



September 19, 2014

**File: 1003028**

**Marion Creek Hydro Inc**  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5

**Dear Sir or Madam:**

**Re: Water Licence Application WLA20140618-0002**

The investigation of the above application has been completed. Enclosed is a copy of your Conditional Water Licence C131795.

Please read the documents carefully. Any error(s) in these documents should be brought to the attention of this office as soon as possible.

Please note the requirement for an instream flow release of 5% of MAD from both Marionette and Marion 3 Creeks is to remain unchanged with the issuance of this new conditional licence.

The new conditional water licence C131795 is being issued as a supplemental licence to the original licence C115705 to bring the total diversion of the project to 1.4 cubic metres per second.

Please be advised that this supplemental licence C131795 has a 40 year licence term imposed as per Section 12.2(2) of the *Water Act*.

Please note the following:

- 1) Water licences do not authorize entry on privately owned land for the construction of works, or flooding. Permission of the affected landowner must be obtained or an easement expropriated. For your protection, permission should be in writing and registered with the appropriate Land Title Office.
- 2) Permission for installing works on lands or roadways which are under the jurisdiction of any government agency, must be obtained from the agency concerned.



Please contact FrontCounter BC to assist you with notifications and any applications required if:

- a) there is any change in your mailing address;
- b) you sell the land to which the licence is appurtenant;
- c) you propose to subdivide the land to which the licence is appurtenant; or
- d) you propose to alter the works authorized under the licence.

In order for you to keep your water licence in good standing, the following must be observed:

- a) continued beneficial use of water, as authorized under your licence;
- b) payment of annual rentals;
- c) compliance with the terms of your licence; and
- d) compliance with the terms of the *Water Act*.

The *Water Act* gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board Website at:

<http://www.eab.gov.bc.ca/>. A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., V8W 9V1 or personally delivered to the office of the Board at 4th Floor, 747 Fort Street in Victoria, BC V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance.

If you have any questions or concerns, please contact Dave Skarbo, Water Stewardship Officer at 250 751-7311.

Yours truly,



Darryl Slater  
Assistant Regional Water Manager

Enclosure(s)

cc: David Bean, EDI Environmental Dynamics Inc.  
208A - 2520 Bowen Road, Nanaimo, BC, V9T 3L3





# Province of British Columbia

## Water Act

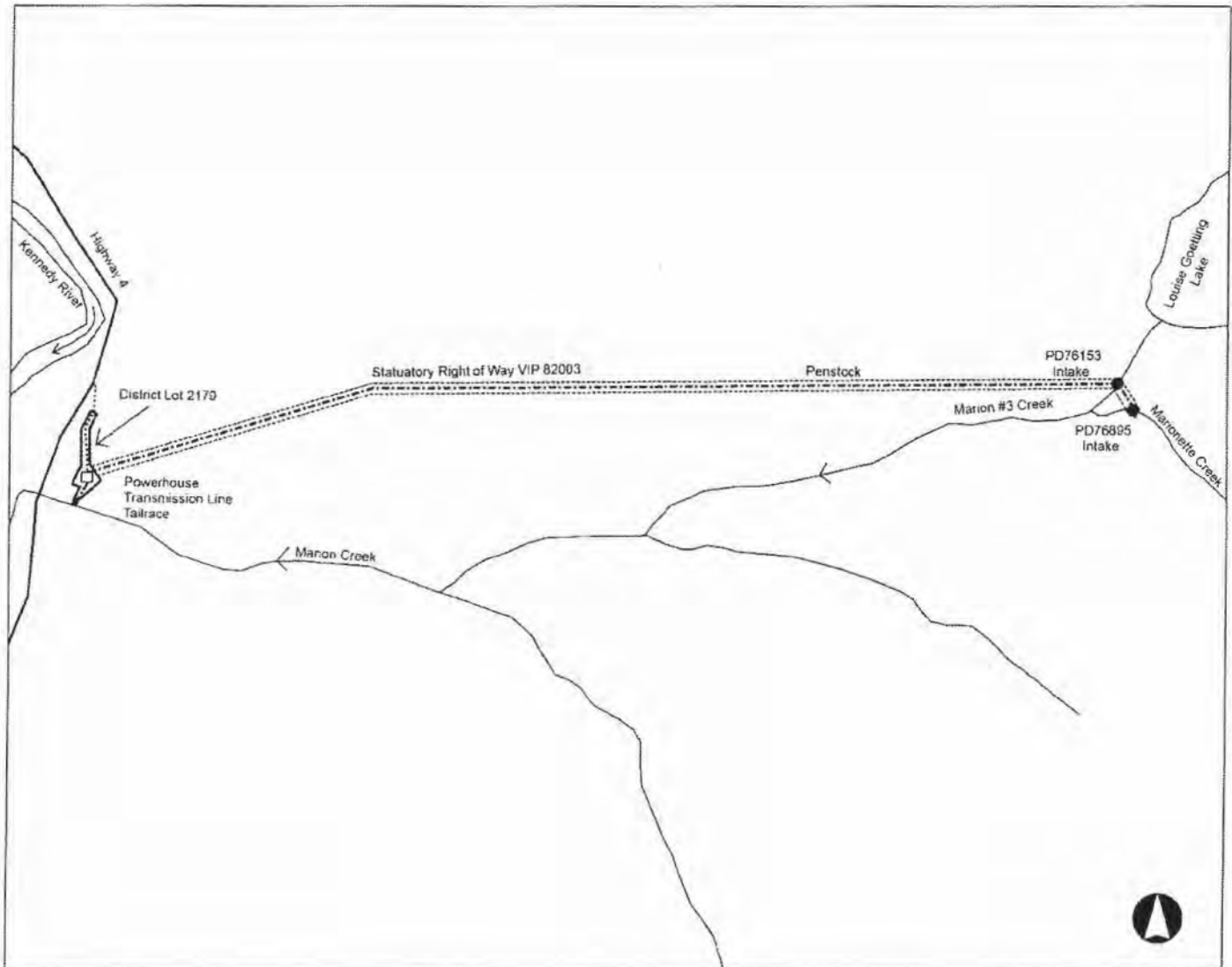
### CONDITIONAL WATER LICENCE

The holder of a lease held under Lands File No. 1409836 for the land to which this licence is appurtenant, is hereby authorized to divert and use water as follows:

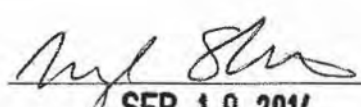
- a) The streams on which the rights are granted are Marionette Creek and Marion #3 Creek.
- b) The points of diversion denoted as PD76153 and PD76895 are located as shown on the attached plan.
- c) The date from which this licence shall have precedence is March 18, 2014.
- d) The purpose for which this licence is issued is power (general).
- e) The maximum quantity of water which may be diverted for power (general) purpose is 0.4 cubic metres per second.
- f) The period of the year during which the water may be used is the whole year.
- g) The land upon which the water is to be used and to which the licence is appurtenant is the land on which the powerhouse is situated, described as District Lot 2179, Clayoquot District held under Lands File No. 1409836.
- h) The authorized works are weirs, penstocks, intakes, powerhouse, tailrace and transmission line which shall be located approximately as shown on the attached plan.
- i) The construction of the said works has been completed and the water is being used. The licensee shall continue to make regular beneficial use of the water in a manner authorized herein.
- j) This licence is supplementary to Conditional Water Licence C115705 and the maximum quantity of water which may be diverted under this licence is the quantity which together with the quantity available under C131795 will provide a total of 1.4 cubic metres per second.
- k) The licensee is required to release a minimum in-stream flow rate of 5% of the mean annual discharge of each Marionette Creek and Marion #3 Creek.
- l) The term of this licence is forty (40) years from the date of issuance of this licence.
- m) This licence will remain valid only for so long as a valid tenure exists for the land described in clause (g) herein, or the licensee acquires ownership of the land.

Darryl Slater  
Assistant Regional Water Manager







WATER DISTRICT: Alberni  
 PRECINCT: Alberni  
 LAND DISTRICT: Clayoquot

Signature:   
 Date: **SEP 19 2014**

LEGEND:

Scale: 1: 17,500  
 Point of Division:   
 Map Number: 92F.024  
 Pipe: - . - . - .

C.L. C131795  
 File 1003028  
 P.C.L. Not Applicable

The boundaries of the land to which this licence  
 is appurtenant are shown thus: 



Job No: WLA20140618-0002      Job Type: WATER LICENCE APPLICATION

Created By: D Slater  
Created: Sep-19-2014

## EXECUTIVE SUMMARY

DECISION DUE DATE: Aug-05-2014

### 1. SUMMARY REMARKS

This water application has been made by Marion Creek Hydro Inc. for 0.4m<sup>3</sup>/sec in addition to the current water licence C115705 for 1.0m<sup>3</sup>/sec and was made in response to the need to bring the Marion Creek Hydropower Project into compliance based on the actual diversion of water that is taking place during operation.

Since the project was constructed and commissioned for operation in 2005 it has been found that the configuration and type of equipment is actually using up to 0.4m<sup>3</sup>/sec more than what is currently licenced in order to operate at its maximum potential. The IFR for the diversion reaches are currently set at 5% of MAD which was stipulated in a DFO letter of advice during the projects licencing of C115705 which equates to 0.007m<sup>3</sup>/sec for Marionette Creek and 0.019m<sup>3</sup>/sec from Marion 3 Creek for a total combined IFR of 0.026m<sup>3</sup>/sec. This in-stream release will not be affected and will remain unchanged by the issuance of the new licence as the additional volumes of water being applied for are available during high flow events. There is no fish presence within the diversion reach therefore the IFR of 5% MAD is to retain habitat for macroinvertebrate production within this reach.

The Marion Creek Hydro Project is located within the Tla-o-qui-aht First Nation traditional territory and Marion Creek Hydro Inc. has received a letter of support for the project and its need for an additional water licence. The first nation understands that there is no planned changes of the projects facilities and therefore no change to the environmental effects of the project.

There is one downstream licensee from the project on the Kennedy river which is held by DFO. The proponent has notified this licensee and there has been no response to this notification to date. The issuance of an additional water licence of a non consumptive nature on this project will have no effect on flows in relation to this downstream licence.

I recommend to grant a new conditional water licence C131795 for 0.4m<sup>3</sup>/sec for a power (general) purpose.

### 2. APPLICATION INFORMATION

FILE NO:	1003028	REGION:	1 - Vancouver Island	QUICK LICENCE:	No
PRIORITY DATE:	Mar-18-2014	DISTRICT:	01 - Alberni	PRECINCT:	Alberni

### 3. RECOMMENDATIONS

It is recommended that the Application be Granted.

- It is recommended that the following Licence(s) be issued, as per Section D of this report:

LICENCE NO:	C131795	LICENCE STATUS:	Current
LICENCE HOLDER NAME:	Marion Creek Hydro Inc		
FILE NO:	1003028	PRIORITY DATE:	Mar-18-2014

- It is recommended that amendments be initiated for 1 Licence as per Section B.10 of this report

Prepared by:

Date: SEPTEMBER 17, 2014



David Skarbo  
Water Stewardship Technician



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

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TECHNICAL REPORT

Created By: D Slater  
Created: Sep-19-2014

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

Endorsed by:

Date: SEPTEMBER 19, 2014



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Darryl Slater RPF  
Assistant Regional Water Manager



TECHNICAL REPORT

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

Created By: D Slater  
Created: Sep-19-2014

A. BASIC APPLICANT INFORMATION

APPLICANT NAME: Marion Creek Hydro Inc (67611)  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5

CLIENT NO.: 67611  
Home Phone:  
Work Phone:  
Fax:  
Other Phone:

Email Address:

CERTIFICATE(S) OF TITLE NO. FB139238

FILE NO: 1003028 REGION: 1 - Vancouver Island

QUICK LICENCE: No

PRIORITY DATE: Mar-18-2014 DISTRICT: 01 - Alberni

PRECINCT: Alberni  
PHONE NO. (250) 751-9070

APPLICATION CONTACT NAME: David Bean, EDI Environmental Dynamics

STREAM NAME(S):

Marion 3 Creek

Tributary To: Marion Creek

Marionette Creek

Tributary To: Marion 3 Creek

APPURTENANCY:

Powerhouse Site located on District Lot 2179, Clayoquot District as held under Crown land File 1409836

PID & LTO CODES:

027-365-841 I

WORKS:

Weir  
Penstock  
Powerhouse  
Penstock  
Weir

WORKS STATUS:

Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed

PURPOSE/USES:

Sector: MWP - Major Waterpower Production

Purpose/Use: 07C - Power-General

Quantity Units  
.4 m3/sec

Term Start Term End  
January 1 December 31

POINT(S) OF DIVERSION:

POD  
PD76153

Point of Re-Diversion  
NO

Water Rights Map  
92F/SW-E(6-c)

Stream Name: Marion 3 Creek

Watershed Code/Name  
Vancouver Island (West) Rivers

POD Comments:

POD  
PD76895

Point of Re-Diversion  
NO

Water Rights Map  
92F/SW-E(6-c)



Job No: WLA20140618-0002      Job Type: WATER LICENCE APPLICATION

Created By: D Slater  
Created: Sep-19-2014

Stream Name: Marionette Creek  
Watershed Code/Name: Vancouver Island (West) Rivers

POD Comments:

## B. ADMINISTRATIVE DETAILS

### 1. GENERAL COMMENTS

Application for an additional 0.4m<sup>3</sup>/sec from Marion 3 and Marionette Creeks to bring the Marion Creek Hydropower Project into compliance with the actual diversion of water during operation of the project.

