

## **DeProy, Joyce CSNR:EX**

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Monday, October 15, 2012 2:35 PM  
**To:** DeProy, Joyce CSNR:EX  
**Subject:** FW: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

---

**From:** Schlossberger, Cristin LTSA:EX  
**Sent:** Wednesday, June 6, 2012 1:18 PM  
**To:** Wallace, Bonita FLNR:EX  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Thanks Bonita

**Cristin Schlossberger, BCLS**  
Deputy Surveyor General  
Surveyor General Division  
Land Title and Survey Authority of British Columbia  
Suite 200 - 1321 Blanshard Street, Victoria, BC V8W 9J3  
T: 250-387-6924 | F: 250-387-1830 | [Cristin.Schlossberger@ltsa.ca](mailto:Cristin.Schlossberger@ltsa.ca) | [www.ltsa.ca](http://www.ltsa.ca)

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** June-06-12 1:15 PM  
**To:** Schlossberger, Cristin LTSA:EX  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Thanks Cristin:

The short answer is that the active tenure covers everything within DL431. The longer version is that for administrative reasons, we probably issued a license of occupation over the expansion area for the period of time that it took to survey the expanded tenure area. When the survey was complete, we cancelled the newer file and updated the existing file to be appurtenant to DL431.

**Bonita Wallace**  
Land Technical Officer

Ministry of Forests, Lands and Natural Resource Operations  
Crown Land Authorizations  
West Coast Region  
2080 Labieux Rd  
Nanaimo BC V9T 6J9

Phone: (250) 751-7266  
Fax: (250) 751-7224

---

**From:** Schlossberger, Cristin LTSA:EX  
**Sent:** Wednesday, June 6, 2012 12:07 PM  
**To:** Wallace, Bonita FLNR:EX  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Hi Bonita,

The question that I was asked with relation to Horton bay was not directly related to the questions you responded to re: riparian rights and owner consultation. Ian Robertson from Public Works Canada had questions about the extent of District Lot 431 and the active tenure related to that District Lot. I have confirmed for Ian that District Lot 431 includes the additional area of .07 acres shown in green on the Official Plan 5Tu546 – this additional area was added in 1990. I was unable to answer Ian's questions about the active tenure. It appears in Gator that the 1990 tenure which added the .07 acres is not active – instead the oldest tenure from 1960 is active. I have advised Ian that he needs to speak to someone at the Ministry of Forests and Lands if he has further questions about the tenure.

I will be returning the two files that we have borrowed.

Regards,  
Cristin

**Cristin Schlossberger, BCLS**

Deputy Surveyor General  
Surveyor General Division  
Land Title and Survey Authority of British Columbia  
Suite 200 - 1321 Blanshard Street, Victoria, BC V8W 9J3  
T: 250-387-6924 | F: 250-387-1830 | [Cristin.Schlossberger@ltsa.ca](mailto:Cristin.Schlossberger@ltsa.ca) | [www.ltsa.ca](http://www.ltsa.ca)

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** May-30-12 3:27 PM  
**To:** Schlossberger, Cristin LTSA:EX  
**Subject:** FW: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

fyi

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Wednesday, May 30, 2012 2:02 PM  
**To:** 'Weatherbe, Amelia'  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Hi Amelia:

I've reviewed the information you provided and on the basis of that information offer an assessment with respect to Riparian Rights. Please note that should this become the subject of a judicial review, the courts will determine the ultimate riparian rights.

Based on the information provided, it appears that while there is still access to and from deep water for the Arbutus Bay Estates, that access is limited and may be infringed upon by the dock facility located within District Lot 431, Cowichan

District. In the event that you plan to pursue a divestiture to the CRD I believe that Crown Lands will require upland owner consent. In coming to this assessment I noted the following:

- When the new owner purchased the upland property the Public Wharf was in place and the R/W Charge transferred with the title.
- The R/W Charge was for the specific purpose of allowing access to the foreshore for the operation of a wharfage facility. This R/W charge was essentially consent for the wharf in its present position for so long as required by the Grantee.
- When the Grantee no longer requires the Wharf the R/W Charge and all rights incidental to it will cease. My understanding is that a divestiture (from the Grantee) will signify the cancelation of the charge (the wharf is no longer required by the Grantee). This will cause the footpath to revert to the upland owner and make it necessary for the new owner of the dock (if not the upland owner) to enter into a new agreement with the upland owner for the R/W access as well as for the operation and maintenance of the dock.
- The R/W Charge identifies a footpath approximately 87 feet long and 20 feet wide (10 feet either side of the centre line of the path) extending from the road to the high water mark and therefore having associated riparian rights along an approximately 20 foot strip of land - District Lot 431 which contains the facility appears to be 15m wide (49feet) – This is a potential area of concern even though the boundary lines of the District Lot do not actually impede access.
- The upland parcel is an odd shape and located near the mouth of a bay.
- The dock appears to be located in the best possible location so that it does not impede access to the bay, or the Riparian Rights of Parcel C Plan 35260. However, it also appears to infringe on the ability of the upland owner to access deep water from all points along their upland property.

