

Fair, Susan P AGRI:EX

From: Bill Bennett s.22
Sent: Monday, October 31, 2016 8:03 PM
To: XT:Street, Faye AGRI:IN
Cc: Lalani, Arif AGRI:EX; c.clark@bcliberals.com; Bennett.MLA, Bill LASS:EX; Minister, AGRI AGRI:EX; Letnick.MLA, Norm LASS:EX; Sturko, Derek AGRI:EX; Jonson, Byron AGRI:EX; Morhart, Tyler AGRI:EX
Subject: Re: Frustration

Faye, I am making enquiries about this. Do you have something in writing that states government requires consultation with FN's for fencing on private land?

Bill

On Thu, Oct 27, 2016 at 1:31 PM, Faye Street <fstreet@kootenaylivestock.ca> wrote:

Good Morning Arif:

Please see our letter attached, and thank-you in advance for your help.

Cheers,

Faye and Harvey

--

Bill Bennett
 MLA, Kootenay East

Fair, Susan P AGRI:EX

From: Faye Street <fstreet@kootenaylivestock.ca>
Sent: Thursday, October 27, 2016 12:31 PM
To: Lalani, Arif AGRI:EX
Cc: c.clark@bcliberals.com; Bennett.MLA, Bill LASS:EX; Bill Bennett- Personel; Minister, AGRI AGRI:EX; Letnick.MLA, Norm LASS:EX; Sturko, Derek AGRI:EX; Jonson, Byron AGRI:EX; Morhart, Tyler AGRI:EX
Subject: Frustration
Attachments: s.22 letter.docx

Good Morning Arif:
Please see our letter attached, and thank-you in advance for your help.
Cheers,
Faye and Harvey

Oct. 27, 2016

Good Morning Arif:

Thank-you for taking my call yesterday, I was extremely angry and I want to let you know why and ask for your help and support with this very frustrating issue.

Byron told me that we are at a standstill regarding any more wild ungulate damage prevention fences for our ranchers until we deal with this native issue.

Cowboy Country wants to know why the double standard???

Chief Whitehead sent a letter to Minister Letnick complaining that he was not consulted about the fence that the s.22 family put up to protect their very valuable crops from the devastation they has suffered from an ever increasing number of wild ungulates **for decades and decades**. The s.22 family fenced **only 95 acres** of the total 750 acres that they own and operate. That leaves a full 650 acres that the wildlife have full access to 24 hours day, 365 days of the year. The fence they constructed with a lot of **their own hard work and money** in absolutely no way restricts any movements of any wildlife. The wildlife **have full access** for movement on all sides of the small fenced area. The s.22 family was never told that they had to consult with the natives and their question to you, the Minister and the Premier is why does our industry have to consult with natives when working on our **Private Lands??**

The natives took good food producing quality farm land located directly across the road from the s.22 Family Ranch and covered it with a concrete foundation hotel, casino and parking lot, took more of the same land and turned it into a golf course there was **not one minute of discussion or consultation with the s.22 Family, why??**

This mass construction that the natives did **directly across the road** from the s.22 ranch and home have caused them untold misery.

It has increased the traffic flow around the ranch a thousand fold year after year, this native commercial business hosts commercial parties that go on all hours of the day and night creating a lot of noise that negatively impacts the s.22 family and their animals, there is a continual flow of garbage and empty beer cans from the reserve land and parties to the s.22 ranch.

They often have to put up with trespassers' that wander from the reserve commercial development onto the ranch.

This native development was done with tax payer's dollars, and let's not forget the many companies in Cranbrook and area that suffered huge losses when this native project declared bankruptcy and left many small businesses with no choice but to go broke as they were left with huge unpaid accounts when the native band declared bankruptcy. They quickly recovered and regained all without paying any outstanding accounts, again using public hard earned tax dollars.

Yes, their development was built with tax payer dollars as well as the blood, sweat, hard earned money and many, many tears from local business people, whom pay taxes on a regular basis. This was all done with **not one single word of discussion, consultation nor even a word of concern from the native band to the family, does this stink of a double standard???**

Now Arif we the hard working ranchers are being told that before we can protect our food producing lands from the severe loss's that we suffer from the **crowns wild ungulates we have to consult with the natives???**

Our fear and very justified concerns are that this will be just another level of push back that we already have to deal with in trying to protect ourselves while trying to feed the people. ^{s.22}

s.22

s.22

We had a very expensive first hand example of this earlier this spring when our ranchers were having cattle slaughtered by wolf packs while waiting for the natives to sign off on the agreement so that we had the right to call in the trappers to help save our new born calves from that slaughter, very, very frustrating, and we very fairly fear the same kind of frustration if we are forced to deal with them when trying to get our protective fences approved.

Our members want to know why, when trying so hard to protect our food producing crops and pay our bills we have to be confronted with yet another road block when the road very clearly **only runs one way??**

We are seriously beginning to feel like we are being forced to circle our wagons tighter and tighter as the wolf pack howls loudly in the nearby forest.

We desperately need the help and support of you, Minister Letnick, Premier Clark and the Ministry of Agriculture staff. Fair is fair, and we are asking to be treated fairly.

It is high time to stop worrying about being “politically correct” and worry about being **correct and fair**. Just because it is a legal obligation does not make it fair and we grow very weary of this one sided and unfair process.

We have worked very hard to obtain the very small amount of funding to help with **a small half of the cost** of these protective fences and now to administer these funds we have to get agreement from the natives on our private food producing lands??

Please remember we do not need these protective fences to ranch our animals, they only became necessary when we were force to prevent the crowns animals from driving our industry into bankruptcy.

We ask you, are we being treated fairly and how can you help us??

Sincerely,

Faye Street and Harvey Bombardier, Co-Chairs of the Wild Life Cmte.

Kootenay Livestock Assoc.

Cc: Premier Christy Clark

M.L.A. Bill Bennett

Minister Letnick

Deputy Minister Derick Sterko

Byron Jonson, BRMB

Tyler Morhart, BRMB

From: [Lalani, Arif AGRI:EX](#)
To: [Jonson, Byron AGRI:EX](#)
Subject: FW: KLA and Ktunaxa
Date: Friday, November 4, 2016 11:40:00 AM

Derek – BRM staff connected with MARR staff to get specific policy statements regarding the duty to inform, especially in 3rd party delivery situations and private property. MARR referred staff to their online resource which is the **Updated Procedures for Meeting Legal Obligations When Consulting First Nations** (referred to hereafter as the Consultation Procedures). MARR states that *“The goal of this document is to facilitate the Province’s compliance with case law while fulfilling the vision of a new relationship.”* (Page 3)

Issue: The Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaq̓am have expressed their concern that the Ministry’s Kootenay Wildlife Damage Prevention Project may impact their first nation interests and rights, and the Crown as a result has a duty to consult.

Background:

- Kootenay Wildlife Damage Prevention Project: In 2015 the Ministry of Agriculture (AGRI) entered into a Cost Shared Agreement (CSA) with the Kootenay Livestock Association (KLA), to provide financial assistance to forage and livestock producers for the purposes of implementing mitigation and prevention activities that would reduce high and persistent losses, and damages caused by wildlife on fee simple lands.
 - The Project is in its second year and has significantly reduced production costs and losses for participating forage producers; allowing them to expand or invest in other areas of their enterprise.
 - The KLA under this CSA agreed on behalf of the government, to:
 - Develop and deliver this Project to producers in the Kootenay Region of British Columbia.
 - Complete and document a risk assessment for each mitigation or prevention activity, and insure that:
 - An activity is not funded unless the risks of the activity are reasonably identified and appropriately mitigated or prevented.
 - Appropriate consultations with relevant government ministries and agencies are conducted, so impacts of an activity can be identified and appropriately mitigated or prevented prior to implementation of an activity. At a minimum, this is to include consulting the Ministry of Forests, Lands and Natural Resource Operations, and the Ministry of Environment.
 - The KLA approved the funding of a wildlife fence on fee simple land directly adjacent to ʔaq̓am reserve land. Neither the Band nor the KNC were informed of the planned activity in advance of its construction. This, as a result, prompted the Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaq̓am to inform Agri of their concern for impacts on their rights and interests.
 - The private property owner has also raised complaints that the KNC developed a casino, gas station and school on the ʔaq̓am reserve land without consultation with neighbours adjacent to the development. So this has a neighbour to neighbour issue as well.

Discussion:

- The Consultation Procedures states: *“The Province of British Columbia has a duty to consult and where required, accommodate First Nations whenever it proposes a decision or activity that could impact treaty rights or aboriginal rights (including title) - claimed or proven. The duty stems from court decisions and is consistent with the Province’s commitment to building a new relationship with First Nations.”* (Page 3)
- In terms of best practices, the Consultation Procedures supports BRMB’s recent KNC engagement approach (in response to Chief Whitehead’s letter) of an offer to inform through the following provisions:
 - “Consultation in its least technical definition is talking together for mutual

understanding.”

- “ *Consultation is to enable the Province to gain a proper understanding of Aboriginal Interests and if required, to seek ways to accommodate them appropriately.* ”
- With regard to circumstances where the Crown delegates its responsibilities to a third party, the Consultation Procedures states that, “the Province may delegate certain procedural aspects of consultation to proponents”. The following provisions from the Consultation Procedures would apply:
 - “ Provincial decision-makers with authority to make decisions about provincial land or resources are responsible for ensuring appropriate and sufficient consultation and accommodations.” (Page 3)
 - “Proponents (any party, including industry, local governments, federal agencies and Crown Corporations, seeking decisions from the Province in support of activities related to land or resource development) are encouraged to engage First Nations as early as possible when seeking a decision. In some cases, the Province may delegate certain procedural aspects of consultation to proponents. Proponents are often in a better position compared to the Province, to exchange information about their decision requests and directly modify plans to mitigate any concerns.” (Page 3)
- In addition, the Ministry of Agriculture is a signatory to the Strategic Engagement Agreement (SEA), which was signed off by Minister Rustad on behalf of the Province, a Common Law Contract with the KNC. **BRMB’s understanding** of the SEA is that it is a government to government agreement, in which the Province commits to being more transparent and communicate information about decisions that may impact first nation’s interests.
 - SEA states that the “Province seeks to fulfil its consultation and accommodation obligations, including the fulfillment of its duty to consult and, where appropriate, accommodate in a manner that addresses the interests of the Parties”
 - SEA outlines Engagement Processes (Sec. 8.1) intended to help the Parties achieve a better understanding of their respective interests and the potential impacts that proposed activities may have on those interests.

Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: [Sturko, Derek AGRI:EX](#)
To: [Letnick, Norm AGRI:EX](#)
Cc: [Bill, Karen F AGRI:EX](#); [Lalani, Arif AGRI:EX](#)
Subject: FW: KLA and Ktunaxa
Date: Friday, November 4, 2016 3:05:45 PM

Attached is an analysis of the situation re: KLA and the Ktunaxa, based on the program, contract relationships with the KLA and provincial positions established by MARR. This is not straightforward and not clear as it relates to private lands. For instance, the MARR materials quoted below refer to “decisions about provincial land or resources” (which I take to mean Crown lands).

Let us know if you need anything further.

Derek Sturko
Deputy Minister
BC Ministry of Agriculture
(250) 356-1800

From: Lalani, Arif AGRI:EX
Sent: Friday, November 4, 2016 11:48 AM
To: Sturko, Derek AGRI:EX
Subject: KLA and Ktunaxa

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- In terms of best practices, the Consultation Procedures supports BRMB’s recent KNC engagement approach (in response to Chief Whitehead’s letter, dated May 27, 2016) of an offer to inform through the following provisions:
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 - *“Consultation is to enable the Province to gain a proper understanding of Aboriginal Interests and if required, to seek ways to accommodate them appropriately.”*
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 - SEA states that the “Province seeks to fulfil its consultation and accommodation obligations, including the fulfillment of its duty to consult and, where appropriate, accommodate in a manner that addresses the interests of the Parties”
 - SEA outlines Engagement Processes (Sec. 8.1) intended to help the Parties achieve a better understanding of their respective interests and the potential impacts that proposed activities may have on those interests.