### 2. SOURCE AND POD COMMENTS

There are 2 sources for this project, Marionette Creek (PD76895) is a small tributary to Marion 3 Creek that has an intake and penstock that rediverts water to the main intake on Marion 3 Creek (PD76153).

### 3. WATER RESERVES (Not Applicable)

### 4. WATER ALLOCATION RESTRICTION(S) (Not Applicable)

### 5. APPURTENANT LAND RELATED ISSUES

OTHER LICENCES ON APPURTENANT LAND:  
C115705

OTHER APPLICATIONS ON APPURTENANT LAND: (Not Applicable)

APPURTENANT LAND WITHIN MUNICIPALITY, IMPROVEMENT DISTRICT OR IRRIGATION DISTRICT:  
Regional District of Alberni-Clayoquot

#### COMMENTS BY REPORT WRITER:

This new licence C131795 will be appurtenant to the current Crown Land tenure on which the powerhouse is located.

### 6. PERMIT OVER CROWN LAND (Not Applicable)

COMMENTS BY REPORT WRITER

### 7. REFERRALS

#### COMMENTS BY REPORT WRITER

FLNRO ecosystems - No objection to the application as long as the 5% of MAD from each stream is maintained.

FLNRO crown lands - No response (current land tenure held in good standing).

Alberni Clayoquot Regional District - No response

### 8. NOTIFICATIONS/OBJECTIONS

Notification sent to DFO that holds a downstream licence.

#### 8a. DOWNSTREAM LICENSEES

CLIENT NO.	CLIENT NAME
14120	Fisheries & Oceans Canada

CORRESPONDENCE RECEIVED DATE	OBJECTION
	No

#### COMMENTS BY REPORT WRITER

DFO holds a downstream licence C111199 in file# 1001933 for a habitat enhancement project on Kennedy River. It has been suggested that it is possible that this project is no longer in operation and the works have been removed however at this time it has not been confirmed. s.16

Since the project is of a non-consumptive power licence and due to its distance from the downstream licence there is expected to be no effects of this additional licence application on this downstream licence if still in operation.



TECHNICAL REPORT

Created By: D Slater

Created: Sep-19-2014

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

8b. JOINT WORKS (Not Applicable)

8c. OTHER LANDS PHYSICALLY AFFECTED BY WORKS

COMMENTS BY REPORT WRITER

The powerhouse site is now a surveyed crown land lease described as District Lot 2179, Clayoquot District. The penstock and intake sites are on a surveyed statutory right of way in VIP 82003.

9. OTHER CONCERNED PARTIES (Not Applicable)

10. WATER LICENCES REQUIRING AMENDMENT

C115705

COMMENTS BY REPORT WRITER

The appurtenancy for licence C115705 has been found to be requiring updating, but rather than doing a full licence amendment the appurtenancy will be updated through an Order to be attached to that licence.

## C. TECHNICAL INFORMATION

1. WATERSHED CHARACTERISTICS

COMMENTS BY REPORT WRITER

Detailed watershed characteristics can be found in the development plan from the C115705 application in file # 1002091.

2. WATER BALANCE

2a. SUMMARY OF LICENCED DEMAND

Licence/Application	Domestic (m3/d)	Other (m3/d)	Irrigation* (m3/y)*	Other (m3/y)	Other (m3/s)	Storage (m3/y)	Daily Seasonal Demand in m3/s
Existing rights	0.000	0.000	0.000	0.000	1.00000	0.000	0.00000
This Application	0.000	0.000	0.000	0.000	0.40000	0.000	0.00000
Totals	0.000	0.000	0.000	0.000	1.40000	0.000	0.00000

\*Irrigation Q based on day period unless otherwise indicated.

COMMENTS BY REPORT WRITER

2b. SUMMARY OF MISCELLANEOUS FLOW RECORDS

COMMENTS BY REPORT WRITER

2c. ADDITIONAL HYDROLOGIC INFORMATION

Water Allocation Plan Name: Alberni Inlet WAP

COMMENTS BY REPORT WRITER

3. PURPOSE AND QUANTITY JUSTIFICATION

COMMENTS BY REPORT WRITER

The purpose is power (general) and the quantity is 0.4m3/sec which will be in addition to the current licenced amount of 1.0m3/sec in C115705.



TECHNICAL REPORT

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

**4. DESCRIPTION OF WORKS TO BE AUTHORIZED**

**WORKS:**

Weir  
Penstock  
Powerhouse  
Penstock  
Weir

**WORKS STATUS:**

Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed

**COMMENTS BY REPORT WRITER**

There is no planned changes in the configuration or operation of the project.

In the original licence C115705 there is no mention of the weirs that are part of the works for the project, however this will be corrected in clause (h) as part of the Order required to update this licence. The weirs will be included in the works on this new licence C131795.

**5. WATER USERS' COMMUNITY (Not Applicable)**

**6. PUBLIC HEALTH ISSUES (Not Applicable)**

**7. ENVIRONMENTAL CONSIDERATIONS**

**COMMENTS BY REPORT WRITER**

The IFR of 5% of MAD as stipulated in the DFO letter of advice within the application for the conditional water licence C115705 will be maintained and stated in this licence.

**8. JUSTIFICATION FOR SPECIAL ADVICE ON COVER LETTER**

**COMMENTS BY REPORT WRITER**

State that the IFR level of 5% of MAD will be maintained in light of the issuance of this additional licence.  
This licence is supplemental to C115705 however this new licence has a 40 year licence term imposed.

**9. JUSTIFICATION FOR SPECIAL CLAUSES FOR LICENCE**

**COMMENTS BY REPORT WRITER**

IFR clause  
This licence is supplemental to C115705.  
40 year term clause.

**10. SITE INSPECTION**

**COMMENTS BY REPORT WRITER**

No site inspection made.

**11. TECHNICAL DRAWING**

**COMMENTS BY REPORT WRITER**

**12. FIRST NATIONS INFORMATION**

**COMMENTS BY REPORT WRITER**

The Tla-o-qui-aht First Nation have provided a letter of support for this additional licence as this project lies within their traditional territory. FLNRO feels that no further consultation is required and has been stated in a letter dated June 27, 2014.



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

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Created By: D Slater  
Created: Sep-19-2014

TECHNICAL REPORT

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

D. LICENCE(S)

1. LICENCE NO: C131795

CONDITIONAL/FINAL: Conditional

1a. LICENCE DETAILS

LICENCE STATUS: Current

FILE NO: 1003028 REGION: 1 - Vancouver Island

LICENCE EXEMPT: No

PRIORITY DATE: Mar-18-2014 DISTRICT: 01 - Alberni

PRECINCT: Alberni

STREAM NAME(S): Marion 3 Creek, Marionette Creek

APPURTENANCY:

Powerhouse Site located on District Lot 2179, Clayoquot District as held under Crown land File 1409836

LICENCE HOLDER - BILLED CLIENT:

LICENSEE NAME: Marion Creek Hydro Inc  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5

CLIENT NO. s.17  
Home Phone  
Work Phone:  
Fax:  
Other Phone:

Email Address:

CLIENT EXEMPT: No

LICENCE HOLDER - OTHER: (SAME AS BILLED CLIENT)

LICENCE DOCUMENTS ARE TO BE SENT TO: (SAME AS BILLED CLIENT)

PID & LTO CODES:

027-365-841 I

WORKS:

Weir  
Penstock  
Powerhouse  
Penstock  
Weir  
Intake  
Intake  
Tailrace  
Transmission Line

WORKS STATUS:

Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed  
Fully Constructed

PURPOSE/USES:

Sector: MWP - Major Waterpower Production

Purpose/Use: 07C - Power-General

Quantity Units

.4 m3/sec

Term Start

January 1

Term End

December 31



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

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Created By: D Slater  
Created: Sep-19-2014

TECHNICAL REPORT

Job No: WLA20140618-0002

Job Type: WATER LICENCE APPLICATION

POINTS OF DIVERSION:

Point Code	Point of Re-diversion	Water Rights Map
PD76153	No	92F/SW-E(6-c)

Stream Name: Marion 3 Creek

Purpose/Use	Quantity	Units	Quantity Flag	Storage Flag
07C - Power-General	.4	m3/sec	M	N

Point Code	Point of Re-diversion	Water Rights Map
PD76895	No	92F/SW-E(6-c)

Stream Name: Marionette Creek

Purpose/Use	Quantity	Units	Quantity Flag	Storage Flag
07C - Power-General	.4	m3/sec	M	N

E. PERMIT(S) OVER CROWN LAND (Not Applicable)

\*\*\*\*\*END OF REPORT\*\*\*\*\*



**LAND TITLE ACT**  
**FORM C**  
**(Section 233)**

-4 FEB 2009 14 03

FB0142763

Province of  
 British Columbia

**GENERAL INSTRUMENT - PART 1**

Page 1 of 18

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent) 29663-001 PGS/rds  
 Clay & Company, Barristers & Solicitors  
 837 Burdett Avenue, Victoria, BC  
 V8W 1B3  
 (Signature of Applicant or Authorized Agent) **BURNS SERVICES** Ph: 250-386-2261

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: \*  
 (PID) (LEGAL DESCRIPTION)

~~NO PID~~ 027-365-841

SEE SCHEDULE

3. NATURE OF INTEREST: \*

Description	Document Reference (Page and paragraph)	Person Entitled to Interest
Industrial Lease for Powerhouse, Access Road, Powerline and Trailrace	Page 6 Paragraph 2.1	Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

- |                                 |                                     |                                       |
|---------------------------------|-------------------------------------|---------------------------------------|
| (a) Filed Standard Charge Terms | <input type="checkbox"/>            | D.F. No.                              |
| (b) Express Charge Terms        | <input checked="" type="checkbox"/> | Annexed as Part 2                     |
| (c) Release                     | <input type="checkbox"/>            | There is no Part 2 of this instrument |

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): \*

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA** as represented  
 by the Minister of Agriculture and Lands, Parliament Buildings, Victoria, British Columbia V8V 1X5

6. TRANSFEREE(S): (Including postal address(es) and postal code(s)) \*

MARION CREEK HYDRO INC. 777 Douglas St Victoria, BC V8W 2B5

GM 08/02/11 11:25:44 01 VI  
 DEFECT / WITHDR

792260  
 \$30.00

7. ADDITIONAL OR MODIFIED TERMS: \*

N/A

BG 08/02/04 14:04:21 01 VI  
 CHARGE

791547  
 \$65.65

8. EXECUTION(S): \*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

*Barbara Biss*

Barbara Biss  
 Suite 142 - 2080 Labieux Road  
 Nanaimo, BC V9T 6J9  
 A Commissioner for taking affidavits in the  
 Province of British Columbia

Execution Date

Y	M	D
08	01	18

Party(ies) Signature(s)

*Gary Morley*

Gary Morley  
 A/Senior Portfolio Administrator  
 HER MAJESTY THE QUEEN IN RIGHT OF  
 THE PROVINCE OF BRITISH COLUMBIA,  
 by its authorized representative

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.



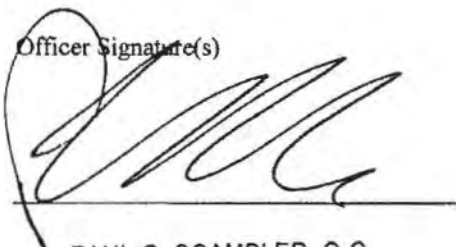
**LAND TITLE ACT  
FORM D**

Province of  
British Columbia

**EXECUTIONS CONTINUED**

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Officer Signature(s)



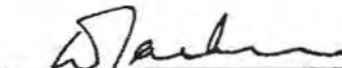
PAUL G. SCAMBLER, Q.C.  
BARRISTER & SOLICITOR  
837 Burdett Avenue  
Victoria BC V8W 1B3

Execution Date

Y	M	D
08	01	25

Party(ies) Signature(s)

SIGNED on behalf of  
**MARION CREEK HYDRO INC.**  
by a duly authorized signatory



Authorized Signatory

EDWIN DERRICK JACKSON

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.