Please don't hesitate to contact me if you wish to discuss.

**Bonita Wallace**  
**Land Technical Officer**

Ministry of Forests, Lands and Natural Resource Operations  
Crown Land Authorizations  
West Coast Region  
2080 Labieux Rd  
Nanaimo BC V9T 6J9

Phone: (250) 751-7266  
Fax: (250) 751-7224

## DeProy, Joyce CSNR:EX

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Monday, October 15, 2012 2:38 PM  
**To:** DeProy, Joyce CSNR:EX  
**Subject:** FW: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Wednesday, May 30, 2012 2:02 PM  
**To:** 'Weatherbe, Amelia'  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Hi Amelia:

I've reviewed the information you provided and on the basis of that information offer an assessment with respect to Riparian Rights. Please note that should this become the subject of a judicial review, the courts will determine the ultimate riparian rights.

Based on the information provided, it appears that while there is still access to and from deep water for the Arbutus Bay Estates, that access is limited and may be infringed upon by the dock facility located within District Lot 431, Cowichan District. In the event that you plan to pursue a divestiture to the CRD I believe that Crown Lands will require upland owner consent. In coming to this assessment I noted the following:

- When the new owner purchased the upland property the Public Wharf was in place and the R/W Charge transferred with the title.
- The R/W Charge was for the specific purpose of allowing access to the foreshore for the operation of a wharfage facility. This R/W charge was essentially consent for the wharf in its present position for so long as required by the Grantee.
- When the Grantee no longer requires the Wharf the R/W Charge and all rights incidental to it will cease. My understanding is that a divestiture (from the Grantee) will signify the cancelation of the charge (the wharf is no longer required by the Grantee). This will cause the footpath to revert to the upland owner and make it necessary for the new owner of the dock (if not the upland owner) to enter into a new agreement with the upland owner for the R/W access as well as for the operation and maintenance of the dock.
- The R/W Charge identifies a footpath approximately .87 feet long and 20 feet wide (10 feet either side of the centre line of the path) extending from the road to the high water mark and therefore having associated riparian rights along an approximately 20 foot strip of land - District Lot 431 which contains the facility appears to be 15m wide (49feet) – This is a potential area of concern even though the boundary lines of the District Lot do not actually impede access.
- The upland parcel is an odd shape and located near the mouth of a bay.
- The dock appears to be located in the best possible location so that it does not impede access to the bay, or the Riparian Rights of Parcel C Plan 35260. However, it also appears to infringe on the ability of the upland owner to access deep water from all points along their upland property.

Please don't hesitate to contact me if you wish to discuss.

Bonita Wallace  
Land Technical Officer

Ministry of Forests, Lands and Natural Resource Operations  
Crown Land Authorizations

West Coast Region  
2080 Labieux Rd  
Nanaimo BC V9T 6J9

Phone: (250) 751-7266

Fax: (250) 751-7224

---

**From:** Weatherbe, Amelia [<mailto:Amelia.Weatherbe@dfo-mpo.gc.ca>]

**Sent:** Wednesday, May 30, 2012 9:25 AM

**To:** Wallace, Bonita FLNR:EX

**Cc:** Hill, Ange

**Subject:** Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

May 30, 2012

Dear Ms Wallace,

I understand you are responsible for conducting reviews to determine whether riparian rights have been interfered with as relates to crown tenure. As such, the Department of Fisheries and Oceans,

Small Craft Harbours ("SCH") is seeking an opinion from the Province of British Columbia as to whether such an infringement occurs at the Horton Bay Small Craft Harbour.

I have provided for your assistance a colour coded Site Sketch showing the layout and lot boundaries of the site. As well, the following information is enclosed:-

\* Order in Council #2001 dated August 26th, 1960 established a reserve legally described as "District Lot 431, Cowichan District" containing 0.287 acres, in favour of Public Works Canada, for the purpose of a wharfsite

(see copy Order). The site was surveyed and a copy of the survey plan (see Tube 5TU46).

\* At the time of the application, the upland owner of the adjacent land, s.22 granted an easement to the Province of British Columbia (Dept. of Highways) appurtenant to DL 431. The easement area

consists of a 0.43 acre area, with a 10' wide strip on either side of centreline, to the highwater mark.

\* The easement agreement was registered in the Land Title Office under Right of Way No. 246461G on 30th September, 1960 (see copy of agreement) and is binding on subsequent owners.

