

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Thursday, June 18, 2015 3:04 PM
To: Laughland, Gwenda J ENV:EX; Roberts, Marty B ENV:EX; Richardson, Sheila ENV:EX; Solomon, Lorelei CSNR:EX; Forsdick, Doug O ENV:EX; Cousins, Autumn EAO:EX; McGuire, Jennifer ENV:EX; Thorpe, Rolly MEM:EX; Bertram, Kevin D FLNR:EX; Hoffman, Al MEM:EX; Ollenberger, Lance J OGC:IN; Carnie, Angus A ENV:EX; Zimmer, Dean E OGC:IN; Edquist, Kevin FLNR:EX; Craven, Paul EAO:EX
Subject: Fyi Jumbo Glacier Resort update

Good afternoon NRS C&E committee

Some of you have asked me questions about this so thought it may be helpful for me to forward this update.

http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_project_doc_list_18_a_ssd.html

Minister has determined the project was not substantially started. As such the eac expired Oct 12, 2014. See link above for info.

Sent from my Windows Phone

Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Thursday, June 18, 2015 2:13 PM
To: Russell, Jim AGR:EX; Cousins, Autumn EAO:EX; Milne, Andrew EAO:EX
Subject: Jumbo
Attachments: Jumbo_Reasons for Determination_18June2015_Final.pdf

The Jumbo Glacier Resort substantially started decision was made by the Minister and announced at 2pm today. She concluded the project was not substantially started.

Paul

**In the matter of the Environmental Assessment Act
S.B.C. 2002, c.43
(Act)**

and

**In the matter of a
Substantially Started Determination
under Section 18(5) of the Act**

for the
Jumbo Glacier Resort Project

of
Glacier Resorts Ltd.

Reasons for Minister's Determination

On June 18, 2015, pursuant to Section 18(5) of the Act, I, the Minister of Environment, determined that the Jumbo Glacier Resort project has not been substantially started.

1. NATURE AND SCOPE OF THIS DETERMINATION

This determination is about whether the Jumbo Glacier Resort project was, in my reasonable opinion, substantially started by October 12th, 2014 as required by the *Environmental Assessment Act* (Act).

Every environmental assessment certificate (EAC) has a deadline by which the project must be substantially started in the reasonable opinion of the Minister. That deadline is usually five years and can be extended, on one occasion only, for an additional five years to a maximum of 10 years.

If I determine the project was substantially started, then the EAC, including any conditions, remains in effect for the life of the project. If I determine that the project had not been substantially started, then the EAC will be deemed to have expired on October 12, 2014.

2. BACKGROUND

The Jumbo Glacier Resort project is a year-round ski resort development in the Jumbo Creek valley, 55 km west of Invermere. At full build-out, the project would include an estimated 104 hectare resort base area consisting of a hotel with 6,250 bed units (which includes 750 bed units for staff accommodation), condominium vacation homes, and associated amenities. The Controlled Recreation Area, which includes areas licenced for ski runs and connecting territory, encompasses approximately 5,925 hectares and includes lift-serviced access to several nearby glaciers at an elevation of up to 3,400 metres.

An extensive process was undertaken by the Environmental Assessment Office (EAO) to ensure that Glacier Resorts Ltd (GRL), the holder of the EAC, and the Ktunaxa Nation Council (KNC) and Shuswap Indian Band had an opportunity to provide their views on whether the project was substantially started.

In a letter dated October 3, 2014, GRL, KNC and the Shuswap Indian Band were invited to provide EAO with any information they considered relevant to the making of the substantially started determination. Submissions were received from all three. Following receipt of these submissions, GRL, KNC and the Shuswap Indian Band were also given an opportunity to respond to each other's submissions. GRL and KNC provided submissions in response.

On December 11, 2014, EAO advised that the determination process would be delayed until a compliance determination could be made on whether the construction of two buildings (the day lodge and the service building) are "completely outside of the avalanche hazard area" as required by Condition 36 of the EAC. EAO concluded it would prudent to wait until there was greater clarity on the compliance status before proceeding further with the substantially started determination.

On March 21, 2015, GRL provided EAO Compliance and Enforcement with an engineering avalanche risk assessment. On April 24, 2015, EAO Compliance and Enforcement concluded its investigation and determined that the day lodge and the service building were not in compliance with Condition 36. An order was issued requiring GRL to cease construction on the day lodge and service building locations to minimize the extent of the non-compliances. GRL had stopped any construction as of October 12, 2014 but the order prevents GRL from recommencing construction at those building locations.

Shortly thereafter, the substantial start determination process resumed.

To assist in my determination, EAO prepared a report. GRL, KNC and Shuswap Indian Band were given an opportunity to review a draft version of the report for accuracy and to confirm that it accurately reflected their views on the impact of the compliance determination on the substantially started determination.

The report was provided to me on June 5, 2015, along with the submissions made by GRL, KNC and the Shuswap Indian Band.

In addition to the process outlined above, EAO Compliance and Enforcement staff conducted an inspection on October 13, 2014 to document all construction activity completed by end of day October 12, 2014. The report from this inspection was made available to GRL, KNC and the Shuswap Indian Band.

All the submissions by GRL, KNC and the Shuswap Indian Band are available on the EAO website.

I also had an opportunity to personally visit the site on October 11, 2014 to familiarize myself with it and see first-hand the progress that was made on the project.

3. SUBSTANTIALLY STARTED DECISIONS GENERALLY

The Act requires that the holder of the EAC must have "substantially started the project". "Project" is defined as any activity that has or may have adverse effects or the construction, operation, modification, dismantling or abandonment of a physical work, but the term "substantially started" itself is not defined.

It is worth emphasizing that the Act does not require that a project be operational nor does it require the project to be substantially "completed" or "constructed". Also, because the Act includes the word "substantially", the project must obviously be more than merely started.

There is no specific formula to determine if a project is substantially started and the practice of EAO is to consider each project on a case by case basis in its particular context. This makes sense given the wide range of projects reviewed under the Act.

The EAO User Guide provides the following general questions as guidance:

- Has there been a significant investment of time, effort, and resources to physically develop one or more main project elements?
- Does the activity amount to a significant or important step to develop the overall project, or is the activity considered ancillary, secondary, or temporary?
- Would the proponent have undertaken the activity regardless of the project?

Although the Act does not define substantially started, the Supreme Court of British Columbia provided assistance in its interpretation in a recent court case¹ as follows:

- The definition of project is intended to address primarily physical activities affecting the land environmentally, as contrasted with bureaucratic activities, for example, which do not.
- The decision maker should focus less on the permits which have been granted and the money expended, and more on what has taken place physically at the site.
- Temporary structures at the site, if they will soon be removed, followed by remediation, are less important to consider than structures which will be in place for the duration of the project.
- To have been substantially started, the project needs to be started in its essentials in a real and tangible way.

4. APPLICATION TO THIS SUBSTANTIALLY STARTED DETERMINATION

Before beginning my consideration, I want to stress that my role here is limited only to the question of whether the project has been substantially started and not in any way to reassess the merits of the project. I recognize that there are strongly held views both for and against this project, but these views are entirely irrelevant to the question of whether the project is substantially started.

(a) Physical Works Undertaken

Based on the guidance from the courts, it is clear that I should focus on what physically took place on the site after October 12, 2004, but before October 12, 2014. Because it occurred within this period, the timing of construction was not an issue for this project.

GRL identified the following nine physical works undertaken:

1. The first floor slab and foundation preparations for the day lodge at the resort base;
2. The first floor slab of the service building at the resort base;
3. The foundation anchors for the departure station of a quad chairlift;
4. A seasonal bridge to span Karnak Creek within the resort base area;
5. A temporary bridge at kilometre 15.8 of the Jumbo Forest Service Road;
6. The permanent bridge at kilometre 15.8 of the Jumbo Forest Service Road;

¹ Taku River Tlingit First Nation v. British Columbia (Minister of Environment), 2014 BCSC 1278

7. A well to provide potable water to the resort has been drilled and tested;
8. Clearing and grading of approximately 250 metres of construction access road within the resort base to allow access to the day lodge, service building and the lift base foundation locations from the Jumbo Forest Service Road; and,
9. Improvements to site specific locations along approximately 4 km of the existing Jumbo Forest Service Road, including brushing, installation of culverts and ditch maintenance.

KNC raised a number of issues regarding why the partial construction of the service building and the day lodge should not be considered in my determination. They challenged the quality of the construction and questioned whether the structures were located outside of the tenure area. They also stated that the project was not in compliance with conditions of its EAC, including Condition 36, which requires that:

"The proponent will ensure that the proposed residential and commercial structures will be located completely outside the avalanche hazard area".

Of these issues, I have concluded that only the compliance with Condition 36 of the EAC has any significant bearing in this determination.

On the quality of the construction, GRL provided evidence from professional engineers attesting to its design and soundness. In light of that information, I do not think it is appropriate for me to consider this issue further. I also accept the information provided by Mountain Resort Branch that the development was within the tenure boundaries.

Unlike Condition 36, the non-compliance with the other conditions found by EAO Compliance and Enforcement and mentioned by KNC in their submissions does not have a direct linkage to the physical works constructed. Non-compliance with conditions other than Condition 36 does not raise the possibility that existing physical structures will need to be removed, or that they will contribute to a lesser degree to the overall completion of the project. Accordingly, non-compliance with conditions other than Condition 36 is not a factor in my determination. While I want to stress that I do not in any way condone non-compliance, it must also be recognized that it is not unusual for a project to need to address issues of non-compliance, during the course of its development.

As noted above, EAO Compliance and Enforcement conducted an investigation and determined that the day lodge and the service building were not in compliance with Condition 36.

GRL was ordered to cease construction at both the day lodge and the service building until the order is rescinded or the construction is in accordance with the certificate (construction could be brought into compliance with the certificate by an approved amendment to the certificate; alternatively, GRL could, subject to obtaining any necessary approvals, remove or abandon the current structures). EAO Compliance and Enforcement did not proceed with further enforcement because there was no immediate risk to the environment or human safety. As noted above, construction had stopped as of October 12, 2014.

The determination of non-compliance was based largely on an expert report prepared by Dynamic Avalanche Consulting, provided by GRL in response to EAO's request of December 11, 2014. The report concluded that:

- "The Service Building is mostly located within the Red Zone (high risk) for which the CAA [Canadian Avalanche Association] (2002) guidelines recommend construction of new buildings not normally permitted. This recommendation is intended to apply to occupied structures, either temporarily or permanently occupied."
- "The Day Lodge is located mostly within the Blue Zone (moderate risk), for which the CAA (2002) guidelines recommend: Construction of new buildings, such as industrial plants and temporarily occupied structures, possibly permitted with specified conditions. Conditions may include structures reinforced for avalanche forces, construction of avalanche defences and requirement for evacuation plans or a combination of these."

GRL advised EAO that it is "committed to implementing all of the recommendations in the Dynamic Avalanche Consulting report with respect to the day lodge and service building. Mitigation efforts for the day lodge will include structural reinforcement as necessary, a comprehensive avalanche control and safety plan (with frequent avalanche control via explosives and the implementation of reliable, all-weather systems such as Gazex), and an evacuation plan for both employees and the general public. Likewise, the service building will be converted to a structurally reinforced storage building that will not be accessed during winter". Unless these commitments are incorporated into an environmental assessment certificate, they are not legally binding and GRL's ability to implement them is dependent on obtaining an amendment to the certificate and possibly other authorizations.

The first question for me to consider is what, if any, impact does EAO's determination that the service building and day lodge are out of compliance with Condition 36 have on the substantially started determination. GRL suggested that the referenced compliance matters are administrative in nature and should have no bearing on the substantially started decision. They point out that neither the EAO User Guide nor the courts identify compliance as a matter relevant to the substantially started determination. KNC, on the other hand, argued that the non-compliance with Condition 36 should be a key consideration.

In my opinion, the question of the impact of non-compliance should be addressed as a matter of weight.

Given GRL's intention to apply for amendments to the EAC that, if approved, would allow completion of the day lodge and completion of a structure at the location of the service building, there is a possibility that these structures will remain in their current locations and contribute to the overall development of the project. On the other hand, if environmental or safety issues arise in the course of reviewing an amendment, and the EAC is not amended to allow completion of these facilities, it is possible that they will need to be repurposed (e.g. as storage, summer view platform) or abandoned. The

possible need to develop a service building and day lodge at another location, suggest a lower weighting may be accorded to the current structures

I have concluded that both the service building and day lodge should be credited towards the substantially started determination to some degree because they are works, albeit imperfect works, that have been constructed as part of the overall project.

However, it is not reasonable to count them to the full extent I would have if they were compliant, particularly given it is not certain that an amendment to the EAC will be granted.

With respect to service building, the impact of the non-compliance, as noted by the KNC, is significant since it is clear that the building cannot be used for its intended purpose because it is located in a red zone. It is possible that the building may have some use as a structurally reinforced storage building that will not be accessed during winter. However, that was not its original and approved purpose. Accordingly, the weight I apply to the commencement of the construction of this structure is considerably less than it would be if it had been a service building that was compliant with the EAC.

Similarly, the weight I attribute to the day lodge construction is somewhat less than I would attribute to it had it been fully compliant as of October 12th, 2014. It is possible that the day lodge, with proper mitigation measures and an amendment to the EAC, could be used for its intended purpose. I also note that it is only partially in the blue zone.

Although the service building and the day lodge were the focus of most of the submissions, there were also other activities that should be considered. There was less controversy regarding these aspects of the project. They are also overall less significant to the project than the beginning of construction of the service building and the day lodge.

Foundation anchors for a quad chairlift have been constructed. No issues were raised with respect to this work and I find that the partial construction of the quad chairlift should be given full weight in this determination.

A temporary seasonal bridge spanning Karnak Creek within the resort base area was purchased and installed. It was removed for the winter of 2014/15, but GRL intends to re-install the bridge for next year's use. As a temporary structure it has less weight than a permanent structure, but I conclude it should be afforded some weight in this determination.

GRL constructed both a temporary bridge and a permanent bridge at kilometre 15.8 of the Jumbo Forest Service Road. Once the permanent bridge was in place, GRL removed the temporary bridge. I have counted both the permanent bridge and the temporary bridge as contributing to the start of the project; however, I have not counted these works the same as if they were the final and permanent access solution for the resort. Permanent access to the resort is ultimately to be by way of a new access road on the north side of Jumbo Creek. While the alignment of this new road has been approved,

construction has not yet begun. While the majority of the cost of the bridge at kilometre 15.8 work was borne by the municipality and not by GRL, the bridge is an element of the overall project and I have not discounted it based on who paid for the work.

GRL constructed approximately 250 metres of new roadway within the resort base to allow access to the day lodge and service building. Improvements to the Jumbo Forest Service Road were undertaken with regards to sediment and erosion control.

GRL drilled and tested a well to provide potable water to the resort for Phase 1.

GRL purchased a platter lift. The lift is to be located at the Project site but is not yet installed. I do not give any weight to this element given the need to focus determinations on what has taken place physically at the site.

In reviewing this work, I found the costs of each item a useful but rough indicator of the significance of the physical effort undertaken; however, the expenditure of money alone is not an indicator of a substantially started project.

b) Plans, Studies and Permits

While the court has suggested that greater emphasis be placed on physical works, I do not think I am prevented from considering the building plans and design work, or environmental plans, studies and permits related to the works constructed for the project or other physical activities that are part of the project. I do think work and money undertaken to develop these plans, studies and permits has some bearing in the substantially started determination.

In this project, there was clearly work undertaken to develop plans and obtain permits, and to the extent this work and these expenditures were necessary for the completion of the physical activities and works that are part of the project and have occurred or been developed, it is a factor in assessing whether or not those activities and works constitute a substantial start. However, in my view it is a minor rather than a major consideration. I have considered this work and expenditures in assessing the substantial nature of the physical activities and works that have been completed, and credited GRL for that work.