*Land Title Act*  
**FORM E**

Province of  
British Columbia  
**SCHEDULE**

Page 3 of 18

Enter the required information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

Parcel Identifier

Legal Description

~~No PID~~ 027-365-841

**District Lot 2179, Clayoquot District**



For Land Title Office use: Page 4 of 18

Lease No.:

112822

File No.: 1409836

Disposition No.: 869092

**TERMS OF INSTRUMENT - Part 2**

For valuable consideration, the parties agree as follows:

**ARTICLE 1 - INTERPRETATION****1.1 In this Agreement**

**"Agreement"** means this General Instrument;

**"Commencement Date"** means October 1, 2007;

**"disposition"** has the meaning given to it in the *Land Act* and includes a licence of occupation;

**"Improvements"** includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

**"Land"** means the land described in item 2 of Part 1 of this General Instrument;

**"Realty Taxes"** means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

**"Rent"** means the rent set out in Article 3;

**"Security"** means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

**"Term"** means the period of time set out in section 2.2;

**"we", "us" or "our"** refers to the Transferor alone and never refers to the combination of the Transferor and the Transferee: that combination is referred to as **"the parties"**; and

**"you" or "your"** refers to the Transferee.

**1.2 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or**

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**STANDARD LEASE REGISTRABLE**



For Land Title Office use: Page 5 of 18

Lease No.:

File No.: 1409836

Disposition No.: 869092

feminine or neuter form, as the case may be, and vice versa where the context or parties require.

- 1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.

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Disposition No.: 869092

- 1.13 Where this Agreement contains the forms of words contained in Column I of Schedule 4 of the *Land Transfer Form Act*, those words will have the same effect and be construed as if the appropriate forms of words contained in Column II of that Schedule were contained in this Agreement, unless the context requires another construction of those words.

## ARTICLE 2 - GRANT AND TERM

- 2.1 On the terms and conditions set out in this Agreement, we grant you a lease of the Land for powerhouse, access road, powerline and trailrace purposes.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the 30th anniversary of that date, or such earlier date provided for in this Agreement.
- 2.3 After the 15<sup>th</sup> anniversary of the Commencement Date, you can apply to us for a replacement of this Agreement and, if we consider it appropriate, we will offer another lease to you for a term of up to 30 years on the terms and conditions set out in our offer to you.

## ARTICLE 3 - RENT

- 3.1 You will pay to us
- (a) for the first year of the Term, Rent of \$2,800.00, payable in advance on the Commencement Date; and
  - (b) for each year during the remainder of the Term, the Rent either determined by us under section 3.2 or established under section 3.3, payable in advance on each anniversary of the Commencement Date.
- 3.2 We will, not later than 15 days before each anniversary of the Commencement Date during the Term, give written notice to you specifying in our sole discretion the Rent payable by you under subsection 3.1(b) for the subsequent year of the Term and we will establish such Rent in accordance with our policies applicable to your use of the Land under this Agreement.
- 3.3 If we do not give notice to you under section 3.2, the Rent payable by you under subsection 3.1(b) for the year for which notice was not given will be the same as the Rent payable by you for the preceding year of the Term.

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**ARTICLE 4 - COVENANTS****4.1 You must**

- (a) pay, when due,
  - (i) the Rent to us at the address set out in Article 10,
  - (ii) the Realty Taxes, and
  - (iii) all charges for electricity, gas, water and other utilities supplied to the Land;
- (b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
- (c) observe, abide by and comply with
  - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or Improvements, and
  - (ii) the provisions of this Agreement;
- (d) in respect of the use of the Land by you or by anyone you permit to use the Land, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, rectify any failure to comply with such a covenant by making the Land and the Improvements safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Land;
- (f) use and occupy the Land only in accordance with and for the purposes set out in section 2.1;
- (g) not construct, place or affix any Improvement on or to the Land except as necessary for the purposes set out in section 2.1;
- (h) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Land except for money that you are required to hold back under the *Builders Lien Act*;

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- (i) if any claim of lien over the Land is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not cut or remove timber on or from the Land without
  - (i) our prior written consent, and
  - (ii) being granted the right under the *Forest Act* to harvest Crown timber on the Land;
- (k) dispose of raw sewage and refuse only in accordance with the requirements and regulations of appropriate federal and provincial agencies;
- (l) store bulk hazardous petroleum products and other toxic substances in accordance with the provisions of the *Environmental Management Act*;
- (m) not use construction materials containing toxic substances;
- (n) not alter, repair or add to any Improvement without our prior written consent;
- (o) agree to develop the land in a diligent and workmanlike manner in accordance with the management plan held on file in this office;
- (p) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements, provided that in regard to our inspection of the Improvements we take reasonable steps to minimize any disruption to your operations;
- (q) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of
  - (i) your breach, violation or nonperformance of a provision of this Agreement, and
  - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

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and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

- (r) on the termination of this Agreement,
- (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii) and (iii), the Improvements in a safe, clean and sanitary condition,
  - (ii) within 90 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building (other than as a tenant's fixture) or part of the Land,
  - (iii) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and
  - (iv) restore the surface of the Land as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will cease and vest in us, and to the extent necessary, this covenant will survive the termination of this Agreement.

4.2 You will not permit any person to do anything you are restricted from doing under this Article.

4.3 We will provide you with quiet enjoyment of the Land.

#### ARTICLE 5 - LIMITATIONS

5.1 You agree with us that

- (a) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads;
- (b) this Agreement is subject to

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- (i) all subsisting dispositions and subsisting grants to or rights of any person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Wildlife Act or Water Act*, or any extension or renewal of the same, whether or not you have actual notice of them, and
- (ii) the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
- (c) without limiting subsection 4.1(q), you must indemnify and save us and our servants, employees and agents harmless from and against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right of any person made or acquired under the *Coal Act, Forest Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act, Wildlife Act or Water Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect), or any extension or renewal of the same, whether or not you have actual notice of them, and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand;
- (d) you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us arising out of any conflict between your rights under this Agreement and the rights of any person under a disposition or under a subsisting grant to or right made or acquired under the enactments referred to in subsection (c), and you acknowledge that this Agreement and your rights under this Agreement are subject to those grants and rights referred to in subsection (c) whether or not you have actual notice of them.
- (e) with your prior consent, which consent you will not unreasonably withhold, we may make other dispositions of or over the Land, or any part of it, to a person, including a Crown agency or ministry, and, upon such consent being given you will, if required by us in the case of a disposition by way of easement, right of way or statutory right of way, immediately execute and deliver to us such instrument as may be necessary to subordinate your rights under this Agreement to such easement, right of way or statutory right of way;
- (f) for the purpose of subsection (e), you will be deemed to have reasonably withheld your consent if a disposition made under that subsection would materially affect the exercise of your rights under this Agreement;
- (g) you will make no claim for compensation, in damages or otherwise, in respect of a

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disposition made under subsection (c), where such disposition does not materially affect the exercise of your rights under this Agreement;

- (h) subject to subsection (g), all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles reserved to us in subsections (b) and (e) will be borne solely by you;
- (i) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any lawful interference with your rights under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (b) and (e);
- (j) any interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (b) and (e) will not constitute a breach of our covenant of quiet enjoyment and you release and discharge us from all claims for loss or damage arising directly or indirectly out of any such interference;
- (k) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;
- (l) any interest you may have in the Improvements ceases to exist and becomes our property upon termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(r)(ii) or (iii) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(r)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(r)(iii); and
- (m) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

#### ARTICLE 6 - SECURITY AND INSURANCE

- 6.1 On the Commencement Date, you will deliver to us security in the amount of \$10,000.00 which will

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- (a) guarantee the performance of your obligations under this Agreement;
  - (b) be in the form required by us; and
  - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.
- 6.3 We may use the Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Agreement that are not performed by you and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.
- 6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.
- 6.5 You acknowledge that we may, from time to time, notify you to
- (a) change the form or amount of the Security; and
  - (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;
- and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.
- 6.6 You must
- (a) without limiting your obligations or liabilities under this Agreement, at your expense, effect and keep in force during the Term Comprehensive/Commercial General Liability insurance protecting us as an additional insured in an amount of not less than \$1,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) or property damage, and claims for liability assumed under contract, arising from all accidents or occurrences on the Land or the Improvements;

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- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is
  - (i) placed with insurers licensed in British Columbia,
  - (ii) primary and does not require the sharing of any loss by any insurer that insures us, and
  - (iii) endorsed to provide us with 30 days' advance written notice of cancellation or material change; and
- (d) deliver or cause to be delivered to us, immediately upon demand, certified copies of all policies of insurance required to be maintained by you under this Agreement.

6.7 You acknowledge that we may, from time to time, notify you to

- (a) change the amount of insurance set out in subsection 6.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

#### ARTICLE 7 - ASSIGNMENT

- 7.1 You must not sublease, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.
- 7.2 For the purpose of section 7.1, if you are a corporation, a change in control (as that term is defined in subsection 2(3) of the *Business Corporations Act*) will be deemed to be a transfer of this Agreement.
- 7.3 Section 7.2 does not apply to a corporation if the shares of the corporation which carry votes for the election of the directors of the corporation trade on a stock exchange located in Canada.

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- 7.4 Prior to considering a request for our consent under section 7.1, we may require you to meet certain conditions, including without limitation, that you submit to us a "site profile", "preliminary site investigation" or "detailed site investigation" (as those terms are defined in the *Environmental Management Act*) for the Land or other similar type of investigation of the Land.

#### ARTICLE 8 - TERMINATION

8.1 You agree with us that

- (a) if you
  - (i) default in the payment of any money payable by you under this Agreement, or
  - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 60 days after we give written notice of the default or failure to you,
- (b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;
- (c) if you
  - (i) become insolvent or make an assignment for the general benefit of your creditors,
  - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
  - (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
  - (i) a receiver or receiver-manager is appointed to administer or carry on your

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business, or

- (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent; or
- (f) if this Agreement is taken in execution or attachment by any person;

this Agreement will, at our option and with or without entry, terminate, and all of your right, interest and estate in the Land will be absolutely forfeited to us.

- 8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

- 8.3 You agree with us that

- (a) you will make no claim for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
- (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

#### ARTICLE 9 - DISPUTE RESOLUTION

- 9.1 If any dispute arises under this Agreement, the parties will make all reasonable efforts to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.
- 9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.

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- 9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Nanaimo, British Columbia, and if we or our authorized representative have no office in Nanaimo, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Nanaimo, British Columbia.
- 9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.

#### ARTICLE 10 - NOTICE

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

MINISTRY OF AGRICULTURE AND LANDS  
Suite 142 - 2080 Labieux Road  
Nanaimo, BC V9T 6J9;

to you

MARION CREEK HYDRO INC.  
777 Douglas St  
Victoria, BC V8W 2B5;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

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**ARTICLE 11 - MISCELLANEOUS**

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublease, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublease, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
  - (b) you diligently attempt to remove the delay.
- 11.6 You agree with us that
- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with

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your use of the Land and the Improvements for the purposes set out in this Agreement;  
and

- (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

- 11.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

**END OF DOCUMENT**

STANDARD LEASE REGISTRABLE





## Response Roll-up Report

FrontCounterBC

Referral Type: Water Licence  
Reference Number: Forests, Lands and Natural Resource Operations / 1003028  
Legislated Only: No  
Referral Number: 71093966  
Referral Status: In Summary

### Recommendations

Request	Other	
1	0	Based on criteria noted in this request, do you have any proposed names for the source? Please explain background and origin.

### Requests

Organization: Ministry of Forests Lands and Natural Resource Operations - ESD/WASTE/WATER - Nanaimo Service Cnt  
Request Number: 001  
Respondent: Grant Bracher, Ecosystems Biologist (ESD)  
Legislated: No  
Closed By: Christina Frank  
Referral Level: Optional  
Recommendation: Based on criteria noted in this request, do you have any proposed names for the source? Please explain background and origin.

Yes	No	N/A	Question
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of a current local name, used and recognized by the majority of area residents? If yes, what is the name?
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of a secondary local name, used, or recognized by a few area residents? If yes, what is the name?
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of a traditional name once used by area First Nations? If yes, what is the name?
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of a name of historic significance which has fallen into disuse? If yes, what is the name?