\* The current registered owner of the upland property is "Arbutus Bay Estates Ltd" under Certificate of Title No. FB352404 (see copy of Title).

\* The upland property has been subdivided several times over the years, the most recent being Plan VIP 80525 (copy of Plan).

\* An aerial overlay sketch showing the structures and layout of District Lot 431 are show in a sketch plan numbered SK 5278.001, prepared by Ian Robertson, BCLS (see Aerial Overlay)

As we are now well into 2012, and keen to divest the site to the Capital Regional District, on behalf of SCH, I am seeking a determination from you as to the level of upland owner consultation required in consideration

of the right of way, and, in the event that the CRD make application for tenure.

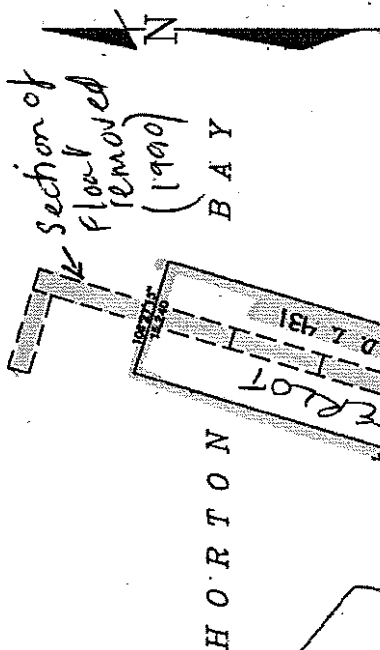
Once you have made a determination on this issue, I would greatly appreciate hearing from you. If there is anything further you require, please contact me.

Fax: (604) 666-4725

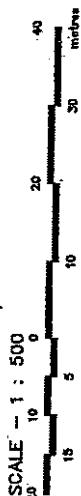
[amelia.weatherbe@dfo-mpo.gc.ca](mailto:amelia.weatherbe@dfo-mpo.gc.ca)

<<Site Sketch - Horton Bay.pdf>> <<OIC #2001 for DL 431.pdf>> <<Plan 5TU546.pdf>> <<RoW 246461-G.pdf>>  
<<Certificate of Title No. FB352404.pdf>> <<HORTON BAY\_Aerial Overlay - revised.pdf>>

# SITE SKETCH OF HORTON BAY



SKETCH PLAN SHOWING  
RIGHT-OF-WAY CHARGE  
NUMBER 246461-G  
THROUGH PART OF  
FRACTIONAL SOUTH EAST  
QUARTER OF SECTION 2,  
MAYNE ISLAND.



## LEGEND

BEARINGS ARE ASTROMOMIC DERIVED FROM PLAN 6186.

- DENOTES STANDARD ROCK POST FOUND
- ⊙ DENOTES STANDARD CONCRETE POST FOUND
- ⊖ DENOTES STANDARD CAPPED POST FOUND
- ⚡ DENOTES STANDARD IRON POST FOUND
- ⬢ DENOTES STANDARD ALUMINUM POST. 4ING
- DENOTES STANDARD IRON POST PLACED

DL MCGONK, B.C.L.S. MARCH 23, 1984

MAYNE ISLAND SUBDIVIDED AS:  
LOT A SEC 2  
MAYNE ISLAND COMWICHAN DISTRICT  
PLAN VIP 80525

PUBLIC WORKS CANADA  
LOCAL ESTATE DIVISION, VANCOUVER  
MAYNE ISLAND  
DATE: 84-03-17  
(C)SK 4965

THIS PLAN LIES WITHIN THE CAPITAL REGIONAL DISTRICT.

Approved August 26th, 1960 - Administrator

2001.

C 1960236

report:

THAT an application has been received from the Department of Public Works, Canada, for the reservation of certain foreshore and land covered by water situated at Norton Bay as the site for a wharf.

THAT the foreshore and land covered by water applied for has been surveyed at the expense of the Department of Public Works, Canada, as Lot 431, Cowichan District, containing 0.287 acres.

THAT the foreshore and land covered by water are not lawfully held by pre-emption, purchase, lease, Crown grant or under Timber Licence.

AND TO RECOMMEND THAT under the provisions of Section 93 of the Land Act, being Chapter 175, Revised Statutes of British Columbia, 1943, Lot 431, Cowichan District, be reserved and set apart for the use of the Department of Public Works, Canada, as the site for a wharf for so long as required for such purpose.