However, because the Farnham Glacier lodge and permanent access road on the North side of Jumbo Creek have not been constructed, I have not considered tenuring, permitting design work for that lodge and engineering work for that road in my determination.

5. OVERALL DETERMINATION AND CONCLUSION

A key issue raised in the submissions was what yardstick or benchmark the activity should be measured against. In most circumstances, the elements of the project as described in the EAC and the project description are the logical and principled place to start.

In this project, I acknowledge it is not as simple as that, given the phased nature of the development and the master development process. It is important to recognize that a ski resort is developed in phases on a projected, but not binding, timeline.

KNC urged me to assess substantial determination against the full build out of the development. I do not think that is a reasonable approach given the phased nature of this type of development.

GRL, on the other hand, argued that the appropriate benchmark was the components of the project required to begin operations. I also have difficulty with this approach. I am troubled by the fact that such a benchmark is not grounded in the project as described during the environmental assessment, the master planning process or the tenuring of the project. Moreover, GRL did not point to a detailed document or plan that specifically set out its plan to achieve the start of operations. In the absence of such a plan, a start of operations threshold can be defined in many different ways. KNC, for example, argues that start of operations requires significantly more activity than put forth by GRL.

For these reasons, I think the more reasonable approach is one based on what is described as the phase 1 of the project. Phase 1 contains the following:

Lifts and Ski Areas

- Glacier Dome gondola
- Two chairlifts in Jumbo Valley
- Three glacier lifts on Glacier Dome
- Mountain top restaurant/refuge
- Glacier Dome mid-station
- Glacier Dome base day lodge
- Main resort day lodge

Services

- Tertiary sewer treatment plant
- Emergency power generation
- Water wells
- Piped propane system
- BC Hydro connection

Development

- Lodge/hotel/condominiums
- Bed and breakfast establishments
- 30 townhouse condominiums
- 25 chalets
- A heli-ski lodge location with overnight accommodation for guests will be offered to RK Heliski Panorama to provide for a base of operations in the heart of its territory

This does not mean that progress is required on every element of the phase 1 but it is a useful comparator in considering the substantial nature of work completed.

GRL also raised in its submissions a number of mitigating factors that they felt should be considered in my evaluation. While many of these factors would be relevant in determining whether an extension should be granted to the EAC, I do not think I should consider them in the context of a final substantially started threshold. Put another way, I do not think the threshold can be adjusted based on these mitigating factors. While I am sympathetic to the challenges that all projects face in proceeding to construction, it is not unusual or unique for projects to need to overcome challenges. In addition, the source of these challenges may be varied and subject to competing points of view. For these reasons, it is more appropriate to focus on the physical elements of the project as they were present on October 12, 2014.

After consideration of the submissions of GRL, KNC and the Shuswap Indian Band, the guidance from the court, EAO's report and my own observations during my site visit, and having weighed carefully the evidence before me regarding activities undertaken to develop the project as outlined above, I have determined that the project, in my reasonable opinion, had not been substantially started by October 12, 2014.

While it is clear that some construction has been started, I am not convinced that the physical activity undertaken on the various components meets the threshold of a substantially started project.

I have reached this conclusion taking into account the fact that the service building and day lodge have been determined to be non-compliant, but balancing that with the possibility that GRL may, through an amendment to its EAC, ultimately been allowed to continue to use these buildings.

I have also turned my mind to the question of whether the project would be substantially started if the service building and day lodge were fully compliant with Condition 36. I have concluded that even if these partially constructed structures were weighted fully, the work undertaken would still not be sufficient to meet the substantially started threshold.

Accordingly, the environmental assessment certificate expired on October 12, 2014.



Honourable Mary Polak
Minister of Environment

Signed this 18th day of June, 2015

Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Thursday, June 4, 2015 6:10 PM
To: Cousins, Autumn EAO:EX
Subject: RE: REMINDER FOR RESPONSE: Proposed Jumbo Avalanche Report Submissions

Fine but I am not even sure it needs a response.

Sent from my Windows Phone

From: Cousins, Autumn EAO:EX
Sent: 2015-06-04 5:38 PM
To: Craven, Paul EAO:EX
Subject: FW: REMINDER FOR RESPONSE: Proposed Jumbo Avalanche Report Submissions

I'm planning on doing a brief response along the lines of the following. Any concerns?

Thank you for your letter of April 23, 2015. EAO C&E reviewed the submission as part of our compliance oversight of the Jumbo Glacier Resort. As you are aware, EAO C&E concluded that the Project is out of compliance with condition 36 and initial enforcement has been issued in the form of an Order to Cease construction at the day lodge and service building locations. Additional information can be found on EAO's website:

http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_document_18_38950.html

Regards,

Autumn

From: EAO Compliance EAO:EX
Sent: Thursday, June 4, 2015 3:15 PM
To: Cousins, Autumn EAO:EX
Subject: REMINDER FOR RESPONSE: Proposed Jumbo Avalanche Report Submissions

From: Morgan Blakley [<mailto:mblakley@ecojustice.ca>]
Sent: Thursday, April 23, 2015 4:53 PM
To: Cousins, Autumn EAO:EX; Craven, Paul EAO:EX; EAO Compliance EAO:EX
Cc: Randy Christensen
Subject: TRIM: Proposed Jumbo Avalanche Report Submissions

To whom it may concern,

Please find attached, Jumbo Creek Conservation Society and Wildsight's submissions regarding the March 19, 2015 Dynamic Avalanche Consult report about the day lodge and service building location. We provide these submissions without prejudice to our clients' ability to make future submissions regarding the substantially started determination. Our clients are of the view that the avalanche report's findings are sufficiently serious that they need to be spoken to at the earliest convenience and hence, our provision of these submissions at this time.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

--

Morgan Blakley
Staff Lawyer | [Ecojustice](http://Ecojustice.ca)
mblakley@ecojustice.ca
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Vancouver, BC, V6B 4M3
Tel: 604-685-5618 ext: 288
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Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Thursday, May 28, 2015 2:58 PM
To: Cousins, Autumn EAO:EX; Kennedy, Karla
Cc: O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX; Russell, Jim
AGRI:EX; Hammerstedt, Amy EAO:EX
Subject: RE: Jumbo Glacier Resort - Effects of non-compliance

Yes. Minister should not reply. Thanks.

From: Cousins, Autumn EAO:EX
Sent: Thursday, May 28, 2015 1:43 PM
To: Kennedy, Karla EAO:EX
Cc: Craven, Paul EAO:EX; O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX; Russell, Jim EAO:EX; Hammerstedt, Amy EAO:EX
Subject: RE: Jumbo Glacier Resort - Effects of non-compliance

Paul is the one to advise on this. He has responded to similar letters in the past so my guess is maybe Paul reply direct.

From: Kennedy, Karla EAO:EX
Sent: Thursday, May 28, 2015 1:41 PM
To: Cousins, Autumn EAO:EX
Cc: Craven, Paul EAO:EX; O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX; Russell, Jim EAO:EX; Hammerstedt, Amy EAO:EX
Subject: RE: Jumbo Glacier Resort - Effects of non-compliance

Thanks Autumn. I did see this in Minister's inbox. What your thoughts in terms of a response? Reply direct?

From: Cousins, Autumn EAO:EX
Sent: Thursday, May 28, 2015 1:33 PM
To: Kennedy, Karla EAO:EX
Cc: Craven, Paul EAO:EX; O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX; Russell, Jim EAO:EX
Subject: FW: Jumbo Glacier Resort - Effects of non-compliance

FYI – this went to MO.

From: Morgan Blakley [<mailto:mblakley@ecojustice.ca>]
Sent: Thursday, May 28, 2015 11:20 AM
To: Craven, Paul EAO:EX; Cousins, Autumn EAO:EX; Minister, ENV ENV:EX
Cc: Jeff Huberman; Krista Biluk; Randy Christensen
Subject: Jumbo Glacier Resort - Effects of non-compliance

Honourable Minister Polak, Mr. Craven, and Ms. Cousins,

Please find attached Jumbo Creek Conservation Society and Wildsight's submissions on the effects of non-compliance on the substantially started determination. I respectfully request you acknowledge receipt of this email by reply email.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

--

Morgan Blakley
Staff Lawyer | [Ecojustice](#)
mblakley@ecojustice.ca

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Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Thursday, May 28, 2015 10:51 AM
To: Cousins, Autumn EAO:EX
Subject: RE: Please advise: JGR Update

Advise to date and that Knc and cert holder are providing comments tomorrow on final report. I think ok to share the note with Marr.

Sent from my Windows Phone

From: Cousins, Autumn EAO:EX
Sent: 2015-05-28 8:52 AM
To: Craven, Paul EAO:EX
Subject: Please advise: JGR Update

Marr is requesting an update re sub start. I'd like to give them some info if possible so the are up to date..^{s.13,s.16}
^{s.13,s.16}

Sent from my Windows Phone

From: Jordan, Ryan J ABR:EX
Sent: 2015-05-28 8:44 AM
To: Turcotte, Carolyn TRAN:EX; Bennetto, Jack D TRAN:EX; Elder, Leslie TRAN:EX; Chudleigh, Gordon J TRAN:EX; Humphrey, Gordon J FLNR:EX; Lee, Norman FLNR:EX; Morello, Ray FLNR:EX; Lucas, Brent M FLNR:EX; Cousins, Autumn EAO:EX; Milne, Andrew EAO:EX; Frymire, Drew FLNR:EX; Daigle, Michael J FLNR:EX; Hunter, Bill FLNR:EX; Roenspiess, Keith B FLNR:EX; Larouche, Isabelle ABR:EX
Cc: Gerein, Sarah ABR:EX
Subject: RE: JGR Update

Hi all,
Are we planning on meeting today? Ktunaxa is in court tomorrow. I also want to introduce Sarah Gerein our newest Senior Analyst on the Critical Incidents Team. She will be participating in these discussions with us going forward. Any updates on the Minister's decision re: substantial start?
^{s.22}

Ryan
-----Original Appointment-----
From: Turcotte, Carolyn TRAN:EX
Sent: Thursday, April 2, 2015 10:06 AM
To: Turcotte, Carolyn TRAN:EX; Bennetto, Jack D TRAN:EX; Elder, Leslie TRAN:EX; Chudleigh, Gordon J TRAN:EX; Brown, Psyche FLNR:EX; Humphrey, Gordon J FLNR:EX; Lee, Norman FLNR:EX; Morello, Ray FLNR:EX; Lucas, Brent M FLNR:EX; Cousins, Autumn EAO:EX; Milne, Andrew EAO:EX; Jordan, Ryan J ABR:EX; Frymire, Drew FLNR:EX; Daigle, Michael J FLNR:EX; Gilmore, Tena ABR:EX; Hunter, Bill FLNR:EX; Crowley, Daryl FLNR:EX; Roenspiess, Keith B FLNR:EX; Larouche, Isabelle ABR:EX; Franklin, Janice ABR:EX; Cairns, Sue C ABR:EX
Subject: JGR Update
When: Thursday, May 28, 2015 2:30 PM-3:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: Teleconference:^{s.17}
Bi-weekly meeting for updates on the Jumbo Glacier Resort development

Next Meeting: Thursday Apr 2, 2015
Time: 2:30-3:00 MT (1:30 to 2:00 PT)
Teleconference #: s.17
Participant #: s.17

Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Monday, May 25, 2015 1:24 PM
To: 'Morgan Blakley'; Cousins, Autumn EAO:EX
Cc: Randy Christensen
Subject: RE: 512 - Jumbo Glacier Resort Draft Report

Thank-you for your e-mail.

The draft report was provided to Jumbo Glacier Resorts, the certificate holder for the project, as a matter of procedural fairness. It was also provided to the KNC and the Shuswap Indian Band as part of our duty to consult and consistent with the process we have followed in this matter to date. Given the draft and confidential nature of the report, we will not be making the report available to you at this time.

Following the determination by the Minister, the final report will be posted on our website along with the Minister's determination.

Sincerely,

Paul Craven

Executive Director, Policy and Quality Assurance
Environmental Assessment Office

From: Morgan Blakley [<mailto:mblakley@ecojustice.ca>]
Sent: Friday, May 22, 2015 11:00 AM
To: Craven, Paul EAO:EX; Cousins, Autumn EAO:EX
Cc: Randy Christensen
Subject: 512 - Jumbo Glacier Resort Draft Report

Dear Mr. Craven and Ms. Cousins,

I write on behalf of the Jumbo Creek Conservation Society (JCCS) and Wildsight.

It has come to my clients' attention that the EAO has provided a draft copy of the "substantially started" report to the KNC and project proponent.

As you know, JCCS and Wildsight both have long-standing interest and involvement in the project. Further, both groups provided substantial submissions on whether the project was substantially started. These submissions were provided both independently to the EAO and Minister, as well as adopted and attached to the Ktunaxa Nation Council's submissions on the same matter. As such, JCCS and Wildsight have a right to ensure that the draft report accurately reflects their submissions.

Wildsight and JCCS understand that the purpose of providing the draft report to the KNC and proponent is twofold: 1) To allow the groups the opportunity identify potential inaccuracies; and 2) to allow the groups to comment on how non-compliance with the environmental certificate affects the substantially started determination. This understanding is based on the EAO's April 24, 2015 letter to the proponent and KNC (and which was posted to the registry).

Given the importance of the issue to JCCS and Wildsight, we respectfully request that you provide JCCS and Wildsight with a copy of the draft report and accept their submissions on the draft.

If you do not provide a copy of the draft report by 4PM Pacific Time on Monday May 25, 2015, we will take your answer to be a refusal to provide JCCS and Wildsight with a copy of the draft report.

Sincerely,

--

Morgan Blakley
Staff Lawyer | [Ecojustice](http://Ecojustice.org)
mblakley@ecojustice.ca

214-131 Water Street
Vancouver, BC, V6B 4M3

Tel: 604-685-5618 ext: 288
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As Canada's only national environmental law charity, Ecojustice is building the case for a better earth.

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Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Monday, May 25, 2015 8:27 AM
To: Cousins, Autumn EAO:EX
Cc: Pizarro, Kirsten EAO:EX
Subject: FW: Jumbo contact re amendment - Chris H (may change depending on timing and nature of amendment in future)

Chris is the contact so can you please write a response to Ju7mbo re; amendment referring the matter to Chris. Thanks.

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

From: Carr, Michelle EAO:EX
Sent: Monday, May 25, 2015 6:18 AM
To: Craven, Paul EAO:EX
Cc: Fenton, Chrystal EAO:EX
Subject: Jumbo contact re amendment - Chris H (may change depending on timing and nature of amendment in future)

Michelle Carr

Assistant Deputy Minister, Environmental Assessment Operations BC Environmental Assessment Office
250-387-9408

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Friday, May 1, 2015 6:46 PM
To: Craven, Paul EAO:EX
Subject: Quote

"We knew perfectly well it was in an avalanche zone when we sited it," said Tommaso Oberti, vice-president of the resort's project management group.

<http://calgaryherald.com/news/local-news/day-lodge-for-controversial-jumbo-resort-located-in-avalanche-path>

Sent from my Windows Phone

From: Cousins, Autumn EAO:EX
Sent: Wednesday, April 29, 2015 9:41 AM
To: Craven, Paul EAO:EX; Leake, Greg EAO:EX
Subject: FW: QP yesterday: Jumbo - FYI

Following up on the Minister's comments below, if we are asked for more detail about what the first complaint was, here's the scoop:

- October 5, 2014: EAO C&E was advised by FLNR C&E of potential concerns that the day lodge and service building sites may be in an 'avalanche hazard area' as prohibited by the EAC.