Please advise of this is sufficient

Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

Page 05 to/à Page 10

Withheld pursuant to/removed as

DUPLICATE

From: Jonson, Byron AGRI:EX
To: Lalain, Atof AGRI:EX
Subject: FW: KLA Mitigation Documents
Date: Tuesday, November 1, 2016 8:28:25 AM
Attachments: Shared Cost Arrangement - KLA.GS16AGR0111.pdf
KLA SCA.GS16AGR0111.Modification.#01 - signed.pdf
KLA.GS16AGR0111.SCA.Modification.#2.pdf
image001.png

Attached are the full set of contract docs related to the Mitigation project.

The clause that I believe you are interested in is on page 13 of the "Shared Cost Arrangement-KLA" Doc, I have copied that clause and pasted it here:

- Expected productivity improvements and harm reduction.**
- **A documented risk assessment is to be completed for each mitigation or prevention activity. The Recipient is to insure that:**
 - **An activity is not funded unless the risks of the activity are reasonably identified and appropriately mitigated or prevented.**
 - **Appropriate consultations with relevant government ministries and agencies are conducted, so impacts of an activity can be identified and appropriately mitigated or prevented prior to implementation of an activity. At a minimum, this is to include consulting the Ministry of Forests, Lands and Natural Resource Operations, and the Ministry of Environment.**

From: Smith, Rebecca AGRI:EX
Sent: Monday, October 24, 2016 11:59 AM
To: Jonson, Byron AGRI:EX
Subject: KLA Mitigation Documents
Initial agreement, modification #1 and modification #2 attached.

Rebecca Smith
Business Risk Management
Ministry of Agriculture
200-1690 Powick Road
Kelowna BC V1X 7G5
Phone: (250) 861-7680
Fax: (250) 861-7490

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Natural Resource Sector

**GOVERNMENT TRANSFER –
SHARED COST ARRANGEMENT**

Agreement #: GS16AGR0111

Project Title: KOOTENAY Wildlife Damage Prevention

THIS AGREEMENT dated for reference the 1st day of OCTOBER, 2015.

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA, represented by the Minister of Agriculture,
Business Risk Management Branch,**

(the "Province")

AND Kootenay Livestock Association

(the "Recipient")

The parties to this Agreement agree as follows:

SECTION 1 - DEFINITIONS

1. Where used in this Agreement

- (a) "Financial Contribution" means the total aggregate value stipulated in Schedule B;
- (b) "Material" means all findings, data, reports, documents, records and material, (both printed and electronic, including but not limited to, hard disk or diskettes), whether complete or otherwise, that have been produced, received, compiled or acquired by, or provided by or on behalf of the Province to, the Recipient as a direct result of this Agreement, but does not include
- I. personal Information which could reasonably be expected to reveal the identity of clients;
 - II. property owned by the Recipient;
- (c) "Project" means the project described in Schedule A;
- (d) "Services" means the services described in Schedule A;
- (e) "Term" means the duration of the Agreement stipulated in Schedule A;
- (f) "Third Party" means any person or entity or its officers, employees or agents, other than a party to this Agreement that is involved in the delivery of the Services.
- (g) "Refund" means any refund or remission of federal or provincial tax or duty available with respect to any items that the Province has paid for or agreed to pay for under this Agreement.

SECTION 2 - APPOINTMENT

The Recipient must carry out and complete the Project described in Schedule A and may use the Province's funding only for the purpose specified in Schedule A.

SECTION 3 – PAYMENT OF FINANCIAL CONTRIBUTION

Subject to the provisions of this Agreement, the Province must pay the Recipient the amount, in the manner, and at the times set out in Schedule B.

The Province has no obligation to make the Financial Contribution unless the Recipient has complied with the criteria set out in Schedule A.

The Province's obligation to make the Financial Contribution is subject to

- (a) sufficient monies being available in an appropriation, as defined in the *Financial Administration Act* ("FAA"), to enable the Province, in any fiscal year when any payment of money by the Province to the Recipient falls due pursuant to this Agreement, to make that payment; and
- (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.

The Recipient must

- (a) apply for any Refund or remission of federal or provincial tax or duty available with respect to any items that the Province has paid for or agreed to pay for under this Agreement, and
- (b) on receipt of the Refund, comply with the requirements concerning the use, application or remittance of the Refund set out in Schedule B.

The previous paragraph continues in force indefinitely, even after this Agreement expires or is terminated.

The Recipient is responsible for any Provincial Sales Tax (PST) and Goods and Services Tax (GST) and any other charges for which the Province has not expressly agreed to accept responsibility under the terms of this Agreement.

The Recipient must declare any amounts owing to the government under legislation or an agreement. Amounts due to the Recipient under this Agreement may be set-off against amounts owing to the government.

SECTION 4 - REPRESENTATIONS AND WARRANTIES

The Recipient represents and warrants to the Province, with the intent that the Province rely on it in entering into this Agreement, that

- (a) all information, statements, documents and reports furnished or submitted by the Recipient to the Province in connection with this Agreement are true and correct;

- (b) the Recipient has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, the Recipient's properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement; and
- (c) the Recipient is not in breach of, or in default under, any law of Canada or of the Province of British Columbia applicable to or binding on it.

All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the Recipient to the Province under this Agreement or in connection with any of the transactions contemplated by it are deemed to be representations and warranties by the Recipient under this Agreement.

All representations, warranties, covenants and agreements made in this Agreement and all certificates, applications or other documents delivered by or on behalf of the Recipient are material, have been relied on by the Province, and continue in effect during the continuation of this Agreement.

SECTION 5 - INDEPENDENT RELATIONSHIP

No partnership, joint venture, agency or other legal entity is created by this Agreement or by any actions of the parties pursuant to this Agreement.

The Recipient is independent and neither the Recipient nor its servants, agents or employees are the servants, employees, or agents of the Province.

The Recipient must not commit or purport to commit the Province to the payment of money to anyone.

SECTION 6 – RECIPIENT'S OBLIGATIONS

The Recipient must

- (a) carry out the Services in accordance with the terms of this Agreement during the Term stated in Schedule A;
- (b) comply with the payment requirements set out in Schedule B, including all requirements concerning the use, application and expenditure of the payments provided under this Agreement;
- (c) comply with all applicable laws;
- (d) hire and retain only qualified staff;
- (e) unless agreed otherwise, supply, at its own cost, all labour, materials and approvals necessary to carry out the Services;
- (f) unless agreed otherwise, retain ownership to all assets acquired or intangible property created in the process of carrying out this Agreement;

- (g) co-operate with the Province in making the public announcements regarding the Services and the details of this Agreement that the Province requests; and
- (h) acknowledge the financial contribution made by the Province to the Recipient for the Services in any Materials, by printing on each of the Materials the following statement:

"We gratefully acknowledge the financial support of the Province of British Columbia"

SECTION 7 - RECORDS

The Recipient must

- (a) establish and maintain accounting and administrative records in form and content satisfactory of the Province, to be used as the basis for the calculation of amounts owing;
- (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the Province; and
- (c) permit the Province, for contract monitoring and audit purposes, at all reasonable times, on reasonable notice, to enter any premises used by the Recipient to deliver the Services or keep any documents or records pertaining to the Services, in order for the Province to inspect, audit, examine, review and copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and material, (both printed and electronic, including, but not limited to, hard disk or diskettes), whether complete or not, that are produced, received or otherwise acquired by the Recipient as a result of this Agreement.

The Province does not have control, for the purpose of the *Freedom of Information and Protection of Privacy Act*, of the records held by the Recipient.

SECTION 8 - REPORTS/STATEMENTS AND ACCOUNTING

At the sole option of the Province, any portion of the funds provided to the Recipient under this Agreement and not expended at the end of the Term

- (a) must be returned by the Recipient to the Minister of Finance;
- (b) may be retained by the Recipient as supplemental funding provided for under an amendment to this Agreement; or
- (c) may be deducted by the Province from any future funding requests submitted by the Recipient and approved by the Province.

SECTION 9 - CONFLICT OF INTEREST

The Recipient must not, during the Term, perform a service for or provide advice to any person if the performance of that service or the provision of the advice may, in the reasonable opinion of the Province, give rise to a conflict of interest between the obligations of the Recipient to the Province under this Agreement and the obligations of the Recipient to the other person.

SECTION 10 - CONFIDENTIALITY

The Recipient must treat as confidential all information and material supplied to or obtained by the Recipient, or any Third Party, as a result of this Agreement. The Recipient must not, without the prior written consent of the Province, permit its disclosure, except as required by applicable law or to the extent that the disclosure is necessary to enable the Recipient to fulfill its obligations under this Agreement.

SECTION 11 - DEFAULT

Any of the following events constitute an Event of Default:

- (a) the Recipient fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by the Recipient in accepting this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the Recipient ceases, in the opinion of the Province, to operate;
- (e) a change occurs with respect to any one or more, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Province, materially adversely affects the ability of the Recipient to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (g) the Recipient becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (h) a bankruptcy petition is filed or presented against, or a proposal under *the Bankruptcy and Insolvency Act (Canada)* is made by, the Recipient;
- (i) a receiver or receiver-manager of any property of the Recipient is appointed;
- (j) the Recipient permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment.

SECTION 12 - TERMINATION

Upon the occurrence of any Event of Default and at any time after that the Province may, despite any other provision of this Agreement, at its option, elect to do any one or more of the following:

- (a) terminate this Agreement, in which case the payment of the amount required under the last paragraph of Section 12 of this Agreement discharges the Province of all liability to the Recipient under this Agreement;
- (b) require the Event of Default be remedied within a time period specified by the Province;
- (c) suspend any installment of the Financial Contribution or any amount that is due to the Recipient while the Event of Default continues;
- (d) waive the Event of Default;
- (e) pursue any other remedy available at law or in equity.

The Province may also terminate this Agreement on 30 days written notice, without cause.

The payment of the amount required under the last paragraph of Section 12 of this Agreement discharges the Province of all liability to the Recipient under this Agreement.

If this Agreement is terminated before 100% completion of the Project, the Province must pay to the Recipient that portion of the Financial Contribution which is equal to the portion of the Project completed to the satisfaction of the Province prior to termination.

SECTION 13 – DISPUTE RESOLUTION

The Parties agree to first refer any matter in dispute under this Agreement to senior officers of the Parties. If the matter cannot be resolved, they must submit it to a mediator as agreed upon by both Parties. The Parties must bear equally the expenditures directly related to the mediation process.

SECTION 14 – INSURANCE AND INDEMNITY

Insurance

Without limiting its obligations or liabilities under this Agreement, and at its own expense, the Recipient must obtain and maintain insurance which it is required to have by law and insurance which a prudent businessperson conducting similar operations would obtain and maintain to cover the risks it has assumed or may encounter as a result of entering into this Agreement or providing the Services during the Term.

If applicable, the Recipient must ensure the Province is added as an additional insured on insurance policies of the Recipient and Third Parties.

Within 10 business days of obtaining each relevant policy of insurance, and from time to time if requested by the Province, the Recipient must provide to the Province evidence of the insurance in the form of a completed Province of British Columbia Certificate of Insurance. If requested by the Province at any time, the Recipient must provide to the province certified true copies of the relevant insurance policies.

The Recipient must require and ensure that each Third Party maintains insurances comparable to those required above.

Indemnity

The Recipient must indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, cost and expenses that the Province may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, if the same or any of them are based on, arise out of or occur, directly or indirectly, by reason of any act or omission of the Recipient, or of any agent, employee, officer, director or Third Party pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

SECTION 15 – ASSIGNMENT AND SUB-CONTRACTING

The Recipient must not, without the prior, written consent of the Province

- (a) assign, either directly or indirectly, this Agreement or any right of the Recipient under this Agreement; or
- (b) sub-contract any obligation of the Recipient under this Agreement.

No sub-contract entered into by the Recipient relieves the Recipient from any of its obligations under this Agreement or imposes on the Province any obligation or liability arising from it.

This Agreement binds the Province and its assigns and the Recipient and the Recipient's successors and permitted assigns.

SECTION 16 - REPAYMENT OR REDUCTIONS

An amount paid by the Province to the Recipient or which is treated as such pursuant to the terms of this Agreement, and to which the Recipient is not entitled according to the terms of this Agreement is repayable to the Province and until repaid constitutes a debt due to the Province.

If for any reason, the Project is not completed to the satisfaction of the Province, the Recipient must repay to the Province the Province's Financial Contribution (or any part which has been paid to the Recipient) under this Agreement, within 30 days of receipt by the Recipient of a written request for repayment from the Province.