DATED this .....25th..... day of .....Aug..... A.D. 1960

"W.D. Black"

Acting Minister of Lands and Forests

APPROVED this .....25th..... day of .....Aug..... A.D. 1960

"E.C.F. Martin"

Presiding Member of the Executive Council

File: 0227020

RR:JJ  
August 18, 1960

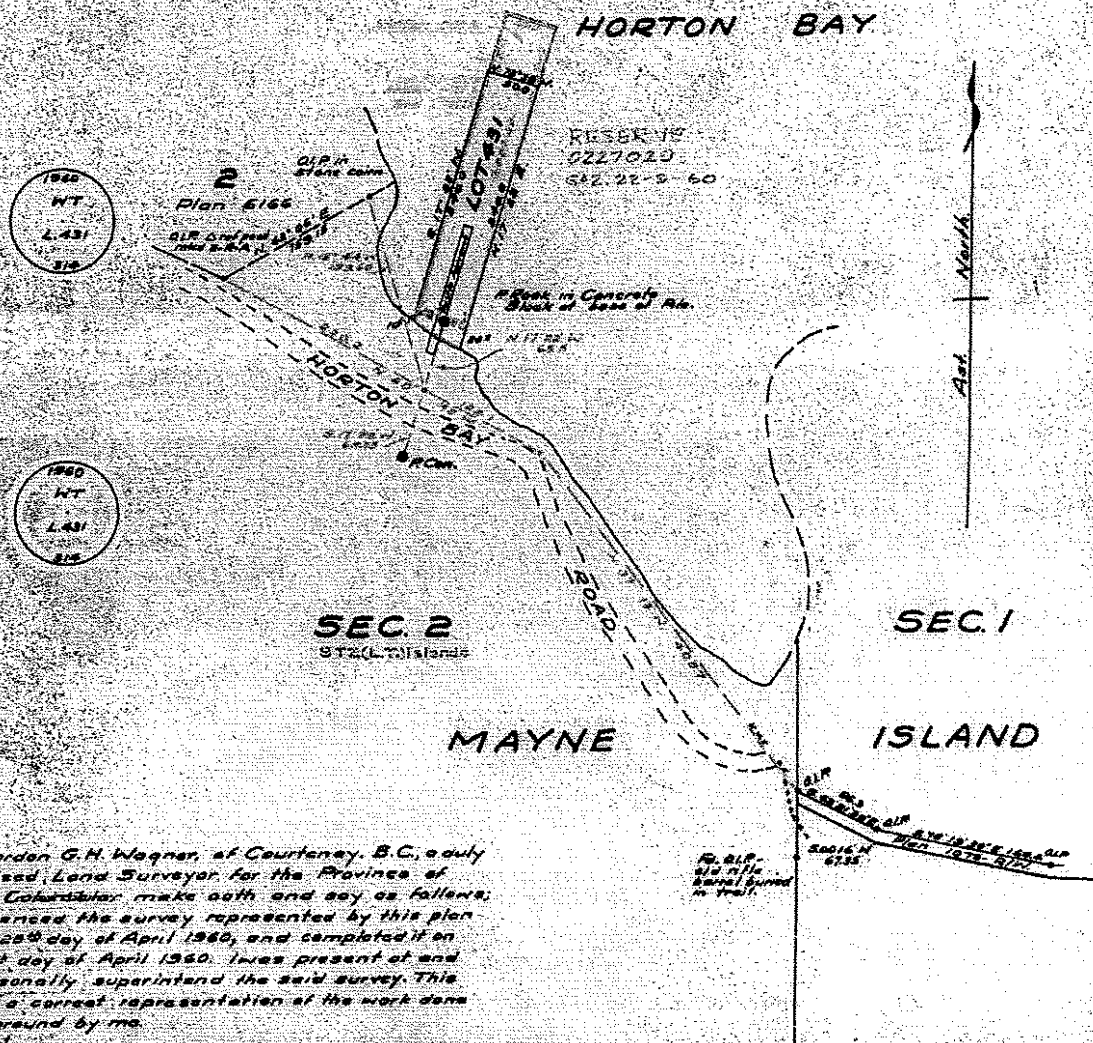
Return <i>AKB</i>	App. Book <i>AKB</i>
Index Card <i>AKB</i>	Register <i>AKB</i>

ENTERED in Land Register
Initial <i>AKB</i>

120999

# OFFICIAL PLAN

Lease Applicant  
Dept of Public Works (Canada)



I, Gordon G.H. Wagner, of Courtenay, B.C., a duly authorised Land Surveyor for the Province of British Columbia, make oath and say as follows: I commenced the survey represented by this plan on the 28th day of April 1960, and completed it on the 28th day of April 1960. I was present at and did personally superintend the said survey. This plan is a correct representation of the work done on the ground by me.

E. E. A. Kuyner, D.C.L.S.

Sworn before me at Courtenay, B.C. this 30<sup>th</sup>  
day of April 1960.

*H. H. Hildner*  
Notary Public.

RECEIVED  
LAND REGISTRY OFFICE  
VICTORIA, B.C.

No.

