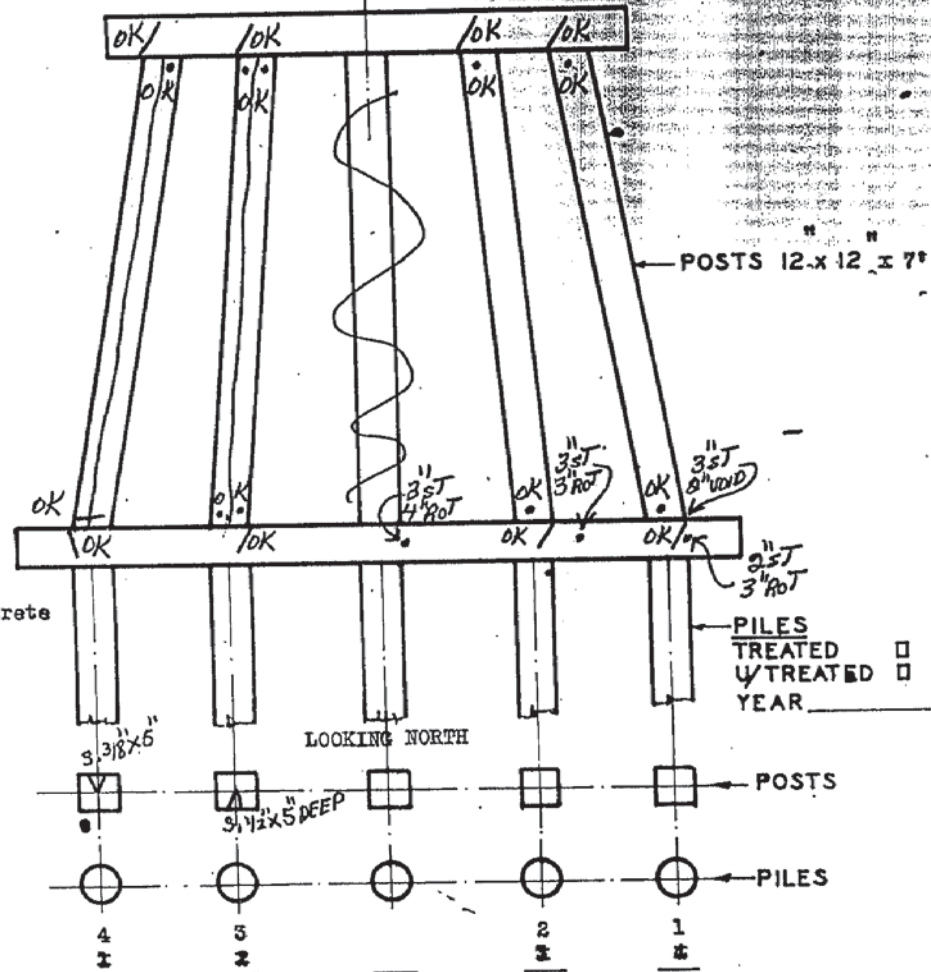
Bent N° ²

CAP
 TREATED ☒
 UNTREATED ☐
 SIZE 12" x 12"
 YEAR 1949

1ST STOREY

SILL:
 TREATED ☒
 U/TREATED ☐
 SIZE 12" x 12"
 YEAR 1949

sill on concrete pedestals



POST N°
 KIND OF POST: TREATED ☐ UNTREATED ☐ YEAR 1949

BORE HOLES IN POSTS AND CAPS-SILLS SHOWN AS .x

DEPTH OF BORE HOLES: 10 to 11"

REMARKS: 4 post frame bent.

Top of sill is split open 3/8 to 1/2" wide by 9 to 11" deep - 3 to 4" of rot showing in this timber from C/L of bent to right end of this timber.

NOTE: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness with all internal decay. Show checked or split piling (or posts). Piles numbered left to right when facing in direction of increasing mileage.

Symbols: D.R. - Decay removed
 D.P. - decay Pocket
 W.P.H. - Woodpecker Hole
 P.H. - Punky Heart
 S.R. - Shell Rot
 S.T. - Shell Thickness
 V. - Void
 C. - Check
 S. - Split

Page 164



Area B. C.
Sub Okanagan
Mile 97.6 Road O'head xing
F.T.

Date June 12th, 1974

Inspector J. A. Zaharia

X-100-80 M

Frame Bent - Post Inspection

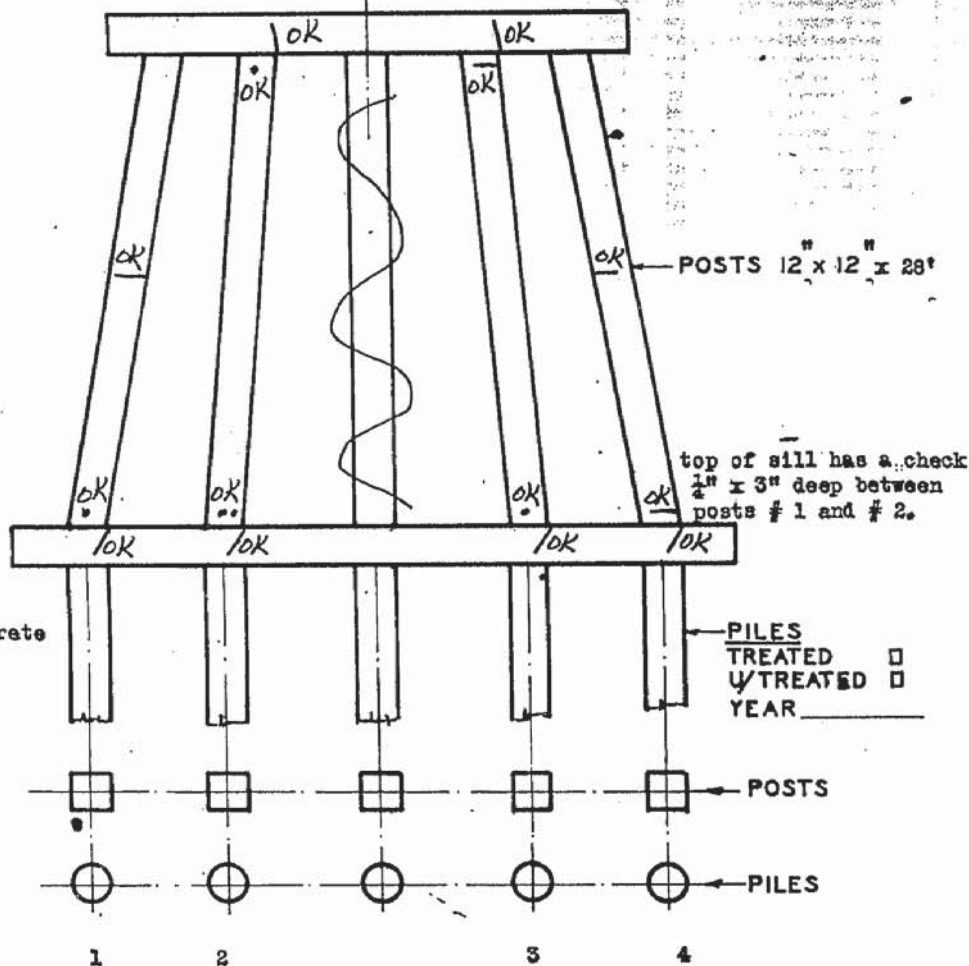
Bent No 4

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

1st STOREY

SILL:

TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949



sill on concrete pedestals

POST No

KIND OF POST: TREATED ☐, UNTREATED ☒ YEAR 1949

BORE HOLES IN POSTS AND CAPS-SILLS SHOWN AS

DEPTH OF BORE HOLES: 10 to 11"

REMARKS: Could not reach to drill top of posts #1 and #4 - nor the cap in the area of these 2 posts. All posts are split or have checks 3/8 to 1/2" wide by 3 to 5" deep

NOTE: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness with all internal decay. Show checked or split piling (or posts). Piles numbered left to right when facing in direction of increasing mileage.