SECTION 17 – OTHER FUNDING

If the Recipient receives funding for or in respect of the Services from any person, firm, corporation or other government or governmental body, then the Recipient must immediately provide the Province with full details.

SECTION 18 - NOTICES

If in this Agreement any notice or other communication is required to be given by any of the parties, it must be given in writing. It is effectively given

- (a) by delivery to the address of the party set out below, on the date of delivery; or,
- (b) by pre-paid registered mail, to the address of the party set out below, on the fifth business day after mailing;
- (c) by facsimile, to the facsimile number of the party, mentioned in this Agreement, on the date the facsimile is sent; or
- (d) by e-mail, to the e-mail address of the party, mentioned in this Agreement, on the date the e-mail is sent.

The contact details of the parties are

Province: **Gary Falk**
 Gary.falk@gov.bc.ca
 Ministry of Agriculture
 Suite 200 1690 Powick Road
 Kelowna, BC
 V1X 7G5
 Phone: (250) 861-7211
 Fax: (250) 861-7490

Recipient: Faye Street
fstreet@kootenaylivestock.ca
Kootenay Livestock Association
Box 173
Cranbrook, BC
V1C 4H7
Phone: (250) 426-4315
Fax: (250) 426-2193

The address, phone number, facsimile number, or email set out above may be changed by notice in the manner set out in this provision.

SECTION 19 - NON-WAIVER

No term or condition of this Agreement and no breach by the Recipient of any term or condition is waived unless the waiver is in writing signed by the Province and the Recipient.

A written waiver by the Province of any breach by the Recipient of any provision of this Agreement is not a waiver of any other provision or of any subsequent breach of the same or any other provision of this Agreement.

SECTION 20 – ENTIRE AGREEMENT

This Agreement including the Schedules constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

SECTION 21 - MISCELLANEOUS

Changes to this Agreement are only effective if made in writing and by both parties.

All of the provisions of this Agreement in favour of the Province and all of the rights and remedies of the Province, either at law or in equity, survive any expiration or sooner termination of this Agreement.


Nothing in this Agreement operates as a consent, permit, approval or authorization by the Province to or for anything related to the Project that by law, the Recipient is required to obtain unless it is expressly stated to be.

SECTION 22 - ACCEPTANCE

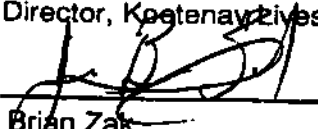
The Recipient indicates its agreement by dating and executing both copies of this Agreement in the space and manner indicated below and returning them to the contact shown above, free of any conditions. In signing or executing below, the Recipient is committing to a binding agreement.

IN WITNESS OF WHICH the parties have duly executed this Agreement as of the _____ day of October, 2015.

SIGNED AND DELIVERED on behalf of the Recipient



Faye Street
Director, Kootenay Livestock Association

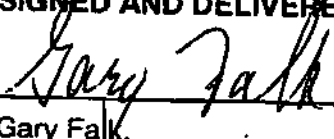


Brian Zak
Director, Kootenay Livestock Association

Oct. 5 2015
Date

Oct 5 2015
Date

SIGNED AND DELIVERED on behalf of the Province,



Gary Falk,
Director, Business Risk Management Branch,
Ministry of Agriculture

Oct 6 / 15
Date

SCHEDULE A – SERVICES

The Project

TERM

Notwithstanding the date of execution of this Agreement, the term of this Agreement starts on October 2, 2015 and ends on March 31, 2016.

PROJECT

Development and delivery of wildlife damage prevention and mitigation activities in the Kootenay region.

PURPOSE & EXPECTED RESULTS

The goal of this Project is to provide assistance to forage and livestock producers for the purposes of implementing mitigation and prevention activities, which will reduce high and persistent losses, and damages caused by wildlife.

The Kootenay Livestock Association (the "Recipient"), on behalf of the government, will develop and deliver this Project to producers in the Kootenay Region of British Columbia. The mitigation and prevention activities of this Project will reduce forage and livestock losses due to wildlife and the need for the government to compensate producers for the losses. Ultimately, the activities implemented under this Project will reduce production costs and losses for the producers allowing them to expand or invest in other areas of their enterprise.

The Project supports the Ministry of Agriculture's Service Plan goal of ensuring agricultural and food sectors contribute positively to the economic diversity and well-being of the Province. It also aligns with the Ministry of Agriculture's objective of having an economically sustainable agricultural and food sectors through such strategies as promoting, delivering and improving business risk management programs and services.

DELIVERABLES

The Recipient will use the Financial Contribution only for the purpose of completing the Services including the deliverables and the reporting requirements stated in this Schedule A.

The Recipient will provide the following deliverables:

- Assistance to forage and livestock producers, in the Kootenay Region, for the purposes of implementing mitigation and prevention activities, which will reduce high and persistent losses, and damages caused by wildlife.

Activity stipulations:

- The "Kootenay Region" is defined as the area covered by the Ministry of Forests, Land and Natural Resource Operation's Kootenay/Boundary region (see attached map).
- Activity selection criteria are to be fair, and equitable to all producers in the Kootenay Region.
- Activities funded under this Project, must be designed to have an expected serviceable life of at least 15 years if properly maintained.
- Performance target: this deliverable will be considered achieved if an Aggregate Cost:Benefit Ratio of 1.1 or greater, is achieved according to the following formula:

Aggregate Cost: Benefit Ratio = $15 \text{ yrs} * (\text{Sum of annual activity benefits})$

Total Project Expenditure

- A documented benefit analysis is to be performed for each mitigation or prevention activity. The benefit achieved is the annual value of the expected results of completing an activity; this will include but not be limited to, the expected productivity improvements and harm reduction.
- A documented risk assessment is to be completed for each mitigation or prevention activity. The Recipient is to insure that:
 - An activity is not funded unless the risks of the activity are reasonably identified and appropriately mitigated or prevented.
 - Appropriate consultations with relevant government ministries and agencies are conducted, so impacts of an activity can be identified and appropriately mitigated or prevented prior to implementation of an activity. At a minimum, this is to include consulting the Ministry of Forests, Lands and Natural Resource Operations, and the Ministry of Environment.
- If a producer receives funding prior to the start of an activity, that activity must be completed to the satisfaction of the Recipient, no later than one year after the Recipient transferred funds to a producer. If the activity is not completed according to this stipulation the funded producer must repay the funds to the Recipient. If the funds are returned to the Recipient before the Agreement

expires, the Recipient can redirect the returned funds to another producer. If the returned funds are not redirected to another producer before the Agreement expires, or if the returned funds are returned to the Recipient after the Agreement expires, the Recipient must pay those funds to the Minister of Finance. The provisions stated in this paragraph are intended to survive the completion of the termination of this Agreement and will continue in force 24 months after the termination of this Agreement.

- The Recipient is to provide the Province recommendations as to whether Agriculture Wildlife Program (AWP) compensation should be continued during the installation of an activity
 - Once an activity is completed, the Recipient is to provide the Province recommendations as to whether AWP compensation should be continued on the remainder of the acres owned or managed by the activity Recipient.
- May also include wildlife damage prevention and mitigation awareness and coordination activities such as:
 - Delivering education and awareness workshops regarding mitigation and prevention management practices, and or,
 - Partnering with producers to pilot new prevention/mitigation activities.

REPORTING REQUIREMENTS:

Financial Reporting:

Interim Reporting

The Recipient will provide a monthly summary of deliverables progress.

The Recipient must provide an accounting of the use of advanced funds upon written request by the Province.

Final Reporting

Following completion of the Project the Recipient must, no later than 30 days after the end of the Term, provide a final financial report including:

- A Project income and expenditure summary which identifies all sources and use of the total Project funds over the duration of the entire Agreement.
- A statement detailing the use of the Province's contributions provided over the duration of the entire Agreement, including
 - An explanation of any financial variances.
 - A list of prevention and mitigation activities funded; to include details of:
 - Recipient's name and contact information
 - Brief description of activity funded and intended outcomes,

- Completion status of the activity,
 - Total cost of activity; indicating amount funded by the Project,
 - Expected annual reduction of AWP compensation, and
 - Annual value of benefits (productivity improvements, harm reduction, etc.) expected.
- Aggregate Cost Benefit Ratio achieved as a result of the Project Expenditures.

Certification / Attestation

All financial reports submitted by the Recipient must be certified by a senior officer of the Recipient's organization (such as a Chief Executive Officer or Chief Financial Officer) attesting to the correctness and completeness of the financial information provided.

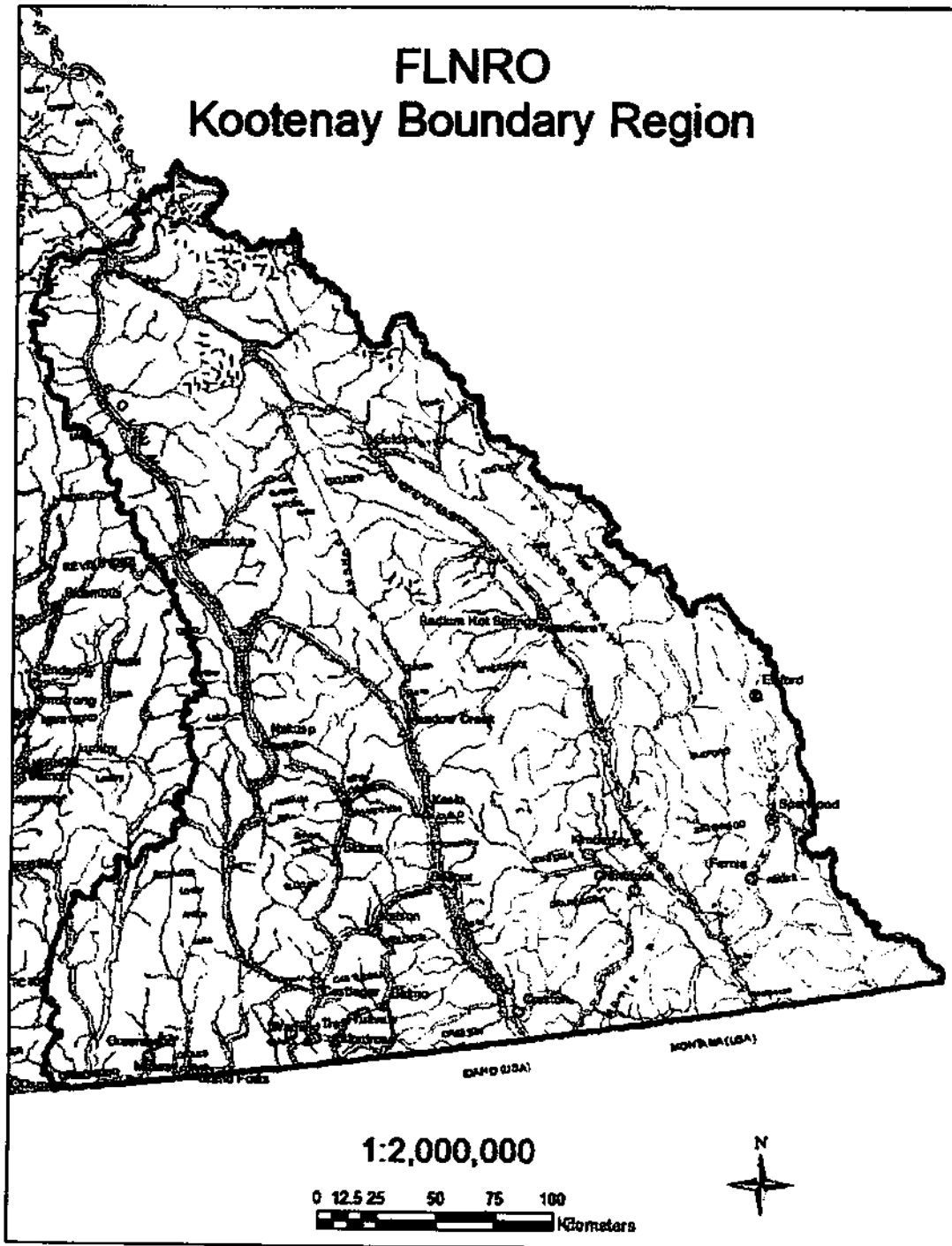
Project Reporting

Ongoing Communication

The Recipient must make all reasonable efforts to respond to ad-hoc requests by the Province for information on Project progress. The Recipient must also advise the Province immediately of any substantial events that could impact the Project timeline.