45 30 9 12 1960



LAND REGISTRY ACT  
FORM C ~~REGISTRATION OF CHARGE~~

246461-G

Application for Registration of Charge

(To be completed in duplicate in all cases where a tax certificate is required, in duplicate in other cases.)

Date September 28 1960

I, NORMAN ALLAN

solemnly declare that I am ~~for Solicitor for~~ the duly authorized Agent of Her Majesty the Queen in the Right of the Province of British Columbia and that she is entitled to a

• easement in perpetuity appurtenant to Lot 431, Cowichan District over the land hereunder described, and hereby make application under the provisions of the "Land Registry Act" and claim registration of a charge accordingly.

The full name, address, and occupation of the person so entitled to be registered as owner of the charge is Her Majesty the Queen in the Right of the Province of British Columbia

† Not applicable where the applicant is a corporation. Strike out words not applicable.

I am a British subject.† [Or]  
I am not a British subject.† [Or]

I am informed by

(Adapt to suit circumstances.)

† For use where the application is made by a solicitor or agent.

verily believe, that the person so entitled to be registered as owner of the charge is a British subject [or] is not a British subject.††

The fee-simple is registered in Vol. , Fol. , of the Register.

DESCRIPTION OF LAND

MUNICIPALITY OR ASSESSMENT DISTRICT	LOT OR SECTION	ADMEASUREMENT OR ACREAGE
-------------------------------------	----------------	--------------------------

Gulf Islands Assessment District

That portion of the fractional S.E.  $\frac{1}{4}$  of Section 2, Mayne Island, Cowichan District save and except that part included in Plan 6166 described as follows:  
"Commencing at a point South 63° 15' 30" East a distance of 263.1 feet more or less from the most Southerly corner of Lot 2, Section 2, Mayne Island, Plan 6166, thence North 22° 02' West 87 feet more or less to High Water Mark of Horton Bay and South 22° 02' East . feet more or less from the said commencement point and having a width of ten feet on either side of the above described centreline, containing 0.043 acre more or less."

of the Province of British Columbia

In not write outside the side-line. Space reserved for binding.

DATE  
August 22, 1960  
N.A.  
Description  
OK Enclosed as  
10 foot strip  
1/2

And I solemnly declare that I have investigated and ascertained the value of the interest covered by the charge, registration of which is hereby applied for, and that the true value thereof at the date of this application is \_\_\_\_\_ dollars: (In the case of a Solicitor or Agent, add) and I am duly authorized by the owner to make this application (in the case of an Agent, add) and I reside in the Province of British Columbia, and am of the full age of twenty-one years.  
And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

DECLARED before me this \_\_\_\_\_ day of September 28 1960 at Victoria, British Columbia.  
(Signature) \_\_\_\_\_  
Right-of-Way Agent, Dept. of Highways, Room 200, Douglas Building, Victoria, B.C.

1. If the fee is payable by the owner of the land, the fee shall be paid to the Registrar of the Land Registry Office, Victoria, B.C.  
2. If the fee is payable by the owner of the land, the fee shall be paid to the Registrar of the Land Registry Office, Victoria, B.C.  
3. If the fee is payable by the owner of the land, the fee shall be paid to the Registrar of the Land Registry Office, Victoria, B.C.

No 12  
30  
45  
60



246461-G

LAND REGISTRY ACT  
FORM C *(Section 121)*

*Application for Registration of Charge*

*(To be completed in duplicate in all cases where a tax certificate is required, in duplicate in other cases.)*

Date September 28 1960

I, **NORMAN ALLAN**, solemnly declare that I am ~~the~~ Solicitor for or the duly authorized Agent of Her Majesty the Queen in the Right of the Province of British Columbia and that she is entitled to a n \* easement in perpetuity appurtenant to Lot 431, Cowichan District over the land hereunder described, and hereby make application under the provisions of the "Land Registry Act" and claim registration of a charge accordingly.  
The full name, address, and occupation of the person so entitled to be registered as owner of the charge is Her Majesty the Queen in the Right of the Province of British Columbia

*(Not applicable where the applicant is a corporation. Strike out words not applicable.)*

I am a British subject. *(Or)*  
I am not a British subject. *(Or)*  
I am informed by \_\_\_\_\_, and

*(For use where the application is made by a solicitor or agent.)*

verily believe  
subject *(or)*  
The *(s)*

MUNICIPALITY OR ASSESSMENT DISTRICT
Gulf Islands Assessment District

LIST OF INSTRUMENTS

DATE	PARTIES	CHARACTER OF DEED
August 22, 1959 <i>See description of Lot 431 in the Gulf Islands Assessment District</i>	s.22 and Her Majesty the Queen in the Right of the Province of British Columbia	Easement in perpetuity appurtenant to Lot 431 Cowichan District

*Do not write outside the side-line. Space reserved for binding.*

And I solemnly declare that I have investigated and ascertained the value of the interest covered by the charge, registration of which is hereby applied for, and that the true value thereof at the date of this application is \_\_\_\_\_ dollars. *(In the case of a Solicitor or Agent, add) and I am duly authorized by the owner to make this application (in the case of an Agent, add) and I reside in the Province of British Columbia, and am of the full age of twenty one years.*  
And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act"

DECLARED before me this \_\_\_\_\_  
day of September 28 1960  
at Victoria British Columbia  
*(Signature)* Right-of-Way Agent, Dept. of Highways,  
Room 200, Douglas Building,  
Victoria, B.C.