Symbols:

D.R. - Decay removed
D.P. - Decay Pocket
W.P.H. - Woodpecker Hole
P.H. - Punky Heart
S.R. - Shell Rot
S.T. - Shell Thickness
V. - Void
C. - Check
S. - Split

OUNTAIN REGION

X-100-80 M

Area B. C.
Sub Okanagan
Mile 97.6 Road O'head xing

Date June 12th., 1974

Inspector J. A. Zaharia

Frame Bent — Post Inspection

Bent N° 5

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

XXXXXXXXXXXX
X STORE X

SILL:
TREATED ☒
U/TREATED ☐
SIZE 12" x 12"
YEAR 1949

sill on concrete
pedestals

POSTS 12 x 12 x 28'

Sill has small surface
checks

PILES
TREATED ☐
U/TREATED ☐
YEAR

POSTS

PILES

POST N°
KIND OF POST: TREATED ☐ UNTREATED ☒ YEAR 1949

BORE HOLES IN POSTS AND CAPS-SILLS SHOWN AS 0.4
DEPTH OF BORE HOLES: 10 to 11"

REMARKS: Top of posts # 1 and # 4 not drill checked - cap not drill checked in area of
these outside posts because we could not reach. All posts have checks or are split

3/8 to 1/2" wide by 2 to 5" deep.

NOTE: Draw-in major decay, internal
and external, where found in
each pile (or post). Show mini-
mum and maximum shell thickness
with all internal decay.
Show checked or split piling
(or posts). Piles numbered left
to right when facing in direction
of increasing mileage.

Symbols:

D.R. - Decay removed
D.P. - Decay Pocket
W.P.H. - Woodpecker Hole
P.H. - Punky Heart
S.R. - Shell Rot
S.T. - Shell Thickness
V. - Void
C. - Check
S. - Split



Area B. C.
Sub Okanagan
Mile 97.6 Road O'head xing

Date June 12th., 1974

Inspector J. A. Zaharia

X-100-80 M

Frame Bent — Post Inspection

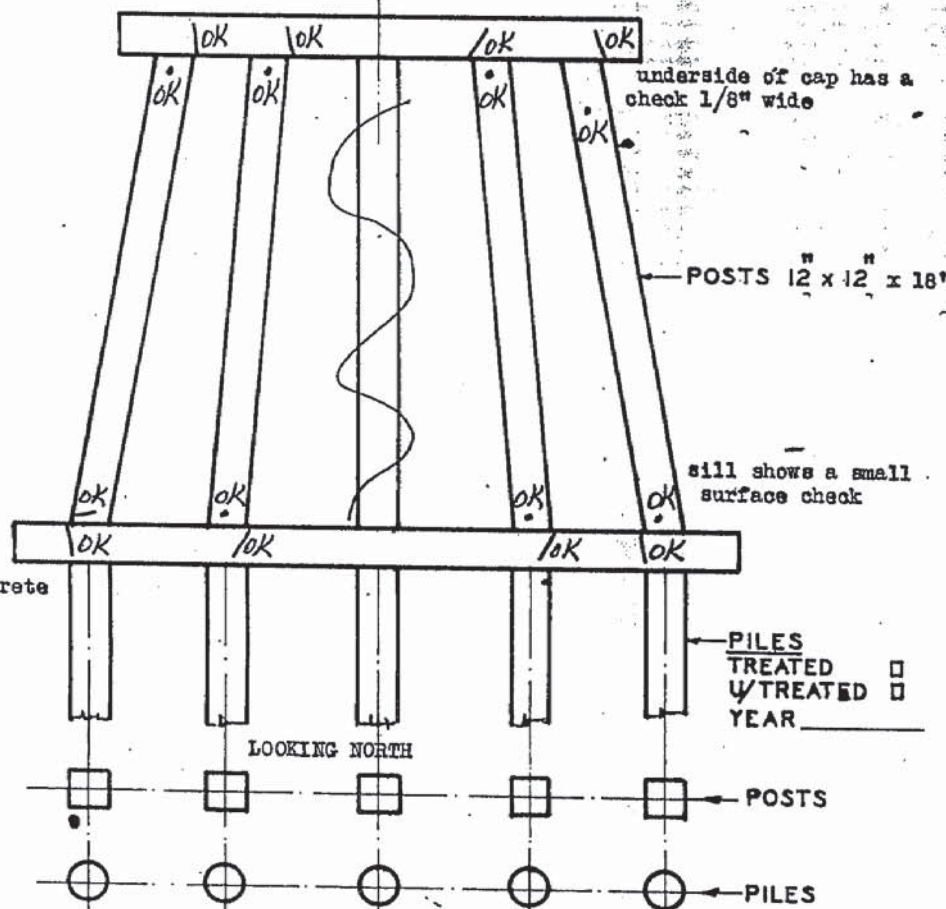
Bent N° 6

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

11 STOREY

ILL:
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

sill on concrete pedestals



1ST N° 4 3 2 1
END OF POST: TREATED ☐ UNTREATED ☒ YEAR 1949
BORE HOLES IN POSTS AND CAPS-SILLS SHOWN AS •
DEPTH OF BORE HOLES: 10 to 11"
REMARKS: posts have checks or are split 3/8 to 1/2" wide by 3 to 5" deep.

NOTE: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness with all internal decay. Show checked or split piling (or posts). Piles numbered left to right when facing in direction of increasing mileage.

Symbols: D.R. - Decay removed
D.P. - Decay Pocket
W.P.H. - Woodpecker Hole
P.H. - Punky Heart
S.R. - Shell Rot
S.T. - Shell Thickness
V. - Void
C. - Check
S. - Split

Area B. C.
Sub Okanagan
Mile 97.6 Road O'head King
F.T.

Date June 12th., 1974
Inspector J. A. Zaharia

Frame Bent — Post Inspection

Bent N° 7

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

1ST STOREY

SILL:
TREATED ☒
U/TREATED ☐
SIZE 12" x 12"
YEAR 1949

sill on concrete pedestals

POSTS 12" x 12" x 8'

sill has small surface checks.

PILES
TREATED ☐
U/TREATED ☐
YEAR _____

POSTS

PILES

POST N° 1 2 3 4
KIND OF POST: TREATED ☐ UNTREATED ☒ YEAR 1949
BORE HOLES IN POSTS AND CAPS-SILLS SHOWN AS •
DEPTH OF BORE HOLES: 10 to 11"
REMARKS: cap, posts and sill were dry and sound drilling

NOTE: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness

Symbols: D.R. - Decay removed
D.P. - Decay Pocket
W.P.H. - Woodpecker Hole
P.H. - Punky Heart