Final Reporting

Following completion of the Project the Recipient must, no later than 30 days after the end of the Term, provide a Project performance report with Project highlights, description of outcomes with respect to results set out in Schedule A, quantitative and qualitative description of wildlife damage reduction, cost benefit analysis, challenges faced and solutions found, information on results (negative or positive) that were not anticipated, and lessons learned.



SCHEDULE B

FINANCIAL CONTRIBUTION

PAYMENTS

1. The Province agrees to provide to the Recipient a maximum amount of \$110,000.00 during the Term of the Agreement.
2. Payments must be made as follows:
 - a) a payment of \$110,000.00 within 30 days of the start of this Agreement; or within 30 days of the executed date of this Agreement, whichever is the latter.
3. A maximum of 10% of the transferred funds can be applied to administration of this Project.
4. The Recipient must submit to the Province upon completion of the Project, a written statement of account showing
 - (a) the Recipient's legal name and address;
 - (b) the date of the statement and a statement number for identification;
 - (c) the Agreement Number;
 - (d) the calculation of the Financial Contribution being claimed, with reasonable detail of the applicable part of the Project completed to statement date; and
 - (e) any other billing information reasonably requested by the Province.



Modification No. 01

MODIFICATION AGREEMENT FOR GOVERNMENT TRANSFER No. GS16AGR0111

THIS MODIFICATION AGREEMENT dated for reference March 22, 2016.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Agriculture (the "Province")

AND:

Kootenay Livestock Association (the "Recipient")

BACKGROUND

- A. The parties entered into an agreement dated for reference October 1, 2015 (the "Agreement"),
- B. On the basis of the Kootenay Livestock Association's "Wildlife Grazing Exclosure Workshop" proposal, incorporated by reference into the Agreement, the parties have agreed to modify the Agreement.

AGREEMENT

The parties agree as follows:

- 1. The maximum amount in provision 1 of the Payments section of Schedule B of the Agreement is increased by \$15,000.00 from \$110,000.00 to \$125,000.00.
- 2. Provision 2 of the Payments section of Schedule B of the Agreement is deleted and the following substituted:

Payments must be made as follows:

- a) a payment of \$110,000.00 within 30 days of the start of this Agreement; or within 30 days of the executed date of this Agreement, whichever is the latter.
 - b) A payment of \$15,000.00 within 30 days of the modification date of this Agreement; or within 30 days of the executed date of this modified Agreement, whichever is the latter.
- 3. The Term in Schedule A of the Agreement currently expires on March 31, 2016 and is now extended from April 1, 2016 to April 30, 2016.
 - 4. In all other respects, the Agreement is confirmed.

SIGNED AND DELIVERED on the 29 day of March, 2016 on behalf of the Province by its duly authorized representative:

Signature

Print Name: Gary Falk

SIGNED AND DELIVERED on the 28 day of March, 2016 by or on behalf of the Recipient (or by its authorized signatory or signatories if the Recipient is a corporation):

Signature

Print Name: Faye Street

Transfer Modification
Version Date: April 1, 2015

COMPLETE ONLY FOR MODIFICATIONS

MODIFICATION # (For example: 1, 2, etc.)	01	MODIFIED END DATE:	April 30, 2016	MODIFIED TOTAL AMOUNT:	\$125,000.00
PROVIDE DETAILED REASON FOR THIS MODIFICATION. INCLUDE: <ul style="list-style-type: none"> NEW/ADDITIONAL TERMS AND STIPULATIONS RISK OF NOT PROCEEDING 		<p>The current Shared Cost Arrangement (SCA) with the Kootenay Livestock Association (KLA) is a project to develop and deliver wildlife damage prevention and mitigation activities in the Kootenay region.</p> <ul style="list-style-type: none"> The SCA allows for the delivery of education and awareness workshops regarding mitigation and prevention management practices. <p>The KLA will use this modification of \$15,000 along with \$1,800 from the initial SCA provision, to fund a pilot workshop on the use and importance of wildlife grazing enclosures will assist producers to identify areas of greatest losses, and as a result assist them to develop better informed mitigation or prevention plans.</p> <ul style="list-style-type: none"> An initial pilot workshop in the Kootenays will determine if there is benefit to taking such an approach in other areas of the province. The Activities to be undertaken by the KLA are <ul style="list-style-type: none"> Develop and deliver Wildlife Grazing Enclosures workshop content to Kootenay clients of AWP. This would include the hiring of subject matter experts to assist the KLA. Subject matter experts will deliver an infield training workshop to participants on the correct use of Wildlife Grazing Enclosures; detailed discussions would include the proper construction, placement and management of, and problem mitigation. Provision of up to two enclosures per Kootenay AWP client to demonstrate and encourage their use in assisting with the loss assessment and verification process. Build and construct 120 rebar and page wire wildlife grazing enclosures. Prepare report on the activities outcomes as per the KLA proposal. A maximum of 10% of the additional amount can be applied by the Kootenay Livestock Association to their administration of this Project. <p>A majority of AWP loss determinations are made on the basis of visual observations. AWP clients perceive these observations as subjective, and as a result AWP loss determinations are often disputed as being inaccurate. Wildlife grazing enclosures provide a more objective evidence based means of determining crop losses due to damage by wildlife. This pilot workshop will seek to increase the use of wildlife grazing enclosures by AWP clients and thereby reduce the amount of costly disputed loss assessments.</p> <p>The Kootenay Livestock Association is uniquely qualified to provide these services, as they have previously delivered similar projects in the region which were focused on developing the AWP Grazing Enclosure Methodology; and therefore have the necessary capacity and knowledge to complete this Project. A Notice of Intent (NOI) was posted on BC Bid for the awarding of the original agreement (Code 205 Direct Award – Notice of Intent) and no substantiated objections were received. Therefore it is the belief that Kootenay Livestock Association is the sole source for the project.</p>			
IF THERE IS <u>NO CHANGE</u> TO THE FUNDING SKIP TO 'APPROVAL'					
IF THE <u>FUNDING HAS CHANGED</u> – COMPLETE THE SECTIONS BELOW					
NEW BUDGET BREAKDOWN:		\$110,000.00	FY2016		
		\$ 15,000.00	FY2016		
DOES THE ORIGINAL SOLICITATION PROCESS / DIRECT AWARD RATIONALE STILL APPLY?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF NO, COMPLETE THE DIRECT AWARD INFORMATION IN NUMBERS 1, 2 BELOW			
1.					
2. PROVIDE THE RATIONALE FOR THE DIRECT AWARD SELECTED ABOVE. [IF CODE 208 WAS SELECTED, INCLUDE SPECIFIED TARGET GROUP]					
IF DIFFERENT FROM ORIGINAL, COMPLETE ACCOUNT CODING	CLIENT (MINISTRY)	RESPONSIBILITY	SERVICE LINE	STOB	PROJECT
	130	29KMA	47236	80	29K8952
IF DIFFERENT FROM ORIGINAL, COMPLETE FUNDING SOURCE	<input checked="" type="checkbox"/> Base Budget <input type="checkbox"/> Contingency <input type="checkbox"/> Special Account <input type="checkbox"/> Other				



- ☒ Funding is available within the division
☐ Funding is not available within the division but approved within the Ministry
 Treasury Board Approval Number #
☐ Funding is recoverable
 Recovery Source: Recovery Amount \$

APPROVAL

POLICY REVIEW COMPLETED AND ATTACHED



BUDGET REVIEW COMPLETED



CHIEF FINANCIAL OFFICER

NAME: Paul Cumberland

VIA EMAIL

MAR 23/16

EXPENSE AUTHORITY

NAME: Gary Falk

SIGNATURE

DATE

Gary Falk

MAR 24/16

ASSISTANT DEPUTY MINISTER (PROGRAM)

NAME: Arif Lalani

SIGNATURE

DATE

Arif Lalani

MAR 24/16

EXECUTIVE FINANCIAL OFFICER (FLNRO only)

NAME:

SIGNATURE

DATE

Smith, Rebecca AGRI:EX

From: Smith, Rebecca AGRI:EX
Sent: Tuesday, March 29, 2016 12:08 PM
To: Smith, Rebecca AGRI:EX
Subject: FW: Policy Review: Modify KLA SCA GS16AGR0111 - Fiscal 2016 Impact - Mod 1

From: Cumberland, Paul CSNR:EX
Sent: Wednesday, March 23, 2016 12:51 PM
To: Smith, Rebecca AGRI:EX
Cc: Jonson, Byron AGRI:EX; Falk, Gary AGRI:EX
Subject: RE: Policy Review: Modify KLA SCA GS16AGR0111 - Fiscal 2016 Impact - Mod 1

Approved. My signature is not required.

Cheers

Paul

From: Smith, Rebecca AGRI:EX
Sent: Wednesday, March 23, 2016 11:25 AM
To: Cumberland, Paul CSNR:EX
Cc: Jonson, Byron AGRI:EX; Falk, Gary AGRI:EX
Subject: FW: Policy Review: Modify KLA SCA GS16AGR0111 - Fiscal 2016 Impact - Mod 1
Importance: High

Hi Paul,

The modification request is attached and has gone through transfer payments for review. I can confirm (and have advised Shelia) that the point she makes first about the numbering was a typo and was corrected prior to the initial request and agreement being signed off so that doesn't need to be addressed further.

Please print and sign the modification request where indicated and scan back to me as Arif is here this week working so I am able to get both him and Gary in person.

Thanks so much,

Rebecca Smith
Contract Officer
Business Risk Management
Ministry of Agriculture
Phone: (250) 861-7680

Please consider the environment before printing this email **CONFIDENTIALITY NOTICE:** This message and any accompanying documents contain confidential information intended for a specific individual and purpose. This message is private and protected by law. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution, or the taking of any action based on the contents of this information, is strictly prohibited.

From: Tucnik, Sheila CSNR:EX
Sent: Wednesday, March 23, 2016 11:14 AM
To: Smith, Rebecca AGRI:EX
Cc: Tsang, Diana CSNR:EX; Falk, Gary AGRI:EX
Subject: Policy Review: Modify KLA SCA GS16AGR0111 - Fiscal 2016 Impact - Mod 1

Hi Rebecca,

On the modification agreement, the RFGT and the Request to Modify documents, they all state the agreement number as GS16AGR0111, however, the copy of the original (unsigned) Shared Cost Arrangement (SCA) that I have states the agreement number as 6516 ARG1 0111. **Check which number is on the signed SCA and if it is 6516 ARG1 0111, then the number on the documents will need to be updated.** If you change it on the Request to Modify, be sure that you let the recipient know that you altered their document. If a change to the documents is appropriate, there is no need to resubmit them to me for review.

I have reviewed the Government Transfer Modification Request for Kootenay Livestock Association SCA #GS16AGR0111/6516 ARG1 0111 to extend the date from March 31, 2016 to April 30, 2016 and add \$15,000 to increase the funds from \$111,000 to \$125,000. The funds were requested by Kootenay Livestock Association in order to pilot a workshop on wildlife grazing exposure, The workshop falls within the scope of the original agreement.

Based upon the Request for Government Transfer (RFGT) and the Kootenay Livestock Association Modification Agreement (MA), and with the provision that the correct agreement number is reflected on the documents, **this Government Transfer modification complies with Government Financial Policy.**

Please note: Once you get the approval signatures on the attached RFGT and are ready to send the MA to the Recipient for signature, be sure to convert the MA (and any other related documents) to PDF documents if you are emailing the MA to them. Further to this, be sure all pages of the MA are returned and also obtain the original signature page from the Recipient.

Regards,

Sheila Tucnik, Certified Service Professional (CSP) | Senior Contract Procurement Specialist
Corporate Services | Natural Resource Sector | Phone: (250) 387-5263

From: Smith, Rebecca AGRI:EX
Sent: Monday, March 21, 2016 12:57 PM
To: CSNR Transfer Payments CSNR:EX
Cc: Jonson, Byron AGRI:EX
Subject: ACTION REQUIRED: Request to Modify KLA SCA GS16AGR0111 - Fiscal 2016 Impact
Importance: High

Hi,

Please see the attached modification request for the shared cost arrangement with the KLA. Our GM Byron Jonson is working with Paul Cumberland on this as it impacts current fiscal. Please review and respond accordingly.