From: Kennedy, Karla EAO:EX
Sent: Wednesday, April 29, 2015 7:31 AM
To: Jardine, Kevin EAO:EX; Carr, Michelle EAO:EX; Craven, Paul EAO:EX; Cousins, Autumn EAO:EX
Cc: Leake, Greg EAO:EX
Subject: QP yesterday: Jumbo - FYI

**JUMBO GLACIER RESORT ENVIRONMENTAL
ASSESSMENT AND SITING OF LODGE**

<http://www.leg.bc.ca/hansard/40th4th/20150428am-House-Blues.htm>

N. Macdonald: In the fall we asked why government had allowed the developer at the province's most famous fake town to lay what they called "foundations" for a day lodge and maintenance building in the wrong place and in an avalanche zone. The developer dismissed our concerns. Now we learn that according to the environmental assessment office, the developer did indeed site the Jumbo day lodge and maintenance building in an avalanche zone.

The question to anyone on that side who can answer it is: who in government approved the laying of foundations in a different place than required by the environmental certificate?

Hon. M. Polak: I know the member is well familiar with the project and will also know that there have been quite a number of different processes under which various approvals have been achieved by the proponents. The decisions that were made by the ministry — approving the master plan, the master development agreement — as well as the local government and their zoning were all based on information that had been provided by professionals with avalanche hazard information, some of which had been developed in 1990, 1991, 1995, 1997 — all of the assessments that were available to them at the time.

[1050]

On the basis of a complaint that was lodged, the compliance and enforcement branch of the environmental assessment office asked for a further study, which has now been provided. Now we all are aware that the compliance and enforcement branch has advised the company that based on this new information, in fact the two buildings need to be dealt with, as they are outside of compliance with the environmental assessment certificate.

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Monday, April 27, 2015 7:51 AM
To: Leake, Greg EAO:EX; Craven, Paul EAO:EX
Cc: Jardine, Kevin EAO:EX; Kennedy, Karla; Lewthwaite, Jennifer EAO:EX
Subject: RE: Jumbo Compliance Letters
Attachments: Re: Letter: Condition 36; 282961_Letter to OOberti re C 36 Enforcement_24Apr2015.pdf; Attachment - Section 34 Order - Jumbo Glacier Resort Project.pdf; 282185_Letter to OOberti re Condition 36_20Apr2015.pdf; JGR-ACousins-April21-2015.pdf

The requested documents are attached - as well as GRL's response on Friday.

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

From: Leake, Greg EAO:EX
Sent: Monday, April 27, 2015 7:41 AM
To: Craven, Paul EAO:EX
Cc: Jardine, Kevin EAO:EX; Kennedy, Karla EAO:EX; Lewthwaite, Jennifer EAO:EX; Cousins, Autumn EAO:EX
Subject: Jumbo Compliance Letters

Paul:

Can you send the following to Matt ASAP this morning, please. He wants them in a single email:

- the original compliance determination letter that we sent early last week (and didn't post)
- GRL's letter in response
- our final compliance determination letter from Friday

Thanks,
G.

Sent from my iPhone

Pizarro, Kirsten EAO:EX

From: Oberto Oberti <ooberti@obertiarchitecture.com>
Sent: Friday, April 24, 2015 2:24 PM
To: Cousins, Autumn EAO:EX
Cc: Pizarro, Kirsten EAO:EX; Milne, Andrew EAO:EX; Tommaso Oberti; 'Grant Costello'; Alan Jones; Peter Schaerer
Subject: Re: Letter: Condition 36
Attachments: 282961_Letter to OOberti re C 36 Enforcement_24Apr2015[2].pdf; Attachment - Section 34 Order - Jumbo Glacier Resort Project[1].pdf

Dear Autumn,

Following our previous correspondence, we wish to confirm receipt of the attached letters.

We have high regard for the diligence of the Environmental Assessment Office. We also believe that this project is consistently held to a higher standard than other mountain resorts in the Province, because of the level of intimidation created by special interest groups opposed to the project. We believe that this is not right, but our mandate is to conclude the process despite the controversies, as soon as possible.

We plan to continue to use the excellent work of our avalanche consultants and we wish to confirm on behalf of Glacier Resorts Ltd. (GRL) that we will apply for a minor amendment to have permission to use the planned facilities in accordance with the recommendations of our avalanche experts, and to continue construction.

I wish to note here that both Peter Schaerer and Alan Jones confirmed that as Grant Costello expected in positioning the building with our surveyors so that there would be the best view, known mitigation measures are adequate to make the daylodge safe.

I wish to note also that although I am not an avalanche specialist engineer, I have better than average knowledge of design and of mountains, as a registered architect since 1974, with a larger record of research, experience, and design in this field than most of the architects and engineers in this Province. I wish to reiterate that I know that the positioning of the daylodge is not imprudent by international mountain design standards and experience.

We would like to initiate the minor amendment process as soon as possible. GRL and the investment community need to have the conclusion that they deserve to the 24 years' approval process for this project.

Kind regards

Oberto

--

oberto oberti architecture and urban design inc.

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Vancouver, BC V6E 4A2

www.obertiarchitecture.com

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CAUTION:

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From: "Cousins, Autumn EAO:EX" <Autumn.Cousins@gov.bc.ca>

Date: Friday, April 24, 2015 at 1:39 PM

To: Oberto Oberti <oberti@obertiarchitecture.com>, Tommaso Oberti <toberti@obertiarchitecture.com>

Cc: "Pizarro, Kirsten EAO:EX" <Kirsten.Pizarro@gov.bc.ca>, "Milne, Andrew EAO:EX" <Andrew.Milne@gov.bc.ca>

Subject: Letter: Condition 36

Mr. Oberto Oberti and Mr. Tom Oberti:

Please find attached a letter regarding the conclusion of the Environmental Assessment Office Compliance and Enforcement investigation regarding condition 36 of the environmental assessment certificate for the Jumbo Glacier Resort Project. Please confirm receipt.

Regards,

Autumn

Autumn Cousins

Manager, Compliance

Environmental Assessment Office



File: 30250-25/JUMBO-21

Reference: 282961

April 24, 2015

SENT VIA EMAIL

Oberto Oberti
Glacier Resorts Ltd
Suite 2300-Bentall 5
550 Burrard St, Box 30
Vancouver BC V6C 2B5

Glacier Resorts Ltd.
660 – 1188 West Georgia Street
Vancouver BC V6E 4A2
ooberti@obertiarchitecture.com

Dear Mr Oberti:

I am writing to advise you of the conclusion of the investigation into condition 36 of the Environmental Assessment (EA) Certificate for the Jumbo Glacier Resort (Project) as it relates to the structures in the Day Lodge Location and Service Building Location¹. Condition 36 requires that "...residential and commercial structures will be located completely outside the avalanche hazard area".

Environmental Assessment Office (EAO) Compliance and Enforcement (C&E) interprets condition 36 to mean that commercial and residential structures must not be located in a zone that has an avalanche return period up to and including a 'once-in-200-to-300 year return period hazard area' as defined in the material developed during the EA. In 2002, the Canadian Avalanche Association developed Guidelines for Snow Avalanche Risk Determination and Mapping in Canada (CAA Guidelines 2002) that includes zoning that aligns with the 'avalanche hazard area' in the EA material. When considering the EA condition requirements in terms of the three zones in the CAA Guidelines 2002, EAO C&E interprets condition 36 to mean that commercial and residential structures must not be located in a blue or red zone as determined by a qualified professional.

...2

¹Day Lodge Location and Service Building Location are defined terms in the attached Order.

Environmental
Assessment
Office

Mailing Address:
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1

Location:
1st & 2nd Fl – 836 Yates Street
Victoria BC V8W 1L8

After offering Glacier Resorts Limited (GRL) an opportunity to respond, EAO C&E has concluded that the partial structures at the Day Lodge Location and Service Building Location are not compliant with condition 36.

These determinations of non-compliance are based largely on the 'Snow Avalanche Risk Zoning for a Day Lodge and Service Building' report by Alan Jones, P.Eng of Dynamic Avalanche Consulting (Alan Jones Report) provided by GRL in response to EAO's request of December 11, 2014. The Alan Jones Report concluded that:

- "The majority of the Service Building is located within the Red Zone (high risk); the remainder is located in the Blue Zone (moderate risk)."
- "The majority of the Day Lodge foundation is located in the Blue Zone, which represents moderate avalanche risk. The remainder is located in the White Zone (low risk)."

I understand from your April 21, 2015 response to the preliminary compliance determination that GRL does not dispute EAO C&E's non-compliance determination for either structure nor the evidence that informed the investigation.

Enforcement:

When determining the level or type of enforcement, EAO C&E considers the likelihood of achieving compliance and the nature of the non-compliance:

- Likelihood of achieving compliance: it is EAO C&E's view that it is not possible for GRL to achieve compliance with condition 36, with the two structures as currently located.
- Nature of the non-compliance: a key consideration is the "...seriousness of the actual or potential harm with respect to environmental, economic, social, heritage or health impacts ...". The potential harm with respect to human safety would be high if built without constraints and/or mitigations.

On April 21, 2015, GRL advised EAO that GRL is "committed to implementing all of the recommendations in the Dynamic Avalanche Consulting report with respect to the day lodge and service building. Mitigation efforts for the day lodge will include structural reinforcement as necessary, a comprehensive avalanche control and safety plan (with frequent avalanche control via explosives and the implementation of reliable, all-weather systems such as gazex), and an evacuation plan for both employees and the general public. Likewise, the service building will be converted to a structurally reinforced storage building that will not be accessed during winter".

It is important to note that GRL's proposed use of the Day Lodge Location and Service Building Location would be non-compliant unless GRL seeks, and successfully receives, an amendment to the EA Certificate that would allow commercial structures in one or both of these locations subject to mitigation addressing human safety and any

...3

other factors as determined through an amendment process. Section 19 of the *Environmental Assessment Act* (Act) states that 'A holder of an environmental assessment certificate may apply in writing to the executive director to amend the certificate....'. Through the amendment process, if GRL applies for one, EAO would assess the adequacy of the proposed mitigation in the Alan Jones Report and any other factors as determined by EAO.

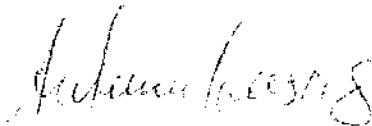
In the circumstances, it is appropriate, in my view, to take a phased approach to enforcement.

First, I am ordering, in the attached Order, that GRL cease construction of structures in the Day Lodge Location and Service Building Location in order to minimize the extent of the non-compliances.

Second, given there is no immediate risk to the environment or human safety and that there are avenues under the Act that GRL may pursue to seek EAO's assessment of the proposed mitigation in the Alan Jones Report, I will not proceed with additional enforcement immediately. I also recognize that the GRL's plans may be impacted by the Minister's determination whether the Project is substantially started. Accordingly, should the Minister determine the Project is substantially started, EAO will provide an opportunity following that determination for GRL to make a submission to the Executive Director regarding any proposed Project changes and additional detail about those plans. If GRL does not provide the required amendment information within a reasonable timeline as established by EAO or if an amendment is not approved, I may proceed with further enforcement including, but not limited to, ordering the removal of all Project related infrastructure at the Day Lodge Location and the Service Building Location and reclamation of the land to EAO's satisfaction. In the meantime, GRL must not resume construction at either the Day Lodge Location or Service Building Location for any purpose.

Finally, as you are aware, this compliance investigation is distinct from the process to determine whether the Project was substantially started by the EA Certificate deadline. The impact of this compliance determination, if any, on the substantially started question will be addressed in that process.

Yours truly,



Autumn Cousins
Manager of Compliance

Attachment

IN THE MATTER OF
THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)

AND

NON-COMPLIANCES WITH ENVIRONMENTAL ASSESSMENT CERTIFICATE TD04-01

ORDER UNDER SECTION 34(1)

WHEREAS:

- A. Jumbo Glacier Resort Project (Project) is a reviewable project under the *Environmental Assessment Act* (Act).
- B. Condition 1 of Environmental Assessment Certificate TD04-01 (Certificate) issued for the Project requires Glacier Resorts Ltd. (Certificate Holder) to cause the Project to be designed, located and constructed in accordance with the documents listed in Schedule A of the Certificate in all material respects.
- C. Schedule A of the Certificate lists the following document: "July 28, 2004 letter from Oberto Oberti (Pheidias Project Management Corporation) to Marilyn Glassman (Environmental Assessment Office) Re: Jumbo Glacier Resort. Attachment: Compendium of Proponents Commitments".
- D. Item 36 of the document referred to in Recital C states "that the proposed residential and commercial structures will be located completely outside the avalanche hazard area".
- E. Environmental Assessment Office Compliance and Enforcement reviewed evidence during the course of an investigation and determined that the Certificate Holder has caused structures proposed for commercial use to be located in whole or in part in areas that are avalanche hazard areas for the purposes of the Certificate and that the Project has thus not been constructed in accordance with the Certificate.
- F. Section 34 of the Act allows the minister to order construction, operation or modification of a project to cease in whole or part if the minister determines that a reviewable project is not being constructed in accordance with an environmental assessment certificate or is being constructed without a valid environmental assessment certificate.
- G. The undersigned has received written delegation of the Minister's powers under Section 34.

DEFINITIONS:

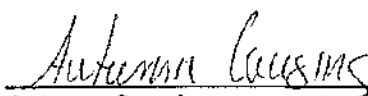
In this Order,

- (a) "Service Building Location" means the area within the footprint of the partially completed structure located at approximately 50° 23' 01.97" north latitude; 116° 36' 15.79" west longitude; and

- (b) "Day Lodge Location" means the area within the footprint of the partially completed structure located at approximately 50° 22' 59.15" north latitude; 116° 36' 16.97" west longitude.

NOW THEREFORE:

Pursuant to Section 34(1) of the Act, I order that the Certificate Holder cease construction of any structures in the Service Building Location or Day Lodge Location and not resume construction of any structures at either the Service Building Location or Day Lodge Location until either this Order has been rescinded or the construction is in accordance with the Certificate.



Autumn Cousins
Manager, Compliance
Environmental Assessment Office

Dated April 24, 2015



File: 30250-25/JUMBO-21

Ref: 282185

April 20, 2015

SENT VIA EMAIL

Oberto Oberti
Glacier Resorts Ltd.
660 – 1188 West Georgia Street
Vancouver BC V6E 4A2
ooberti@obertiarchitecture.com

Dear Mr Oberti:

As you know, Environmental Assessment Office (EAO) Compliance & Enforcement (C&E) has been investigating whether the day lodge and service building locations are in compliance with condition 36 of the Environmental Assessment (EA) Certificate TD04-01 for the Jumbo Glacier Resort Project (Project). EAO's investigation is now complete. Consistent with EAO C&E's usual practice and to ensure administrative fairness, I am writing to provide Glacier Resorts Ltd (GRL) with an opportunity to respond to the findings and the evidence on which EAO based the compliance determination.

On December 11, 2014, EAO C&E advised GRL that an engineering avalanche risk evaluation, including a zoning plan, is required to verify compliance with condition 36. EAO stated that the evaluation must:

- be consistent with the Canadian Avalanche Association (CAA) Guidelines for Avalanche Risk Determination and Mapping (CAA Guidelines (2002)); and
- be completed by a professional engineer in good standing with the Association of Professional Engineers and Geoscientists of British Columbia in addition to having professional member status with the CAA.

On March 21, 2015, GRL submitted to EAO C&E an engineering avalanche risk evaluation prepared by Alan Jones, P.Eng (Alan Jones Report). EAO C&E discussed the report with Alan Jones to request additional information about the methodology, conclusions and recommendations of the Report.

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**Environmental
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Victoria BC V8W 9V1

Location:
1st & 2nd Fl – 836 Yates Street
Victoria BC V8W 1L8

As part of the review of the Alan Jones Report, EAO sought input from the Ministry of Transportation and Infrastructure given their responsibilities and expertise relating to avalanches. EAO is satisfied that the methods described in the Alan Jones Report are consistent with the methods in other avalanche zoning assessments completed by engineering consultants with specialization in assessing avalanche risks. EAO C&E may have follow-up questions for Alan Jones to better understand the nature of the risks and potential mitigation at the day lodge and service building locations.