X-100-80 M

Area B. C. **Date** June 12th, 1974

Sub Okanagan

Mile 97.6 - Road O'head Xing **Inspector** J. A. Zaharia

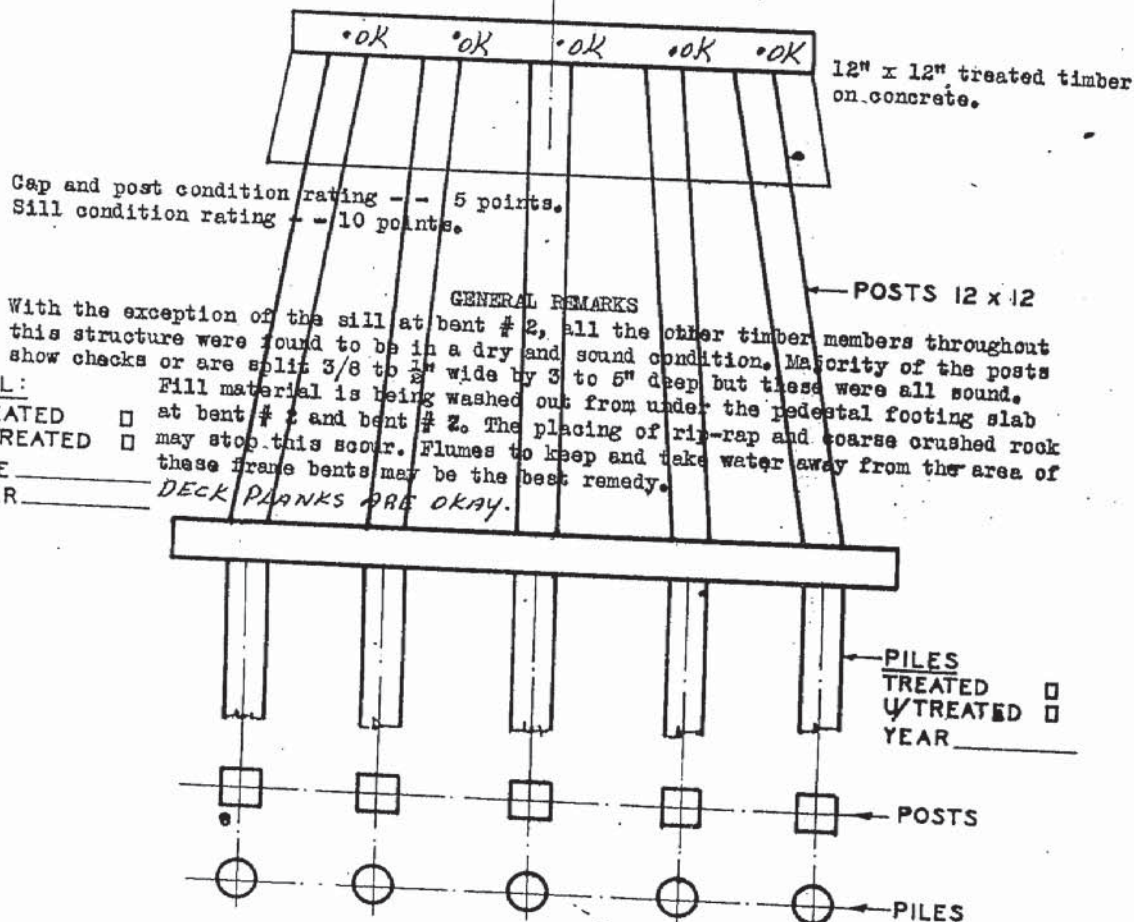
Region Mountain

Frame Bent — Post Inspection

Bent No 8

CAP
TREATED ☒
UNTREATED ☐
SIZE 12" x 12"
YEAR 1949

IS STOREY



NO _____

OF POST: **TREATED** ☐ **UNTREATED** ☐ **YEAR** _____

HOLES IN POSTS AND CAPS-SILLS SHOWN AS Y

TH OF BORE HOLES: 10 to 11"

ARKS: _____

E: Draw in major decay, internal and external, where found in each pile (or post). Show minimum and maximum shell thickness with all internal decay. Show checked or split piling (or posts). Piles numbered left to right when facing in direction of increasing mileage.

Symbols:

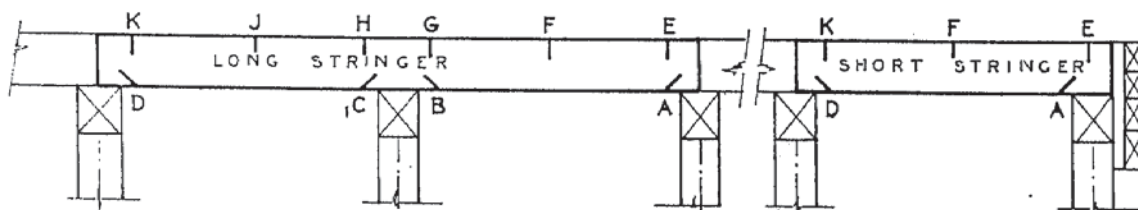
- D.R. - Decay removed
- D.P. - Decay Pocket
- W.P.H. - Woodpecker Hole
- P.H. - Punky Heart
- S.R. - Shell Rot
- S.T. - Shell Thickness
- V. - Void
- C. - Check
- S. - Split



Area B. C.
Sub Okanagan
Mile 97.6 - Road O'head King - F.T.

Date June 12th., 1974
Inspector J. A. Zaharia

Bridge Stringer Inspection Report



KIND OF STRINGER: TREATED ☒ UNTREATED ☐ YEAR PLACED 1940 SIZE 6" x 16"

STRG'R N°	BENT TO BENT	HOLE	DISTANCE FROM C OF CAP	REMARKS
				depth of bore holes -- 13"
BENT # 1 --	" A "			end of 9 stringers which span from bent # 1 to bent # 2 all drill checked dry and sound. Bore holes are about 12" from the end of each timber at this bent. Throughout the length of this deck, only the outside run of stringers butt together at the C/L of each cap - all the other stringers overlap the cap.
BENT # 2 --	" A "			end of 8 stringers which span from bent # 2 to bent # 3 all drilled OK.
BENT # 3 --	" D "			end of stringer # 2 which spans from bent # 2 to bent # 3 drill checked okay.
	" A "			end of stringers # 3 to # 9 which span from bent # 3 to bent # 4. were dry and sound drilling.
BENT # 4 --	" D "			end of stringers # 3 to # 7 inclusive which span from bent # 3 to bent # 4 drill checked okay.
BENT # 5 --	" A "			end of stringers # 2 to # 7 inclusive which span from bent # 5 to # 6 drill checked okay.
BENT # 6 --	" A "			end of 8 stringers which span from bent # 6 to bent # 7 were all OK.
BENT # 7 --	" D "			end of stringers # 1 to # 4 inclusive which span from bent # 6 to bent # 7 drill checked okay.
	" A "			end of stringers # 6 to # 9 inclusive which span from bent # 7 to bent # 8 drill checked okay.
BENT # 8 --	" D "			end of 9 stringers which span from bt. # 7 to bt. # 8 all drill checked okay
End of all stringers were found to be in a dry and sound condition. Should be okay for several more years.				
STRINGER CONDITION RATING -- 5 POINTS.				

GENERAL REMARKS:

IF NECESSARY DRILL ADDITIONAL TEST HOLES AS REQUIRED AND EXPLAIN IN THE REMARKS COLUMN.
STRINGER N° LEFT TO RIGHT LOOKING IN DIRECTION OF INCREASING MILEAGE.

SYMBOLS:

B. D. — BEARING AREA DECAYED
D. S. — DECAY ON SIDE
D. P. — DECAY POCKET
P. H. — PUNKY HEART
S. R. — SHELL ROT
V. — VOID
C. — CHECK
S. — SPLIT

X-100-67 M
REV. OCT. 1971

CN Real Estate
Immeubles

November 27, 1989

Your File: 63288
Our File: 805/548

Ministry of Transportation and Highways
Regional Properties
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: BARRY PATTERSON, A.I.M.A., C.R.A.
PROPERTY AGENT

Dear Sir:

Re: Mile 97 - 98 Okanagan Subdivision
Acquisition of CN Lands for Okanagan Highway 97
(And Evans Road), Oiyama, B.C.