Thanks,

Rebecca Smith
Contract Officer
Business Risk Management
Ministry of Agriculture
Phone: (250) 861-7680

Please consider the environment before printing this email **CONFIDENTIALITY NOTICE:** This message and any accompanying documents contain confidential information intended for a specific individual and purpose. This message is private and protected by law. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution, or the taking of any action based on the contents of this information, is strictly prohibited.

From: Jonson, Byron AGRI:EX
Sent: Monday, March 21, 2016 12:44 PM
To: Smith, Rebecca AGRI:EX
Subject: Request to Modify KLA SCA GS16AGR0111 Final



Modification No. 02

MODIFICATION AGREEMENT FOR GOVERNMENT TRANSFER No. GS16AGR0111

THIS MODIFICATION AGREEMENT dated for reference April 27, 2016.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Agriculture (the "Province")

AND:

Kootenay Livestock Association (the "Recipient")

BACKGROUND

- A. The parties entered into an agreement dated for reference October 1, 2015, and was subsequently modified March 29, 2016 (the "Agreement"),
- B. The parties have agreed to modify the Agreement.

AGREEMENT

The parties agree as follows:

1. The maximum amount in provision 1 of the Payments section of Schedule B of the Agreement is increased by \$110,000.00 from \$125,000.00 to \$235,000.00.
2. Provision 2 of the Payments section of Schedule B of the Agreement is deleted and the following substituted:
Payments must be made as follows:
 - a) A payment of \$110,000.00 within 30 days of the start of this Agreement; or within 30 days of the executed date of this Agreement, whichever is the latter.
 - b) A payment of \$15,000.00 within 30 days of the modification date of this Agreement; or within 30 days of the executed date of this modified Agreement, whichever is the latter.
 - c) A payment of \$110,000.00 within 30 days of the modification date of this Agreement; or within 30 days of the executed date of this modified Agreement, whichever is the latter.
3. The Term in Schedule A of the Agreement currently expires on April 30, 2016 and is now extended from May 1, 2016 to March 31, 2017.
4. The final reporting section of the Reporting requirements, Financial Reporting section of the Schedule A of the Agreement is amended to add:

A financial report must be submitted no later than 30 days from April 30, 2016 that will include:

- A Project income and expenditure summary which identifies all sources and use of the Project funds between October 5, 2015 and April 30, 2016.
- A statement detailing the use of the Province's contributions for the period October 15, 2015 through April 30, 2016, including:
 - An explanation of any financial variances
 - A list of prevention and mitigation activities funded; to include details of:
 - Recipient's name and contact information,

Transfer Modification
Version Date: April 1, 2015

- Brief description of activity funded and intended outcomes,
- Completion status of the activity,
- Total cost of activity; indicating amount funded by the Project
- Expected annual reduction of AWP compensation, and
- Annual value of benefits (productivity improvements, harm reduction, etc.) expected.

- Aggregate Cost Benefit Ratio achieved as a result of the Project Expenditures for the period of October 5, 2015 – April 30, 2016.

5. The final reporting section of the Reporting requirements, Project Reporting section of the Schedule A of the Agreement is amended to add:

No later than 30 days from April 30, 2016 the Recipient must provide a Project performance report for the period of October 5, 2015 – April 30, 2016. These reports will include Project highlights, description of outcomes with respect to results set out in the Schedule A, quantitative and qualitative description of wildlife damage reduction, cost benefit analysis, challenges faced and solutions found, information on results (negative or positive) that were not anticipated, and lessons learned.

6. In all other respects, the Agreement is confirmed.

SIGNED AND DELIVERED on the 28 day of April, 2016 on behalf of the Province by its duly authorized representative:

Signature

Gary Falk

Print Name: Gary Falk

SIGNED AND DELIVERED on the 28 day of April, 2016 by or on behalf of the Recipient (or by its authorized signatory or signatories if the Recipient is a corporation):

Signature

Faye Street

Print Name: Faye Street

COMPLETE ONLY FOR MODIFICATIONS

MODIFICATION # (For example: 1, 2, etc.)	02	MODIFIED END DATE:	Mar. 31, 2017	MODIFIED TOTAL AMOUNT:	\$235,000.00
PROVIDE DETAILED REASON FOR THIS MODIFICATION. INCLUDE: <ul style="list-style-type: none"> NEW/ADDITIONAL TERMS AND STIPULATIONS RISK OF NOT PROCEEDING 		The current Shared Cost Arrangement (SCA) with the Kootenay Livestock Association (KLA) is a project to develop and deliver wildlife damage prevention and mitigation activities in the Kootenay region. The KLA will use this modification of \$110,000 to fund the work as outlined under agreement GS16AGR0111 to provide development and delivery of wildlife damage prevention and mitigation activities in the Kootenay region for the 2016-2017 year. <ul style="list-style-type: none"> A maximum of 10% of the additional amount can be applied by the Kootenay Livestock Association to their administration of this Project. 			

IF THERE IS NO CHANGE TO THE FUNDING SKIP TO 'APPROVAL'**IF THE FUNDING HAS CHANGED– COMPLETE THE SECTIONS BELOW**

NEW BUDGET BREAKDOWN:	\$110,000.00	FY2016 (original amount)			
	\$ 15,000.00	FY2017 (modification #01)			
	\$110,000.00	FY2017 (modification #02)			
DOES THE ORIGINAL SOLICITATION PROCESS / DIRECT AWARD RATIONALE STILL APPLY?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF NO, COMPLETE THE DIRECT AWARD INFORMATION IN NUMBERS 1, 2 BELOW				
1.	205 Direct Award - Notice of Intent				
2. PROVIDE THE RATIONALE FOR THE DIRECT AWARD SELECTED ABOVE. [IF CODE 208 WAS SELECTED, INCLUDE SPECIFIED TARGET GROUP]	The Kootenay Livestock Association is uniquely qualified to provide these services, as they have previously delivered similar projects in the region. A Notice of Intent (NOI) was posted on BC Bid for the awarding of the original agreement as well as this modification amount (Code 205 Direct Award – Notice of Intent) and no substantiated objections were received. Therefore it is the belief that Kootenay Livestock Association is the sole source for the project.				
IF DIFFERENT FROM ORIGINAL, COMPLETE ACCOUNT CODING	CLIENT (MINISTRY)	RESPONSIBILITY	SERVICE LINE	STOB	PROJECT
	130	29KMA	47236	8001	29K8952
IF DIFFERENT FROM ORIGINAL, COMPLETE FUNDING SOURCE	<input checked="" type="checkbox"/> Base Budget <input type="checkbox"/> Contingency <input type="checkbox"/> Special Account <input type="checkbox"/> Other <input checked="" type="checkbox"/> Funding is available within the division <input type="checkbox"/> Funding is not available within the division but approved within the Ministry Treasury Board Approval Number # <input type="checkbox"/> Funding is recoverable Recovery Source: _____ Recovery Amount \$ _____				

APPROVAL

POLICY REVIEW COMPLETED AND ATTACHED

CHIEF FINANCIAL OFFICER

NAME: Michael Lord

EXPENSE AUTHORITY

NAME: Gary Falk

ACTING ASSISTANT DEPUTY MINISTER

NAME: Joan Easton

EXECUTIVE FINANCIAL OFFICER (FLNRO only)

NAME: Not Applicable

BUDGET REVIEW COMPLETED

<input checked="" type="checkbox"/> AS PER EMAIL _____ SIGNATURE	<input type="checkbox"/> APR. 27/16 _____ DATE
Gary Falk _____ SIGNATURE	APR. 27/16 _____ DATE
AS PER EMAIL _____ SIGNATURE	APR. 26/16 _____ DATE
_____ SIGNATURE	_____ DATE

Smith, Rebecca AGRI:EX

From: Easton, Joan E AGRI:EX
Sent: Tuesday, April 26, 2016 6:50 PM
To: Smith, Rebecca AGRI:EX
Subject: RE: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Hi Rebecca – I have reviewed the request as acting ADM and approve the modification.

Regards

Joan

From: Smith, Rebecca AGRI:EX
Sent: Tuesday, April 26, 2016 2:33 PM
To: Easton, Joan E AGRI:EX
Subject: FW: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Hi Joan,

Attached is the request to modify GS16AGR0111 – the transfer agreement with Kootenay Livestock Association that Byron spoke to you about earlier. Please review and as acting ADM approve to proceed. Email reply is sufficient for approval.

Thank you so much,

Rebecca Smith
Contract Officer

Business Risk Management
Ministry of Agriculture
Phone: (250) 861-7680

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From: Jonson, Byron AGRI:EX
Sent: Tuesday, April 26, 2016 1:44 PM
To: Smith, Rebecca AGRI:EX
Subject: RE: Please review: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Looks good

I talked to Joan, she will be looking for it from you.

From: Smith, Rebecca AGRI:EX
Sent: Tuesday, April 26, 2016 12:39 PM
To: Jonson, Byron AGRI:EX
Subject: FW: Please review: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer
Importance: High

All done.

I have attached the updated modification agreement with the changes we discussed this morning that was vetted by CSNR Transfer Payments (Shelia). Her edits were minor and accepted by me as now reflected in what's attached.

Becky

From: Tucnik, Sheila CSNR:EX
Sent: Tuesday, April 26, 2016 11:42 AM
To: Smith, Rebecca AGRI:EX
Cc: Tsang, Diana CSNR:EX; Falk, Gary AGRI:EX
Subject: FW: Please review: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Hi Rebecca,

Attached is the modification agreement with tracked changes and a comment. Please review and "accept" the tracked changes then delete the comment. Once the changes have been accepted there is no need to submit the modification agreement for further review.

I have reviewed the Government Transfer Modification Request for Kootenay Livestock Association SCA #GS16AGR0111 to extend the Term from April 30, 2016 to March 31, 2017, and add \$110,000 to increase the funds from \$125,000 to \$235,000. The additional time and funds are for the Recipient to provide development and delivery of wildlife damage prevention and mitigation activities in the Kootenay region for the 2016/17 year.

Based upon the Request for Government Transfer (RFGT), the Kootenay Livestock Association Modification Agreement (MA), and with the provisions that the changes to the MA are made and that the budget has been allocated, **this Government Transfer modification complies with Government Financial Policy.**

Please note: Once you get the approval signatures on the attached RFGT and are ready to send the MA to the Recipient for signature, be sure to convert the MA to a PDF document if you are emailing it to them. Further to this, be sure both pages of the MA are returned, and also obtain the original signature page from the Recipient through the mail.

Regards,

Sheila Tucnik, Certified Service Professional (CSP) | Senior Contract Procurement Specialist
Corporate Services | Natural Resource Sector | Phone: (250) 387-5263

From: Smith, Rebecca AGRI:EX
Sent: Tuesday, April 26, 2016 8:14 AM
To: CSNR Transfer Payments CSNR:EX
Subject: Please review: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer
Importance: High

Hi,

Please review the attached as required. A NOI to extend and modify the agreement was posted to BC Bid with no objections coming forth. The draft modification, request form, and NOI that was posted is attached for reference. This is time sensitive as this modification includes an extension of the current agreement which will expire April 30th.

Thank you,

Rebecca Smith
Contract Officer
Business Risk Management
Ministry of Agriculture
200-1690 Powick Road
Kelowna BC V1X 7G5
Phone: (250) 861-7680
Fax: (250) 861-7490

Smith, Rebecca AGRI:EX

From: Lord, Michael CSNR:EX
Sent: Wednesday, April 27, 2016 2:41 PM
To: Smith, Rebecca AGRI:EX
Subject: RE: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Approved

/m

Michael
t: 250.356.9220

From: Smith, Rebecca AGRI:EX
Sent: Wednesday, April 27, 2016 12:28 PM
To: Lord, Michael CSNR:EX
Subject: FW: Request to modify GS16AGR0111 KLA Shared Cost Arrangement/Govt Transfer

Hi Michael,

Attached is the request to modify GS16AGR0111 – the transfer agreement with Kootenay Livestock Association that Byron spoke to you about earlier. Please review and approve as CFO. Email reply is sufficient for approval.