Preliminary Compliance Determination and Rationale:

Condition 36 requires that "...proposed residential and commercial structures will be located completely outside the avalanche hazard area." The primary purpose of this condition is one of safety. Interpretation of what is an 'avalanche hazard area' is required to determine compliance with condition 36. EAO C&E determined it is appropriate to consider the CAA Guidelines (2002) and the material developed during the EA when interpreting the condition.

An 'avalanche hazard area' is not classified or defined in the CAA Guidelines (2002). A review of the EA material identified:

- an avalanche hazard area as "a once-in-200-to-300-year return period hazard area¹"; and
- proposed structures in this hazard area must be either "eliminated²" or moved to a new site that is "located outside the hazard area³."

The CAA Guidelines (2002) identify a three colour land use zoning system for occupied structures: white zone (low risk- beyond the reach of destructive avalanches with return periods of 300 years or less), blue zone (moderate risk and some uses with restrictions) and red zone (high risk).

EAO C&E's view is that commercial and residential structures in the blue or red zones are non-compliant with condition 36. If the Project is determined to be substantially started, GRL may wish to consider applying for an amendment to the EA Certificate to bring the terminology of the condition in line with the CAA Guidelines for clarity.

The Alan Jones Report states the following about the day lodge and service building locations:

Service Building Site:

- "The Service Building is mostly located within the Red Zone (high risk) for which the CAA (2002) guidelines recommend *construction of new buildings not*

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¹ Final Report Project Specifications Volume 1 May 20, 1998

² Final Report Project Specifications Volume 1 May 20, 1998

³ Final Report Project Specifications Volume 1 May 20, 1998

normally permitted. This recommendation is intended to apply to occupied structures, either temporarily or permanently occupied."

- "Based on this guideline, if a structure is to be constructed at this location, it is recommended that it not be used or routinely accessed during the winter season." (see Section 4.4 of the Alan Jones Report for duration of season)
- "Seasonal (non-winter) usage of a building could be considered (e.g. seasonal storage) if permitted, which would meet the requirements of a non-occupied structure."
- "The return period for potentially destructive avalanches at this location is estimated to be in the range of 30-100 years, with an expected impact pressure range of approximately 10-40 kPa."
- "These impact pressures are sufficient to destroy a wood frame structure (Mears, 1992) thus structural reinforcement is recommended for a structure at this location. Other mitigation measures that could be considered include no windows or doors on the western edge of the building, and no prominent roof eaves that can be damaged by avalanche flow."

Day Lodge Site:

- "The Day Lodge is located mostly within the Blue Zone (moderate risk), for which the CAA (2002) guidelines recommend: *Construction of new buildings, such as industrial plants and temporarily occupied structures, possibly permitted with specified conditions. Conditions may include structures reinforced for avalanche forces, construction of avalanche defences and requirement for evacuation plans or a combination of these.*"
- "Based on the fact that dense flowing avalanches are not expected to affect this location, and only relatively low impact pressure powder avalanche effects need to be considered, use of this Day Lodge is recommended subject to the following conditions:
 - **Structural Reinforcement:** The building should be designed to withstand powder avalanche impact pressures of approximately 2 kPa (unfactored). This could be achieved by structural reinforcement where necessary (e.g. reinforced north and northwest facing window panes) or other architectural means (e.g. orientation of design elements, shutters).
 - **Explosive Control:** Frequent explosive avalanche control should be conducted within the Pink Panther path to reduce avalanche hazard through the winter. This measure will also be required to protect ski terrain upslope of the Day Lodge. A highly reliable, all weather control system should be considered for starting zones in the Pink Panther path. Fixed exploder systems options should be evaluated (e.g. Gazex, O'BellX, Wyssen Tower, Avalanche Guard), which could be supplemented by hand charging and helicopter control, as needed.
 - **Evacuation Plan:** An evacuation plan should be developed for this building to

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reduce any potential residual risk to workers and the public both within and outside of the building. This could include short-term closures during periods of high avalanche hazard as well as complete evacuation of personnel and public from the Day Lodge and surrounding runout zone during explosive avalanche control.

- Implementation of an avalanche safety plan, including an explosive control plan and an evacuation plan will require trained, experienced and licensed personnel (as per Schaerer, 2014)."

As per your March 25, 2015, letter to me, I note that you have committed to implementing the recommendations in the Alan Jones Report with respect to the service building and the day lodge.

While EAO C&E may have additional questions for Alan Jones about the recommendations in his report to inform EAO's next steps regarding enforcement, EAO C&E has sufficient information to conclude the compliance status for the day lodge and service building. EAO C&E has based the preliminary compliance determination on various information, including material developed during the EA and the Alan Jones Report. EAO C&E has concluded that GRL is out of compliance with condition 36 as it relates to the day lodge and service building sites.

Next steps:

EAO C&E provides certificate holders with the opportunity to respond to alleged non-compliance to ensure administrative fairness. If GRL notes any factual errors in the Alan Jones Report or if you have reason to believe EAO's non-compliance findings are inaccurate, please advise me within three business days. I recognize this is a relatively short review period; however GRL is familiar with the material on which the compliance determination is based so I am hopeful this is sufficient time. Please advise me if additional time is required.

Unless GRL notes factual errors in EAO's compliance determination by April 23, 2015, EAO will confirm the non-compliances. EAO C&E will then determine the appropriate enforcement action to take. When determining the appropriate enforcement action, EAO will consider many factors, including whether the buildings could be safely occupied under specified conditions during the avalanche season or not.

I am advising you that I am considering issuing an Order under Section 34 of the *Environmental Assessment Act* for both the service building and day lodge locations. Under Section 34, I can order that an activity cease, and/or order that measures be taken to mitigate the effects of the non-compliance.

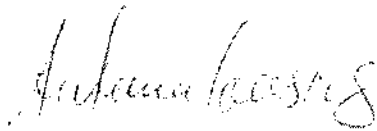
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Any enforcement action will be based on EAO C&E's assessment, recommendations from government agencies, the Alan Jones Report, any response GRL provides through the opportunity to respond and any other information as determined by EAO. I anticipate issuing the enforcement action after I consider input from government agencies and any additional information requests EAO C&E may have for Alan Jones.

Please note that once EAO concludes the final compliance determination, the compliance status, enforcement information and related material (e.g. the Alan Jones Report) will be made public.

Finally, as you are aware, this compliance investigation is distinct from the process to determine whether your Project was substantially started. The impact of this compliance determination, if any, on the substantially started question will be addressed in that process.

Yours truly,

A handwritten signature in cursive script, appearing to read "Autumn Cousins".

Autumn Cousins
Manager of Policy and Compliance



File: 30250-25/JUMBO-21

Reference: 282961

April 24, 2015

SENT VIA EMAIL

Oberto Oberti
Glacier Resorts Ltd
Suite 2300-Bentall 5
550 Burrard St, Box 30
Vancouver BC V6C 2B5

Glacier Resorts Ltd.
660 – 1188 West Georgia Street
Vancouver BC V6E 4A2
ooberti@obertiarchitecture.com

Dear Mr Oberti:

I am writing to advise you of the conclusion of the investigation into condition 36 of the Environmental Assessment (EA) Certificate for the Jumbo Glacier Resort (Project) as it relates to the structures in the Day Lodge Location and Service Building Location¹. Condition 36 requires that "...residential and commercial structures will be located completely outside the avalanche hazard area".

Environmental Assessment Office (EAO) Compliance and Enforcement (C&E) interprets condition 36 to mean that commercial and residential structures must not be located in a zone that has an avalanche return period up to and including a 'once-in-200-to-300 year return period hazard area' as defined in the material developed during the EA. In 2002, the Canadian Avalanche Association developed Guidelines for Snow Avalanche Risk Determination and Mapping in Canada (CAA Guidelines 2002) that includes zoning that aligns with the 'avalanche hazard area' in the EA material. When considering the EA condition requirements in terms of the three zones in the CAA Guidelines 2002, EAO C&E interprets condition 36 to mean that commercial and residential structures must not be located in a blue or red zone as determined by a qualified professional.

...2

¹Day Lodge Location and Service Building Location are defined terms in the attached Order.

**Environmental
Assessment
Office**

Mailing Address:
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1

Location:
1st & 2nd Fl – 836 Yates Street
Victoria BC V8W 1L8

After offering Glacier Resorts Limited (GRL) an opportunity to respond, EAO C&E has concluded that the partial structures at the Day Lodge Location and Service Building Location are not compliant with condition 36.

These determinations of non-compliance are based largely on the 'Snow Avalanche Risk Zoning for a Day Lodge and Service Building' report by Alan Jones, P.Eng of Dynamic Avalanche Consulting (Alan Jones Report) provided by GRL in response to EAO's request of December 11, 2014. The Alan Jones Report concluded that:

- "The majority of the Service Building is located within the Red Zone (high risk); the remainder is located in the Blue Zone (moderate risk)."
- "The majority of the Day Lodge foundation is located in the Blue Zone, which represents moderate avalanche risk. The remainder is located in the White Zone (low risk)."

I understand from your April 21, 2015 response to the preliminary compliance determination that GRL does not dispute EAO C&E's non-compliance determination for either structure nor the evidence that informed the investigation.

Enforcement:

When determining the level or type of enforcement, EAO C&E considers the likelihood of achieving compliance and the nature of the non-compliance:

- Likelihood of achieving compliance: it is EAO C&E's view that it is not possible for GRL to achieve compliance with condition 36, with the two structures as currently located.
- Nature of the non-compliance: a key consideration is the "...seriousness of the actual or potential harm with respect to environmental, economic, social, heritage or health impacts ...". The potential harm with respect to human safety would be high if built without constraints and/or mitigations.

On April 21, 2015, GRL advised EAO that GRL is "committed to implementing all of the recommendations in the Dynamic Avalanche Consulting report with respect to the day lodge and service building. Mitigation efforts for the day lodge will include structural reinforcement as necessary, a comprehensive avalanche control and safety plan (with frequent avalanche control via explosives and the implementation of reliable, all-weather systems such as gazex), and an evacuation plan for both employees and the general public. Likewise, the service building will be converted to a structurally reinforced storage building that will not be accessed during winter".

It is important to note that GRL's proposed use of the Day Lodge Location and Service Building Location would be non-compliant unless GRL seeks, and successfully receives, an amendment to the EA Certificate that would allow commercial structures in one or both of these locations subject to mitigation addressing human safety and any

...3

other factors as determined through an amendment process. Section 19 of the *Environmental Assessment Act* (Act) states that 'A holder of an environmental assessment certificate may apply in writing to the executive director to amend the certificate....'. Through the amendment process, if GRL applies for one, EAO would assess the adequacy of the proposed mitigation in the Alan Jones Report and any other factors as determined by EAO.

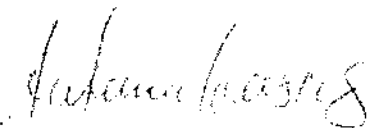
In the circumstances, it is appropriate, in my view, to take a phased approach to enforcement.

First, I am ordering, in the attached Order, that GRL cease construction of structures in the Day Lodge Location and Service Building Location in order to minimize the extent of the non-compliances.

Second, given there is no immediate risk to the environment or human safety and that there are avenues under the Act that GRL may pursue to seek EAO's assessment of the proposed mitigation in the Alan Jones Report, I will not proceed with additional enforcement immediately. I also recognize that the GRL's plans may be impacted by the Minister's determination whether the Project is substantially started. Accordingly, should the Minister determine the Project is substantially started, EAO will provide an opportunity following that determination for GRL to make a submission to the Executive Director regarding any proposed Project changes and additional detail about those plans. If GRL does not provide the required amendment information within a reasonable timeline as established by EAO or if an amendment is not approved, I may proceed with further enforcement including, but not limited to, ordering the removal of all Project related infrastructure at the Day Lodge Location and the Service Building Location and reclamation of the land to EAO's satisfaction. In the meantime, GRL must not resume construction at either the Day Lodge Location or Service Building Location for any purpose.

Finally, as you are aware, this compliance investigation is distinct from the process to determine whether the Project was substantially started by the EA Certificate deadline. The impact of this compliance determination, if any, on the substantially started question will be addressed in that process.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Autumn Cousins', written in a cursive style.

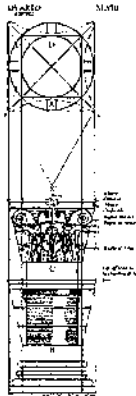
Autumn Cousins
Manager of Compliance

Attachment

pheidias project management corporation

660 – 1188 West Georgia Street
Vancouver, BC V6E 4A2 Canada

t: 604-662-8833 f: 604-662-7958
www.pheidias.ca



April 21, 2015

Sent via e-mail

Ms. Autumn Cousins
Manager, Policy and Compliance
Environmental Assessment Office
Victoria, BC

**Re: Non-Compliance with Condition 36 of the Jumbo Glacier Resort
Environmental Assessment Certificate**

Dear Ms. Cousins:

We wish to respond on behalf of Glacier Resorts Ltd. (Glacier) as promptly as possible to your letter of April 20, 2015 regarding non-compliance with condition 36 of the Jumbo Glacier Resort Environmental Assessment Certificate.

We do not find any factual errors in your letter. We do wish to note, however, that the terms indicated in the Final Project Report Specifications of 1998 predate the CAA Guidelines of 2002 and the project proponent agreed to the final specifications on the basis of the avalanche mapping that was available at the time, which show that the daylodge and service building are not in an avalanche zone.

We recognize that the new mapping and associated zoning prepared by Alan Jones of Dynamic Avalanche Consulting show that the daylodge is partially located in a blue zone and the service building is partially located in a red zone. Accordingly, and as indicated in our March 25, 2015 letter to you, Glacier committed to implementing all of the recommendations in the Dynamic Avalanche Consulting report with respect to the daylodge and service building.

Mitigation efforts for the daylodge will include structural reinforcement as necessary, a comprehensive avalanche control and safety plan (with frequent avalanche control via explosives and the implementation of reliable, all-weather systems such as gazex), and an evacuation plan for both employees and the general public.

Likewise, the service building will be converted to a structurally reinforced storage building that will not be accessed during winter. The current planning is to use it as a location to store the portable ski lifts utilized for summer glacier skiing.

Public safety is of utmost importance to both the designers and developers of the project and by implementing the recommendations of the Dynamic Avalanche Consulting report we believe that there is no unreasonable risk to either people or the environment.

../2

With kind regards,
Pheidias Project Management Corporation



Per: Oberto Oberti, Architect AIBC, President

Cc: Tommaso Oberti
Grant Costello
Paul Craven
Andrew Milne
Psyche Brown
Ralf Schwiede
Arnold Armstrong

OO/pc

IN THE MATTER OF
THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)

AND

NON-COMPLIANCES WITH ENVIRONMENTAL ASSESSMENT CERTIFICATE TD04-01

ORDER UNDER SECTION 34(1)

WHEREAS:

- A. Jumbo Glacier Resort Project (Project) is a reviewable project under the *Environmental Assessment Act* (Act).
- B. Condition 1 of Environmental Assessment Certificate TD04-01 (Certificate) issued for the Project requires Glacier Resorts Ltd. (Certificate Holder) to cause the Project to be designed, located and constructed in accordance with the documents listed in Schedule A of the Certificate in all material respects.
- C. Schedule A of the Certificate lists the following document: "July 28, 2004 letter from Oberto Oberti (Pheidias Project Management Corporation) to Martyn Glassman (Environmental Assessment Office) Re: Jumbo Glacier Resort. Attachment: Compendium of Proponents Commitments".
- D. Item 36 of the document referred to in Recital C states "that the proposed residential and commercial structures will be located completely outside the avalanche hazard area".
- E. Environmental Assessment Office Compliance and Enforcement reviewed evidence during the course of an investigation and determined that the Certificate Holder has caused structures proposed for commercial use to be located in whole or in part in areas that are avalanche hazard areas for the purposes of the Certificate and that the Project has thus not been constructed in accordance with the Certificate.
- F. Section 34 of the Act allows the minister to order construction, operation or modification of a project to cease in whole or part if the minister determines that a reviewable project is not being constructed in accordance with an environmental assessment certificate or is being constructed without a valid environmental assessment certificate.
- G. The undersigned has received written delegation of the Minister's powers under Section 34.