#### Explanation of Response

#### Attachments Exist

No Name suggested.

Please see the attached Response Letter





July 8, 2014

Water File: 1003028  
BCE File: 76940-30/ES  
Referral: 102051

Dave Skarbo  
Water Stewardship Technician  
Ministry of Forests, Lands and  
Natural Resource Operations  
2080A Labieux Road  
Nanaimo BC V9T 6J9

Dear Dave Skarbo:

Re: Marion Creek Hydro Inc., Replacement Water Licence to Allow Diversion of  
1.4 m<sup>3</sup>/s from Marion 3 and Marionette Creeks for Electrical Power Generation,  
Clayoquot District

---

FrontCounterBC forwarded your application to us for review. Marion Creek Hydro Incorporated currently has a Water Licence (C115705) allowing for the withdrawal of 1.0 m<sup>3</sup>/s and has requested a new Licence for an additional 0.4 m<sup>3</sup>/s of water from Marion 3 and Marionette Creeks to reflect the maximum possible use by the powerplant.

The instream flow requirements for the two intakes stipulated in the DFO Letter of Advice for the Marion Creek Project are 5% of mean annual discharge at each intake. As long as 5% of mean annual discharge is maintained at all times for the two creeks, we have few concerns with the requested Water Licence.

Should you have any questions regarding our response, please do not hesitate to contact the undersigned at 250 751-3221.

Yours truly,

Dr. Grant A. Bracher, P.Ag., R.P.Bio.  
Ecosystem Biologist  
Environmental Stewardship Division



## Referral

Referral Type: Water Licence Referral Number: 71093966  
Reference Number: Forests, Lands and Natural Resource Operations / 1003028 Completed Date: mmm dd, yyyy  
Status: In Summary

[CANCEL REFERRAL...](#)

Status	Requests	Response Documents	Processes	Referral Details	Summary				
Req No	Sent	Name	Due Date	Response Method	Referral Level	Send Summary	Closed	Created From	Conflict Report
<a href="#">001</a>	Jul 2, 2014	Forests, Lands and Natural Resource Operations - Ecosystems - Nanaimo	Aug 1, 2014	Authenticated Web	Optional	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<a href="#">002</a>	Jul 2, 2014	Forests Lands and Natural Resource Operations - Crown Lands - Nanaimo	mmm dd, yyyy	Authenticated Web	Notification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<a href="#">003</a>	Jul 2, 2014	Alberni Clayoquot Regional District - Port Alberni	Aug 1, 2014	Authenticated Web	Optional	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

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## CONDITIONAL WATER LICENCE

The holder of a lease on Lands File 1409836 for the land to which this licence is appurtenant, is hereby authorized to divert and use water as follows:

- a) The streams on which the rights are granted are Marionette Creek and Marion #3 Creek.
- b) The points of diversion, denoted as PD76153 and PD76895, are located as shown on the attached plan.
- c) The date from which this licence shall have precedence is 27th October, 2000.
- d) The purpose for which this licence is issued is power (general).
- e) The maximum quantity of water which may be diverted is 1.0 cubic metre per second (35.3 cubic feet per second).
- f) The period of the year during which the water may be used is the whole year.
- g) The land upon which the water is to be used and to which this licence is appurtenant is that portion of unsurveyed Crown land lying in the vicinity of Kennedy River and Adder Mountain, within Clayoquot District, held under File 1409836 with Land and Water British Columbia Inc.
- h) The works authorized to be constructed are intakes, penstock, powerhouse, tailrace and transmission lines, which shall be located approximately as shown on the attached plan.
- i) The construction of the works authorized under Clause (h) hereof shall not be commenced until design plans, prepared by a professional engineer registered in the Province of British Columbia, have been submitted to, and leave to commence construction given in writing by an engineer under the Water Act.
- j) Prior to commencing the diversion and use of water, the licensee shall submit an operation plan, and must receive in writing from an engineer under the Water Act, leave to commence the diversion and use of water authorized in this licence.
- k) The licensee shall adjust the diversion, rate of diversion, and use of water, as may be ordered by an engineer under the Water Act from time to time, for the preservation of fish and fish habitat.
- l) The licensee shall measure the flow of water in the stream above the intake, and the water diverted from the stream. The licensee shall keep records of such flow measurements, and provide a copy of the records to an engineer under the Water Act, at his request.
- m) As-built drawings shall be prepared and submitted to an engineer under the Water Act within one year of commencing operation of the works.
- n) The construction of the said works shall be completed and the water beneficially used, on or before the 31st day of December, 2006.



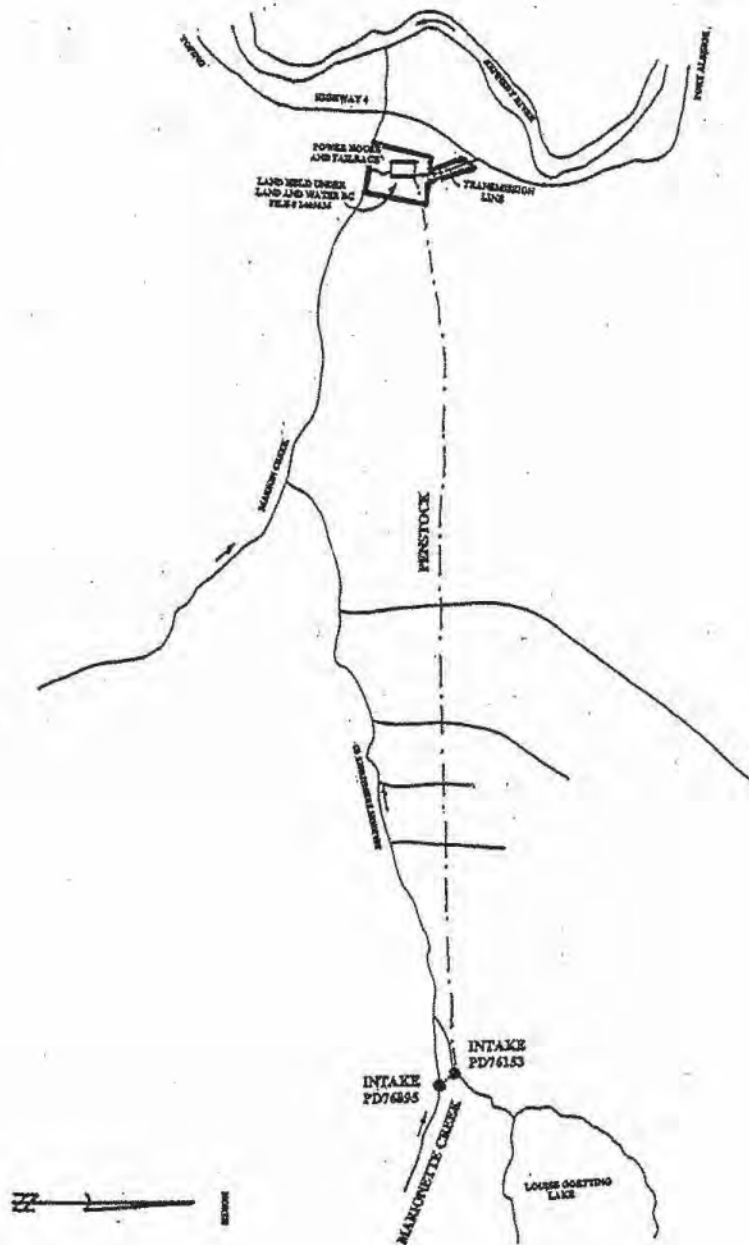
Ron Creber  
Regional Water Manager

★ Don't nail down  
the IFR  
↳ Reports say 5%  
which equals  
0.026 m<sup>3</sup>/sec  
based on  
0.52 m<sup>3</sup>/sec MAD





# BRITISH COLUMBIA



WATER DISTRICT : Alberni  
 PRECINCT : Alberni  
 LAND DISTRICT : Clayoquot

CL 115705

File: 1002091

PCL:

Scale : Not to scale

Point of Diversion : ●

Pipe : — — — — —

The boundaries of the land to which this

licence is appurtenant are shown thus : —————

Date: October 17, 2003

Signature





## Skarbo, David FLNR:EX

---

**From:** Skarbo, David FLNR:EX  
**Sent:** Monday, July 7, 2014 10:50 AM  
**To:** 'Mel.sheng@dfo-mpo.gc.ca'  
**Subject:** RE: Marion Creek Water Licence - File 1003028  
**Attachments:** CWL 111199.tif; CWL 111199 MAP.tif; Abandonment form.doc

Hi Mel,

I has come to my attention (see email below) that the water licence C111199 in File No.1001933 issued to DFO for a habitat enhancement project on the Kennedy River and Johnston Creek are now no longer being used and the works have possibly been removed. Can you please confirm if this is indeed the situation. I have attached a copy of the water licence and the map.

If this project is no longer in place and the works removed please either complete the attached abandonment form and return it to me or complete the online abandonment process here

[http://www.env.gov.bc.ca/wsd/water\\_rights/licence\\_amendments/abandonment.html](http://www.env.gov.bc.ca/wsd/water_rights/licence_amendments/abandonment.html) thanks.

**Dave Skarbo**

**Water Stewardship Officer/ Water Authorizations**

2080-A Labieux Road, Nanaimo BC, V9T 6J9

**250-751-7311 OFFICE#**

**250-751-3103 FAX#**



Ministry of  
Forests, Lands and  
Natural Resource Operations

**From:** Dave Bean [mailto:dbean@edynamics.com]  
**Sent:** Monday, July 7, 2014 9:12 AM  
**To:** Skarbo, David FLNR:EX  
**Subject:** RE: Marion Creek Water Licence - File 1003028

Hi,

I believe the contact would be Mel Sheng who is in charge of habitat enhancement and restoration in this region:

250-754-0357

[Mel.Sheng@dfo-mpo.gc.ca](mailto:Mel.Sheng@dfo-mpo.gc.ca)

s.22

Chéers,

Dave,

**David Bean | EDI Environmental Dynamics Inc. | 250.751.9070**

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♣ Please consider the environment before printing this email

**From:** Skarbo, David FLNR:EX [mailto:[David.Skarbo@gov.bc.ca](mailto:David.Skarbo@gov.bc.ca)]  
**Sent:** July-07-14 9:09 AM



**To:** 'Dave Bean'

**Subject:** RE: Marion Creek Water Licence - File 1003028

Yes this would help to confirm because I am showing that these PODs are still current and the licences haven't been abandoned at this point. If these are to be abandoned by DFO do you have a DFO contact I can reach??

**Dave Skarbo**

**Water Stewardship Officer/ Water Authorizations**

2080-A Labieux Road, Nanaimo BC, V9T 6J9

**250-751-7311 OFFICE#**

**250-751-3103 FAX#**



Ministry of  
Forests, Lands and  
Natural Resource Operations

**From:** Dave Bean [<mailto:dbean@edynamics.com>]

**Sent:** Monday, July 7, 2014 8:39 AM

**To:** Skarbo, David FLNR:EX

**Subject:** RE: Marion Creek Water Licence - File 1003028

Hello,

The DFO Licence includes PODs in Kennedy River and Johnston Creek. I've attached the letter from Diane indicating the licence number: Licence C111199 on File 1001933.

If you need any more information please don't hesitate to contact me.

Cheers,

Dave

**David Bean | EDI Environmental Dynamics Inc. | 250.751.9070**

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**From:** Skarbo, David FLNR:EX [<mailto:David.Skarbo@gov.bc.ca>]

**Sent:** July-07-14 8:34 AM

**To:** 'dbean@edynamics.com'

**Subject:** RE: Marion Creek Water Licence - File 1003028

Hi David, I am trying to find the DFO licence that you are referring too, was this a licence on Marion Creek?? If so I cannot find any record of there being a water licence for this purpose on any of the creeks that make up the Marion Creek drainage.

**Dave Skarbo**

**Water Stewardship Officer/ Water Authorizations**

2080-A Labieux Road, Nanaimo BC, V9T 6J9

**250-751-7311 OFFICE#**



250-751-3103 FAX#



Ministry of  
Forests, Lands and  
Natural Resource Operations

**From:** Elliott, Diane FLNR:EX  
**Sent:** Friday, July 4, 2014 2:54 PM  
**To:** Skarbo, David FLNR:EX  
**Subject:** FW: Marion Creek Water Licence - File 1003028

Hi David, would you mind answering David's question. Thank you.

*Diane Elliott*

Natural Resource Specialist  
FrontCounterBC  
Ministry of Forests, Lands and Natural Resource Operations  
142 - 2080 Labieux Rd  
Nanaimo BC V9T 6J9  
Telephone: (250) 751-7227  
Fax: (250) 751-7224  
Toll Free: 1-877-855-3222

**[www.frontcounterbc.gov.bc.ca](http://www.frontcounterbc.gov.bc.ca)**

How Did We Do? You are invited to take our [customer satisfaction survey](#).