As stated in my letter of November 3, 1989, the subject matter has been outstanding for some 4 years. Our records show the Ministry entered upon the lands in question as early as September 1986 and has had exclusive use of them to date. Meanwhile, CN has received no rental for this property and pays property taxes thereon. In addition, costs continue in terms of administrating this transaction as well as in maintaining the overhead bridge, a public facility.

The public's use of CN's operating right-of-way must be formalized by agreement. Until such time as matters are concluded between the parties at this location, CN offers the Ministry a License Agreement, subject to 30 days cancellation by either party, effective September 1, 1986. Annual Rental due from September 1, 1986 to December 31, 1989 is \$2,042.67. The applications/documentation fee is \$250.00. Insurance, indemnity and waiver clauses will apply.

I look forward to your early response, concurring with the aforementioned terms and conditions.

Yours truly,



W. Ramsay
Real Estate Officer
CN Real Estate

WR/pp
Phone: (403) 421-6924

PROPERTIES DIVISION
Ministry of Transportation & Highways

NOV 27 1989

KAMLOOPS, B.C.

BP
we previously agreed to
8800/sq = \$44.00/sq. for the house
- then house proposal is too high,
also reason its outstanding is at
their side request.
@ 10% = \$746.67 from 9/1/86
@ 12% = 1760. " "
Ans
25/11/89

29 August 1989

Your file: PS 63288
Our file: 805/548

Fax No. 604-828-4229

Ministry of Transportation and Highways
Regional Properties
523 Columbia Street
Kamloops, B.C.
V2C 2T9

PROPERTIES BRANCH
Ministry of Transportation & Highways

Attn: Barry Patterson, A.I.M.A., C.R.A.
Property Agent

SEP 06 1989

KAMLOOPS, B.C.

Dear Sir:

Re: Mile 97 - 98 Okanagan Subdivision -
Overhead Bridge & Sale of CN lands

I refer to my letter of July 12, 1989. May I please have a response thereto and some positive indication that the Ministry is serious about completing the outstanding matter involving this occupation of CN lands.

Yours truly,



W. Ramsay
Real Estate Officer
CN Real Estate

WR/sb
Phone: (403) 421-6924



MEMORANDUM

Regional Properties
Kamloops

Attention: Barry Patterson, A.I.M.A., C.R.A.
Property Agent

September 12, 1989
Professional Services
523 Columbia Street
Kamloops, BC V2C 2T9

828-4235

~~PROPERTIES BRANCH~~
Ministry of Transportation & Highways

SEP 14 1989

RE: C.N.R. Overhead at Evans Road/Oyama
Site Inspection

KAMLOOPS, B.C.

As per your request, I have inspected the above noted structure in light of Bruce McGorman's (Ministry of Transportation & Highways) letter dated February 24, 1989 and W. Ramsay's (C.N.R.) letter dated July 12, 1989.

The required repairs as outlined in Bruce McGorman's letter have been partially addressed but not with a great degree of completeness.

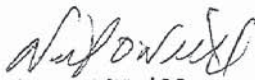
The following are my findings:

- The deck planking and cross ties have been replaced. The spiking of the new deck planks to the cross ties has resulted in some damage to the new treated cross tie. However, this part of the repairs is acceptable but not very pleasing.
- The old railing has been replaced with new unpainted wood rails of questionable quality. The new railing has been mounted on the old posts which are unpainted and exhibit considerable dry rot. The rail repairs are unacceptable as they exist. The rail posts will have to be replaced with new posts, the unacceptable sections of the rail replaced, and the entire new railing painted as requested.

.../2

- The rotten outside bracing and girts have not been replaced as requested. However, upon my inspection of the superstructure and substructure timbers, it has been noted that extensive increment boring has been done on this structure in the past, mainly in suspected areas or rot. It is a request of this office that the C.N.R. supply the Ministry with the report on their findings as random increment boring done by myself has indicated decay of various degrees in some of the members. Alternately, if these reports are unavailable it is recommended that a thorough investigation of this structure be undertaken by the Ministry, to identify any required replacement of timber that may be necessary before the Ministry takes over ownership of this structure.
- The undermining of the concrete pedestals has been backfilled, signs that erosion is likely to occur in these areas again are apparent. However, this erosion could probably be prevented by a regular cleaning of the drains located immediately behind each ballast wall.

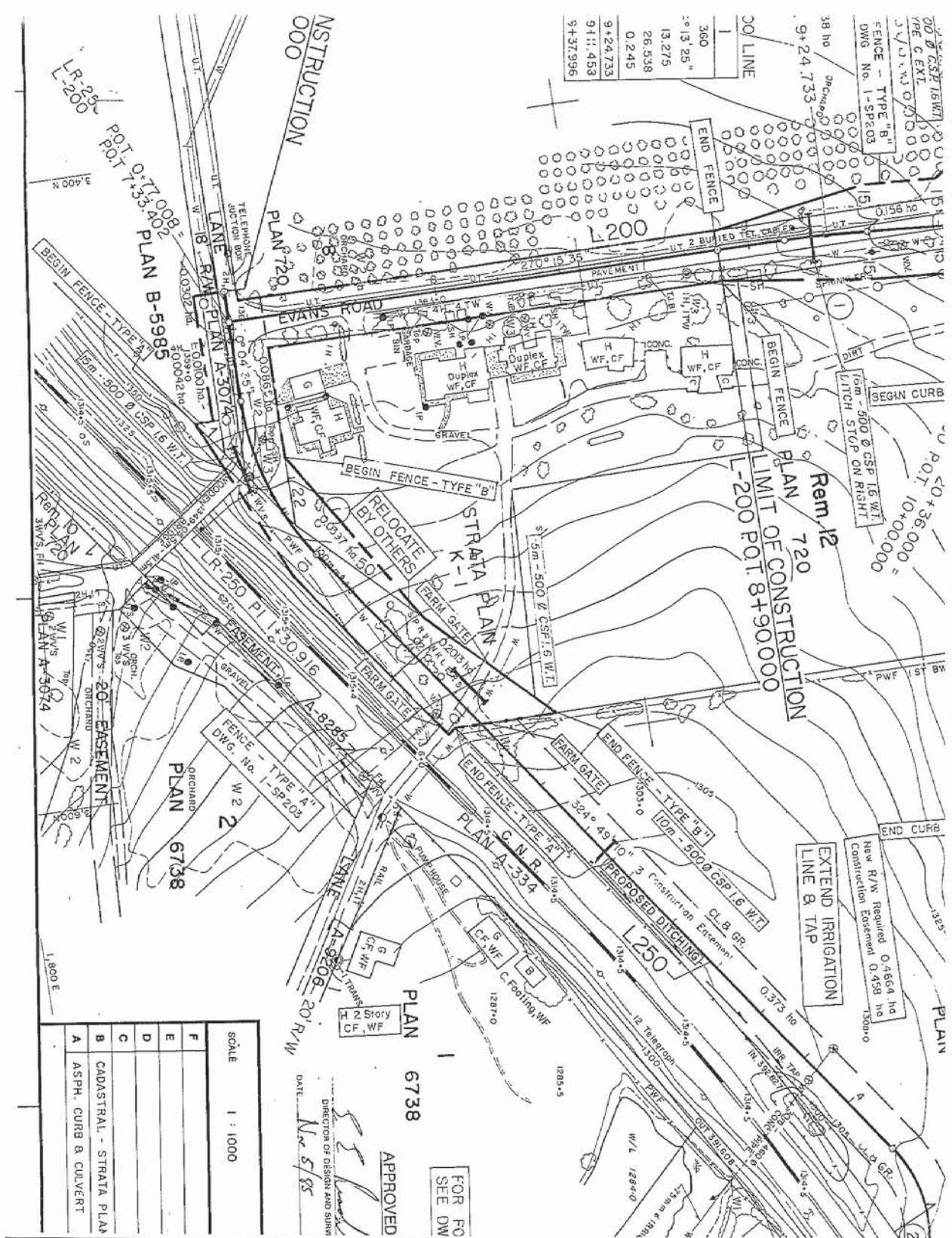
Before a meeting is arranged between the C.N.R.'s and Ministry's Bridge Engineers the afore mentioned report will have to be acquired.