DEFINITIONS:

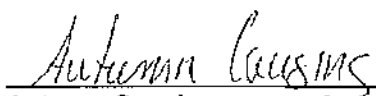
In this Order,

- (a) "Service Building Location" means the area within the footprint of the partially completed structure located at approximately 50° 23' 01.97" north latitude; 116° 36' 15.79" west longitude; and

- (b) "Day Lodge Location" means the area within the footprint of the partially completed structure located at approximately 50° 22' 59.15" north latitude; 116° 36' 16.97" west longitude.

NOW THEREFORE:

Pursuant to Section 34(1) of the Act, I order that the Certificate Holder cease construction of any structures in the Service Building Location or Day Lodge Location and not resume construction of any structures at either the Service Building Location or Day Lodge Location until either this Order has been rescinded or the construction is in accordance with the Certificate.



Autumn Cousins
Manager, Compliance
Environmental Assessment Office

Dated April 24, 2015

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Saturday, April 25, 2015 11:02 AM
To: Craven, Paul EAO:EX; Milne, Andrew EAO:EX; Leake, Greg EAO:EX
Subject: The first article...

<http://www.wildsight.ca/news/environmental-assessment-office-determines-jumbo-glacier-resort-non-compliance-permit-condition>

, here's the first news release /article...i was curious to see who would be first..

Sent from my Windows Phone

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Friday, April 24, 2015 3:08 PM
To: EAO Staff - All
Subject: FYI: Jumbo Glacier Resort Investigation and Enforcement

Hi EAO

I'm writing to give everyone an update about EAO C&E's investigation into avalanche risk at the Jumbo Glacier Resort. As shown at the links below, I have ordered that Glacier Resorts Ltd cease construction of the day lodge and service buildings under S. 34 of the *Environmental Assessment Act* due to non-compliances relating to avalanche risk. The cover letter explains additional information about how EAO C&E intend to phase enforcement given that there is no immediate risk to the environment or human safety from the non-compliances.

I would like to acknowledge the hard work of everyone involved in this investigation. Many people, both within and outside of the compliance team, have played an important role in this compliance oversight. In particular, I would like to thank Drew for his excellent work in leading this investigation.

Please let me know if you have any questions.

Autumn

http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_document_18_38950.html

http://a100.gov.bc.ca/appsdata/epic/documents/p18/1429894769861_BXhJV60JRpRpfT2PjsL1DhVnvB2jYTq9zLM3yzBpqtKHzB5szbG5!-91937584!1429894228273.pdf

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Friday, April 24, 2015 2:23 PM
To: Craven, Paul EAO:EX
Subject: FW: Letter: Condition 36
Attachments: 282961_Letter to OOberti re C 36 Enforcement_24Apr2015[2].pdf; Attachment - Section 34 Order - Jumbo Glacier Resort Project[1].pdf

Sent from my Windows Phone

From: Oberto Oberti
Sent: 2015-04-24 2:21 PM
To: Cousins, Autumn EAO:EX
Cc: Pizarro, Kirsten EAO:EX; Milne, Andrew EAO:EX; Tommaso Oberti; 'Grant Costello'; Alan Jones; Peter Schaerer
Subject: Re: Letter: Condition 36

Dear Autumn,
Following our previous correspondence, we wish to confirm receipt of the attached letters.

We have high regard for the diligence of the Environmental Assessment Office. We also believe that this project is consistently held to a higher standard than other mountain resorts in the Province, because of the level of intimidation created by special interest groups opposed to the project. We believe that this is not right, but our mandate is to conclude the process despite the controversies, as soon as possible.

We plan to continue to use the excellent work of our avalanche consultants and we wish to confirm on behalf of Glacier Resorts Ltd. (GRL) that we will apply for a minor amendment to have permission to use the planned facilities in accordance with the recommendations of our avalanche experts, and to continue construction.

I wish to note here that both Peter Schaerer and Alan Jones confirmed that as Grant Costello expected in positioning the building with our surveyors so that there would be the best view, known mitigation measures are adequate to make the daylodge safe.

I wish to note also that although I am not an avalanche specialist engineer, I have better than average knowledge of design and of mountains, as a registered architect since 1974, with a larger record of research, experience, and design in this field than most of the architects and engineers in this Province. I wish to reiterate that I know that the positioning of the daylodge is not imprudent by international mountain design standards and experience.

We would like to initiate the minor amendment process as soon as possible. GRL and the investment community need to have the conclusion that they deserve to the 24 years' approval process for this project.

Kind regards
Oberto

--

oberto oberti architecture and urban design inc.

660 - 1188 West Georgia Street
Vancouver, BC V6E 4A2
www.obertiarchitecture.com

Tel: (604) 662-7796
Fax: (604) 662-7958

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From: "Cousins, Autumn EAO:EX" <Autumn.Cousins@gov.bc.ca>
Date: Friday, April 24, 2015 at 1:39 PM
To: Oberto Oberti <ooberti@obertiarchitecture.com>, Tommaso Oberti <toberti@obertiarchitecture.com>
Cc: "Pizarro, Kirsten EAO:EX" <Kirsten.Pizarro@gov.bc.ca>, "Milne, Andrew EAO:EX" <Andrew.Milne@gov.bc.ca>
Subject: Letter: Condition 36

Mr. Oberto Oberti and Mr. Tom Oberti:

Please find attached a letter regarding the conclusion of the Environmental Assessment Office Compliance and Enforcement investigation regarding condition 36 of the environmental assessment certificate for the Jumbo Glacier Resort Project. Please confirm receipt.

Regards,

Autumn

Autumn Cousins

Manager, Compliance

Environmental Assessment Office



File: 30250-25/JUMBO-21

Reference: 282961

April 24, 2015

SENT VIA EMAIL

Oberto Oberti
Glacier Resorts Ltd
Suite 2300-Bentall 5
550 Burrard St, Box 30
Vancouver BC V6C 2B5

Glacier Resorts Ltd.
660 – 1188 West Georgia Street
Vancouver BC V6E 4A2
ooberti@obertiarchitecture.com

Dear Mr Oberti:

I am writing to advise you of the conclusion of the investigation into condition 36 of the Environmental Assessment (EA) Certificate for the Jumbo Glacier Resort (Project) as it relates to the structures in the Day Lodge Location and Service Building Location¹. Condition 36 requires that "...residential and commercial structures will be located completely outside the avalanche hazard area".

Environmental Assessment Office (EAO) Compliance and Enforcement (C&E) interprets condition 36 to mean that commercial and residential structures must not be located in a zone that has an avalanche return period up to and including a 'once-in-200-to-300 year return period hazard area' as defined in the material developed during the EA. In 2002, the Canadian Avalanche Association developed Guidelines for Snow Avalanche Risk Determination and Mapping in Canada (CAA Guidelines 2002) that includes zoning that aligns with the 'avalanche hazard area' in the EA material. When considering the EA condition requirements in terms of the three zones in the CAA Guidelines 2002, EAO C&E interprets condition 36 to mean that commercial and residential structures must not be located in a blue or red zone as determined by a qualified professional.

...2

¹Day Lodge Location and Service Building Location are defined terms in the attached Order.

**Environmental
Assessment
Office**

Mailing Address:
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1

Location:
1st & 2nd Fl – 836 Yates Street
Victoria BC V8W 1L8

After offering Glacier Resorts Limited (GRL) an opportunity to respond, EAO C&E has concluded that the partial structures at the Day Lodge Location and Service Building Location are not compliant with condition 36.

These determinations of non-compliance are based largely on the 'Snow Avalanche Risk Zoning for a Day Lodge and Service Building' report by Alan Jones, P.Eng of Dynamic Avalanche Consulting (Alan Jones Report) provided by GRL in response to EAO's request of December 11, 2014. The Alan Jones Report concluded that:

- "The majority of the Service Building is located within the Red Zone (high risk); the remainder is located in the Blue Zone (moderate risk)."
- "The majority of the Day Lodge foundation is located in the Blue Zone, which represents moderate avalanche risk. The remainder is located in the White Zone (low risk)."

I understand from your April 21, 2015 response to the preliminary compliance determination that GRL does not dispute EAO C&E's non-compliance determination for either structure nor the evidence that informed the investigation.

Enforcement:

When determining the level or type of enforcement, EAO C&E considers the likelihood of achieving compliance and the nature of the non-compliance:

- Likelihood of achieving compliance: it is EAO C&E's view that it is not possible for GRL to achieve compliance with condition 36, with the two structures as currently located.
- Nature of the non-compliance: a key consideration is the "...seriousness of the actual or potential harm with respect to environmental, economic, social, heritage or health impacts ...". The potential harm with respect to human safety would be high if built without constraints and/or mitigations.

On April 21, 2015, GRL advised EAO that GRL is "committed to implementing all of the recommendations in the Dynamic Avalanche Consulting report with respect to the day lodge and service building. Mitigation efforts for the day lodge will include structural reinforcement as necessary, a comprehensive avalanche control and safety plan (with frequent avalanche control via explosives and the implementation of reliable, all-weather systems such as gazex), and an evacuation plan for both employees and the general public. Likewise, the service building will be converted to a structurally reinforced storage building that will not be accessed during winter".

It is important to note that GRL's proposed use of the Day Lodge Location and Service Building Location would be non-compliant unless GRL seeks, and successfully receives, an amendment to the EA Certificate that would allow commercial structures in one or both of these locations subject to mitigation addressing human safety and any

...3

other factors as determined through an amendment process. Section 19 of the *Environmental Assessment Act* (Act) states that 'A holder of an environmental assessment certificate may apply in writing to the executive director to amend the certificate....'. Through the amendment process, if GRL applies for one, EAO would assess the adequacy of the proposed mitigation in the Alan Jones Report and any other factors as determined by EAO.

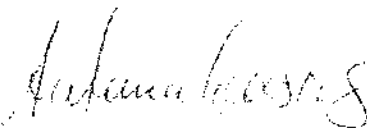
In the circumstances, it is appropriate, in my view, to take a phased approach to enforcement.

First, I am ordering, in the attached Order, that GRL cease construction of structures in the Day Lodge Location and Service Building Location in order to minimize the extent of the non-compliances.

Second, given there is no immediate risk to the environment or human safety and that there are avenues under the Act that GRL may pursue to seek EAO's assessment of the proposed mitigation in the Alan Jones Report, I will not proceed with additional enforcement immediately. I also recognize that the GRL's plans may be impacted by the Minister's determination whether the Project is substantially started. Accordingly, should the Minister determine the Project is substantially started, EAO will provide an opportunity following that determination for GRL to make a submission to the Executive Director regarding any proposed Project changes and additional detail about those plans. If GRL does not provide the required amendment information within a reasonable timeline as established by EAO or if an amendment is not approved, I may proceed with further enforcement including, but not limited to, ordering the removal of all Project related infrastructure at the Day Lodge Location and the Service Building Location and reclamation of the land to EAO's satisfaction. In the meantime, GRL must not resume construction at either the Day Lodge Location or Service Building Location for any purpose.

Finally, as you are aware, this compliance investigation is distinct from the process to determine whether the Project was substantially started by the EA Certificate deadline. The impact of this compliance determination, if any, on the substantially started question will be addressed in that process.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Autumn Cousins', written in a cursive style.

Autumn Cousins
Manager of Compliance

Attachment

IN THE MATTER OF
THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)

AND

NON-COMPLIANCES WITH ENVIRONMENTAL ASSESSMENT CERTIFICATE TD04-01

ORDER UNDER SECTION 34(1)

WHEREAS:

- A. Jumbo Glacier Resort Project (Project) is a reviewable project under the *Environmental Assessment Act* (Act).
- B. Condition 1 of Environmental Assessment Certificate TD04-01 (Certificate) issued for the Project requires Glacier Resorts Ltd. (Certificate Holder) to cause the Project to be designed, located and constructed in accordance with the documents listed in Schedule A of the Certificate in all material respects.
- C. Schedule A of the Certificate lists the following document: "July 28, 2004 letter from Oberto Oberti (Pheldias Project Management Corporation) to Martyn Glassman (Environmental Assessment Office) Re: Jumbo Glacier Resort. Attachment: Compendium of Proponents Commitments".
- D. Item 36 of the document referred to in Recital C states "that the proposed residential and commercial structures will be located completely outside the avalanche hazard area".
- E. Environmental Assessment Office Compliance and Enforcement reviewed evidence during the course of an investigation and determined that the Certificate Holder has caused structures proposed for commercial use to be located in whole or in part in areas that are avalanche hazard areas for the purposes of the Certificate and that the Project has thus not been constructed in accordance with the Certificate.
- F. Section 34 of the Act allows the minister to order construction, operation or modification of a project to cease in whole or part if the minister determines that a reviewable project is not being constructed in accordance with an environmental assessment certificate or is being constructed without a valid environmental assessment certificate.
- G. The undersigned has received written delegation of the Minister's powers under Section 34.

DEFINITIONS:

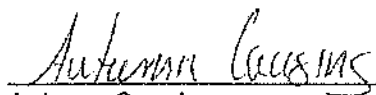
In this Order,

- (a) "Service Building Location" means the area within the footprint of the partially completed structure located at approximately 50° 23' 01.97" north latitude; 116° 36' 15.79" west longitude; and

- (b) "Day Lodge Location" means the area within the footprint of the partially completed structure located at approximately 50° 22' 59.15" north latitude; 116° 36' 16.97" west longitude.

NOW THEREFORE:

Pursuant to Section 34(1) of the Act, I order that the Certificate Holder cease construction of any structures in the Service Building Location or Day Lodge Location and not resume construction of any structures at either the Service Building Location or Day Lodge Location until either this Order has been rescinded or the construction is in accordance with the Certificate.

_____

Autumn Cousins
Manager, Compliance
Environmental Assessment Office

Dated April 24, 2015

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Tuesday, April 21, 2015 2:18 PM
To: Milne, Andrew EAO:EX; Leake, Greg EAO:EX; Craven, Paul EAO:EX
Subject: FYI CBC: Jumbo Glacier Resort project and avalanche reports
Attachments: Conclusions from Dynamic Avalanche Consulting[1].pdf; Pink Panther and true Daylodge location.pdf; Page from RK-Heliski submission to EAO Oct 30-2014.pdf

From: Oberto Oberti [<mailto:ooberti@obertiarchitecture.com>]
Sent: Tuesday, April 21, 2015 1:13 PM
To: sophie.rousseau@cbc.ca
Cc: Tommaso Oberti; Alan Jones; Cousins, Autumn EAO:EX; Brown, Psyche FLNR:EX; Humphrey, Gordon J FLNR:EX
Subject: Jumbo Glacier Resort project and avalanche reports

Dear Sophie,
Thank you for your telephone call.

I am glad you looked at the chronology of the project on the web site, because you cannot fail to be surprised that the Opposition seems to ask the Government to stop this project when in fact Glacier Resorts Ltd., the proponent, was invited and encouraged to do this project by three NDP governments, and went through the East Kootenay CORE Table land use approval and most of the EA Act process under those governments.

It was their government that granted the Interim Agreement, guaranteeing the Master Development Agreement subject to a Master Plan approval for this project.

Regarding the new controversy on the daylodge and avalanche risk I can state that the daylodge according to the Alan Jones study is in part in a blue zone and that :

A) The Blue Zone is an area of potential (moderate) avalanche risk that is located between the red (high risk) and white (low risk) avalanche zones. The Day Lodge is located at the far end of the Blue Zone where it could only be affected by infrequent, low impact pressure powder snow avalanches, which limits the risk.
and

B) Yes, it is safe and permissible to build a daylodge in a Blue Zone with application of avalanche risk mitigation measures that reduce the risk to people and structures to an acceptable (low) risk level.