**From:** David Bean | EDI [<mailto:dbean@edynamics.com>]  
**Sent:** Friday, July 4, 2014 10:33 AM  
**To:** Elliott, Diane FLNR:EX  
**Subject:** Marion Creek Water Licence - File 1003028

Hi Diane,

I have sent the application package to DFO via registered mail and delivered the notarized Proof of Serving Application form to Front Counter. The DFO water licence is for a habitat enhancement project that, to our knowledge, has been abandoned and the intakes have been removed. If there is any benefit to me obtaining confirmation of this fact from DFO please let me know.

Thank you and enjoy the weekend,

Dave

David Bean, M.Sc., EP  
Environmental Scientist | Cell 250.327-4369



**EDI Environmental Dynamics Inc.**  
208A-2520 Bowen Rd., Nanaimo, BC V9T 3L1  
Ph: 250-751-9070 Fax: 250-751-9068



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In reference to File No. 1003028

WATER ACT

**Proof of Serving Application for a Water Licence**

(ALSO PROOF OF PUBLICATION WHEN DIRECTED)

in the matter of the application for a water licence by Marion Creek Hydro Inc  
(Applicant)  
on Marion3Creek and Marionette Creek  
(Source)  
by David Bean  
(Full name of declarant)  
of s.22  
(Address) Nanaimo, BC  
by occupation an Environmental Scientist do solemnly declare:

1. That notice of the said application was served upon the following persons holding licences or prior applications on the same stream and having points of diversion at or below the point of diversion set out therein:

Name and Address	Date of Service	Method of Service (Registered Mail or Personally Delivered)
Fisheries and Oceans Canada 200-401 Burrard St. Vancouver, BC, V6C 3S4	July 3 <sup>rd</sup> , 2014	

2. That, as directed by the Regional Water Manager, a copy of the said application was  
published in the \_\_\_\_\_  
a newspaper published at \_\_\_\_\_, the publication being  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
A copy of the published application is hereto attached and marked "A".

"And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at Nanaimo  
this 4<sup>th</sup> day of July, 2014.  
(Signature of official) Tina M. Lloyd (Signature of declarant) David Bean  
(Title of official) TINA M. LLOYD  
NOTARY PUBLIC  
(Lawyer, Justice of the Peace, Commissioner of the Peace, or Commissioner)  
NANAIMO, B.C. V9S 1H7  
(250) 758-3347

**NOTE** - If proof of serving or publishing is made by different persons or at different times, duplicates of this blank may be used, and so much of the form as is appropriate filled in each case.

**\*\* IMPORTANT** - This declaration must be completed in full and declared before a proper official, and filed with the Regional Water Manager, Ministry of Environment, 2080 Labieux Rd, Nanaimo, B.C., V9T 6J9.





Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

Page 1 of 3

CLEARANCE REPORT

Created By:  
Created:

Diane El  
Jun-18-2014

Job No: WLA20140618-0002 Job Type: Water Licence Application

FILE NO.: 1003028

REGION: Vancouver Island

QUICK LICENCE: NO

PRIORITY DATE: Mar-18-2014

DISTRICT: 01 - Alberni

/ PRECINCT: Alberni

APPLICANT NAME: Marion Creek Hydro Inc (67611)  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5

CLIENT NO.: 67611  
Home Phone:  
Work Phone:  
Fax:  
Other Phone:

Email Address:

CERTIFICATE OF TITLE NO.: FB139238

CLIENT EXEMPT CODE: N

APPLICATION FORM CONTACT NAME: David Bean, EDI Environmental Dynamics

PHONE NO. (250) 751-9070

STREAM NAMES: Marion 3 Creek, Marionette Creek

APPURTENANCY:

Powerhouse Site located on District Lot 2179, Clayoquot District as held under Crown land File 1409836

PID and LTO CODES:

027-365-841 I

APPLICATION COMMENTS:

To increase amount of water for power project which is already granted under C115705 on file 1002091

PURPOSE/USES:

Sector: MWP - Major Waterpower Production

Purpose/Use: 07C - Power-General

Quantity	Units
0.4	m3/sec





Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

Page 2 of 3

CLEARANCE REPORT

Created By:

Diane El

Created:

Jun-18-2014

Job No: WLA20140618-0002

Job Type: Water Licence Application

POINT OF DIVERSION:

Points Code	Point of Re-diversion	Point Code Above	Point Code Below	WR Map
PD76153	NO	MO176891	SO76890	92F/SW-E(6-c)
Stream Name: Marion 3 Creek				Alias
Tributary To: Marion Creek				
Watershed Code/Name				
930 Vancouver Island (West) Rivers				
POD Comments:				

Points Code	Point of Re-diversion	Point Code Above	Point Code Below	WR Map
PD76895	NO	(None)	SO76891	92F/SW-E(6-c)
Stream Name: Marionette Creek				Alias
Tributary To: Marion 3 Creek				
Watershed Code/Name				
930 Vancouver Island (West) Rivers				
POD Comments:				

WORKS:

Weir

Penstock

Powerhouse

Penstock

Weir

Works Status:

Fully Constructed

Fully Constructed

Fully Constructed

Fully Constructed

Fully Constructed

APPURTENANT LAND IS WITHIN MUNICIPAL OR IMPROVEMENT BOUNDARIES:

Regional District of Alberni-Clayoquot

NOTIFICATIONS:

Resp. for Notification Package Preparation: Applicant

Resp. for Notification Package Distribution: Applicant

WUC Involved:





Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing

Page 3 of 3

CLEARANCE REPORT

Created By:

Diane El

Created:

Jun-18-2014

Job No: WLA20140618-0002

Job Type: Water Licence Application

DOWNSTREAM LICENSEES:

Client Name: Fisheries & Oceans Canada  
200 - 401 BURNARD ST  
VANCOUVER BC V6C 3S4

Client No.: 14120  
Home Phone:  
Work Phone:  
Fax:  
Other Phone:

Email Address:

PERMIT OVER CROWN LAND REQUIREMENTS:

PCL Required: No PCL Land Description:

Works-Length of Pipe into River or Lake measured from high water Mark

Works-Length of Pipe on Crown Land Area in Hectares:

Works on Crown Land - Other Area in Hectares:

Total PCL Area(HA):

\*\*\*\*\*END OF REPORT\*\*\*\*\*





# New Water Licence Application

Tracking Number: 100096878

## APPLICANT INFORMATION

Name: Marion Creek Hydro Inc.  
Doing Business As:  
Phone: 250-709-1736  
Fax:  
Email: samdjackson@yahoo.com  
BC Incorporation Number: BC0635302  
Extra Provincial Inc. No:  
Society Number:  
GST Registration Number: 134490002 RT0001  
Contact Name: Sam Jackson  
Mailing Address: 777 Douglas Street  
Victoria BC V8W 2B5

## SUBMITTED BY

You have indicated in Step 2 - Setup that you are applying on behalf of the applicant. Please provide us with your name, address, and contact information.

Type of Submitter: Consultant  
Name: David Bean  
Phone: 250-327-4369  
Daytime Phone: 250-751-9070  
Fax: 250-751-9068  
Email: dbean@edynamics.com  
Mailing Address: 208A-2520 Bowen Road  
Nanaimo BC V9T 3L3  
Letter Attached: Yes (marion appointment letter edi 0314.pdf)

## SETUP QUESTIONS

Please enter some preliminary information about your application:

Are you an individual or an organization?	Individual
Are you applying on behalf of the applicant?	Yes
Relationship to the applicant:	Consultant
Is the applicant an individual or an organization?	Organization
Are there co-applicants for this application?	No

## ELIGIBILITY

Please answer the following question related to whether you qualify to apply for a water licence:

Question	Answer	Warning
----------	--------	---------

Do any of the following statements apply to you or the applicant if you are applying on their behalf?	Yes	
---	-----	--

- Are you the owner of the land where the water will be used ?

- Are you the owner of the mine where the water will be used?

- Are you the holder of a certificate of convenience and necessity issued under the Utilities Commission Act or under the Water Utility Act?

- Are you applying on behalf of a municipality, improvement



district, water users community or development district?

- Are you applying on behalf of the Crown as represented by a minister appointed by the Governor General or the Lieutenant Governor?
- Are you a commission, board or person having charge of the administration of any land, mine or other property owned or controlled by a ministry, department, branch or other subdivision of the government of Canada or of British Columbia?
- Are you applying on behalf of the Greater Vancouver Water District or any other water district incorporated by an Act of the Legislature?
- Are you applying on behalf of the British Columbia Hydro and Power Authority?

#### TECHNICAL INFORMATION

#### ANOTHER WATER LICENCE

Do you hold another Water Licence? Yes  
Client Number: s.17

#### WATER USERS' COMMUNITY

Will the water be supplied by a Water User's Community? No

#### SOURCE OF WATER FOR APPLICATION

Name of source: Marion #3 Creek and Marionette Creek  
Source flows into: Kennedy River  
Location of the proposed point of diversion or storage on stream: Existing hydropower intakes on Marion #3 Creek and Marionette Creek  
Landmark references: 3.5 km upstream of the confluence of Marion Creek and Kennedy River  
Estimated width of source at diversion point: 6 m  
Estimated depth of source at diversion point: 1 m

#### PURPOSES

Select the proposed purpose of water use; if granted, a water licence can be issued for up to three water use purposes. Refer to the Water Use Purpose Definitions for assistance in selecting the appropriate water use purpose. Please note that the purposes might be changed after your licence application is reviewed in which case you will be notified of the change.

Purpose	Quantity	Use of Water	Comments	Fee
General Power	4.5 Megawatts - .4 m3/sec	Year Round	Existing license is for 1.0 m3/s, requesting amendment for additional 0.4 m3/s	\$5,000.00

#### WORKS



You will require works such as pipes, pumps, trenches, etc. to divert or store the water. Please provide us with all the information about the works such as the types of works needed and how they affect Crown land and other privately owned land. The location and type of the works also needs to be clearly marked on the drawing to scale which you will have to upload in Step 6 - Document Upload.

Works	Status	Comments
Penstock	Fully Constructed	Plastic penstock from Marionette Creek intake to Marion #3 intake headpond
Penstock	Fully Constructed	Ductile iron and steel penstock from Marion #3 intake to powerhouse
Powerhouse	Fully Constructed	
Weir	Fully Constructed	Existing weir on Marion #3 Creek
Weir	Fully Constructed	Existing weir on Marionette Creek

#### OTHER LANDS PHYSICALLY AFFECTED

Do your works physically affect another private landowner's property or Crown land, e.g. is a pipe running over your neighbour's land to divert the water to your land? If yes, you will need to obtain their permission. If the land is owned by a private landowner a prefilled form that can be signed by the other landowner will be provided at the Signature step later in the application process. If the affected property is Crown land, the required permission to be able to construct your works is part of the application process.

Are there other lands that are physically affected by your works? Yes

#### Land Description

Crown Land

Legal Description: District Lot 2179, Clayoquot District

Property Status: Lessee

Crown Land

Legal Description: Right of way over unsurveyed Crown land, Clayoquot District, shown outlined on Plan VIP82003.

Property Status: Lessee

#### JOINT WORKS

Are your works connected to another person's or group's works? If yes, we recommend that a Joint Works Agreement should be completed. Please attach the agreement, if available, for our reference at the 'Document Upload' step later in the application process.

Are any of your works joint with another person's or group's works? No

#### PERMIT OVER CROWN LAND

For any new works that cross or otherwise affect (e.g. flood) Crown land, you will need to obtain permission. A Permit Over Crown Land (PCL) means an authority issued under Section 26 of the Water Act which allows you to construct, maintain, or operate works on Crown land or to flood Crown land. Please answer the following questions to determine whether a Permit Over Crown Land will be required with your water application. If a Permit over Crown land is required, the applicable fee will be automatically calculated and added to your application.

You should indicate 'Yes' to the following question if any of the following circumstances apply to your application:

- any of your new works to the licence are located on or crossing Crown land OR
- you are proposing a new intake pipe (not replacing an existing one) in the stream channel which includes a river, lake, or other larger water body OR
- you are proposing to flood Crown land and the area of Crown land that is flooded is considered live storage. Live storage is when the level of the water fluctuates to accommodate the stream hydrograph or flow. If the water level remains static it is NOT considered live storage.

Do any of the above apply to your application?