Thank you so much,

Rebecca Smith
Contract Officer
Business Risk Management
Ministry of Agriculture
Phone: (250) 861-7680

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Regards,

Sheila Tucnik, Certified Service Professional (CSP) | Senior Contract Procurement Specialist
Corporate Services | Natural Resource Sector | Phone: (250) 387-5263

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Thank you,

Rebecca Smith
Contract Officer
Business Risk Management
Ministry of Agriculture
200-1690 Powick Road
Kelowna BC V1X 7G5
Phone: (250) 861-7680

From: [XT:Street, Faye AGRI:IN](#)
To: [Lalani, Arif AGRI:EX](#); [Jonson, Byron AGRI:EX](#); [Morhart, Tyler AGRI:EX](#)
Subject: FW: Message from "RNP002673B484F3"
Date: Wednesday, November 2, 2016 11:13:16 AM
Attachments: 201611021132.pdf

Hi Guys: FYI and the reason for our industries frustrations.
Thanks,
Faye

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

From: kla@kootenaylivestock.ca [<mailto:kla@kootenaylivestock.ca>]
Sent: November-02-16 9:32 AM
To: Faye's <fstreet@kootenaylivestock.ca>
Subject: Message from "RNP002673B484F3"

This E-mail was sent from "RNP002673B484F3" (Aficio MP 301).

Scan Date: 11.02.2016 11:32:18 (-0400)
Queries to: kla@kootenaylivestock.ca

Nov. 2. 2016 11:30AM Kootenay Livestock Association

No. 0354 P. 2

Faye Street

From: s.22
Sent: October-28-16 10:10 AM
To: Faye Street
Subject: Re: Letter

Thanks Faye, it is very well written.

It is so important for them to know and for it to be emphasized that all of the development has happened with no consultation to us. We've seen a Hotel, Casino, Golf Course go up with ZERO consultation. Liquor Licencing was issued with NO Public Notice or Consultation for a Tent to host events that have affected the Mental Health and Peace and Enjoyment of our property and business. There is currently an endorsement request to the liquor license by the Resort to be able to have open liquor service on the grass directly across the street from our yards. We along with several other area residents have sent our opposition to this to Liquor Control after the request was publicly posted to public input. This is the same process that didn't happen in the first place when the initial licence was issued obviously to get it snuck into place with to complaints. We have had a large two storey building put feet from our property line with NO consultation. Due to the build up of the land to create the foundation we have had spring run off from the site fill our well and contaminate our drinking water. They tell us they are now trying to fix this problem. We will see.

Throughout this I've contacted the RCMP, MLA, MP, BC Ombudsman, RDEK and the various CEO's and officials at the resort and spent most of my time getting the run around. No one wants to be responsible to protect our rights.

Another thing that has been missed is that the Reserve was originally on the North side of the river with the south side including the current location of the Band Offices and Resort being Private Land. All of this development has come AFTER s.22 bought this private land through legal processes. All of this development has been imposed on us without consultation. So that enters the question is this legally part of the reserve to the north of the river or is it Private Land owned by the band outside of the reserve.

If you would like any documentation to take along I have a file an inch thick of paperwork. I've kept a date and time and response journal of the noise issues we've had and I also have a file of all e-mail correspondence through this.

Thanks for what you're doing.

s.22

From: Faye Street <fstreet@kootenaylivestock.ca>
Sent: October 28, 2016 9:28 AM
To: s.22
Subject: Letter

Nov. 2. 2016 11:30AM Kootenay Livestock Association

No. 0354 P. 1

Kootenay Livestock Assoc.**KLA - # 426-4315 Fax # 426-2193****DATE:** Nov. 2, 2016**FAX TO:** Arif Lalani**FAX#:** 250-356-7279**FROM:** Faye Street**FAX#:** 250-426-2193**MESSAGE:**

Hello Sandra:

Can you please get this to Arif, it is re our phone call this morning, and clearly demonstrates why our level of frustration regarding this issue is at 10 on the cranky scale.

Thanks,

Cheers,

Faye

From: [Jonson, Byron AGRI:EX](#)
To: [Lalani, Arif AGRI:EX](#)
Subject: INFO re: FN impacts of Kootenay Wildlife Damage Prevention Project
Date: Thursday, November 3, 2016 7:53:34 PM
Attachments: Kootenay FN concerns.docx

It is information dense.

Forgive the grammar errors that exist s.22

on those

Issue: The Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaqam have expressed their concern that the Ministry's Kootenay Wildlife Damage Prevention Project may impact their first nation interests and rights, and the Crown as a result has a duty to consult.

Background:

- Kootenay Wildlife Damage Prevention Project: In 2015 the Ministry of Agriculture (AGRI) entered into a Cost Shared Agreement (CSA) with the Kootenay Livestock Association (KLA), to provide financial assistance to forage and livestock producers for the purposes of implementing mitigation and prevention activities that would reduce high and persistent losses, and damages caused by wildlife on fee simple lands.
 - The Project is in its second year and has significantly reduced production costs and losses for participating forage producers; allowing them to expand or invest in other areas of their enterprise.
 - The KLA under this CSA agreed on behalf of the government, to:
 - Develop and deliver this Project to producers in the Kootenay Region of British Columbia.
 - Complete and document a risk assessment for each mitigation or prevention activity, and insure that:
 - An activity is not funded unless the risks of the activity are reasonably identified and appropriately mitigated or prevented.
 - Appropriate consultations with relevant government ministries and agencies are conducted, so impacts of an activity can be identified and appropriately mitigated or prevented prior to implementation of an activity. At a minimum, this is to include consulting the Ministry of Forests, Lands and Natural Resource Operations, and the Ministry of Environment.
 - The KLA approved the funding of a wildlife fence on fee simple land directly adjacent to ʔaqam reserve land. Neither the Band nor the KNC were informed of the planned activity in advance of its construction. This, as a result, prompted the Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaqam to inform Agri of their concern for impacts on their rights and interests.
- Legal Framework: First Nations have a unique legal status recognized in the Constitution Act, Section 35. Successive court rulings have expanded the Province's duties to consult First Nations, not only about proven rights, but also in respect of asserted rights when contemplating conduct that might impact them and, then accommodate those asserted rights, where required.
- The Ministry of Agriculture is a signatory to the Strategic Engagement Agreement (SEA), a Common Law Contract with the KNC. BRMB's understand of SEA is that it is a government to government agreement, in which the Province commits to being more transparent and communicate information about decisions that may impact first nation's interests.
 - SEA states that the "Province seeks to fulfil its consultation and accommodation obligations, including the fulfillment of its duty to consult and, where appropriate, accommodate in a manner that addresses the interests of the Parties"
 - SEA outlines Engagement Processes (Sec. 8.1) intended to help the Parties achieve a better understanding of their respective interests and the potential impacts that proposed activities may have on those interests.

- BRMB has obtained MARR regional staff advice that the provincially funded wildlife protection fencing activities on fee simple land may impact first nation's interests on Crown Land, and as a result Agri has a duty to engage KNC. MARR regional staff advised BRMB that a "collaborative engagement" approach with the KNC is appropriate and that the lack of consultation is not contrary to the SEA.

BRMB as result offered in a written ADM response to ʔaqam Chief Whitehead and verbally to KLRA staff, to provide information about the Project and to seek input on mitigation strategies being considered when they are adjacent to and, in the vicinity of Reserve lands.

- Agri has been advised by FLNRO First Nations Relations Branch (FNRB) that:
 - A project supporting fence construction on private land has no permitting requirement and there is not a duty to consultation.
 - AGRI offer engagement to provide the KNC information about the Project.
 - AGRI may wish to provide some advice to farmers/ranchers looking to build a fence especially if bordering a reserve or Aboriginal title to engage with First Nations when they are planning to build a fence.
- BRMB has not yet obtained JAG opinion on the advice provided by MARR regional staff and FNRB.

Discussion:

- Until AGRI engages with the KNC to fully inform them about the Project and its activities, the KNC can't be expected understand and communicate the seriousness of potential impacts that the Project or its activities may have on their rights and interests. It is unlikely that after providing all information about the project to the KNC, that it could be strongly argued that Agri does have a duty to consult and accommodate.

KLRA and the ʔaqam may argue for Sec 35 Duty to Consultation and Accommodate, however, the extent of consultation required, if any, would be determined by the strength of the case supporting their claim, and the seriousness of potential impacts upon the claimed rights.

- KLA has been provided a copy of the response to ʔaqam Chief Whitehead. They have also been informed by BRMB staff that KLRA expressed their appreciation that forage producers are being negatively impacted by ungulates and that the KNC's desire to have transparency and information about the Project to determine if it impacts them. The KLA was informed that Agri would need to provide KNC full information about the Project and that there may or may not be more obligations that result from that dialogue with KNC.

The KLA have expressed their strong opposition to any engagement with the KNC.

- FLNRO regional leadership, the KLRA and the ʔaqam have expressed that a landscape level impact assessment of AGRI wildlife protection fencing activities on fee simple lands, should be included as part of the activity funding decision making process.

BRMB Staff have begun dialogue with FLNRO regional leadership, the KLRA and the KLA on how to best address this concern. To better understand the actual potential for landscape level impacts initial steps have been taken to map existing all agricultural fee simple land and existing wildlife fencing projects.

From: [Lalani, Arif AGRI:EX](#)
To: [Sturko, Derek AGRI:EX](#)
Subject: KLA and Ktunaxa
Date: Friday, November 4, 2016 11:47:00 AM

Derek – BRM staff connected with MARR staff to get specific policy statements regarding the duty to inform, especially in 3rd party delivery situations and private property. MARR referred staff to their online resource which is the **Updated Procedures for Meeting Legal Obligations When Consulting First Nations** (referred to hereafter as the Consultation Procedures). MARR states that “*The goal of this document is to facilitate the Province’s compliance with case law while fulfilling the vision of a new relationship.*” (Page 3)

Issue: The Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaq̓am have expressed their concern that the Ministry’s Kootenay Wildlife Damage Prevention Project may impact their first nation interests and rights, and the Crown as a result has a duty to consult.

Background:

- Kootenay Wildlife Damage Prevention Project: In 2015 the Ministry of Agriculture (AGRI) entered into a Cost Shared Agreement (CSA) with the Kootenay Livestock Association (KLA), to provide financial assistance to forage and livestock producers for the purposes of implementing mitigation and prevention activities that would reduce high and persistent losses, and damages caused by wildlife on fee simple lands.
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 - The private property owner has also raised complaints that the KNC developed a casino, gas station and school on the ʔaq̓am reserve land without consultation with neighbours adjacent to the development. So this has a neighbour to neighbour issue as well.

Discussion:

- The Consultation Procedures states: “*The Province of British Columbia has a duty to consult and where required, accommodate First Nations whenever it proposes a decision or activity that could impact treaty rights or aboriginal rights (including title) - claimed or proven. The duty stems from court decisions and is consistent with the Province’s commitment to building a new relationship with First Nations.*” (Page 3)
- In terms of best practices, the Consultation Procedures supports BRMB’s recent KNC engagement approach (in response to Chief Whitehead’s letter, dated May 27, 2016) of an offer to inform through the following provisions:
 - “*Consultation in its least technical definition is talking together for mutual*

understanding.”

- “ *Consultation is to enable the Province to gain a proper understanding of Aboriginal Interests and if required, to seek ways to accommodate them appropriately.* ”
- With regard to circumstances where the Crown delegates its responsibilities to a third party, the Consultation Procedures states that, “the Province may delegate certain procedural aspects of consultation to proponents”. The following provisions from the Consultation Procedures would apply:
 - “ Provincial decision-makers with authority to make decisions about provincial land or resources are responsible for ensuring appropriate and sufficient consultation and accommodations.” (Page 3)
 - “Proponents (any party, including industry, local governments, federal agencies and Crown Corporations, seeking decisions from the Province in support of activities related to land or resource development) are encouraged to engage First Nations as early as possible when seeking a decision. In some cases, the Province may delegate certain procedural aspects of consultation to proponents. Proponents are often in a better position compared to the Province, to exchange information about their decision requests and directly modify plans to mitigate any concerns.” (Page 3)
- In addition, the Ministry of Agriculture is a signatory to the Strategic Engagement Agreement (SEA), which was signed off by Minister Rustad on behalf of the Province, a Common Law Contract with the KNC. **BRMB’s understanding** of the SEA is that it is a government to government agreement, in which the Province commits to being more transparent and communicate information about decisions that may impact first nation’s interests.
 - SEA states that the “Province seeks to fulfil its consultation and accommodation obligations, including the fulfillment of its duty to consult and, where appropriate, accommodate in a manner that addresses the interests of the Parties”
 - SEA outlines Engagement Processes (Sec. 8.1) intended to help the Parties achieve a better understanding of their respective interests and the potential impacts that proposed activities may have on those interests.