I am also attaching:

- 1. the conclusion** from the Alan Jones report.
- 2, the comparison** between where the RK Heli-ski report put the location of the daylodge and the true location (checked by Alan Jones) of the daylodge foundations.

Also, I can state unequivocally that the resort proper, the overnight tourist accommodation, has been designed and is located in a portion of the valley that is NOT subject to avalanche risk, as confirmed by every review and study since 1990. This is also at the base of where RK Heli-ski reported that they do most of their helicopter skiing and they have cut their heli-ski runs because it is avalanche free.

RK Heli-ski has a record of opposition to this project since when the new owners from Calgary took over the company, after the death of Roger Madson.

I will talk to Alan Jones ask Alan Jones to send you the entire report, or I will send it myself. We can also send you pictures of the mature trees still surrounding the true location of the daylodge.

Thank you for your call, I hope this clarifies the issues. Please call to confirm you received this message and feel free to call again for any additional information.

Kind regards
Oberto

--

oberto oberti architecture and urban design inc.

660 - 1188 West Georgia Street
Vancouver, BC V6E 4A2
www.obertiarchitecture.com

Tel: (604) 662-7796
Fax: (604) 662-7958

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8.0 Conclusion and Recommendations

The purpose of this report was to complete a snow avalanche risk assessment and risk zoning map for the recently constructed DayLodge and Service Building foundation locations at the Jumbo Glacier Resort. Guidance was provided regarding applicable avalanche risk zoning guidelines, and recommendations were provided for avalanche risk mitigation options.

The assessment reviewed potential avalanche risk from two avalanche paths: Pink Panther (South Wolverine) which is located immediately adjacent to the Day Lodge and Service Buildings, and the Karnak path which is approximately 350 m north of the Day Lodge. It was determined that Karnak does not affect the Day Lodge or Service Building locations.

The Pink Panther avalanche path was assessed in detail during a ground and aerial survey, and using a variety of methods, including: statistical and dynamic avalanche modelling, air photo interpretation, vegetation analysis, terrain/topographic analysis, and review of historical records.

There was no historical evidence of destructive avalanche effects observed at the Day Lodge foundation location. Powder avalanche flow (interpreted from 1996) produced damage to vegetation 15 m from the Day Lodge foundation; powder from the 2009 explosive triggered avalanche may have reached the Day Lodge with light powder flow, but destructive effects were not observed from this event. Dense flow avalanche impacts were observed 80 m from the Day Lodge, but there was no evidence to suggest that dense flow can reach the Day Lodge. The resulting avalanche risk zoning assessment places the Day Lodge mostly within the Blue Zone (moderate risk), with a small portion within the White Zone (low risk).

There was no evidence of avalanche impacts to vegetation at the Service Building site, but dense flow impacts were observed within 10-15 m of the building site. The resulting risk zoning places the majority of the Service Building the Red Zone (high risk); the remainder is located in the Blue Zone (moderate risk).

Based on this assessment, the following recommendations are provided:

- 1) If a structure is to be constructed at the Service Building location, it should not be used or routinely accessed during the winter season. Seasonal (non-winter) usage of a building could be considered (e.g. seasonal storage), if permitted.
- 2) Any structure constructed at the Service Building location should be structurally reinforced to withstand avalanche impact pressures of approximately 10-40 kPa. Doors and windows should face away from the avalanche flow direction (i.e. facing east), and prominent roof eaves should be avoided since they could be damaged by avalanches.
- 3) According to the CAA (2002) risk guidelines, the Day Lodge may be considered a temporarily occupied structure. Since dense flowing avalanches are not expected to affect this location and expected powder impact pressures are low, use of the Day Lodge site is recommended subject to three conditions:

- a. **Structural reinforcement** for impact pressures of 2 kPa (unfactored).
 - b. **Explosive control** to reduce avalanche hazard, ideally with the installation of remote fixed exploders (e.g. Gazex, O'BelIX, Wyssen Tower, Avalanche Guard)
 - c. **Evacuation plan** to reduce potential residual avalanche risk to workers and the public both within and outside of the building (i.e. short-term closures for high hazard and explosive control).
- 4) Protection of workers and the public in and around the Day Lodge will require implementation of an avalanche safety plan, which will include explosive avalanche control and an evacuation plan implemented by trained, experienced and licensed avalanche technicians.

9.0 Closure

This report was prepared for the exclusive use of Pheidias Project Management Corp., and Glacier Resorts Ltd. Any use which a third part makes of this report, or any reliance on or decisions made based on this report are the responsibility of such third parties. Dynamic Avalanche Consulting Ltd. accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions taken based on this report.

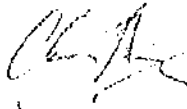
We trust that this report satisfies your present requirements. Should you have any questions, please contact the undersigned at your convenience.

Dynamic Avalanche Consulting Ltd.

Prepared by:

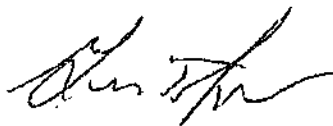


Alan Jones, M.Sc., P.Eng.
CAA Professional Member

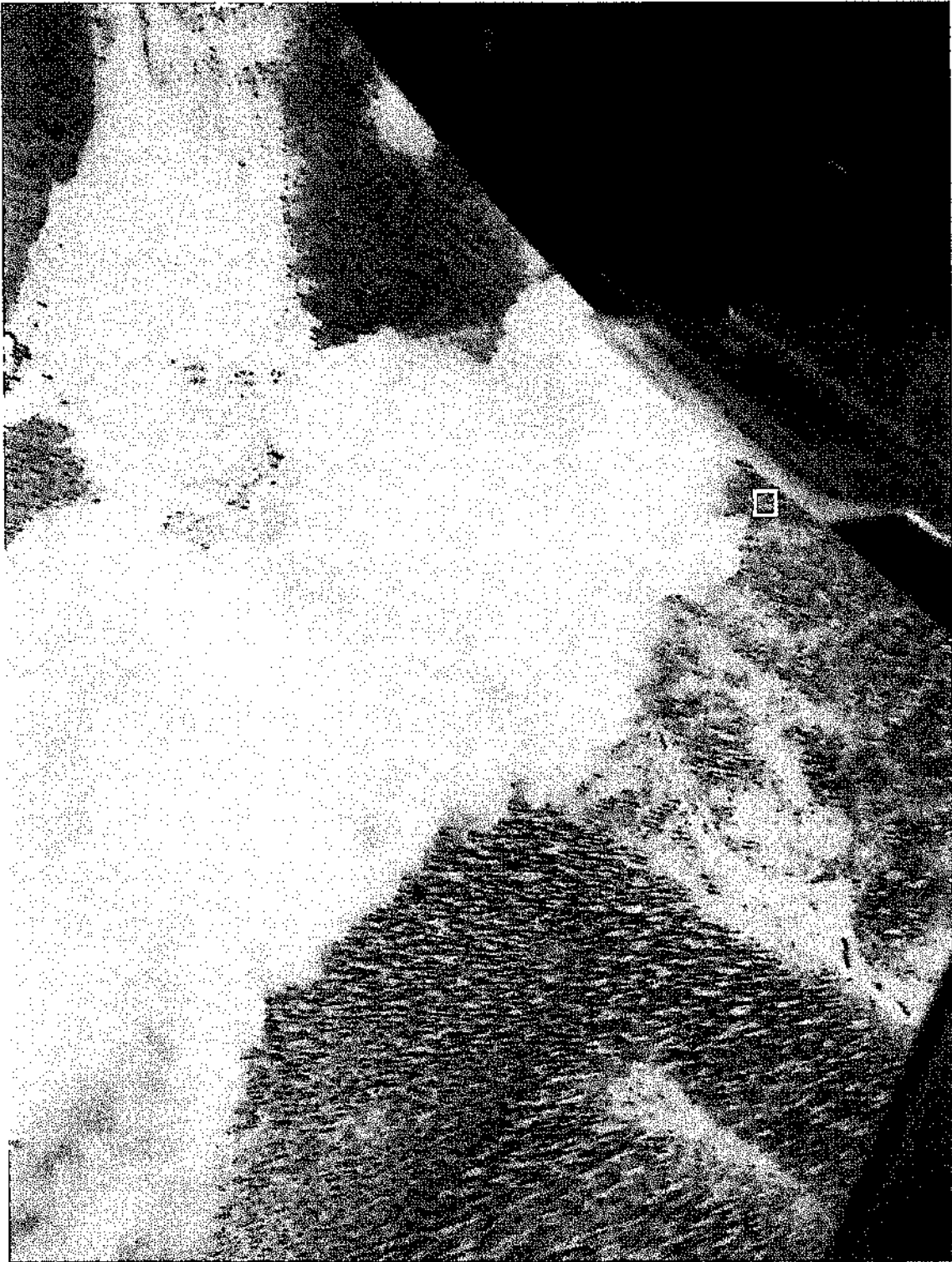


Chris Argue, Dipl.T.
CAA Professional Member

Reviewed by:

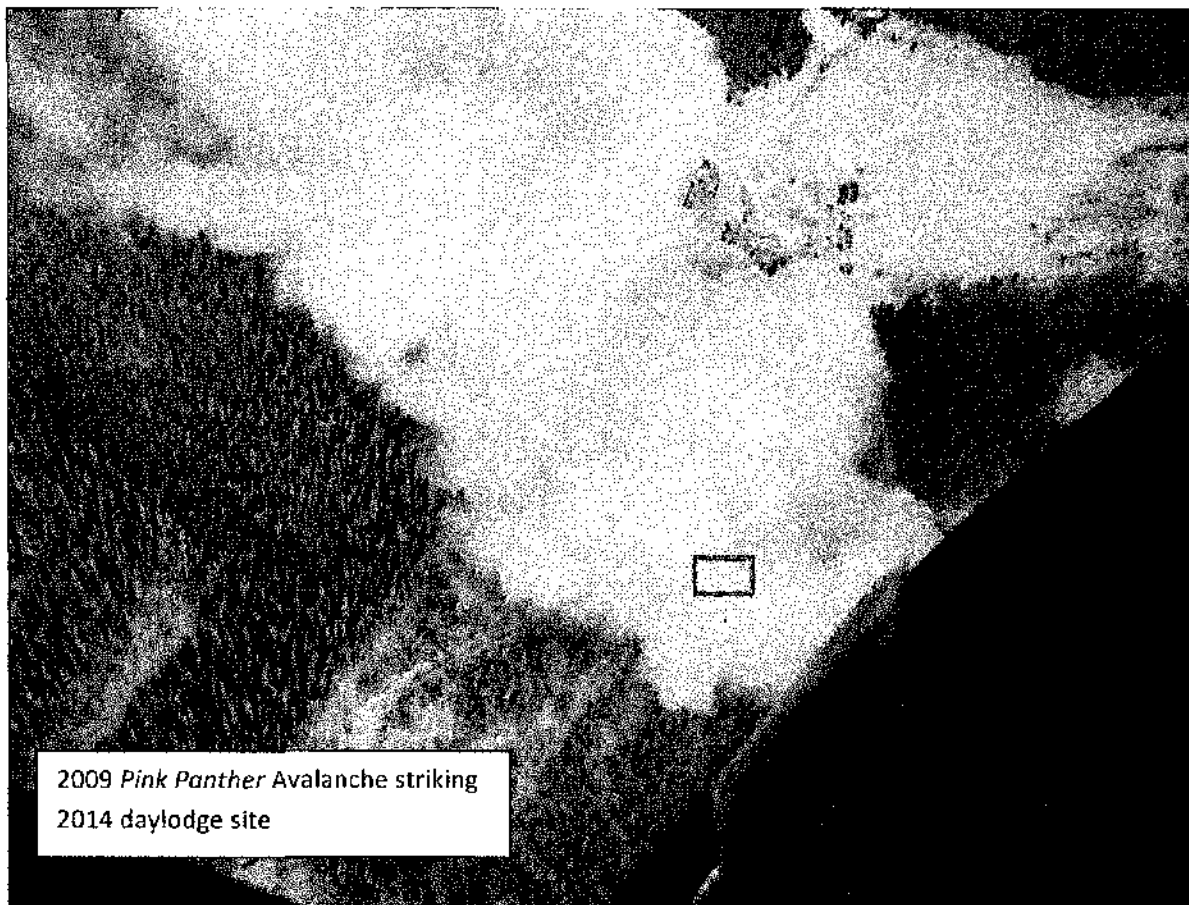


Greg Johnson, M.Sc., P.Eng.
CAA Professional Member
Association of Canadian Mountain Guides (ACMG)





The size 4 avalanche shown here from 2009 was a dry powder avalanche; estimated speed at maximum velocity approximately 200 km/hr.



See also attached high resolution photographs, photograph #s 018, 014, 016, and photo titled "towards building site south view".

Box 695
Invermere, BC V0A 1K0
Canada
1-800-661-6060 tf / 250-342-3889 p / 250-342-3466 fx



Milne, Andrew EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Saturday, April 18, 2015 12:29 AM
To: Milne, Andrew EAO:EX; Parks, Chris EAO:EX
Subject: FW: Avalanche Risk Zoning Report

Please discuss with me prior to sending to anyone.

Sent from my Windows Phone

From: Lorimer, Mike TRAN:EX
Sent: 2015-04-17 4:20 PM
To: Craven, Paul EAO:EX
Cc: Cousins, Autumn EAO:EX; Lorimer, Mike TRAN:EX
Subject: FW: Avalanche Risk Zoning Report

Good Morning Paul,

As per your request below, we have assessed the Dynamic avalanche report with regards to whether or not the report is consistent with what we would typically accept for review as part of a land use permit or authorization. I appreciate that your staff may have discussed aspects of this review with our Headquarters Manager Snow Avalanche Program, Mike Boissoneault, in the last few days. This response incorporates feedback from Mike and other staff members in the Ministry to respond to the questions in the scope of your original request.

The assessment methods described in the report are consistent with the methods used in other avalanche zoning assessments MOTI has accepted from engineering consultants who specialize in assessing avalanche risks. Furthermore, the approach to the preparation of this report would meet our Provincial Approving Officer (PAO) requirements for consideration in land use approvals. Avalanche Risk Zoning reports must be prepared by a Qualified Professional and a Professional Engineer with expertise in the field of avalanche risk zone analysis. The inclusion and recommendation of conditions that would facilitate the safe development in these areas is consistent with reports we would receive from Qualified Professionals in this field.

MOTI has adopted the criteria set out by the Canadian Avalanche Association (CAA) for evaluation of avalanche risk zones completed by Qualified Professionals. These standards have also been adopted by most Regional Districts in BC and many jurisdictions throughout Canada for more than a decade. This report appears to utilize this criteria. The report identifies the required red/blue/white avalanche risk zones

- Red Zone – no development

- Blue Zone – minimal with restrictions on inhabited buildings, potential for further investigation

- White Zone – No risk – no restrictions

With regards to some areas that the EAO may wish to follow-up on with the developer, I offer the following:

s.13

s.13

The report also recommends three conditions for operation of the Day Lodge in the Blue Zone. I understand from discussions with Autumn Cousins in your office that these conditions are likely part of the enforcement process should a determination of non-compliance be the result. If this is the case, I would suggest the following items for follow-up with the developer.

s.13

I hope that this is enough to help your office in moving through the review process for this file.

Thank you,

Mike Lorimer

Regional Director - Southern Interior Region

From: Craven, Paul EAO:EX
Sent: Thursday, April 2, 2015 10:23 AM
To: Lorimer, Mike TRAN:EX
Cc: Cousins, Autumn EAO:EX
Subject: Avalanche Risk Zoning Report

Mike,

I am writing to you to ask for the Ministry of Transportation and Infrastructure's assistance with our review of the attached ***Snow Avalanche Risk Zoning for a Day Lodge and Service Building for the Jumbo Glacier Resort*** prepared by Dynamic Avalanche Consulting Ltd.

Given your Ministry's role in seeking similar reports, we are looking for any advice on whether the report is consistent with what your Ministry would normally expect and accept.