N.D. O'Neill
A/Regional Bridge Technician

NDO:ds

cc: J.F. Meidinger, Regional Manager, Operations, Thompson-Okanagan
G.E. Miller, Regional Manager, Professional Services,
Thompson-Okanagan
M. Woodcock, Area Manager, Bridges, South Okanagan



REGIONAL PROPERTY SERVICES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B. C. V2C 2T9
Telephone 828-4279
Fax No. 828-4229

Our file: PS 63288
Your file: 805/548

September 18, 1989

C N Real Estate
10004 - 104 Avenue
EDMONTON, B.C.
T5J 0K2

Attention: W. Ramsay
Real Estate Officer

Dear Sir:

Re: Mile 97 - 98 Okanagan Subdivision
Overhead Bridge on Evans Road, Oyama, B.C.

The Ministry's Regional Bridge Technician has made an inspection of the subject bridge. He noticed extensive increment boring of the superstructure and substructure timbers and has requested that CN provide the Ministry with its reports on the findings of these borings. Random increment boring done by our technician indicates extensive decay of varying degrees.

After our Regional Bridge Technician has reviewed the mentioned reports he has requested we will arrange a meeting with him and your engineer. Please forward the reports to this office at your convenience.

Yours truly,

G. A. Ward, B.Comm, R.I. (B.C.) A.A.C.I.
Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/pr

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9
Telephone 828-4279
Fax No. 828-4229

805/548

PS 63288

September 06, 1989

CM Real Estate
10004 - 104 Ave.
Edmonton, Alberta
T5N 0K2

Attention: W. Ramsay
Real Estate Officer

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision
Overhead Bridge

The Ministry's Bridge Technician has advised us that he will review this matter by the end of September. We will contact you after we have recieved his report.

Yours truly,

Barry Patterson, AIMA, CRA
Property Agent

BP/js

12 July 1989

Your file: PS 63288
Our file: 805/548

PROPERTIES BRANCH
Ministry of Transportation & Highways

JUL 18 1989

KAMLOOPS, B.C.

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Attn: Barry Patterson, AIMA, CRA
Property Agent

Dear Sir:

Re: Mile 97 - 98 Okanagan Subdivision- Overhead Bridge/B.C.
MOTH Requirement for CN Property

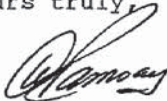
With respect to your letter of April 27, 1989 regarding the subject matter, CN Engineering have inspected the structure in light of Bruce McGorman's letter of February 24, 1987.

I am advised that the work outlined therein has been substantially completed, with some exceptions. It has been suggested that CN Engineering meet with the new MOTH Bridge Engineer to finalize the remedial measures required to consummate conveyance of the structure, in principle.

The details in terms of compensation and completion of the land transfer are left to the Properties personnel of the respective parties to resolve.

Please advise as soon as possible.

Yours truly,



W. Ramsay
Real Estate Officer
CN Real Estate

WR/sb
Phone: (403) 421-6924

REGIONAL PROPERTIES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C.
V2C 2T9
Telephone 828-4279
Fax No. 828-4229

805/548
PS 63288

April 27, 1989

CN Real Estate
10004 - 104 Avenue
EDMONTON, ALBERTA
T5J 0K2

Attention: Mr. Wm. Ramsey
Real Estate Officer

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision Overhead

As a follow-up to our conversation in this office on April 25, 1989, we wish to advise you that at this time we do not have a bridge engineer who can assist us with resolving the bridge issue. The position for bridge engineer should be filled by the end of May.

In the meantime the Ministry's position concerning the bridge is that if CN will refurbish the bridge as per Bruce McGorman's letter of February 15th, 1987 (you were given a copy on March 15, 1989), the Ministry will assume ownership. It is expected that CN will take the necessary steps to declare the overhead as a public crossing at that time. Whether or not the Ministry will share the cost of the refurbishment or purchase the bridge can only be answered by the new bridge engineer.

If CN is not prepared to wait until the engineer is here and has had an opportunity to review this matter, you may want to consider your other option of approaching the applicable board for a decision.

Please advise us of your decision.

Yours truly,

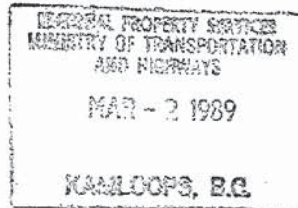
G. A. Ward, B.Comm, R.I.(BC), A.A.C.I.
Regional Property Agent

Barry Patterson, AIMA, CRA
Property Agent

BP/pr



To: G.A. Ward
Regional Property Agent
Thompson-Okanagan Region



March 2, 1989
Regional Operations

828-4221

R2-29-20-0

RE: C.N.R. Overhead at Evans Road/Oyama

I presume this Ministry was the approving authority in the relatively recent further subdivision of Lots 10 and 11. That being the case, we should have at that time, had the subdivider (in concert with the CNR) bring the bridge up to our standards and assumed responsibility for it upon approval of the subdivision or alternately provide a different public access all together (if possible). In other words, I think the bridge in fact should have ceased to be a private farm access and should have become public upon subdivision of Lots 10 and 11.

Even though the process was flawed, I feel the CNR is obligated to refurbish the bridge, bring it up to our standards at which time we should, as the responsible road authority, assume ownership. If CNR refuse, we have a legal matter on our hands.

I regret the tardiness of my reply to your Jan. 16, 1989 memo.

J. F. Meidinger
J. F. Meidinger
REGIONAL MANAGER, OPERATIONS
THOMPSON OKANAGAN REGION

JFM/st

Manager of Operations
Kamloops

January 16, 1989
Regional Property Services
Thompson-Okanagan Region
523 Columbia Street
Kamloops, BC
V2C 2T9
828-4262

Attention: R. Meidinger

Re: C.N.R. Overhead at Evans Road, Oyama

We have been negotiating with C.N. since 1985 for right of way on Evans Road. The stumbling block has been the overhead on its right of way. We are requesting your assistance in resolving this matter.

C.N. agrees that it was responsible for providing access to Lots 10 and 11, Plan 720 when C.N. constructed its right of way as per Plan A-334. The overhead was erected and established as a farm crossing. Over the years Lots 10 and 11 have been subdivided using the overhead as the only access to the newly created parcels. C.N. now claims it is not responsible for providing access to these lots and insists that we assume ownership and maintenance of the overhead.

We wrote to G.R. Eisenhuth, Transport Canada Liaison Officer, asking for his assistance in clarifying the Ministry's responsibility. His reply is attached. Also attached are copies of Plans 720, A-334 and B-1686. The dedicated roads are shaded in red. The overhead is shaded in brown on Plan B-1686.

Bridge Branch is not in favour of taking over the structure even if C.N. were to carry out the necessary repairs.

Could you please review this matter and contact the writer to discuss same at your convenience. Your assistance is appreciated.

G.A. Ward
Regional Property Agent

BP/kd
Attch.