Please advise of this is sufficient

Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: [Lalani, Arif AGRI:EX](#)
To: [Sturko, Derek AGRI:EX](#)
Cc: [Jonson, Byron AGRI:EX](#); [Cameron, Sandra AGRI:EX](#); [Hodson, Georgina AGRI:EX](#)
Subject: KLA and Ktunaxa
Date: Thursday, November 3, 2016 8:12:00 PM

Derek – this is a very complicated matter. We tried to get the **confirmed** policy position from MARR but had to lean towards the agreed to framework which we signed on to. It could have been a lot longer (with more detail about the duty to inform) but I asked Bryon to keep it short. Please let us know if more information is required.

Issue: The Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaq̓am have expressed their concern that the Ministry's Kootenay Wildlife Damage Prevention Project may impact their first nation interests and rights, and the Crown as a result has a duty to consult.

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Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: [Jonson, Byron AGRI:EX](#)
To: [Lalani, Arif AGRI:EX](#)
Cc: [Cameron, Sandra AGRI:EX](#); [Morhart, Tyler AGRI:EX](#); [Steward, Lonny AGRI:EX](#)
Subject: KLA Issue
Date: Friday, November 4, 2016 3:32:33 PM

Heads up

I just received a phone call complaint from s.22 of s.22 s.22 properties. s.22 , also the original pilot mitigation program paid to put a single perimeter around both properties . Apparently the KLA has provided funds s.22 to put up a cross game fence inside the existing game fence enclosure. s.22 two concerns are:

- If it is true that funds came from the Gov, s.22 sees it as a waste of taxpayer money to put an 8 ft fence inside an 8 ft fenced perimeter fence that already excludes the wildlife. He does agree that a simple cattle fence should be installed to manage domestic animals.
- s.22 is ignoring his requests to first determine where the surveyed boundary is so it can be correctly located.

s.22 indicated that Faye will not listen to him as s.22 and Faye are 's.22 ' He is concerned that the fence will be installed this weekend, as the materials arrived this AM. I have asked s.22 to work on this with Tyler. Tyler is talking to him now. I'll call Faye, the KLA, to discuss. It will likely to be incendiary on the issue of the fence inside a fence. If she is unavailable we'll need to call s.22 ; which is likely to be perceived as undermining Faye. Either way it will cause waves and attempts may be made to link it negatively to the FN issue. Timing couldn't be worse given the meetings this weekend and me stepping onto a plane. Also there is a history that proceeds s.22 on this behaviour In one of the early exclusion fencing program, s.22 fenced in a chunk of crown land. When this was discovered, he applied to buy it; it is unclear if this was ever resolved

From: [Jonson, Byron AGRI:EX](#)
To: [Lalani, Arif AGRI:EX](#)
Cc: [Morhart, Tyler AGRI:EX](#); [Colombo, Leanne AGRI:EX](#)
Subject: Mitigation Project info
Date: Tuesday, November 1, 2016 11:10:18 AM
Attachments: [Government duty to engage and consult with First Nations.msg](#)

Background on the need to engage the Ktunaxa Nation Council (KNC) about the AGRI wildlife damage mitigation project for the Kootenays region;

- Input on the correct approach has been obtained from Charles Hunter, Director, First Nations Relations Branch, and from NRS staff that have a local working relationship with the Ktunaxa:

- Mitchell, Harry, FLNR District Manager, Regional Operations Division - South Area
- Brent Lucas FLNR Manager, First Nations Relations- South Area and
- Sue Cairns (local MARR)
- Leanne Colombo BRMB Program Representative, Ministry of Agriculture, Cranbrook, BC

- The input from this experienced group is

- There is a KNC government to Province of British Columbia government document called the Ktunaxa Strategic Engagement Agreement (SEA); Agri is a signatory on this agreement. This agreement applies to BC provincial operations in the Kootenay region.
- That the lack of Consultation is not contrary to the SEA. But I want to have a firm answer if there is or was a “Duty to Engage.”
- Advise has been that a “collaborative engagement” approach and is appropriate. This is what was offered in the letter to t
- They, did, however, indicate that an argument for Sec 35 Duty to Consultation might possibly be made, but it may be tricky given private land is involved. We would want in involve MARR in preparing a response if that argument is made.

At this point:

- We are working to understand what Sec 35 consultation entails and “duty to engage” means.
- On Oct 26 th we informed Faye, who we understood to be acting on behalf of the KLA, that
 - We had just met with the KNC staff member on the Monday Oct 24, and were able to hear firsthand the KNC concerns; moreover their appreciation that forage producers are being negatively impacted by ungulates and the KNC’s desire to have transparency and information about the Mitigation project.
 - We need some time, about a week, to work with MARR to better understand our obligations for “engagement” are; To help KLA better understand what it may be in the end, I referenced what the LPP engagement process was that proceed MOE issuing of the LPP permit for the Kootenays.

I have attached what Leanne has learned so far about the SEA and initial info about “duty to engage”

From: [Colombo, Leanne AGRI:EX](#)
To: [Jonson, Byron AGRI:EX](#)
Cc: [Lucas, Brent M FLNR:EX](#)
Subject: Government duty to engage and consult with First Nations
Date: Tuesday, November 1, 2016 10:50:46 AM

Hello Byron,

I had a conversation with Brent Lucas who guided me to information and documents we should be referring to in regard to AGRI duty to engage and consult with First Nations. The summary I am providing is from my conversation with Brent, but has not been vetted by him.

At a Provincial level, the Tsilhqot'in decision means that Aboriginal interest on the land are not limited to reserves; they include crown land. The government has a duty to consult on activities that could impact First Nations interests, and anything that affects crown land must be considered.

<http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations>
Updated Procedures for Meeting Legal Obligations When Consulting First Nations: Describes the Province's approach to consulting and accommodating First Nations where a proposed decision or activity by the Province may affect claimed or proven Aboriginal rights (including title) or treaty rights. Proponents wanting more detailed information on the consultation process may consider reviewing this document in conjunction with the Guide to Involving Proponents When Consulting First Nations.

The document above outlines that obligations are not limited to Statutory Decisions or specific projects; any activity government is involved in that has the potential to impact First Nation's interest must be considered.

Stakeholder Engagement Strategy

<https://gwww.nrs.gov.bc.ca/marr/strategic-initiatives/stakeholder-engagement-strategy>

Proponents can do information exchanges, but the crown is responsible for engagement and consultation.

At the local level in the **Kootenays, the Strategic Engagement Agreement (SEA)** is our guiding document. It is a Common Law Contract. It is a transactional agreement, meaning we must communicate information that may impact First Nations interests. http://www2.gov.bc.ca/assets/gov/zzzz-to-be-moved/9efbd86da302a0712e6559bdb2c7f9dd/9efbd86da302a0712e6559bdb2c7f9dd/agreements/sea_ktunaxa.pdf found on this page <http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/first-nations-a-z-listing/ktunaxa-nation>

Ministry of Agriculture is a signatory to the SEA; John Rustad signed on behalf of the participating ministries. This is a government to government agreement, and it commits the province to being more transparent. The opportunity is reciprocal, meaning the Ktunaxa Nation can initiate engagement. The process is outlined as a provincial engagement request, and typically would go through the Ktunaxa Land and Resources Agency (KLRA). Ktunaxa interests are outlined in Sec 3.1

Engagement Procedures Sec. 8.1

Solutions going forward:

The good thing is that this issue has turned our minds to our obligations, and we can learn from this.

SEA is up for renewal. AGRI can become involved in the renewal and understand how this impacts AGRI business areas.

Leanne Colombo
Program Representative
Ministry of Agriculture
Cranbrook, BC
Cell: 250-919-3769

From: [XT:Galandy, Landis AGRI:IN](#)
To: [Lalani, Arif AGRI:EX](#); [Jonson, Byron AGRI:EX](#)
Subject: Re last two KLA applications PLEASE
Date: Thursday, June 2, 2016 2:46:28 PM

Hello Arif and Byron:

I have sent you both the information on the Haven of Hope and the s.22 applications.

I just want to add my two bits for your consideration please. s.22 ' has been waiting for 3 years and needs to get his fields replanted but CAN NOT do it and stand the financial strain that the Elk will put on a new seeding, so he is waiting and losing mega tons of forage in the wait. (\$30,000.00) Haven of Hope are in the same wait mess. These are really hard working folks and they have a very productive land that will grow amazing forage crops if they can just get the hell rid of the Queens cows!!! Also to note they have and continue to spend a LOT of their own money to make this project a reality, all they are asking us for is help to get rid of a munching, gulping barrier that is in no way their fault. They are more than willing to put up the construction costs if we can help them with the material costs.(\$30,000.00)

This project is very diversified with a great deal of advanced thinking for food production and training regarding processing etc. (As you can see by their application letter).

This is advanced food production sustainability thinking and I feel it is a very worthwhile project and should be helped by the Ministry of Agriculture. Also want to let you know that they are very well received and supported here in the valley. The social and economic impacts of this application will broaden our boundaries, but I feel our helping this project will result in very favorable and hugely positive response for from the (eating) voting public.

EVERYONE today is concerned with the enhancement of local, healthy and affordable food production.

Please give this application some "outside the box" consideration.

Thanks so much,

Cheers,

Faye

Kootenay Livestock Association,

Box 173,

Cranbrook, BC V1C 4H7

(250) 426-4315

From: [Bill Bennett](#)
To: [XT:Street, Faye AGRI:IN](#)
Cc: [Lalani, Arif AGRI:EX](#); c.clark@bcliberals.com; [Bennett.MLA, Bill LASS:EX](#); [Minister, AGRI AGRI:EX](#); [Letnick.MLA, Norm LASS:EX](#); [Sturko, Derek AGRI:EX](#); [Jonson, Byron AGRI:EX](#); [Morhart, Tyler AGRI:EX](#)
Subject: Re: Frustration
Date: Monday, October 31, 2016 8:04:26 PM

Faye, I am making enquiries about this. Do you have something in writing that states government requires consultation with FN's for fencing on private land?

Bill

On Thu, Oct 27, 2016 at 1:31 PM, Faye Street <fstreet@kootenaylivestock.ca> wrote:

Good Morning Arif:

Please see our letter attached, and thank-you in advance for your help.

Cheers,

Faye and Harvey

--

Bill Bennett
MLA, Kootenay East

From: [Jonson, Byron AGRI:EX](#)
To: [Lalani, Arif AGRI:EX](#)
Subject: RE: KLA and Ktunaxa
Date: Friday, November 4, 2016 11:44:48 AM

Concise and works

From: Lalani, Arif AGRI:EX
Sent: Friday, November 4, 2016 11:41 AM
To: Jonson, Byron AGRI:EX
Subject: FW: KLA and Ktunaxa

Derek – BRM staff connected with MARR staff to get specific policy statements regarding the duty to inform, especially in 3rd party delivery situations and private property. MARR referred staff to their online resource which is the **Updated Procedures for Meeting Legal Obligations When Consulting First Nations** (referred to hereafter as the Consultation Procedures). MARR states that “*The goal of this document is to facilitate the Province’s compliance with case law while fulfilling the vision of a new relationship.*” (Page 3)

Issue: The Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaqam have expressed their concern that the Ministry’s Kootenay Wildlife Damage Prevention Project may impact their first nation interests and rights, and the Crown as a result has a duty to consult.