Yes

(works are existing)



For certain activities or works a Land Act tenure is required. You should indicate 'Yes' to the following question if any one of the following conditions apply to the proposed use of Crown land:

- the purpose for the use of the water is either 'Power Commercial' or 'Power General' based on the Water Use Purpose definitions OR
- any of the new works are considered major works (meaning for conveyance of water of 0.01 m<sup>3</sup>/s or more) OR
- your new works include a dam higher than 9 metres or storage greater than 1,000,000 m<sup>3</sup> OR
- your new works include a permanent access road, a power house or transmission lines.

Do any of the above conditions apply to your application? Yes

Based on your answer you will require a Land Act tenure. It is a condition of this application that the Land Act application is made at the same time as the water application. If the Land Act application is not submitted, your application is considered to be incomplete and may be rejected. If you have any questions, please contact FrontCounter BC at 1-877-855-3222 for assistance.

## POWER

You have indicated that you propose to use the water for power production. Please answer the following questions. If you do NOT want to use the water for power production please go back to the Purposes and remove the power production purpose from your selection.

### GENERAL PROJECT INFORMATION

Please provide us with a description of what you are planning to do with the generated power as well as how much power are you planning to generate. Please note that this needs to match the maximum values for the purposes you have selected earlier in this application.

C

Please describe what you plan to do with the power generated:	Power is sold to BC Hydro
Anticipated power generation - Maximum:	4500 kW
Anticipated power generation - Average:	1616 kW
Maximum diversion:	1.4 m <sup>3</sup> /s

### STORAGE DAM/WEIR

Height (from crest to stream bed):	1 m
Crest length:	20 m
Crest width:	0.5 m
Footprint area for dam:	0.02 ha (allow 10 metres beyond actual dam structure for building materials)
Proposed dam failure consequence classification under the BC Dam Safety Regulation:	
Construction materials:	Steel-reinforced concrete

### RESERVOIR/HEADPOND

Please indicate if it is a Reservoir or a Headpond:	Headpond
A reservoir designed to maintain required hydrostatic head.	
Storage capacity:	0 m <sup>3</sup>
Flooded area:	0 ha

### INTAKE

Description:	Main penstock inlet is within the intake chamber behind a Coanda screen.
Fish screens:	No fish at intake; intake has 2 mm spaced Coanda Screen
Other features:	Secondary intake on Marionette Creek is a Tyrolean weir design

### WATER CONVEYANCE

Penstock or Tunnel - Description:	Main penstock is 3 km long with HDPE, ductile iron and steel construction. Secondary penstock is 80 m of 1 m diameter corrugated plastic pipe.
-----------------------------------	---



Length: 3010 m  
Width/Diameter: 0.61 m  
Pressure Rating (if pipe): 1000 kPa  
Elevation may be expressed as height in meters above mean sea level.  
Intake elevation: 650 m  
Turbine intake elevation: 145 m  
Maximum water level at intake, in metres above mean sea level:

---

#### **TURBINE**

Type (Pelton / Francis / others - please specify): Canyon Industries Pelton Turbine  
Nameplate capacity: 4.5 MW

---

#### **GENERATION**

Type: Baylor  
Nameplate capacity: 4.5 MW

---

#### **TAILRACE**

Cross-section geometry: Trapezoidal  
Length: 77 m  
Bottom width: 3 m  
Wall construct: rip-rap  
Bed construct: Bedrock trench with gravel and cobble substrate  
Discharges to: Marion Creek

Please consider if this stream is fish bearing or not. If it is, the risk of fish stranding should be a major consideration in tailrace design. Rapid changes in water level in the tailrace could lead to fish stranding and mortality.

---

#### **OTHER WORKS**

Switch yard, power house, etc.: Powerhouse  
Switchyard

---

#### **ADDITIONAL QUESTIONS**

In many cases you might require other authorizations or permits in order to complete your project. In order to make that determination and point you in the right direction please answer the questions below. More information can also be found on the Water Stewardship website. In addition, your application may be referred to other agencies for comments.

Do you need to cut timber on Crown Land?	No
Do you need to burn timber?	No
Does the source of the water contain fish?	No
Are you supplying potable water to consumers?	No
Will fish or wildlife habitat be affected?	No
Are you planning to undertake mineral exploration?	No
Do you need to construct a road to the dam (if there are no existing roads)?	No
Do you want to construct works within an existing forest road right-of-way on Crown land?	No



Do you want to transport heavy equipment or materials on an existing forest road? No

Do you want to use the water for livestock watering on Crown land? No

Does any work occur within the public road allowance or has to cross a public road? No

Do your works have the potential to affect navigation by vessels of any size? No

#### OTHER INFORMATION

Is there any other information you would like us to know?

This is a request for an new licence in addition to the existing Water Licence No. 115705, held by Marion Creek Hydro Inc. The new licence is to increase the maximum diversion rate in the licence from 1.0 m3/s to 1.4 m3/s to reflect the maximum possible use by the powerplant. The project was constructed in 2003-2004 and commissioned in the spring of 2005. There are no fish at the intake and throughout the majority of the diversion reach.

#### LOCATION INFORMATION

#### LAND IDENTIFICATION

Do you have the legal description of the land or the civic address then click on 'Add Land Information'. As well, you are required to identify the Parcel of land to which this water license application applies to.

##### Description

Crown Land

Legal Description: RIGHT OF WAY OVER UNSURVEYED CROWN LAND, AS SHOWN ON PLAN VIP82003 FILED IN VICTORIA LAND TITLE OFFICE

Property Status: Other

Crown Land

Parcel ID: 027365841

Legal Description: District Lot 2179, Clayoquot District

Property Status: Lessee

A topographic map must be provided showing the physical location of the property where the water is proposed to be used and the works constructed in relation to nearby communities, highways, railways and other water sources.

You can use one or more of the tools provided below to meet the requirement to help us find your location:

☒ I have paper map(s) and wish to provide these with my application.

#### MAP FILES

Do you have a PDF or image file of a drawn map? You can upload it here.

##### Description

MAP 1 - Intake Catchment Area

##### Filename

MAP 101 Watershed Area - Ma...

MAP 2 - Project General Arrangement

MAP 201 General Arrangement...

☒ I have created my map(s) using my own Geographic Information System (GIS)

#### SPATIAL FILES

Do you have a spatial file from your GIS system? You can upload it here.



Description	Filename
Project Area DBF	Project_Area_MarionCreek_10...
Project Area PRJ	Project_Area_MarionCreek_10...
Project Area SBN	Project_Area_MarionCreek_10...
Project Area SBX	Project_Area_MarionCreek_10...
Project Area SHP	Project_Area_MarionCreek_10...
Project Area SHX	Project_Area_MarionCreek_10...

#### ATTACHED DOCUMENTS

Document Type	Description	Filename
Copy of Private Lease (if applicable)	Powerhouse Tenure Letter - Marion Creek	marion tenure cover sheet 0...
Copy of Private Lease (if applicable)	Powerhouse Tenure Letter Update - Marion Creek	marion tenure cover sheet 2...
Drawing to Scale	MAP 2 - Project General Arrangement	MAP 201 General Arrangement...
Other	Penstock Tenure Letter - Marion Creek	marion tenure cover sheet 3...
Other	Tla-o-qui-aht First Nation Letter of Support	TFN Support Letter - Marion...
Project Scope	Marion Creek Application Scope Report	Water Licence Application S...

#### PRIVACY DECLARATION

##### PRIVACY NOTE FOR THE COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

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FrontCounter BC Program Director  
FrontCounter BC, Provincial Operation  
441 Columbia Street  
Kamloops, BC V2C 2T3

☒ Check here to indicate that you have read and agree to the privacy declaration stated above.

#### REFERRAL INFORMATION

Some applications may also be passed on to other agencies, ministries or other affected parties for referral or consultation purposes. A referral or notification is necessary when the approval of your application might affect someone else's rights or resources or those of the citizens of BC. An example of someone who could receive your application for referral purposes is a habitat officer who looks after the fish and wildlife in the area of your application. This does not apply to all applications and is done only when required.



We have populated some of the fields for your convenience but you can change in the information at any time. Please note that the information might become available to the public if required.

**Company / Organization:** EDI Environmental Dynamics Inc.  
**Contact Name:** David Bean  
**Contact Address:** 208A-2520 Bowen Rd.  
Nanaimo, BC  
V9T 3L3  
**Contact Phone:** 250-751-9070  
**Contact Email:** dbean@edynamics.com

☒ I hereby grant permission for the public release of the information provided above. This information will be used to fulfill, if required, the referral and advertising requirements of my application.

#### IMPORTANT NOTICES

Please review the "Important Notices" below and then check the declaration at the bottom confirming that everything in this application is complete and accurate.

- I understand that the submission of this water licence does not provide authority under the Water Act to divert, use or store water from a stream or to construct works. I also understand that my application must first be investigated and a decision made on the application as to whether a water licence may be granted and, as part of that review, additional information may be requested of me
- The application may be subject to further requirements under the federal Fisheries Act. Please refer to Fisheries and Oceans Canada's "Projects Near Water" webpage (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) for information on how to ensure your project complies with the Fisheries Act.

#### DECLARATION

☒ By submitting this application form, I, declare that the information contained on this form is complete and accurate.

#### APPLICATION FEES

Item	Amount	Taxes	Total	Outstanding Balance
New Water Licence Application Fee	\$5,000.00		\$5,000.00	\$0.00

#### OFFICE

Office to submit application to: Nanaimo

#### PROJECT INFORMATION

Is this application related to another application(s) or authorization(s) you have previously submitted? Yes

What is the name of your project? Marion Creek Hydropower Project

Please provide any of the following: reference number(s), project number(s), tracking number(s), or other descriptive information which would allow us to group these applications together: Water Licence # C115705