Gordon Eisenhuth
C.T.C. Liaison Officer
Ministry of Transportation & Highways
940 Blanshard Street
VICTORIA, B.C.
V8W 3E6

December 15, 1988
PROPERTY SERVICES
Thompson-Okanagan Region
523 Columbia Street
Kamloops, B.C. V2C 2T9
828-4261
PS 63288

Re: C.N. Rail Overhead on Evans Road, Oyama

On November 22, 1988 we wrote to your office about the above matter.
Since that date C.N. Rail has asked us if we could possibly have this
matter expedited as it has been an ongoing situation since 1985.

Any assistance you can provide in this matter is greatly appreciated.

G.A. Ward
Regional Property Agent

BP/pr

Ministry of Transportation &
Highways
940 Blanshard Street
Victoria, B.C. V8W 3E6

November 22, 1988
PROPERTY SERVICES
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9
828-4279

PS 63288

Attention: Gordon Eisenhuth
C.T.C. Liaison Officer

Re: C.N. Railway Overhead on Evans Road, Oyama.

In 1986 this Ministry rebuilt part of and extended Evans Road at Oyama. This necessitated using some land belonging to the C.N.R. During our negotiations with C.N. they requested that we purchase their overhead bridge on Evans Road.

The C.N. right-of-way was built after the area was subdivided by Plan 720. Because of this C.N. was responsible for providing access to the 2 lots east of their new right-of-way. These two lots, Lots 10 and 11, have been subdivided over the intervening years. C.N. now claims that because of these subdivisions it is no longer responsible for providing access to this area.

The Ministry's Bridge Branch has inspected the structure and is not in favour of taking over the bridge even if C.N. carried out the necessary repairs due to the ongoing maintenance costs.

We are asking for your assistance to help clarify the Ministry's responsibility since it was the Ministry that approved the subdividing of the lots east of the C.N. right-of-way.

The attached right-of-way plan shows the area we need to purchase from C.N. and the subject overhead shaded in blue. The composite plan shows the overhead shaded in blue also and the subsequent subdivisions east of it.

G.A. Ward
Regional Property Agent

BP/lf
Attach.



Province of
British Columbia

Ministry of
Transportation
and Highways

MEMORANDUM

To: G.A. Ward
Regional Property Agent
KAMLOOPS

Date: June 29, 1988
Branch/Dist: Region 2
Address: Kamloops-Regional
Office

Attention: B. Patterson
Property Agent

Phone:
Hdqtrs. File:
Region File: B2-40-0
District File: Prop. File: PS63288

RE: C.N. Railway overhead on Evans Road, Oyama
Kelowna Highways District

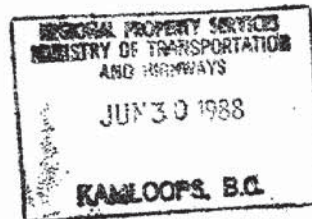
Further to our recent conversation on this subject, I have discussed this with Keith Bessflug, Regional Director.

We concur with the assessment made by Bruce McGorman in February, 1987. At this time, we are not in favour of taking over the structure even if CN carried out the necessary repairs. The cost to the Ministry to replace this structure in 15 to 20 years would be prohibitive and would detract from existing priorities.

J.F. Meidinger, P.Eng.
Acting Regional Manager, Maintenance

L.A. Nelson

by: L.A. Nelson, A.Sc.T.
Acting Regional Bridge Technician



LAN/st

cc: E.C. Redman, District Highways Manager, Kelowna

Mr. S.J. Sviatko
Regional Manager, Maintenance
Kamloops

February 24, 1987
Reg. Bridge Maint. Engineer
Kamloops

828-4241

B2-40-0

Re: C.N. Railway Request to Purchase Overhead on Evans Road, Oyama

The above noted structure was inspected by Mr. Jim Richards, Kelowna District Bridge Foreman and myself in February 16, 1987 and the following conditions noted:

- the substructure is in fair to good condition. The piers and abutment support legs, caps, cross-ties and interior bracing are all constructed of treated timber. The outside bracing between pier bents are constructed of untreated timber and rot is evident in these members.
- the pier trestles are built on concrete pedestals and the abutments on concrete spreadfootings. There is major slope erosion below the structure resulting in two of the concrete pedestals being undermined.
- the timber deck is in fair to poor condition with rot evident at a number of the plank ends. The railing is constructed of untreated timber with rot evident throughout.

I would not recommend the Ministry purchase this structure however we could place the structure in our bridge inventory and take over its maintenance provided the following repairs are made first:

- replace the timber deck and railing (the railing should be flex-beam or painted timber).
- replace the rotten outside bracing with treated timber.
- repair the undermined pedestals and other eroded areas and improve the drainage about the bridge.

I hesitate to recommend the purchase of this structure because of the costs that may be incurred to replace it in 10 to 15 years.

B. McGorman, P. Eng.
Regional Bridge Maintenance Engineer

BMc/jb

Regional Bridge Maintenance Engineer
Kamloops

May 10, 1988
PROPERTY SERVICES
523 Columbia St.
Kamloops, B.C.
V2C 2T9
828-4262

PS 63268

Your File: 82-40-0

Re: C.N. Railway Overhead on Evans Road, Oyama

Having read Bruce McGowan's letter of February 24, 1987, are you prepared to recommend that the subject structure be placed on the Ministry's bridge inventory and maintenance schedule if the C.N. makes the suggested repairs beforehand?

We have no guarantee that the C.N. will go along with such a proposal but we have to start somewhere in an attempt to settle this matter.

G. A. Ward
Regional Property Agent

Garry Patterson
Property Agent

BP/ab

REGIONAL PROPERTY SERVICES---
523 Columbia Street
Kamloops, B.C. V2C 2T9

Phone 828-4279

805/548

PS 63288

November 10, 1987

C. N. Real Estate
10004 - 104th Avenue
Edmonton, Alberta
T5J 0K2

Attention: Miss Jane I. Fleming
Regional Manager, Real Estate

Dear Miss Fleming:

Re: Mile 97 - 98 Okanagan Subdivision

On April 15, 1987 we wrote to you regarding the right of way this Ministry wishes to acquire from you on Evans Road. In that letter we asked for you to provide us with evidence to support your position that the railway does not have to continue to provide access to the area east of its right of way. If the information is available we would appreciate receiving it so it can be reviewed.

Should you require information from us, please contact this office.

Yours truly,

G. A. Ward, B.Comm, RI(BC)
Regional property Agent

By:

Barry Patterson, ALMA, CRA
Property Agent

BP/kd

Regional Property Services,
523 Columbia Street,
Kamloops, B. C.
V2C 2T9

Telephone: 828-4279

805/548

P/S 63288

April 15, 1987.

C N Real Estate,
10004 - 104th Avenue,
Edmonton, Alberta
T5J 0K2

Attention: Miss Jane I. Fleming,
Regional Manager, Real Estate

Dear Miss Fleming:

Re: Mile 97-98 Okanagan Subdivision

Thank you for your letters of January 13, 1987 and March 30, 1987 concerning our requirements of your right-of-way.

The following is our reply to item #7 in your letter of January 13, 1987:

1. We are agreeable to this request and have instructed our surveyor accordingly.
2. It is understood that the agreed acreage rate for this right of way is \$ 8,800.00 per acre.
3. This Ministry will not consider purchasing the bridge nor a strip of land at the northeast end of it.
4. We have asked our design office about this old road but have not had a reply. We will continue to investigate this possibility.
5. Agreed.
6. Agreed.
7. Since we are not taking over this bridge, any submission to change its status should be initiated by the property owners affected.

