

**PERMISSION TO CONSTRUCT, USE, AND MAINTAIN ACCESS  
TO A PROVINCIAL HIGHWAY**

**PERMIT PURSUANT TO THE *TRANSPORTATION ACT***

**BETWEEN:**

The Minister of Transportation

West Kootenay District

310 Ward Street,  
NELSON, BC V1L 5S4

("The Minister")

**AND:**

Mark and Jane Andreychuk

s22

("The Permittee")

**WHEREAS:**

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to the *Transportation Act*;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

To construct, use, and maintain two – six meter wide residential accesses (one on the North side of Hwy 3A and one on the South side of Hwy 3A) to/from Highway 3A, Lot "A", Plan NEP70149, DL 4311, KD, east Nelson, British Columbia. The Permittee shall have the sole responsibility of maintaining and constructing the accesses as specified below.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. The particulars of the permission granted herein are as follows:

**A. LOCATION**

1. The layout and location of the access as per the drawing submitted with the June 28, 2005 application and July 6, 2005 drawing prepared by Ray Johnson and Associates, is a condition of this permit, and any change in layout without the prior consent in writing of the Ministry Representative shall render the permit void.

**B. CONSTRUCTION AND INSTALLATIONS**

2. Access shall have minimum sight lines of no less than **102 meters** in both directions along **Highway 3A**.  
**DEFINITION OF SITE LINE** – the distance measured in meters in a straight unobstructed line between two points 1.3 meters above the surface of the road or access. One point shall represent a drivers eye view of the highway from a vehicle entering the highway from the access. The other point represents a drivers eye view of the access from an approaching vehicle on the highway. These factors and their relationship with the posted speed of the highway determine line of sight requirements. Existing accesses may need to be moved or modified to comply with this requirement.
3. The entrance shall be perpendicular to the highway for a distance of at least 9 metres from the shoulder of the road along the centerline of the access.
4. The Permittee shall construct a "swale" or a "valley" on their access situated over the ditch line, if necessary, to ensure surface water enters the ditch and does not enter the road.
5. A **450mm culvert** shall be installed if required.
6. Permittee shall be responsible for locating, and for any damage to, other works within highway right-of-way.
7. The Permittee shall determine the location of highway right-of-way to ensure their permitted work is within Ministry jurisdiction. The Permittee is responsible for all trespass issues.
8. Only rubber-tired equipment may be used on pavement or on shoulders of paved highways.
9. The Permittee shall not undermine the Ministry's highway in any way when constructing said access.
10. Roadways, ditches, and right-of-way to be restored to their previous condition or better, to that which existed prior to the work(s), and to the satisfaction of the Ministry Representative.
11. The Permittee is responsible for any fill which is placed in the Ministry right-of-way for the purposes of access construction and shall provide for the natural drainage of the adjacent ditch which it encompasses.
12. The Permittee shall be responsible for replacing any survey monuments that may be disturbed or destroyed by construction of the works allowed by this permit. Replacement must be by a British Columbia Land Surveyor at the Permittee's expense.
13. The highway surface shall be restored and kept clear and clean of materials and equipment at the end of each day. Shoulders shall not be used to store materials and/or equipment.
14. Whether paved or graveled, the Permittee will ensure the first 9 meters of the access is suitably surfaced to minimize tracking of debris onto the highway.
15. No excavated materials will be stockpiled on the traveled portion of the highway.
16. The Permittee shall remove, pile and burn or chip all slash, trees, and tree limbs from the road allowance.
17. The Permittee shall not place any building, fence, shrub or any other structure with a horizontal dimension exceeding zero point six (0.6) metres within a distance of four point five (4.5) metres from the property line.
18. The Permittee shall place all merchantable timber harvested from the right of way, on a landing within Ministry right-of-way, in accordance with West Kootenay District policy.
19. The Permittee may not remove gravel, timber, stone, and/or other materials off Ministry right-of-way for construction of said works, without prior permission from the Ministry Representative.
20. This permit is issued only to the Permittee for the sole purpose as stated in the application dated in Item 1 above. Any change in land-use will result in this permit becoming null and void.
21. The Permittee shall continuously provide sufficient space for a minimum of 2 off-street parking stalls and a turnaround
22. The Permittee shall be solely responsible for all costs and other related permissions associated with the approval and construction of the access applied for herein.