Insert here a statement of the circumstances of the interest claimed in, over, or upon the land.  
For - Mortgages, see Form C-12, and for - Easements, see Form C-13.  
In all cases where a tax certificate is required, the particulars on the form should be filled in by the applicant or his solicitor or agent.

Dated \_\_\_\_\_, 19 \_\_\_\_\_

Expires \_\_\_\_\_, 19 \_\_\_\_\_

246461-G

Folio No. \_\_\_\_\_

File No. 9787 \_\_\_\_\_

PROVINCE OF BRITISH COLUMBIA  
DEPARTMENT OF HIGHWAYS

SUBJECT:

RIGHT-OF-WAY FOR FOOTPATH COVERING PORTION OF THE FR. S.E. 1

SECTION 2, MAYNE ISLAND, CONWICHAM DISTRICT.

BETWEEN:

Her Majesty the Queen, in right of Her Province of British Columbia  
as represented by the Minister of Highways

and

s.22

FOR PLAN SEE

THIS INDENTURE made the 26<sup>th</sup> day of August 1960

BETWEEN:

s.22  
of Wayne Island, Province of British Columbia  
hereinafter called the "Grantor"

AND

Her Majesty the Queen in Right of the Province  
of British Columbia

hereinafter called the "Grantee".

WITNESSETH that in consideration of the sum of \$50.00 now paid by the Grantee to the Grantor (the receipt whereof is hereby acknowledged) the Grantor doth hereby grant and convey unto the Grantee, the owner in fee of those lands and premises described as Lot 431, Cowichan District, her heirs and assigns and her and their agents, servants and workmen a free and uninterrupted right-of-way in perpetuity but subject to the proviso hereinafter contained, through, along and over that certain parcel of land described as :-

"Commencing at a point South 63° 15' 30" East a distance of 263.1 feet more or less from the most Southerly corner of Lot 2, Section 2, Wayne Island, Plan 6166, thence North 22° 02' West 87 feet more or less to High Water Mark of Horton Bay and South 22° 02' East 7 feet more or less from the said commencement point and having a width of ten feet on either side of the above described centreline, containing 0.043 acre more or less for the purpose of constructing a footpath and other works incidental to the operation of wharfage facilities appurtenant to the lands owned by the Grantee hereinbefore described.

Provided, and it is hereby expressly agreed, that if and whenever the operation of the said wharfage facilities is discontinued, the said right-of-way and all the rights incidental thereto and hereby granted shall cease and determine.

The Grantee for herself, her heirs and assigns covenants with the Grantor his heirs and assigns that the Grantee will at her own expense keep the right-of-way in proper repair and condition.

IN WITNESS WHEREOF the Parties have hereunto set their hands and seals on the date first above mentioned

SIGNED, SEALED AND DELIVERED )