#### APPLICANT SIGNATURE

Applicant Signature

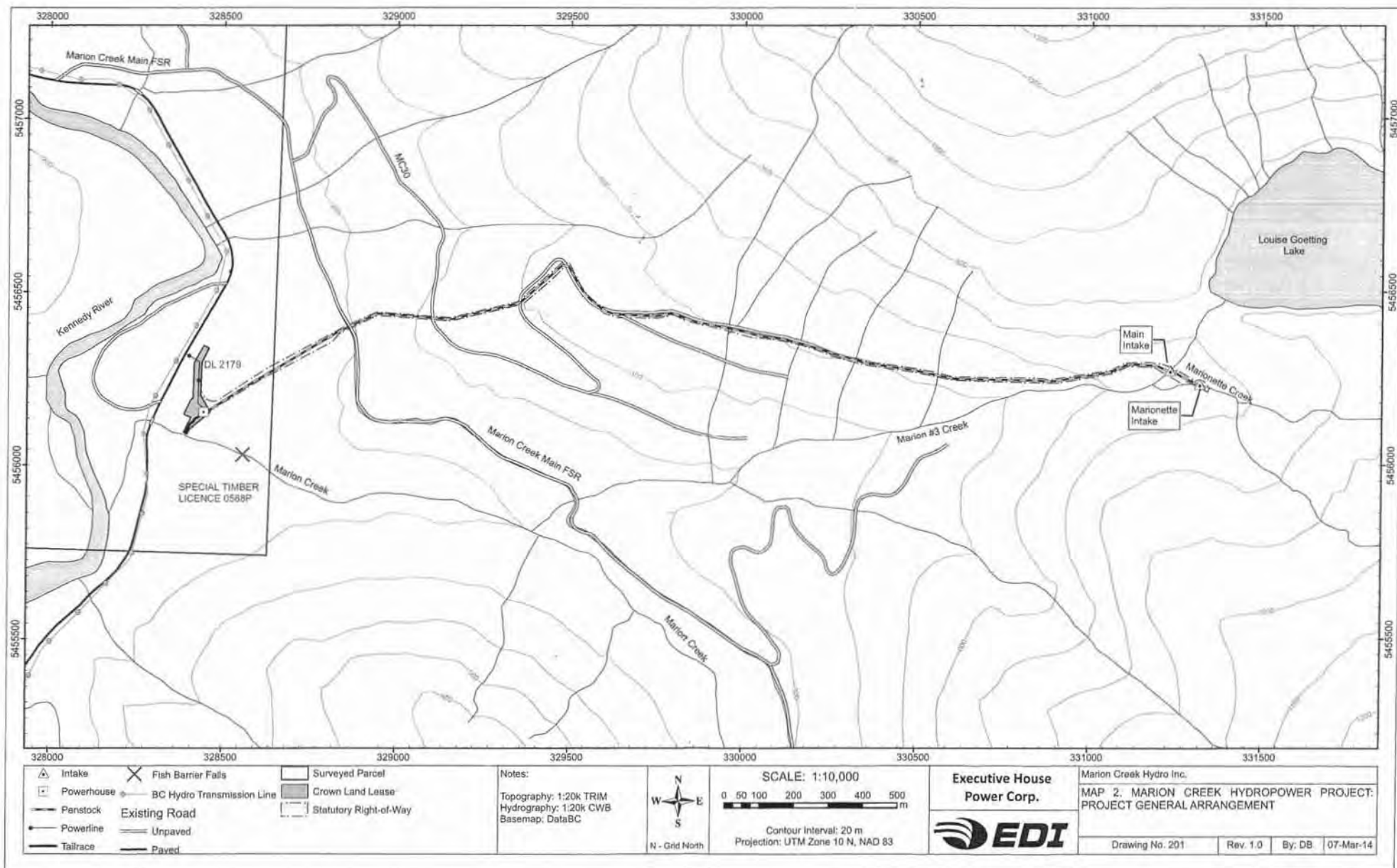
Date



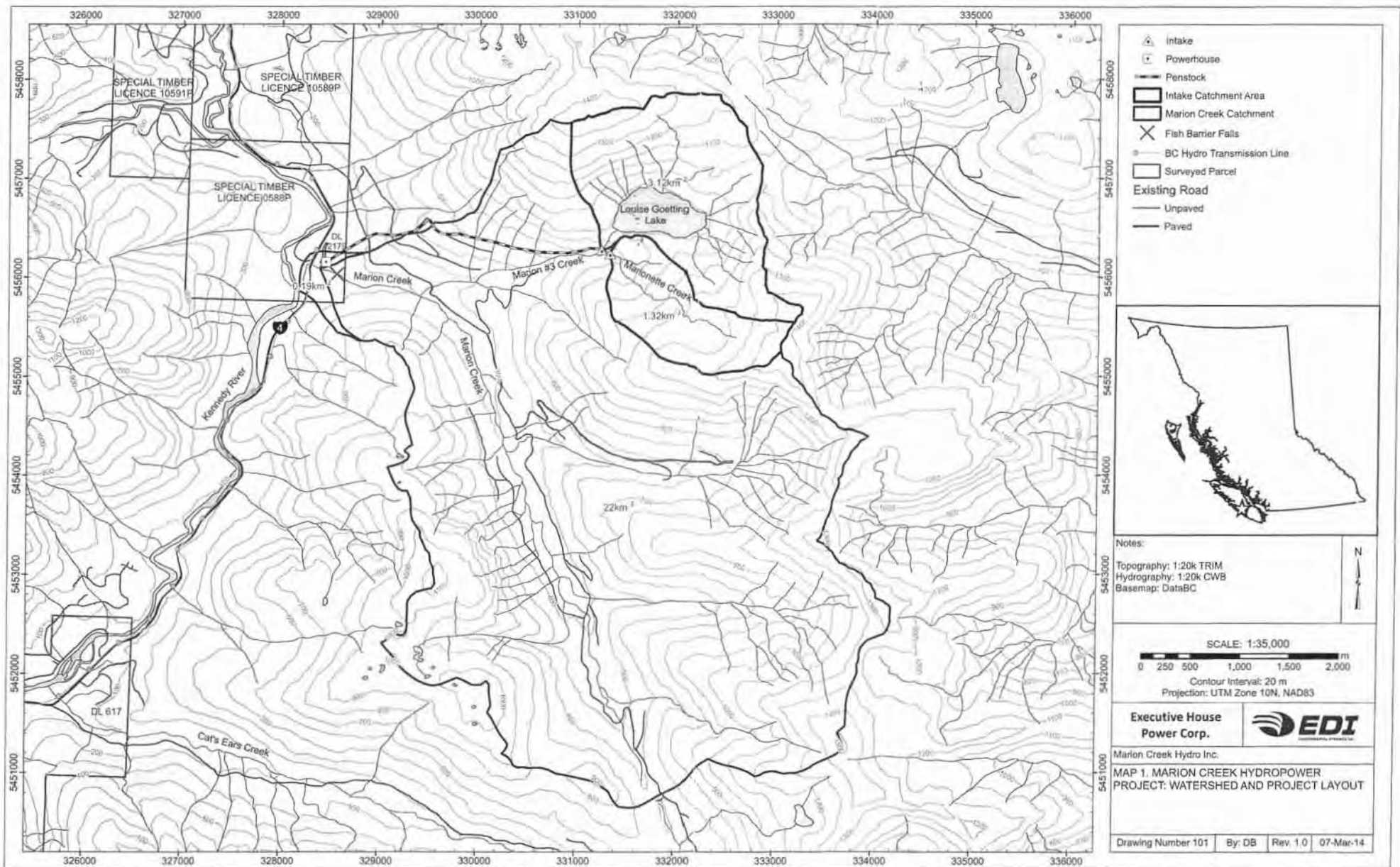
<b>OFFICE USE ONLY</b>		
Office Nanaimo	File Number 1003028	Project Number 132643
	Disposition ID WLA 20140618-0002	Client Number s.17













# **Marion Creek Hydropower Project Water Licence Application Scope**

## **PREPARED FOR:**

**MARION CREEK HYDRO INC.**  
777 DOUGLAS ST.  
VICTORIA, BC  
V8W 2B5

## **PREPARED BY:**

**EDI ENVIRONMENTAL DYNAMICS INC.**  
208A - 2520 BOWEN ROAD  
NANAIMO, BC V9T 3L3  
250.751.9070

## **EDI Contact:**

**DAVID BEAN**

## **EDI PROJECT NO.:**

**PROJECT # 14-N-0083**  
**DATE APRIL 9, 2014**







## EXECUTIVE SUMMARY

The Marion Creek Hydropower Project was built in 2003-2004 and has been in commercial operation since 2005 selling power to BC Hydro under an Energy Purchase Agreement. During project development the maximum withdrawal rate of the facility was underestimated and the project water licence does not reflect current use, though water rental payments have been accurate. Thus, an additional water licence to C115705 is being requested to increase the maximum withdrawal rate from  $1.0 \text{ m}^3/\text{s}$  to  $1.4 \text{ m}^3/\text{s}$  to cover the maximum possible withdrawal rate for ongoing operations.

The project is 45 km east of Tofino, BC and accessed via Highway 4 and the Marion Creek Forest Service Road. The facility has two intakes: one on Marion #3 Creek and one on Marionette Creek, both tributaries to Marion Creek which flows into Kennedy River on the west coast of Vancouver Island. The secondary intake on Marionette Creek is a Tyrolean weir design with a short plastic penstock leading to the main intake headpond. The main intake is a low head concrete weir with a Coanda intake screen and no active storage. The powerhouse contains a 4.5 MW Pelton turbine-generator and a 190 m long powerline connects the powerhouse to the BC Hydro transmission line along Highway 4.

There are no planned changes in project facilities or operations associated with this water licence application and, thus, no change to the environmental effects of the project. Rainbow trout are only present in the lower 175 m of the 3 km long diversion reach and there are no other overlaps of the project with fish bearing habitat. The project is upstream of the anadromous barrier on Kennedy River and is not accessible to anadromous fish. An instream flow requirement (IFR) of 5% of mean annual discharge is supplied by both intakes to maintain habitat for aquatic macroinvertebrates in the upper diversion reach. In addition to the IFR the large un-regulated catchment area below the intake and upstream of fish-bearing waters mitigates the risk of adverse effects from project operations.

Marion Creek is within the traditional territory of the Tla-o-qui-aht First Nation who have provided a letter of support for this application.





## AUTHORSHIP

This report was prepared by the EDI Environmental Dynamics Inc. EDI staff who contributed to this project include:

David Bean, *M.Sc.*, EP ..... Primary Author

Ian Redden, R.P. Bio. .... Senior Review





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## 1 INTRODUCTION

The Marion Creek hydropower facility is a 4.5 MW run-of-the-river independent power project (IPP) located just west of Sutton Pass on Vancouver Island between Port Alberni and Tofino (See Appendix B – Map 1). The project was constructed in 2003-2004 and has been supplying power to the BC Hydro grid since the spring of 2005. The project includes two intakes: one on Marion 3 Creek (an un-gazetted tributary to Marion Creek) and one on Marionette Creek (an un-gazetted tributary to Marion 3 Creek) (See Appendix B – Map 2).

The current water licence for the project (Licence #: C115705) allows the withdrawal of up to 1.0 m<sup>3</sup>/s for the two intakes combined. This licensed volume was based on preliminary engineering that underestimated the withdrawal rate required for the final design. In the course of operational testing and hydrometric monitoring it has become clear that the project currently withdraws more water than is prescribed by the existing water licence. This application is to obtain a new water licence for an additional 0.4 m<sup>3</sup>/s. This volume reflects measurement uncertainty and is higher than the estimated maximum withdrawal rate, as described in more detail below. This new licence will bring the facility into compliance with the water licence terms and allows the maximum beneficial use of available water.

An environmental impact assessment was completed during the project permitting phase (Cuthbert 2002a). No changes are proposed to current project operations and no new construction or infrastructure components are involved in the proposed water licence.

### 1.1 PROPONENT INFORMATION

The Project is owned and operated by:

Marion Creek Hydro Inc.  
C/O Executive House Power Corp.  
777 Douglas St.  
Victoria, BC  
V8W 2B5

The primary contact is Sam Jackson, President of Marion Creek Hydro Inc.

Email: [samdjackson@yahoo.com](mailto:samdjackson@yahoo.com)  
Phone: (250) 709-1736





## 1.2 PROJECT DESIGN AND DESCRIPTION

The Marion Creek facility is a typical run-of-the-river hydropower project that has been in operation since 2005. The components of the facility are described below (See Appendix B – Map 2).

### Intakes and Headpond

The facility has two intakes. The main intake (PD76153) is on Marion 3 Creek at an elevation of 650 m (49° 14' 11" N, 125° 19' 05" W). It is a 20 m wide concrete weir with a Coanda screen intake (Figure 1). This intake is located at the base of a large waterfall approximately 230 m downstream of the outlet to Louise Goetting Lake. The instream flow requirement (IFR) is delivered through two circular holes in the intake wall set below the elevation of the spillway over the Coanda screen. The maximum withdrawal rate estimated based on calibration of the tailrace hydrometric station is 1.34 m<sup>3</sup>/s. This is discussed further in Section 2.3.

As this is a run-of-the river style hydropower facility there is no reservoir associated with the project. A small headpond is formed by the intake weir. There is no active draw-down of the headpond during operations.



Figure 1. Marion 3 Coanda screen intake.

There is a secondary intake on a tributary to Marion 3 Creek known as Marionette Creek (PD76895) at an elevation of 655 m ASL (49° 14' 8" N, 125° 19' 03" W). This intake is a Tyrolean weir design with a tapered spillway over a horizontal trash rack (Figure 2). The IFR is delivered through a cluster of holes drilled into the side wall which are covered by a steel screen.





Figure 2. Marionette Creek Tyrolean weir intake.

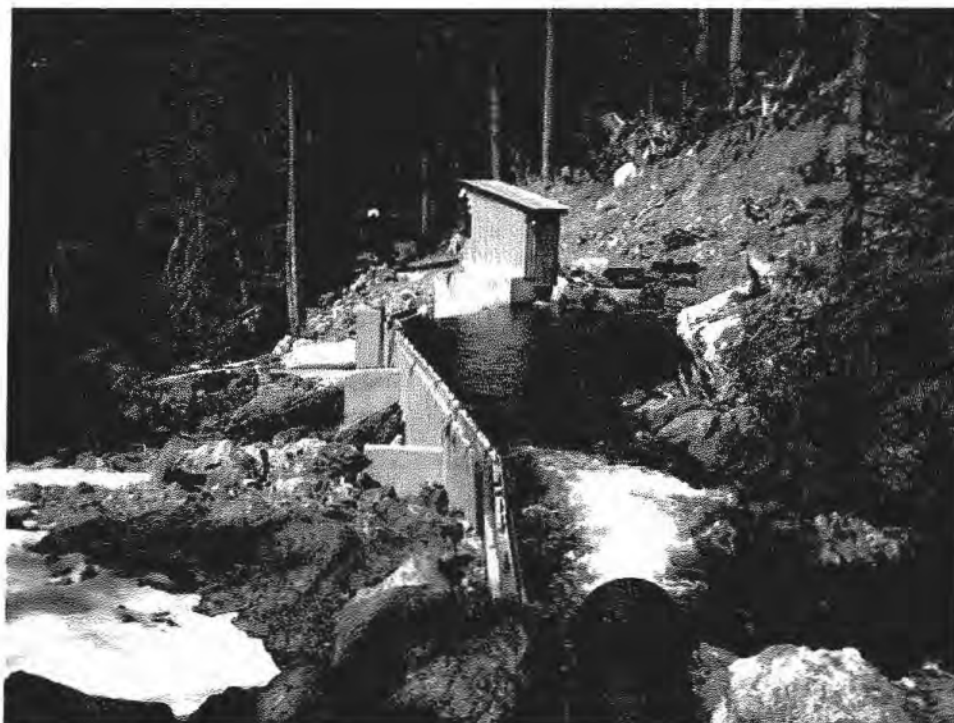


Figure 3. Main intake weir wall, headpond and penstock from Marionette Creek.