With respect to item #3, Overhead Bridge (Farm Crossing) - Mile 97.73, we would appreciate it if you would provide us with evidence to support your position. We understand that because the subdivision east of your right of way was created before your right of way, that CN has a responsibility to continue to supply access to that area even if it is subsequently subdivided.

We look forward to receiving whatever information you can provide. If you wish any additional information from us, please contact this office.

Yours truly,

G. A. Ward, B. Comm, RI(BC)
Regional Property Agent

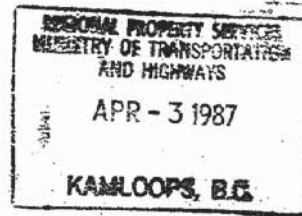
by:

Barry Patterson, ALMA, CRA
Property Agent

BP/md

March 30, 1987.

Your File: PN 63288.
Our File: 805/548.



Ministry of Transportation and Highways,
Regional Property Services,
Province of British Columbia,
523 Columbia Street,
Kamloops, B.C.
V2C 2T9.

Attention: G. A. Ward, B. Comm., R.I. (B.C.),
Regional Property Negotiator.

Dear Mr. Ward:

Re: Mile 97-98 Okanagan Subdivision -
B.C. M.O.T.H. Requirement for CN Property.

Further to my meeting on February 17, 1987 with Mr. Barry Patterson, Property Agent, B.C. M.O.T.H., regarding the subject matter, I wish to confirm the following:

1. The new fence, north of the overhead bridge to be constructed by the M.O.T.H. at their cost, should be inset one foot (east) from the new right-of-way boundary, as established by legal survey, and tied into the overhead bridge. The new right-of-way boundary will be in accordance with Miss Jane I. Fleming's letter of January 13, 1987, whereby CN retains a 100-foot right-of-way width and ownership of the area shown in yellow on the B.C. M.O.T.H. drawing.
2. The present right-of-way fence south of the overhead bridge is acceptable in its present location, even though it does not follow the easterly boundary of the triangular area shown in lime on the B.C. M.O.T.H. drawing.

Page 2/....

Ministry of Transportation and Highways,
Kamloops -
March 30, 1987.
Page 2.

3. The culvert, previously installed by the M.O.T.H. under the west approach of the closed crossing at Mile 97.67, is acceptable to CN.

Kindly acknowledge, indicating the M.O.T.H.'s position and progress with respect to CN's proposal and terms as outlined in our letter of January 13, 1987, and the aforementioned.

Yours truly,



W. C. Ramsay,
Real Estate Officer,
CN Real Estate.

WCR/df
Phone: (403) 421-6924

cc: Barry Patterson, A.I.M.A., C.R.A.,
Property Agent,
Ministry of Transportation and Highways,
Province of British Columbia,
523 Columbia Street,
Kamloops, B.C.
V2C 2T9.



MEMORANDUM

To: G.A. Ward
Regional Property Agent
Kamloops

Date: February 3, 1987
Branch/Dist: Region # 2
Address: Kamloops Regional Office

Phone: 828-4221
Hdqtrs. File:
Region File: R2-29-40-0/B2-42-29-00
District File:

Attn: Mr. Barry Paterson
Property Agent

Re: Timber Trestle O/H, Evans Road, Kelowna Highways District

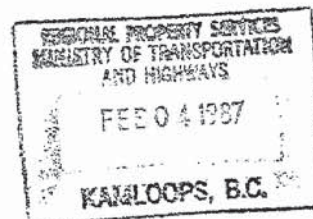
In reply to your letter of January 28, 1987, the above noted bridge will be inspected by Bruce McGorman, Regional Bridge Maintenance Engineer and Jim Richards, District Bridge Foreman prior to the Ministry making any commitment to taking-over and maintaining the structure.


S.J. Svalatko
Regional Manager Maintenance

BMc/jb

cc: Mr. W.J. McDonald
District Highways Manager
Kelowna

cc: Mr. B.W. McGorman, P. Eng.
Regional Bridge Maintenance Engineer
Kamloops



Regional Bridge Branch,
Kamloops, B. C.

January 28, 1987
Property Services,
Kamloops, B. C.

828-4279

P/S 63288

Attention: Bruce McGorman,
Regional Bridge Technician

Re: Bridge over CN Right of Way
at Evans Road, Oyama, B. C.

The CNR wants this Ministry to purchase the noted bridge. I believe the Kelowna District has been maintaining the bridge deck, May we please have your comments on this proposal?

G. A. Ward,
Regional Property Agent

by:

Barry Patterson,
Property Agent.

BP/md

REGIONAL PROPERTIES
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C. V2C 2T9
Telephone 828-4279
Fax. No. 828-4229

Our File: PS 63288

May 15, 1990

CN Real Estate
10004 - 104 Avenue
Edmonton, Alberta
T5J 0K2

Attention: W. C. Ramsay
Senior Real Estate Representative

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision

Thank you for your letter of May 3, 1990 outlining CN's reason for rejecting our offer of April 26, 1990.

Hopefully the following explanations will clarify the Ministry's position:

1. Plan 39753 is our legal survey of the new road allowance. There was no reason for it to include the old road allowance over Plan A334. This matter was addressed in our latest offer to you dated May 8, 1990.
2. The sale price of \$8,000.00 was taken from your letter dated February 27, 1990.
3. See our explanations in our letter of May 8, 1990. The only reason this matter has not been resolved is because CN insisted on including the bridge in these negotiations. We had tentatively reached an agreement on value for the right-of-way when you met with George Ward in our office in December, 1986. On September 29, 1986 during our telephone conversation you stated that you would recommend acceptance of our offer of \$8,000.00 per acre to CN. This value per acre is lower than that paid to the owners of Lot 12, Plan 720 and Strata Plan K-1. These properties have different zonings and uses than your right-of-way, however, it was much less than their assessed values.
4. By isolating the bridge issue, the Ministry is not acknowledging any requirements or responsibility. The bridge does not form part of the highway system.

. . . 2

- 2 -

We are hopeful that we can resolve the right-of-way settlement now and then address the more complicated matter of the bridge. We feel it is your responsibility to settle the right-of-way issue within your thirty day deadline since our latest offer is now in your hands.

Yours truly,

G.A. Ward
Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/jr

May 3, 1990

Your File: PS 63288
Our File: 805/548

PROPERTIES BRANCH
Ministry of Transportation & Highways

MAY 17 1990

KAMLOOPS, B.C.

VIA FAX #: (604) 828-4229

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

ATTENTION: G.A. WARD, B.COMM, R.I.(B.C.), A.A.C.I.,
REGIONAL PROPERTY AGENT

Dear Sir:

RE: MILE 97-98 OKANAGAN SUBDIVISION

I wish to acknowledge receipt of your offer of April 26, 1990 for CN lands at Oyama. The documents are being returned unexecuted. I regret to advise you that CN cannot accept this offer for the following reasons:

1. Plan 39753 appears incorrect, failing to show the lane as shown on Map 720 extending through the 148.6 m² portion of Plan 334. Map 720 originally subdivided the various Sections in this area creating Lots 10, 11 and 12 amongst others and a lane between Lot 10/11 and 12. CN acquired title to right-of-way lands from these lots. CN has no title to the lane even though it is colored pink on Plan 334. CN previously proposed conveyance thereof by the Ministry in order to provide CN with a continuous right-of-way. Your letter of April 15, 1987, Item 4 indicated the matter was being investigated. The findings of that investigation are unknown to CN and the transfer of the unopened lane is not mentioned in the document.