23. That the Permittee may not assign any part of this Agreement without the consent, in writing, of the Minister.

24. The Ministry Representative is Phil Best, Sr. District Development Technician, West Kootenays

#### C. AUTHORIZED ACTIVITIES

24. If sight line requirements as stated in Item 2 above are satisfied then all movements permitted. Should sight line requirements not be satisfied then access is restricted to right in and right out movements only.

#### D. OPERATION AND MAINTENANCE

25. The Permittee will ensure that the works do not impair, impede or otherwise interfere with;

- public passage on the Highways;
- the provision of highway maintenance services by the Province, or by its servants, contractors, agents or authorized representatives of the Province in connection with the Highways; or
- the operation of the Highways.

all of which together are hereinafter referred to as "the Use".

26. The Use shall be carried out according to the following drawings and specifications, which are attached and shall be considered to be a part of this permit:

- Submitted drawing

(a) The rights granted under this permit shall not be exercised before: n/a

(b) The Construction and Installations must be completed on or before: Existing

Exceptions: n/a

27. The Minister shall designate an official ("the Ministry Representative") who shall act as the Minister's agent in the administration of this permit in the manner hereinafter set out;

28. The Use shall be carried out according to the reasonable satisfaction of the Ministry Representative.

29. The Permittee will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by any of them, at any time or times (whether before or after the expiration or termination of this permit) where the same or any of them are sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this permit.

30. The Permittee shall make diligent attempts to determine if there are other users of the right of way in the vicinity of the Permittee's location whose use may be affected. It shall be the responsibility of the Permittee to contact any such users before exercising any of the rights granted hereunder and to attempt to reach an accommodation.

31. The Minister shall take reasonable care to do as little damage or interference, as possible, to any Use authorized by this permit in the carrying out of the construction, extension, alteration improvement, repair, maintenance or operation of any work adjacent thereto, but the Minister shall not be responsible for any damage regardless.

32. The Minister at the absolute discretion of the Minister may, at any time, cancel this permit for any reason upon giving reasonable notice; provided, however, that in the case of default by the Permittee or in the case of an emergency no notice shall be necessary. The Minister shall not be liable for any loss incurred as a result of permit cancellation.

33. Placing of speed arresters on the access (or accesses) or in the Permittee's property without the prior consent in writing of the Designated Ministry Official shall render the permit void.
34. This permit cancels n/a
35. On a daily basis, the Permittee shall remove any mud, soil, debris, or other foreign material tracked onto the highway from the access authorized herein. Such removal shall be at the Permittee's expense and shall be done at any time the material unduly inconveniences traffic and, in any event, daily.
36. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
37. At the end of the term of this permit, or when the permit is cancelled or abandoned, the Permittee shall, if so requested by the Minister, remove all installations and shall leave the site as near as reasonably possible in the condition it was in before this permit was issued or such other condition as shall reasonably be required by the Ministry Representative. If the Permittee refuses to comply with these obligations, the Minister may perform them as required and the Permittee shall be liable to the Minister for the costs of doing so.
38. The rights granted to the Permittee in this permit are not assignable without the consent of the Minister.
39. The southerly access is located on Road Plan R-129 and R-49, public access to Crown land and access to Kootenay Lake. This permit is issued to the Permittee for the sole purpose of transiting this section of public road to access the above described property. No stopping, parking, storage of any material or signage shall be erected indicating restricted access, will be permitted. The access to Crown land and access to Kootenay Lake shall remain unencumbered at all times.