...1

s.22

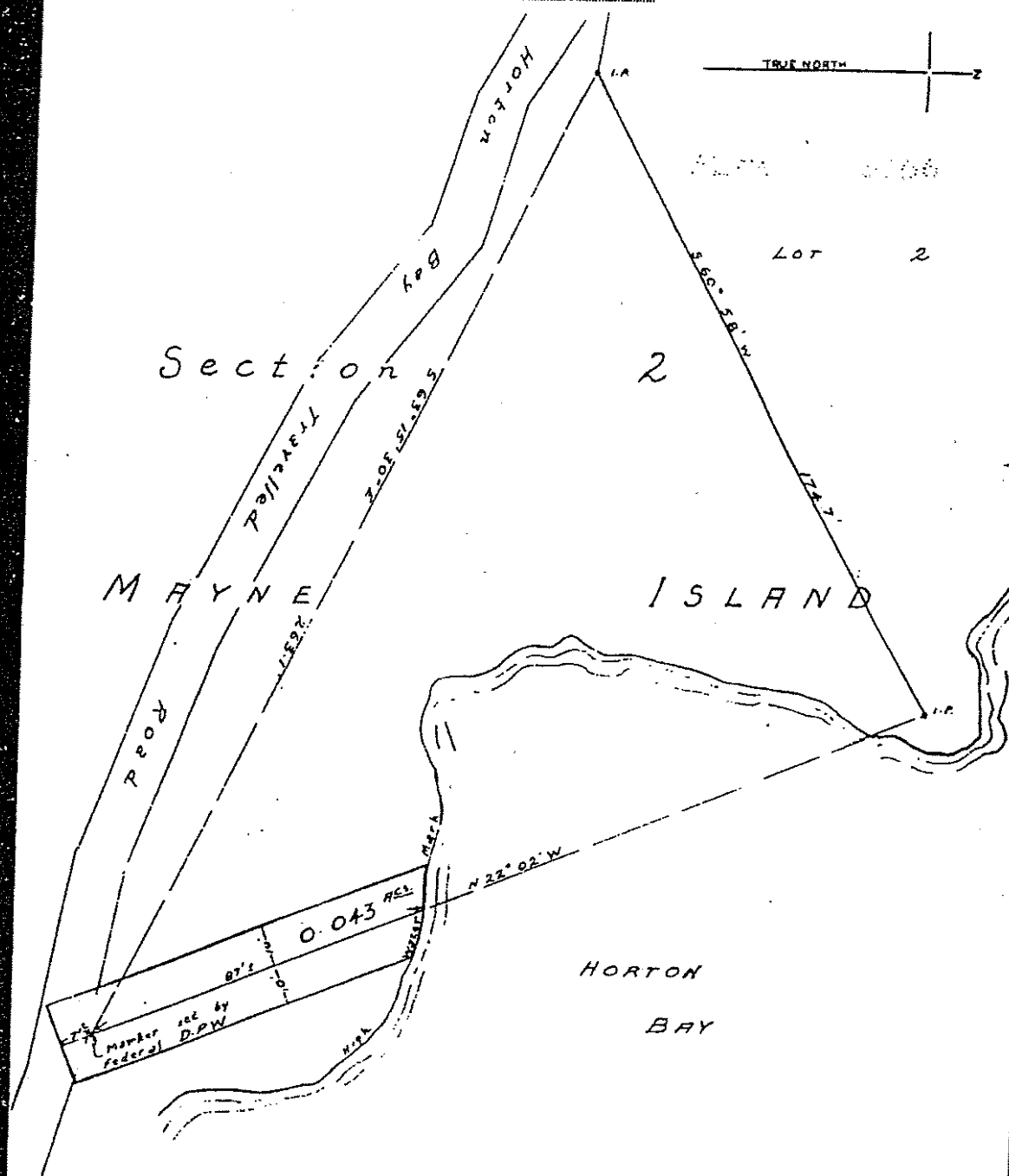
s.22

....

EXPLANATORY PLAN of R/W required for access to Federal  
Government landing in S E 1/4 Section 2 MAYNE ISLAND

Nov. 1959

Scale... 30<sup>feet</sup> = 1<sup>inch</sup>



Pages 15 through 18 redacted for the following reasons:

-----

s.3

Wallace, Bonita FLNR:EX

0227020

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Wednesday, May 30, 2012 2:02 PM  
**To:** 'Weatherbe, Amelia'  
**Subject:** RE: Horton Bay - Request for Determination as to Interference of Riparian Rights - Your File BC File Nos 1405243/0227020

Hi Amelia:

I've reviewed the information you provided and on the basis of that information offer an assessment with respect to Riparian Rights. Please note that should this become the subject of a judicial review, the courts will determine the ultimate riparian rights.

Based on the information provided, it appears that while there is still access to and from deep water for the Arbutus Bay Estates, that access is limited and may be infringed upon by the dock facility located within District Lot 431, Cowichan District. In the event that you plan to pursue a divestiture to the CRD I believe that Crown Lands will require upland owner consent. In coming to this assessment I noted the following:

- When the new owner purchased the upland property the Public Wharf was in place and the R/W Charge transferred with the title.
- The R/W Charge was for the specific purpose of allowing access to the foreshore for the operation of a wharfage facility. This R/W charge was essentially consent for the wharf in its present position for so long as required by the Grantee.
- When the Grantee no longer requires the Wharf the R/W Charge and all rights incidental to it will cease. My understanding is that a divestiture (from the Grantee) will signify the cancelation of the charge (the wharf is no longer required by the Grantee). This will cause the footpath to revert to the upland owner and make it necessary for the new owner of the dock (if not the upland owner) to enter into a new agreement with the upland owner for the R/W access as well as for the operation and maintenance of the dock.
- The R/W Charge identifies a footpath approximately 87 feet long and 20 feet wide (10 feet either side of the centre line of the path) extending from the road to the high water mark and therefore having associated riparian rights along an approximately 20 foot strip of land - District Lot 431 which contains the facility appears to be 15m wide (49feet) – This is a potential area of concern even though the boundary lines of the District Lot do not actually impede access.
- The upland parcel is an odd shape and located near the mouth of a bay.
- The dock appears to be located in the best possible location so that it does not impede access to the bay, or the Riparian Rights of Parcel C Plan 35260. However, it also appears to infringe on the ability of the upland owner to access deep water from all points along their upland property.