2. The sale price of \$8,000 per acre agreed to in April 1987 was but one component of CN's proposal. Other terms and conditions have been rejected and those, previously accepted, have now been omitted from the document. Surely market values have increased in the Oyama area over the past three years. How does a per acreage value of \$8,000 compare to the per acreage value paid by the Ministry to acquire those portions of Parcel B, Plan 5985 and Strata Plan K1 (Lot A, Plan 19539)?
3. The Ministry apparently entered CN lands on or about September 1986 without the authority to do so. A search of District files confirms this fact. I have already asked you to produce any documentation to the contrary. The Ministry commenced construction to meet their schedule without any apparent concern for the terms or conditions CN might apply to a sale of the subject lands. The Ministry has since had possession and use of these lands, opposing CN's offer of a short term License Agreement. Meanwhile, CN is held responsible for over \$200 in taxes. Your offer fails to consider these aspects.
4. With respect to the overhead bridge, the Ministry's letter of April 26, 1990 indicates this matter is not closed, but is being pursued as a separate issue. Apparently Ministry officials are looking at the bridge in isolation without acknowledging the Ministry's requirements. CN's position was put forth in Miss Jane I. Fleming's letter of January 13, 1987, as a package. If the Ministry is not prepared to take over responsibility for the bridge which currently forms part of the highway system, then the Ministry should consider other options to the extension of Evans Road.

If the Ministry is unwilling to address all the aforementioned points to the satisfaction of CN and bring this matter to a close within 30 days, the Ministry should contact our District Office at Kamloops (Mr. J.H. Munro, District Manager, 371-5400) to arrange for the expeditious removal of their facilities from CN lands.

Yours truly,



W.C. Ramsay
Senior Real Estate Representative

WCR/jlf

Phone No.: (403) 421-6924

REGIONAL PROPERTIES
Thompson-Okanagan
523 Columbia Street
Kamloops, B.C. V2C 2T9
Telephone 828-4279
Fax. No. 828-4229

Your File: 805/548
Our File: PS 63288

May 8, 1990

CN Real Estate
10004 - 104 Avenue
Edmonton, Alberta
T5J 0K2

Attention: W. C. Ramsay, Real Estate Officer

Dear Sir:

Re: Mile 97 - 98, Okanagan Subdivision

Thank you for your fax of April 27, 1990.

Regard Item 7 in your letter of January 13, 1987, the following is our response to each point:

1. We are agreeable to this request - the legal survey was done accordingly;
2. It is understood that the agreed acreage rate for the right-of-way is \$8,000.00 as per your letter of February 27, 1990;
3. The Ministry will pursue the bridge matter as a separate matter since we did not affect the bridge with this right-of-way requirement;
4. The office can only recommend the closing and vesting of surplus right-of-way, which we are prepared to do at a rate of \$8,000.00/acre;
5. Agreed;
6. Agreed;
7. Same as # 3 above.

With respect to the Ministry entering the CN lands and constructing the road, Mr. Doug Gentles, the Project Supervisor, has advised us that he had discussions with Ernie Bojda, CN's Technical Services Supervisor, who was to ask you for permission to proceed. Mr. Gentles had the impression from Mr. Bojda that that was only a formality so he entered the land to build the road. This is the first indication from CN that this has caused a problem or that we may have been trespassing since the road was built in late 1986.

. . . 2

2-11 pg 2 of 3

Attached is a revised offer to reflect the changes as per your Item 7 and our response.

Right-of-way required 0.457 acres X \$8,000./acre	=	\$3,656.00
Less right-of-way Ministry to recommend be		
closed 0.1 acre X \$8,000./acre	=	- 800.00
Plus CN administrative costs	=	<u>500.00</u>
		\$3,356.00

Please review this offer and advise us of your decision accordingly.

Yours truly,

G.A. Ward
Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/jr
enc.



Province of
British Columbia

Ministry of
Transportation
and Highways

REGIONAL PROPERTIES
Thompson-Okanagan
523 Columbia Street
Kamloops, B. C. V2C 2T9
Fax No. 828-4229
Telephone 828-4279

Your file: 805/548
Our file: PS 63288

April 26, 1990

VIA RAPIDCOM TRAFFIC

CN Real Estate
10004 - 104 Avenue
Edmonton, Alberta
T5J 0K2

Attention: W. C. Ramsay, Real Estate Officer

Dear Sir:

Re: Mile 97-98 Okanagan Subdivision

Further to our telephone conversations on April 25, 1990 we are now in a position to respond to your letter of February 27, 1990.

Our Regional Manager, Operations and the District Highway Manager are both opposed to a new grade crossing. They are of the opinion that CN still has a responsibility to provide access to the east side of its right of way. Therefore, the matter of a crossing at grade is now not acceptable.

We will endeavour to meet with the above noted officials to determine under what conditions, if any, they may be willing to entertain possible transfer of the bridge structure.

As the matter of the reconstruction of Evans Road is a totally separate matter, we will be forwarding under separate cover our formal offer for the right of way required. We anticipate that since we have already agreed to the terms for that area, that you will assist in having the forms executed.

In the interim, we will pursue the bridge matter as a separate, and obviously, much more difficult matter.

Yours truly,

G. A. Ward, B.Comm, R.I.(BC), A.A.C.I.
Regional Property Agent

Barry Patterson, A.I.M.A., C.R.A.
Property Agent

BP/ab

TELECOPIER TRANSMISSION

DATE: 27 APR 90

NO. OF PAGES TO FOLLOW: 2

TO:

NAME:

M. & T. & H.

PHONE NUMBER:

KAMLOOPS.

PROPERTIES BRANCH
Ministry of Transportation & Highways

CO. OR DEPT.:

APR 27 1990

ADDRESS:

Attn: Barry Patterson

KAMLOOPS, B.C.

TELECOPIER NUMBER:

ORIGINATOR:

NAME:

W. C. RAMSAY

PHONE NUMBER:

421-6924

CN REAL ESTATE

11000, 10004 - 104 AVENUE

EDMONTON, ALBERTA

TSJ OK2

TELECOPIER NUMBER 1-403-421-6658

REMARKS:

FILE: 805/548

OFFICE USE ONLY:

TIME SENT:

1:05

BY WHOM SENT:

me

DATE:

Apr. 27/90

April 27, 1990

Your File: PS-62388

Our File: 805/548

SENT VIA FAXMITTAL

Ministry of Transportation and Highways
Regional Properties
Thompson - Okanagan
523 Columbia Street
Kamloops, B.C.
V2C 2T9

Attention: Barry Patterson, A.I.M.A., C.R.A.
Property Agent

Dear Sir:

Re: Mile 97-98 - Okanagan Subdivision

I am in receipt of your faxmittal dated April 26, 1990. I am disappointed to learn the Ministry is opposed to a new grade crossing. Further consultation with Ministry officials "to determine under what conditions, if any, they may be willing to entertain possible transfer of the bridge structure" would appear to be a positive step. However, did these officials not consider the matter in early 1987 and again in 1989? Nevertheless, when may we expect a definitive answer?

You state we have already agreed to the terms for the right-of-way required. Indeed, we did agree on an acreage rate in 1987, but our offer spelled out in Item 7 of my letter of January 13, 1987 and your response of April 15, 1987, clearly indicate that no agreement was reached on the terms and conditions applicable thereto. If you have evidence to suggest otherwise, please forward.

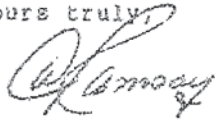
In addition, kindly advise on what authority the Ministry entered and commenced construction on CN lands on or about September 10, 1986.

Page 2/...

Ministry of Transportation and Highways
April 27, 1990
Page 2.

Your prompt attention to the aforementioned would be appreciated.

Yours truly,



W.C. Ramsay
Sr. Real Estate Representative

WCR/shb

Phone No.: (403) 421-6924
Fax. No.: (403) 421-6656