Dated at Nelson, British Columbia, this 18 day of July, 2005

 for Phil Best, Senior Development Technician

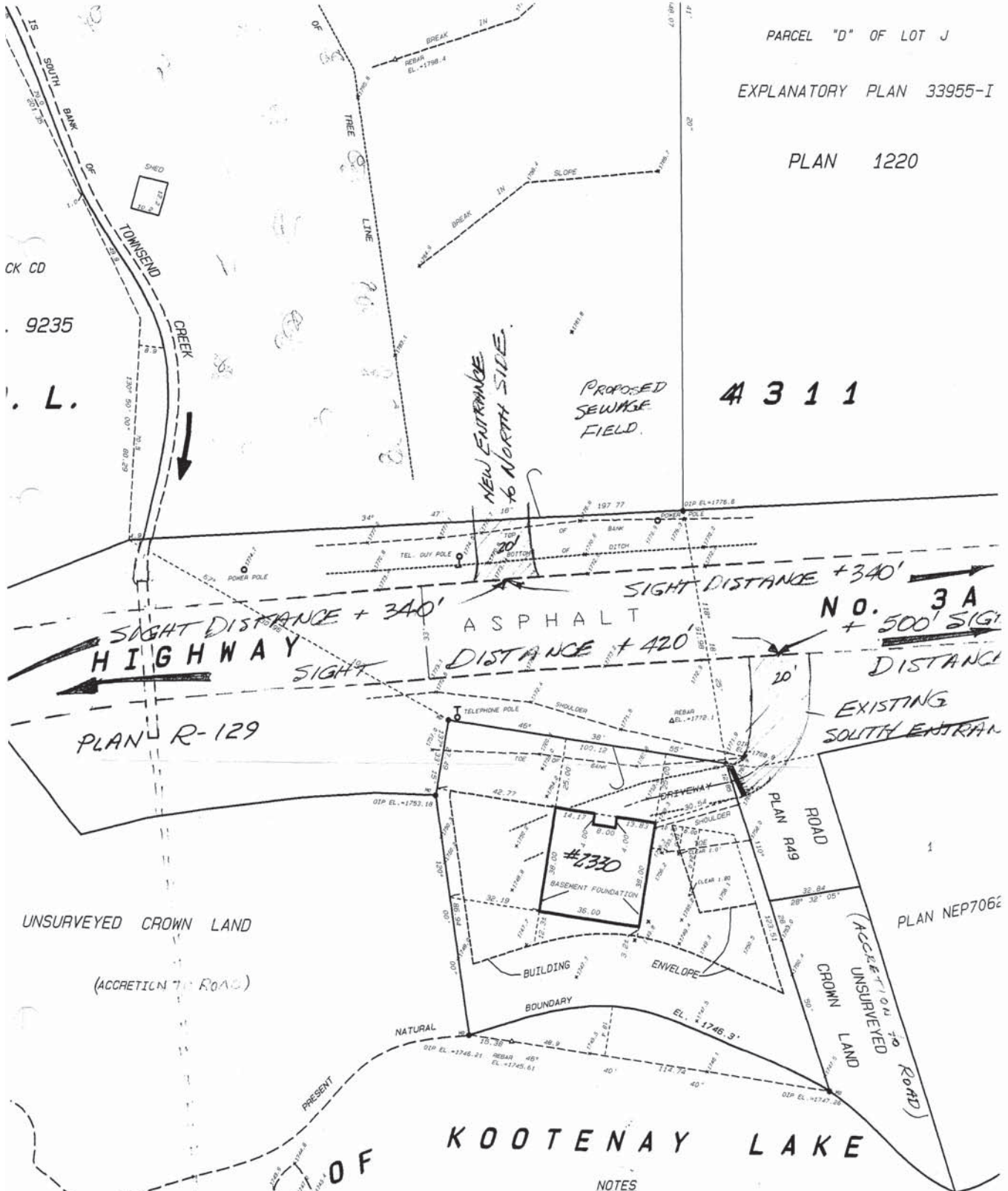
  
On Behalf of the Minister

Dated at Calgary, AB, this 26 day of July, 2005  
City Province

  
Permittee or Authorized Signatory for the Permittee

Cc Dennis Bannert, 701 Delbruck St., Nelson, BC, V1L 5L9





# NOTES

Bearings are Astronomic, derived from PLAN NEP70149  
 All distances are in feet  
 • Denotes legal survey post found  
 Δ Denotes rebar post set

Elevations are Geodetic, derived from the water level of West Arm of Kootenay Lake on March 3, 2005, at elevation 1741.16 feet, G.S.C.

REGIONAL DISTRICT OF CENTRAL KOOTENAY'S Building Bylaw requires a minimum elevation of bottom of habitable space floor joists to be 1756.09 feet, G

WEST KOOTENAY DISTRICT  
 RECEIVED

JUL 06 2005

MINISTRY OF TRANSPORTATION

MARK & JANE ANDREYCHUK

## SITE DEVELOPMENT PLAN

LEGAL: LOT A, PLAN NEP70149, D.L. 4311, KOOTENAY DIST

REVISIONS AND ADDITIONS		SCALE = 1 INCH = 40 FEET
DATE	REMARKS	PREPARED MARCH 8, 2005 BY: RAY JOHNSON AND ASSOCIATES SURVEYORS AND ENGINEERS 1415 JEFFS AVENUE NELSON, B.C. PH. 352-7117 FAX 352-7118 VIL FILE 2802
JUNE 27, 2005	BUILDING LAYOUT	

701 Newbury St  
Welles  
MA 02159