In particular, we would appreciate any advice on questions or clarifications, if any, we may wish to ask the author. One area to focus on is the report's recommendation related to the use of the daylodge subject to three conditions.

We will be using this report to determine whether the construction of these buildings is in compliance with a condition in the environmental assessment certificate. For clarity, we do not require your Ministry to opine on the compliance status in your response.

We would appreciate it if you could review the report and get back to us early next week, if possible.

Many thanks,

Paul

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Friday, April 17, 2015 5:35 PM
To: Craven, Paul EAO:EX; Carr, Michelle EAO:EX; Leake, Greg EAO:EX
Subject: Heads up: Please enforce the Jumbo Environmental Certificate!
Attachments: Q01.PDF; Q02.PDF; Q03.PDF; Q04.PDF; Q05.PDF; Q06.PDF; Q07.PDF

FYI – note it appears the avalanche QP report is being circulated rather broadly now.

The first attachment appears to be an error – the rest are signatures on a jumbo petition urging government to ‘exercise maximum diligence in enforcing’ the EAC.

From: David Reid [mailto:david@ecosociety.ca]
Sent: Friday, April 17, 2015 5:26 PM
To: Polak.MLA, Mary LASS:EX; Mungall.MLA, Michelle LASS:EX; Macdonald, Norm; Cousins, Autumn EAO:EX
Subject: Please enforce the Jumbo Environmental Certificate!

Honorable Ministers;

Please find attached approximately 150 pages of signatures of people urging the Province of BC to strictly enforce the conditions of the Jumbo Glacier Resort Environmental Certificate.

The Dynamic Avalanche Consulting report makes it clear that the developer has failed to ensure that ALL buildings are located outside the avalanche hazard area. This is only one of several serious violations, some of which have been confirmed by the EAO compliance team, that require the Minister to invalidate the Environmental Certificate.

On behalf of an increasingly irate and incredulous public, we demand that the Province fulfill its duty under the Environmental Assessment Act and stop this project before irreversible harm is caused to the environment.

David Reid
Executive Director



Protecting wild places and building sustainable communities since 1994

206-507 Baker St. Nelson, BC, V1L 4J2
ph 250 354 1909 fax 250 354 1966
www.ecosociety.ca or find us on [Facebook!](#)

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Friday, April 17, 2015 11:05 AM
To: O'Connor, Lisa EAO:EX; Craven, Paul EAO:EX
Cc: Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX
Subject: RE: FORMATTED - JGR Letter - Ready for Final Approvals - 282185

Fyi...i need to now make some more edits based on call with mike I this am. Doing asap.

Sent from my Windows Phone

From: O'Connor, Lisa EAO:EX
Sent: 2015-04-17 11:03 AM
To: Craven, Paul EAO:EX
Cc: Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX; Cousins, Autumn EAO:EX
Subject: FORMATTED - JGR Letter - Ready for Final Approvals - 282185

Hi Paul,

Autumn has now made the final edits as per your telephone call this morning. I have finalized the Formatting on the letter.

Please advise who needs to see this again before it is sent from Autumn. (Michelle, Greg, MO) – I believe that Autumn has already looped in MOTI as per your telephone direction.

I:\EAO\EAO_SHARED\Compliance\Operational (ORCS)\Environmental Assessment - Projects 30050-30700\Jumbo Glacier Resort (30250-25 JUMBO)\-21 Compliance Reports & Reviews\Correspondence\282185 DISCUSSION Letter to OOberti re Condition 36_Apr2015.docx

Thanks,

Lisa O'Connor I Policy Administrative Assistant I (250) 356-1151

From: Cousins, Autumn EAO:EX
Sent: Thursday, April 16, 2015 4:37 PM
To: Craven, Paul EAO:EX
Cc: O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX
Subject: For Paul's review: Updated letter
Importance: High

Thank you Rose for reviewing and thank you Lisa for doing a peer review tomorrow AM. Really appreciate the help from both of you today on various things.

Paul, update draft letter for your review. You'll see I put in various questions for you and some tracked changes. Before we send it, who needs to review? I think it is you, michelle, greg, MO and MOTI and maybe MRB? As noted in the attached, I suggest we get avy program to review to ensure we don't make any mistakes in our interpretation of the guidelines. We don't need to send the whole letter, but would be good to at least send a few of the excerpts for review. I should line that up asap if we are considering getting the letter out tomorrow.

I'm working on the second letter. I kept it in mind when I was editing this letter but I'll still make sure I've got an early draft of the second letter ready for your review tomorrow AM.

I:\EAO\EAO_SHARED\Compliance\Operational (ORCS)\Environmental Assessment - Projects 30050-30700\Jumbo Glacier Resort (30250-25 JUMBO)\-21 Compliance Reports & Reviews\Correspondence\282185 DISCUSSION Letter to OOberti re Condition 36_Apr2015.docx

Pizarro, Kirsten EAO:EX

From: Craven, Paul EAO:EX
Sent: Thursday, April 16, 2015 9:35 PM
To: Cousins, Autumn EAO:EX
Subject: RE: For Paul's review: Updated letter

Thanks Autumn. I have made a few suggested changes. I have spoken to Mike L as well. I can fill you in tonight or tomorrow.

Paul

From: Cousins, Autumn EAO:EX
Sent: Thursday, April 16, 2015 4:37 PM
To: Craven, Paul EAO:EX
Cc: O'Connor, Lisa EAO:EX; Pizarro, Kirsten EAO:EX; Heinz, Rose EAO:EX
Subject: For Paul's review: Updated letter
Importance: High

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I:\EAO\EAO_SHARED\Compliance\Operational (ORCS)\Environmental Assessment - Projects 30050-30700\Jumbo Glacier Resort (30250-25 JUMBO)\-21 Compliance Reports & Reviews\Correspondence\282185 DISCUSSION Letter to OOberti re Condition 36_Apr2015.docx

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Tuesday, April 14, 2015 7:56 AM
To: Kennedy, Karla; Craven, Paul EAO:EX
Subject: RE: Jumbo: Condition 36 Draft Letter

We should leave in the comments to flag these statements may change. We so not know yet the fins content of letter awaiting moti comments.

Paul let me know if you want me or drew to follow up with mike l or mike b to get an update before the briefing.

Sent from my Windows Phone

From: Kennedy, Karla EAO:EX
Sent: 2015-04-14 7:51 AM
To: Craven, Paul EAO:EX; Cousins, Autumn EAO:EX
Subject: RE: Jumbo: Condition 36 Draft Letter

Thank you. Is there info still to be determined or updated based on the comments included within the letter?
Wondering if we need to clean this up so Minister is looking at the final that will go out?

From: Craven, Paul EAO:EX
Sent: Tuesday, April 14, 2015 7:50 AM
To: Kennedy, Karla EAO:EX; Cousins, Autumn EAO:EX
Subject: FW: Jumbo: Condition 36 Draft Letter
this the draft letter. I think the same Autumn sent you.

Thanks Karla.

Sent from my Windows Phone

From: Craven, Paul EAO:EX
Sent: 2015-04-13 8:58 PM
To: Carr, Michelle EAO:EX
Subject: FW: Jumbo: Condition 36 Draft Letter

Sent from my Windows Phone

From: Craven, Paul EAO:EX
Sent: 2015-04-09 3:57 PM
To: Caul, Doug D ABR:EX
Cc: Lewthwaite, Jennifer EAO:EX
Subject: Jumbo: Condition 36 Draft Letter

Doug,
We are still waiting on confirmation for a briefing from MO. Attached is the draft letter Autumn is working on confirming our conclusion that the buildings are not in compliance and our intention to issue an order. We are waiting

on Transportation's formal response still but once we have that we would look to get this out quickly provided appropriate heads up were given. This letter would not be public. JGR would have 3 days to respond. We would position ourselves to then issue an order fairly quickly after that. Substantially started process then restarts with draft report sent out to parties for comment. I am talking to Greg about a communications plan.

Paul

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Tuesday, April 7, 2015 2:18 PM
To: Milne, Andrew EAO:EX; Vinette, Nicole EAO:EX
Cc: Leake, Greg EAO:EX; Pizarro, Kirsten EAO:EX; Craven, Paul EAO:EX
Subject: RE: media request - Vancouver Sun - Jumbo review

Thanks Drew. I quickly reviewed on my phone...and now that I'm on my computer, I suggest the first bullet be amended to clarify that the 'guidelines' are the Canadian avalanche association guidelines.

Also suggest deleting 'and also continues to work with appropriate fns'

No worries if it is too late...minor tweaks....

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

From: Milne, Andrew EAO:EX
Sent: Tuesday, April 7, 2015 1:41 PM
To: Vinette, Nicole EAO:EX
Cc: Leake, Greg EAO:EX; Pizarro, Kirsten EAO:EX; Cousins, Autumn EAO:EX; Craven, Paul EAO:EX
Subject: RE: media request - Vancouver Sun - Jumbo review

Hi Nicole,

AC has reviewed and approved the following bullets:

- December 2014, EAO has requested, based on advice from the Ministry of Transportation and Infrastructure, an engineering avalanche risk evaluation with a zoning plan consistent with the guidelines to ensure the locations of any commercial and residential buildings are compliant with Jumbo Glacier Resorts (JGR) Environmental Assessment Certificate (EAC) - condition 36. An engineering avalanche risk evaluation is a risk assessment tool that considers factors like frequency, predicted impact pressures and destructive potential of avalanches;
- On December 11, 2014 EAO sent letters to the company advising of the compliance review of EAC condition 36 and describing the delay in the substantial start determination process. EAO also sent letters to Ktunaxa Nation Council and the Shuswap Indian Band advising of an updated substantial start process;
- March 2015, EAO C&E received JGR's Snow Avalanche Risk Zoning for a Day Lodge and Service Building for the Jumbo Glacier Resort prepared by Dynamic Avalanche Consulting Ltd - P.Eng Alan Jones. EAO C&E are reviewing the Report to assess JGR's compliance with EAC condition 36;
- EAO C&E anticipates concluding the compliance status of EAC condition 36 regarding the day lodge and service building in April ;
- EAO C&E continues to work with relevant government agencies with compliance oversight of this project and also continues to work with the appropriate First Nations.

Kind regards,

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

From: Cousins, Autumn EAO:EX
Sent: Tuesday, April 7, 2015 11:49 AM
To: Vinette, Nicole EAO:EX; Craven, Paul EAO:EX
Cc: Leake, Greg EAO:EX; Milne, Andrew EAO:EX; Pizarro, Kirsten EAO:EX
Subject: RE: media request - Vancouver Sun - Jumbo review

Drew please draft bullets asap and send to me for review

Nicole, I believe the in is up to date....but Kirsten please confirm this is one we sent to Gary padgett last week.

Sent from my Windows Phone

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

From: "Vinette, Nicole EAO:EX" <Nicole.Vinette@gov.bc.ca>
Sent: 2015-04-07 10:52 AM
To: "Cousins, Autumn EAO:EX" <Autumn.Cousins@gov.bc.ca>; "Craven, Paul EAO:EX" <Paul.Craven@gov.bc.ca>
Cc: "Leake, Greg EAO:EX" <Greg.Leake@gov.bc.ca>
Subject: FW: media request - Vancouver Sun - Jumbo review

Hi Autumn,

We've received the media request below re: Jumbo from a reporter from the Vancouver Sun. As you can see, he's requesting an update on the status of the avalanche risk assessment. Since Greg is away today, could you please put together some draft bullets and send them to me (and copy Greg)? Also, if you could please confirm whether the Spring 2015 IN for Jumbo (link below) is up-to-date, that would be great? Thanks in advance, Autumn!

\\\\Level\\\$40002\\EAO\\EAO_SHARED\\BRIEFING NOTES\\2015\\Issues Notes\\Spring 2015\\IN_EAO_Jumbo Glacier Resort avalanche and Sub Start_31Mar2015.doc

~Nicole

From: Karn, David GCPE:EX
Sent: Tuesday, April 7, 2015 10:43 AM
To: Vinette, Nicole EAO:EX
Subject: media request - Vancouver Sun - Jumbo review

Nicole, in Greg's absence.

reporter: Rob Shaw, Vancouver Sun rshaw@vancouver.sun.com

deadline: 3pm

request: Four months after proponent asked for more info on avalanche zone, what's going on? Is this thing stalled?
Etc.

Last response (Feb. 23)

The Jumbo Glacier Resort project must have substantially started construction by October 12, 2014 or its environmental assessment certificate will expire. Such situations are assessed on a case-by-case basis.

In the fall of 2014, concerns were raised about whether the day lodge and service building were located in an avalanche zone.

Previously submitted preliminary reports from Glacier Resorts Ltd. indicated that the sites are near, but outside, historic avalanche paths.

However, the company provided updated information in December 2014, which states that while "no damaging avalanche has reached the lodge site, a larger one than had occurred in the past or an avalanche with an irregular flow direction could hit the lodge."

The report says that the potential risk can be managed through avalanche control measures. The Environmental Assessment Office has asked the company to provide an engineering avalanche risk evaluation to support that conclusion. We believe this is the prudent thing to do.

Although the impact, if any, of the building locations on the substantially started question has not been determined, the Environmental Assessment Office is waiting until there is greater clarity on the compliance status before proceeding.

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Thursday, April 2, 2015 6:45 PM
To: Pizarro, Kirsten EAO:EX
Subject: FW: Avalanche Risk Zoning Report
Attachments: Jumbo Glacier Resort Day Lodge Avalanche Risk Zoning Report 19March2015 FINAL.pdf

For file...can't remember if I sent to you already

From: Craven, Paul EAO:EX
Sent: Thursday, April 2, 2015 10:23 AM
To: Lorimer, Mike TRAN:EX
Cc: Cousins, Autumn EAO:EX
Subject: Avalanche Risk Zoning Report

Mike,

I am writing to you to ask for the Ministry of Transportation and Infrastructure's assistance with our review of the attached ***Snow Avalanche Risk Zoning for a Day Lodge and Service Building for the Jumbo Glacier Resort*** prepared by Dynamic Avalanche Consulting Ltd.

Given your Ministry's role in seeking similar reports, we are looking for any advice on whether the report is consistent with what your Ministry would normally expect and accept.

In particular, we would appreciate any advice on questions or clarifications, if any, we may wish to ask the author. One area to focus on is the report's recommendation related to the use of the daylodge subject to three conditions.

We will be using this report to determine whether the construction of these buildings is in compliance with a condition in the environmental assessment certificate. For clarity, we do not require your Ministry to opine on the compliance status in your response.

We would appreciate it if you could review the report and get back to us early next week, if possible.

Many thanks,

Paul

Pizarro, Kirsten EAO:EX

From: Cousins, Autumn EAO:EX
Sent: Wednesday, February 25, 2015 4:51 PM
To: Milne, Andrew EAO:EX; Parks, Chris EAO:EX
Cc: Pizarro, Kirsten EAO:EX; Craven, Paul EAO:EX
Subject: FW: Letter re EAC# TD04-01
Attachments: ENKON - EAO Inspection Response.pdf; JGR-DMilne-Feb25-2015.pdf

FYI – JGR response to latest inspection report. I've only quickly reviewed but sounds like they aren't disputing much (other than unnecessary clearing).

Drew, I'd like to see the response before it goes back to them.

From: Tommaso Oberti [<mailto:toberti@pheidias.ca>]
Sent: Wednesday, February 25, 2015 4:14 PM
To: Milne, Andrew EAO:EX
Cc: Cousins, Autumn EAO:EX; Oberto Oberti; Grant Costello; Ralf Schwiede; Arnold Armstrong; Brown, Psyche FLNR:EX
Subject: Letter re EAC# TD04-01

Hello Drew,

Please see the attached letter in response to your site inspection report.