Background:

- Kootenay Wildlife Damage Prevention Project: In 2015 the Ministry of Agriculture (AGRI) entered into a Cost Shared Agreement (CSA) with the Kootenay Livestock Association (KLA), to provide financial assistance to forage and livestock producers for the purposes of implementing mitigation and prevention activities that would reduce high and persistent losses, and damages caused by wildlife on fee simple lands.
 - The Project is in its second year and has significantly reduced production costs and losses for participating forage producers; allowing them to expand or invest in other areas of their enterprise.
 - The KLA under this CSA agreed on behalf of the government, to:
 - Develop and deliver this Project to producers in the Kootenay Region of British Columbia.
 - Complete and document a risk assessment for each mitigation or prevention activity, and insure that:
 - An activity is not funded unless the risks of the activity are reasonably identified and appropriately mitigated or prevented.
 - Appropriate consultations with relevant government ministries and agencies are conducted, so impacts of an activity can be identified and appropriately mitigated or prevented prior to implementation of an activity. At a minimum, this is to include consulting the Ministry of Forests, Lands and Natural Resource Operations, and the Ministry of Environment.
 - The KLA approved the funding of a wildlife fence on fee simple land directly adjacent to ʔaqam reserve land. Neither the Band nor the KNC were informed of the planned activity in advance of its construction. This, as a result, prompted the Ktunaxa Land and Resources Agency (KLRA) and a Ktunaxa Nation Council (KNC) member Band the ʔaqam to inform Agri of their concern for impacts on their rights and interests.
 - The private property owner has also raised complaints that the KNC developed a casino, gas station and school on the ʔaqam reserve land without consultation with neighbours adjacent to the development. So this has a neighbour to neighbour issue as well.

Discussion:

- The Consultation Procedures states: “*The Province of British Columbia has a duty to consult and where required, accommodate First Nations whenever it proposes a decision or activity that could impact treaty rights or aboriginal rights (including title) - claimed or proven. The duty stems from court decisions and is consistent with the Province’s commitment to building a new*

relationship with First Nations.” (Page 3)

- In terms of best practices, the Consultation Procedures supports BRMB’s recent KNC engagement approach (in response to Chief Whitehead’s letter) of an offer to inform through the following provisions:
 - “*Consultation in its least technical definition is talking together for mutual understanding.*”
 - “*Consultation is to enable the Province to gain a proper understanding of Aboriginal Interests and if required, to seek ways to accommodate them appropriately.*”
- With regard to circumstances where the Crown delegates its responsibilities to a third party, the Consultation Procedures states that, “the Province may delegate certain procedural aspects of consultation to proponents”. The following provisions from the Consultation Procedures would apply:
 - “Provincial decision-makers with authority to make decisions about provincial land or resources are responsible for ensuring appropriate and sufficient consultation and accommodations.” (Page 3)
 - “Proponents (any party, including industry, local governments, federal agencies and Crown Corporations, seeking decisions from the Province in support of activities related to land or resource development) are encouraged to engage First Nations as early as possible when seeking a decision. In some cases, the Province may delegate certain procedural aspects of consultation to proponents. Proponents are often in a better position compared to the Province, to exchange information about their decision requests and directly modify plans to mitigate any concerns.” (Page 3)
- In addition, the Ministry of Agriculture is a signatory to the Strategic Engagement Agreement (SEA), which was signed off by Minister Rustad on behalf of the Province, a Common Law Contract with the KNC. **BRMB’s understanding** of the SEA is that it is a government to government agreement, in which the Province commits to being more transparent and communicate information about decisions that may impact first nation’s interests.
 - SEA states that the “Province seeks to fulfil its consultation and accommodation obligations, including the fulfillment of its duty to consult and, where appropriate, accommodate in a manner that addresses the interests of the Parties”
 - SEA outlines Engagement Processes (Sec. 8.1) intended to help the Parties achieve a better understanding of their respective interests and the potential impacts that proposed activities may have on those interests.

Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: [Lalani, Arif AGRI:EX](#)
To: [Cameron, Sandra AGRI:EX](#)
Cc: [Morhart, Tyler AGRI:EX](#); [Steward, Lonny AGRI:EX](#); [Schmidt, Kevin AGRI:EX](#)
Subject: RE: KLA Issue
Date: Sunday, November 6, 2016 3:45:00 PM

Sandra can you arrange a call for us this week sometime for ½ hour please. Thanks.

Arif Lalani
Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: Jonson, Byron AGRI:EX
Sent: Friday, November 4, 2016 3:33 PM
To: Lalani, Arif AGRI:EX
Cc: Cameron, Sandra AGRI:EX; Morhart, Tyler AGRI:EX; Steward, Lonny AGRI:EX
Subject: KLA Issue
Heads up

I just received a phone call complaint from s.22 of s.22
s.22 properties. s.22 also the original pilot
mitigation program paid to put a single perimeter around both properties .
Apparently the KLA has provided funds to s.22 to put up a cross game fence inside the existing
game fence enclosure.

s.22 two concerns are:

- If it is true that funds came from the Gov, s.22 sees it as a waste of taxpayer money to put an 8 ft fence inside an 8 ft fenced perimeter fence that already excludes the wildlife. He does agree that a simple cattle fence should be installed to manage domestic animals.
- s.22 is ignoring his requests to first determine where the surveyed boundary is so it can be correctly located.

s.22 indicated that Faye will not listen to him as s.22 and Faye are s.22 He is concerned that the fence will be installed this weekend, as the materials arrived this AM.

I have asked s.22 to work on this with Tyler. Tyler is talking to him now.

I'll call Faye, the KLA, to discuss. It will likely to be incendiary on the issue of the fence inside a fence. If she is unavailable we'll need to call s.22 which is likely to be perceived as undermining Faye. Either way it will cause waves and attempts may be made to link it negatively to the FN issue. Timing couldn't be worse given the meetings this weekend and me stepping onto a plane.

Also there is a history that proceeds s.22 on this behaviour In one of the early exclusion fencing program, s.22 fenced in a chunk of crown land. When this was discovered, he applied to buy it; it is unclear if this was ever resolved

From: [Lalani, Arif AGRI:EX](#)
To: [Jonson, Byron AGRI:EX](#)
Cc: [Morhart, Tyler AGRI:EX](#); [Colombo, Leanne AGRI:EX](#)
Subject: RE: Mitigation Project info
Date: Wednesday, November 2, 2016 7:21:00 PM
Attachments: [FW Message from RNP002673B484F3.msg](#)
[First Nations Consultation.msg](#)

I spoke to DM today. He asked for a BN for Friday. The BN needs to stay with just the facts. What is the issue and is there a duty to consult? Minister will need the BN for the weekend. I am getting deferring opinions on the need to consult when the matter is on private property. So we will need to connect with MARR for counsel. Can you please advise if this is doable for Friday? I am attaching the issue KLA member whose property is adjacent to the Ktuanaxa Reserve. Also attaching components of the email from Leanne that I was going to send to Faye but decided not to at the moment. In my mind the BN should go as follows:

Background

- We have an arrangement with the KLA
- KLA makes the decisions on which projects to pursue
- A farmer decided to fence (65 acres) of his property
- We received a letter from the Chief of the Ktuanaxa expressing concerns

Discussion

- As part of common courtesy (don't use this) it is always appreciated when property owners advise neighbours
- KLA complain that Ktuanaxa did not consult with developments on the reserve (not sure this is actually true just going on email that Faye sent and do not know how we would find out)
- While fencing is at the discretion of a private property owner, when government funds are involved there is a duty to consult
- Some examples of other programs that have a duty/need to consult similar to the fencing program
- We have advised KLA that consultation can take the form of a letter advising of a project that will be undertaken and asking whether there are any issues

Key Messages

Let me know if you have any questions and apologize for the quick turnaround.

Arif Lalani

Assistant Deputy Minister

Business Development Division

Ministry of Agriculture

From: Jonson, Byron AGRI:EX
Sent: Tuesday, November 1, 2016 11:10 AM
To: Lalani, Arif AGRI:EX
Cc: Morhart, Tyler AGRI:EX; Colombo, Leanne AGRI:EX
Subject: Mitigation Project info

Background on the need to engage the Ktunaxa Nation Council (KNC) about the AGRI wildlife damage mitigation project for the Kootenays region;

- Input on the correct approach has been obtained from Charles Hunter, Director, First Nations Relations Branch, and from NRS staff that have a local working relationship with the Ktunaxa:

- Mitchell, Harry, FLNR District Manager, Regional Operations Division - South Area
- Brent Lucas FLNR Manager, First Nations Relations- South Area and
- Sue Cairns (local MARR)
- Leanne Colombo BRMB Program Representative, Ministry of Agriculture, Cranbrook, BC

- The input from this experienced group is

- There is a KNC government to Province of British Columbia government document called the Ktunaxa Strategic Engagement Agreement (SEA); Agri is a signatory on this agreement. This agreement applies to BC provincial operations in the Kootenay region.
- That the lack of Consultation is not contrary to the SEA. But I want to have a firm answer if there is or was a “Duty to Engage.”
- Advise has been that a “collaborative engagement” approach and is appropriate. This is what was offered in the letter to t
- They, did, however, indicate that an argument for Sec 35 Duty to Consultation might possibly be made, but it may be tricky given private land is involved. We would want in involve MARR in preparing a response if that argument is made.

At this point:

- We are working to understand what Sec 35 consultation entails and “duty to engage” means.
- On Oct 26 th we informed Faye, who we understood to be acting on behalf of the KLA, that
 - We had just met with the KNC staff member on the Monday Oct 24, and were able to hear firsthand the KNC concerns; moreover their appreciation that forage producers are being negatively impacted by ungulates and the KNC’s desire to have transparency and information about the Mitigation project.
 - We need some time, about a week, to work with MARR to better understand our obligations for “engagement” are; To help KLA better understand what it may be in the end, I referenced what the LPP engagement process was that proceed MOE issuing of the LPP permit for the Kootenays.

I have attached what Leanne has learned so far about the SEA and initial info about “duty to engage”

From: [Lalani, Arif AGRI:EX](#)
To: [Jonson, Byron AGRI:EX](#)
Cc: [Morhart, Tyler AGRI:EX](#); [Colombo, Leanne AGRI:EX](#); [Cameron, Sandra AGRI:EX](#)
Subject: RE: Mitigation Project info
Date: Tuesday, November 1, 2016 11:55:00 AM

I will also need examples of other government direct programs or third party arrangement like the KLA that are required to consult with FN's and in particular KNC. Thanks.

Arif Lalani

Assistant Deputy Minister
Business Development Division
Ministry of Agriculture

From: Jonson, Byron AGRI:EX
Sent: Tuesday, November 1, 2016 11:10 AM
To: Lalani, Arif AGRI:EX
Cc: Morhart, Tyler AGRI:EX; Colombo, Leanne AGRI:EX
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Withheld pursuant to/removed as

DUPLICATE

From: [Jonson, Byron AGRI:EX](#)
To: [Lalani, Arif AGRI:EX](#)
Cc: [Cameron, Sandra AGRI:EX](#); [Morhart, Tyler AGRI:EX](#); [Steward, Lonny AGRI:EX](#); [Colombo, Leanne AGRI:EX](#)
Subject: Resolved-KLA Issue
Date: Saturday, November 5, 2016 11:32:47 AM

I have spoken to both Faye and s.22 this morning. They were positive and very good conversations. I feel comfortable that the s.22 cross fence project does meet the higher objective of wildlife damage prevention.

s.22 has been in dialogue with s.22 this AM as to how and where the fence will be constructed to KLA requirements. s.22 was positive with me and very committed to communicating with s.22

Tyler and I have both talked to s.22 yesterday. However what s.22 had not relayed in his concerns was that his portion of the perimeter game fence is electric as opposed to page wire. Producers have found that the electric version is not 100% effective in excluding elk and deer in the region; even when maintained to a high standard. As a result some elk and deer are still able to gain access to the s.22; and then unable to exit through the page wire.

I have talked to s.22 this AM (just got off the phone). We reviewed that the project does meet the project objective and that s.22 has been encourage, by Faye and myself, to consult with him. He agreed that deer are getting through and appreciated that it would be causing damage for the s.22. He also talked about additions that he could make to his fence to improve control of deer. s.22 was also able to talk to s.22 this AM. s.22 committed to delaying the project and work with s.22 on solutions for installation concerns, like a 150ft creek crossing.

s.22 was very appreciative of our assistance with the KLA and influencing s.22 to pause and consult with him. I encouraged s.22 to work with Leanne and Tyler after this point. I also committed to developing clauses in future agreements that would facilitate communication with others that may be impacted.

Sent from my iPhone

On Nov 4, 2016, at 3:32 PM, Jonson, Byron AGRI:EX <Byron.Jonson@gov.bc.ca> wrote:

Heads up

I just received a phone call complaint from s.22 of s.22 properties. s.22, also the original pilot mitigation program paid to put a single perimeter around both properties. Apparently the KLA has provided funds to s.22 to put up a cross game fence inside the existing game fence enclosure. s.22 two concerns are:

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