Please don't hesitate to contact me if you wish to discuss.

Bonita Wallace  
Land Technical Officer

Ministry of Forests, Lands and Natural Resource Operations  
Crown Land Authorizations  
West Coast Region  
2080 Labieux Rd  
Nanaimo BC V9T 6J9

Phone: (250) 751-7266  
Fax: (250) 751-7224

*Forwarded to Cristy Schlatterger  
at LTSA - email 30 May 2012.  
D Wallace*

## **DeProy, Joyce CSNR:EX**

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Monday, October 15, 2012 2:38 PM  
**To:** DeProy, Joyce CSNR:EX  
**Subject:** FW: File 0227020 - Public Wharf in Horton Bay

---

**From:** Wallace, Bonita FLNR:EX  
**Sent:** Wednesday, May 30, 2012 3:01 PM  
**To:** Woelke, Calvin LTSA:EX  
**Subject:** Re: File 0227020 - Public Wharf in Horton Bay

Hi Calvin:

This message is to follow-up to my previous voice mail. Fisheries and Oceans Canada has indicated that they wish to divest this property to the CRD and they need to know whether or not Crown Lands will require upland owner consent.

As I have provided my opinion to DFO I believe it might be beneficial for me to touch base with whomever it is that is currently using this file.

Thanks

Bonita Wallace  
Land Technical Officer

Ministry of Forests, Lands and Natural Resource Operations  
Crown Land Authorizations  
West Coast Region  
2080 Labieux Rd  
Nanaimo BC V9T 6J9

Phone: (250) 751-7266  
Fax: (250) 751-7224

---

**From:** Zavesiczky, Maureen T CSNR:EX  
**Sent:** Wednesday, May 30, 2012 2:47 PM  
**To:** Wallace, Bonita FLNR:EX  
**Subject:** FW: ordering two files

FYI

---

**From:** Woelke, Calvin LTSA:EX  
**Sent:** Monday, May 14, 2012 2:35 PM  
**To:** Zavesiczky, Maureen T CSNR:EX  
**Subject:** RE: ordering two files

Thanks Maureen,  
Calvin

**Calvin Woelke**  
Unit Head -Records Distribution Services

Surveyor General Division  
Land Title and Survey Authority of British Columbia  
Suite 200-1321 Blanshard Street, Victoria, BC, V8W 9J3  
T: 250-387-5381 | F: 250-356-6811  
[Calvin.Woelke@ltsa.ca](mailto:Calvin.Woelke@ltsa.ca) | [www.ltsa.ca](http://www.ltsa.ca)

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

\*please consider the environment before printing this email.

---

**From:** Zavesiczky, Maureen T CSNR:EX  
**Sent:** May-14-12 2:31 PM  
**To:** Woelke, Calvin LTSA:EX  
**Subject:** RE: ordering two files

Hi Calvin,

I have Volumes 1 & 2 for 0227020 but no physical file exists for 1405243. However, it is noted in CRMS that # 1405243 HORTON BAY - ALL INFO TRANSFERRED TO FILE 0227020.

I shall attach the Temporary Transfer of Legal Custody form with the files and upon receipt, could you please sign and fax it to me.

Hope all is going well!

Cheers,

*Maureen Zavesiczky*

*Records Coordinator*

*Ministry of Forests, Lands & Natural Resource Operations*

*West Coast Region*

*142-2080 Labieux Road*

*Nanaimo, BC V9T 6J9*

*(250) 751-7236*

---

**From:** Woelke, Calvin LTSA:EX  
**Sent:** Monday, May 14, 2012 9:40 AM  
**To:** Zavesiczky, Maureen T CSNR:EX

**Cc:** Schlossberger, Cristin LTSA:EX

**Subject:** ordering two files

Hi Maureen,

I would like to borrow two files from you; the files are 1405243 and file 0227020. Both of these files concern DL 431 Cowichan District and I would need them for a couple of weeks. CRMS says 1405243 is in "File Room" and 0227020 was sent to Vancouver Island. I am assuming both files are in your custody.

Thanks

Calvin

**Calvin Woelke**

Unit Head -Records Distribution Services

Surveyor General Division

Land Title and Survey Authority of British Columbia

Suite 200-1321 Blanshard Street, Victoria, BC, V8W 9J3

T: 250-387-5381 | F: 250-356-6811

[Calvin.Woelke@ltsa.ca](mailto:Calvin.Woelke@ltsa.ca) | [www.ltsa.ca](http://www.ltsa.ca)

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

\*please consider the environment before printing this email.