Kind regards,
Tom

January 22, 2015

Phcidias Project Management
Suite 660 – 1188 West Georgia Street
Vancouver BC
V6E 4A2



ENKON
ENVIRONMENTAL

**Attention: Oberto Oberti
Tommaso Oberti**

207 - 5550 152nd Street
Surrey, B.C. Canada
V3S 5J9

Phone: 604-574-4477
Fax: 604-574-4353

E-mail: enkonenv@enkon.com
Web Page: www.enkon.com

**RE: COMMENT IN RESPONSE TO EAO PROJECT INSPECTION
RECORD.
Our File No. 1031-001**

1 Introduction

The following summarizes ENKON's response to the draft Environmental Assessment Office (EAO) Inspection Record issued for inspection summaries between 2014-10-06 and 2014-10-09 issued by inspector Chris Parks, Senior Compliance Officer.

1.1 Background

Compliance with condition #46 of the Environmental Assessment (EA) Certificate includes the requirement for compliance with erosion and sediment control plans which are included in the project specific Construction Environmental Management Plan (CEMP, pages 9-14).

Concerns cited in the EAO inspection report relate to a lack of perimeter control implementation, disturbed surfaces protection, sediment control measures, and water management measures pertaining to active construction activities.

2 ESC Response

Concerns raised in the inspection reflect a point in time observation of non-compliance. Implementation of ESC measures will always require adaptive measures. Upon identification of the ESC concerns, adaptive measures were implemented immediately.

2.1 Compound Areas

Based on compliance with buffer zone commitments, the implementation of perimeter control measures at compound areas allows significant flexibility in timing and opportunities for assessment of risk. Based on the local topography, sediment transfer via surface erosion and runoff was concluded to pose a low risk to aquatic habitat.

Notwithstanding the assessment of sediment transfer risk, upon completion of the clearing/grubbing activities, installation of perimeter control measures is recommended to serve as both sediment control and boundary delineation to preclude construction disturbance to vegetated areas.

In response to EAC concerns, adaptive measures were implemented at key locations:

- Silt fencing perimeter control measures at the day-lodge building site location
- Silt fencing perimeter control measures at Lift #1 base area in addition
- Silt fencing local road margin concerns located at the old sawmill location.
- Straw mulch application and/or woody debris/slash application to graded surfaces at daylodge.

The implementation of disturbed surface protection and perimeter control measures was completed prior to significant rain events and sustained winter wet weather conditions. A review of the efficacy of perimeter control measures will be completed in Spring 2015 following snow melt.

Prior disturbed surface treatments had been completed at high risk areas associated with temporary bridge decommissioning at the 15.8km crossing of Jumbo Creek.

2.2 Forest Service Road/Access Road

ESC concerns associated with the FSR between ~13.8km and the daylodge site relate primarily to the active use of a pre-existing road and drainage system. The road segment between 13.8km and 15.8km is located outside the project boundaries with the use of the FSR permitted under a road use permit issued by MFLNRO.

Inspection of the condition of the FSR outside the CRA is understood to have been inspected by MFLNRO Natural Resource Officers prior to the EAO inspection with no concerns raised. It is acknowledged that active use of the road during wet weather conditions resulted in impacts to the road surface integrity and existing ditch capacity. Monitoring inspections by ENKON coincided with the EAO observations and ENKON corroborated concerns and implemented adaptive recommendations.

Adaptive recommendations included formal prescriptions for ditch restoration or enhancement, installation of new or replacement culverts, construction of formal sumps to provided sediment control, and road surface augmentation/re-grading to raise driving surfaces and provide positive drainage during rain events.

Recommendations have been provided to the proponent to ensure that proactive measures to provide a stable road surface and drainage system are provided in advance of future construction activities as the road/drainage network poses the highest risk of sediment transfer to aquatic ecosystems vs. resort base/compound development.

2.3 Environmental Monitoring

Environmental monitoring inspections were conducted by ENKON staff on multiple occasions throughout the 2014 construction season. ENKON attendance onsite was; however, dictated by scheduling of key environmentally sensitive works associated with watercourse crossings.

Compliance with the CEMP requires regular site inspections during construction to support the timely development of adaptive ESC recommendations. In addition, monitoring following significant rain events (SREs) is required to assess the performance of existing ESC measures and identify potential areas of concern.

Future construction activities will require that regular environmental monitoring inspections be conducted over and above specific instream works. It is recommended that a local environmental monitor be retained to provide regular monitoring and response to SREs with supervision by ENKON of the EM activities, reporting, and prescriptions.

3 Summary & Closure

Upon completion of the 2014 construction activities, appropriate ESC measures had been implemented to satisfy ESC specific directions under the inspection summary section 'Actions Required by Proponent(s) & Additional Comments:

Based on observations made by C&E Parks during the course of this inspection, to bring the JGR Project back into compliance with EAC TD04-01 JGR must complete erosion and sediment control measures as identified in the verbal warning provided by C&E Parks on October 7, 2014 and the written warning provided by C&E Cousins on October 8th, 2014.

It is the assertion of ENKON that appropriate response to the EAO concerns pertaining to ESC measures was implemented by the proponent and contractors. Key concerns were addressed in a timely manner to mitigate adverse impacts to aquatic habitat and water quality values.

Future construction operations will require proactive assessment of ESC concerns and regularly scheduled environmental monitoring during construction. Proactive assessment of ESC concerns and implementation of measures should include a review of access road conditions and implementation of proactive measures to maintain the integrity of road surfaces, sediment controls, and drainage measures. Regular environmental monitoring inspections and capacity to respond to SRE's will be required in support of future construction activities.

If you have any further questions or comments, please do not hesitate to contact me.

Sincerely,



Ryan Preston, B.Sc, P.Ag, CPESC
Senior Environmental Specialist.

Relevant ESC Site Photographs



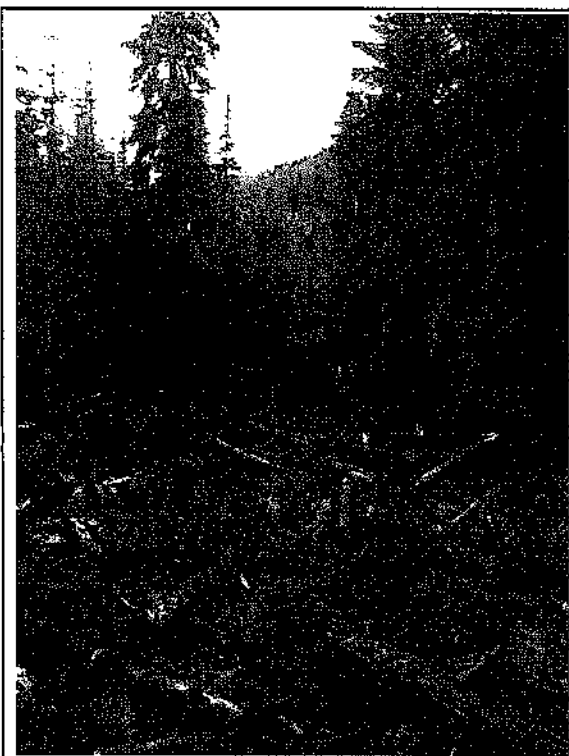
Photograph 1 – Service building compound exhibiting straw mulch and natural materials disturbed surface protection in addition to downslope silt fencing perimeter control.



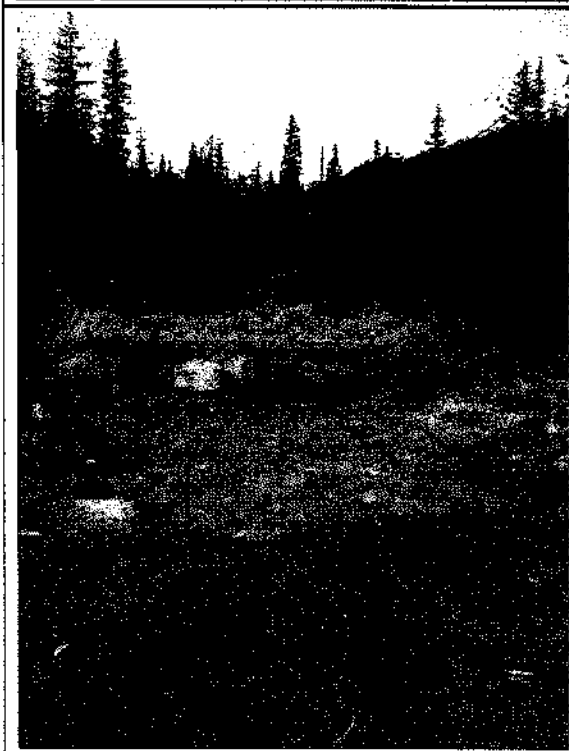
Photograph 2 – Daylodge compound exhibiting straw mulch and natural materials disturbed surface protection.



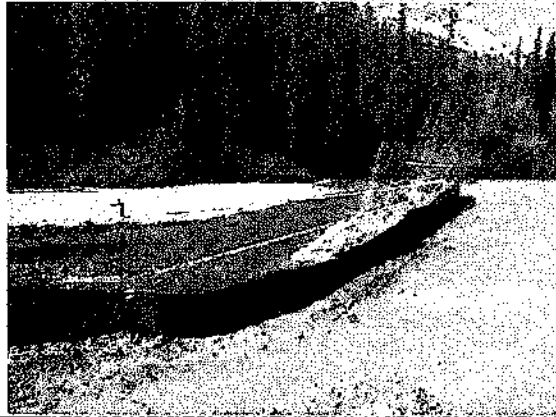

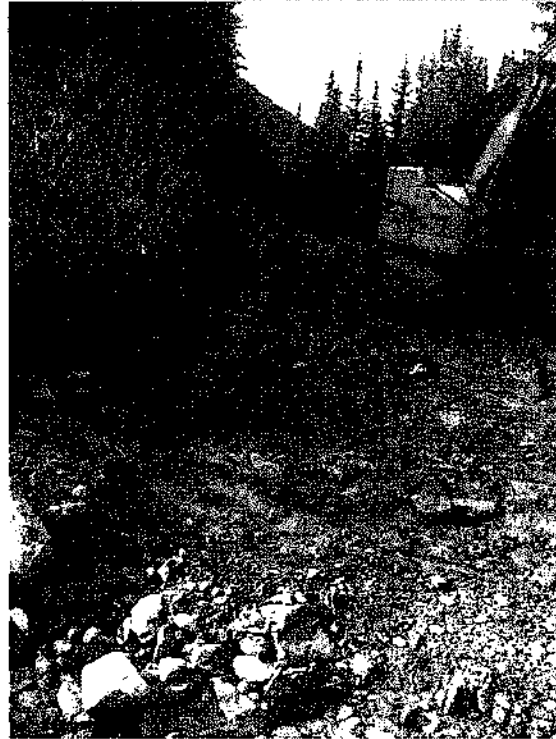
Photograph 3 – Daylodge compound exhibiting straw mulch and natural materials disturbed surface protection and perimeter control silt fencing.



Photograph 4 – Overwinter stabilization/decommissioning of construction access road connection between daylodge and Lift #1 base.



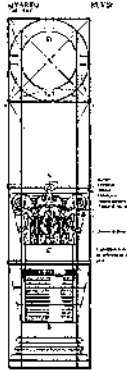
Photograph 5 – Interim stabilization of road approach at Karnak creek temporary bridge decommissioning. Disturbed surface protection applied to road surfaces in addition to interim water management measures (i.e. interceptor swale/cross ditching).

	<p>Photograph 6 – Implementation of road margin perimeter control at historical sawmill site and location of natural bank erosion.</p>
	<p>Photograph 7 – Disturbed surface protection and rehabilitation of historical ford access and temporary bridge crossing location at 15.8km, Jumbo Creek.</p>
	<p>Photograph 8 – Example ditch maintenance/restoration along FSR to address water management considerations.</p>

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February 25, 2015

Sent via e-mail

Mr. Drew Milne
Environmental Assessment Compliance Officer
BC Environmental Assessment Office
Victoria, BC

Re: Response to EAC# TD04-01

Dear Mr. Milne:

Thank you for providing a copy of the inspection record draft, received on January 26th. We are responding on behalf of Glacier Resorts Ltd as their prime consultants and project managers. Glacier will be happy to bring the project back in compliance with the requirements of EAC# TD04-01.

Condition #36:

- You have received previous correspondence and documentation showing that the service building and day lodge are located outside of available avalanche mapping and evidence on the ground (thick forest cover) indicate that avalanches have not reached the building sites in at least a generation. Further studies have been commissioned as part of the resort's snow safety plan and will be forwarded when received.

Condition #46:

- The area identified with absent sediment control measures (switch back located near the service building location) has been rectified and "decommissioned" with appropriate sediment control measures under the supervision of the environmental monitor. Additional road improvements are expected to take place at the beginning of the next construction window.



- Silt fencing: the deficiencies in installation were noted and rectified by the environmental monitor. Care will be taken to ensure proper installation of silt fences in the future.
- Vehicle cleanliness: contractors will be asked to deliver their construction equipment to the site in a clean condition, with hydraulic systems, fuel systems and lubricating systems in good repair. We must note, however, that it is our understanding that the construction equipment on site at the time of inspection had been there for a number of weeks, and it may have been difficult to assess whether or not the equipment arrived in a clean condition.
- Biodegradable hydraulic fluid: contractors will be asked to use the correct fluid in their equipment.
- Tree clearing: Glacier notes that needless clearing will be avoided in future, and will instruct the fallers of this condition prior to the recommencement of work, but it disputes

the fact that the vegetation at the north of the daylodge site was cleared prematurely as discussed in previous correspondence. We also acknowledge that had the trees been left in place, it would have made it easier to see that the site is in fact not in any recent avalanche runout zones.

Conditions #46 and #111:

- Food waste: instruction regarding securing food waste was given to contractors on site, however, the EAC's observations are noted and a more rigorous food/garbage control regime will be in place when construction recommences. A bear-resistant canister or toolbox may be placed in the bed of a pickup truck to store all food/waste on site. The truck and canister/toolbox will be removed at the end of the workday.

Conditions #46, #95 and #122:

- Grizzly bear management plan and worker education: the deficiencies in bear aware training are noted and worker training procedures will be revised prior to the commencement of construction. A hand-held device such as an iPad will be on-site to deliver the "staying safe in bear country" and "working in bear country" videos to individuals and work crews. It should be noted that all workers, including the individual who was interviewed, received the contractor manual that contained the grizzly bear management plan.

It is clear that elements of the construction environmental management plan and the contractor handbook were not adequately reviewed and implemented by the crews on site. A more effective method of conveying the EMP information to work crews will need to be devised when construction recommences and it is likely that this information will be delivered by a locally based environmental monitor.

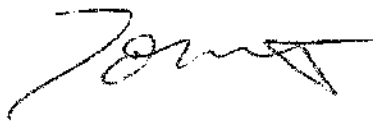
We have attached Mr. Preston's response to Mr. Parks' inspection, which summarizes some of the adaptive measures that were taken immediately after the issuance of the verbal and written orders regarding ESC. In future construction seasons, we will follow Enkon's recommendation that a local environmental monitor be retained under Enkon's supervision. This is not to say, however, that there was not a significant presence by Enkon at the resort site in the 2014 construction season. As of February 2015, Enkon has invoiced a total of **\$124,107.67** for the period beginning with the lead up to the 2014 construction season to October 2014, mostly for environmental monitoring.

We wish to emphasize that no limitations were given to Enkon Environmental. Enkon employed four people on site: s.22 We are disappointed that some aspects of monitoring were not covered, but because they were

commuting from Vancouver and Victoria, the fact that they were not present at the critical time when the weather made the road impassable and remedial action was needed was a regrettable accident. There are also on-going extenuating circumstances which have been described in previous correspondence which caused great delays and uncertainties for the project and severely impacted both the construction schedule and available construction crews. Glacier intends to respond promptly to any present and future noncompliance and is planning to complete the remedial actions described above as soon as construction can recommence.

With kind regards,

Pheidias Project Management Corporation



Per: Tommaso Oberti,
Vice-President

Cc: Oberto Oberti
Autumn Cousins
Grant Costello
Psyche Brown
Ralf Schwiede
Arnold Armstrong

Encl.

TO/of