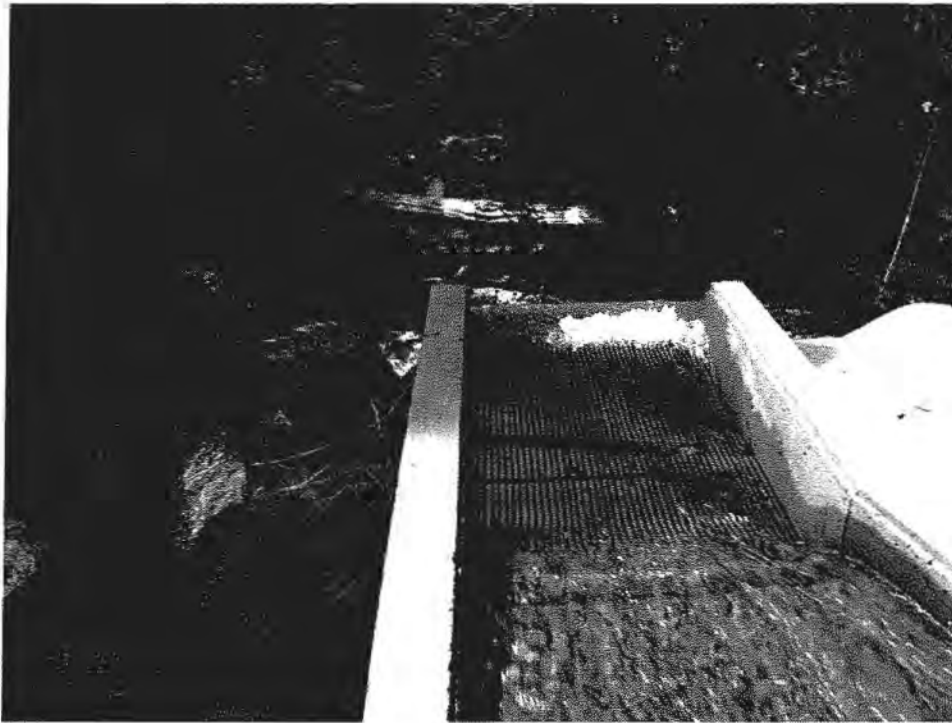


Figure 4. Marionette Creek intake trash rack.

#### Instream Flow Requirement

The instream flow requirements (IFRs) for the two intakes are stipulated in the DFO Letter of Advice and are 5% of mean annual discharge (MAD) at each intake. Combined MAD at the intakes is  $0.52 \text{ m}^3/\text{s}$  (Sjoman 2002). Given the ratio of the drainage areas for the two intakes, the IFR for the Marionette intake should be  $0.007 \text{ m}^3/\text{s}$  and the IFR at the main intake should be  $0.019 \text{ m}^3/\text{s}$ , for a combined total IFR of  $0.026 \text{ m}^3/\text{s}$  (Cuthbert 2002a).

#### Penstock

Water diverted from Marionette Creek flows through 80 m of 1 m diameter corrugated plastic pipe and is delivered to the left bank side of the headpond at the main intake (Figure 3). The main penstock is 3,010 m long and 0.66 m (26") in diameter. The lower 995 m of the main penstock is steel, while upper section is ductile iron and HDPE. The penstock is buried in or adjacent to the access road for much of its length (Figure 5).

#### Powerhouse and Tailrace

The powerhouse is located on the right bank of Marion Creek at 140 m ASL. It is a 10 m X 14 m concrete block building housing a single horizontal axis Pelton turbine and a 4.5 MW generator. Average monthly power generation for the four years of data is provided in Figure 6 with an average annual average output of 14.2 GWh between 2005 and 2013.





Figure 5. Penstock being put in place during construction.

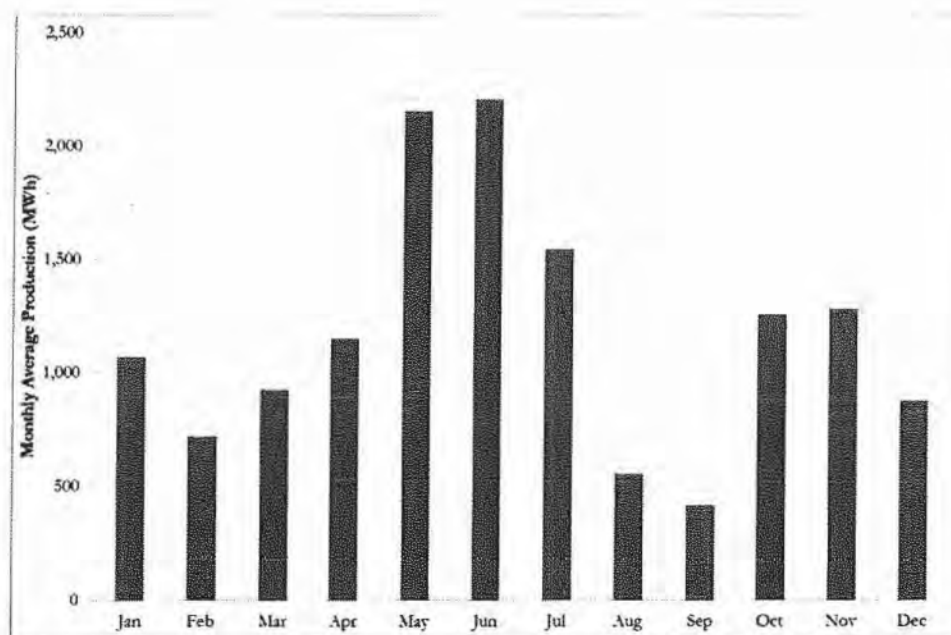


Figure 6. Mean monthly power production.





Flows from the powerhouse travel along a rough rock-lined tailrace (Figure 7) which allows gas equilibration to take place before tailrace flows join Marion Creek. The tailrace joins Marion Creek 75 m upstream of the highway and 385 m upstream of the confluence with the Kennedy River. The tailrace is 3 m wide at the base, bedded with gravel and cobble substrate and the banks are rip-rap.

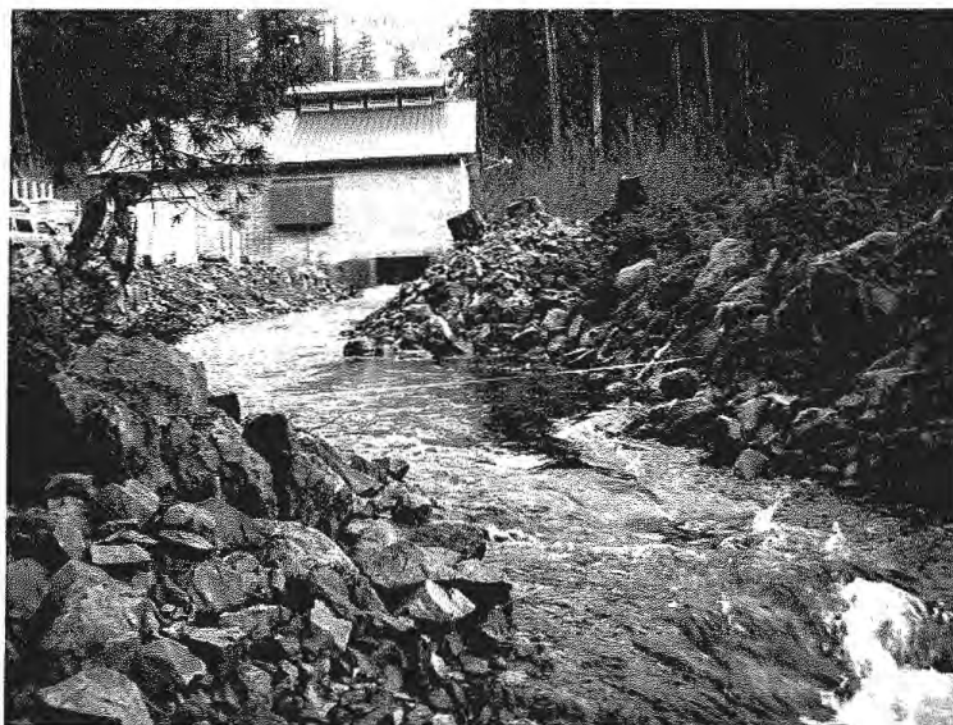


Figure 7. Powerhouse and tailrace.

#### Switchyard and Transmission Line

Adjacent to the powerhouse is a 10 m x 15 m fenced switchyard. A 190 m long 69 kV transmission line connects the switchyard to the BC Hydro 69 kV transmission line between Port Alberni and Tofino/Ucluelet (60L129 GCL-LBH).

### 1.3 WATERSHED CHARACTERISTICS

The Marion Creek watershed is a west-northwest aspect drainage of the Vancouver Island Mountain Range (See Appendix B – Map 1). Adder Mountain marks the northern limit of the Marion #3 watershed at 1,480 m ASL. The highest elevation in the watershed is 1,520 m ASL in the upper Marion Creek drainage. The confluence with the Kennedy River is at 130 m ASL. The total watershed area is 26.6 km<sup>2</sup> with 4.4 km<sup>2</sup> being upstream of the two project intakes.

#### 1.3.1 Watershed Hydrology

Being on the West side of Vancouver Island, the Marion Creek watershed experiences high levels of precipitation throughout much of the year. The upper watershed includes high elevations and is





characterized by a semi-nival hydrological regime with much precipitation falling as snow through the winter months and melting through spring and early summer (Figure 8). In the lower watershed winter storms most often produce high rainfall leading to high flow levels. The low flow period is late summer and early fall when snowmelt is largely exhausted and rainfall is infrequent. During this low-flow season the project is generally shut-down and the stream experiences natural low flow conditions. Mean annual discharge (MAD) for the intakes combined is  $0.52 \text{ m}^3/\text{s}$  (Sjoman 2002).

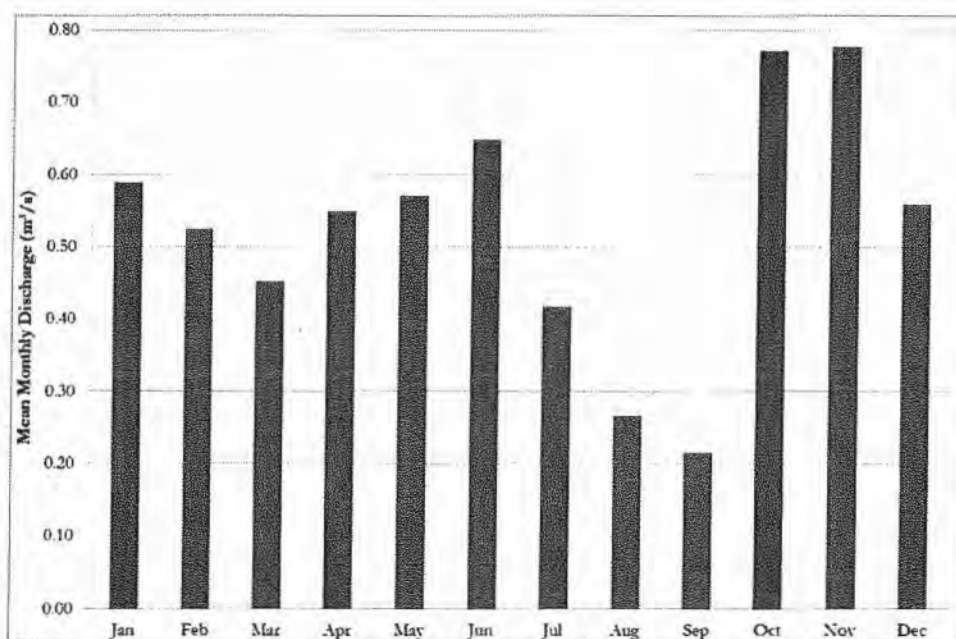


Figure 8. Mean monthly discharge for the intakes combined (Sjoman 2002).

### 1.3.2 Fisheries

An environmental impact assessment was carried out during the project design and permitting phase (Cuthbert 2002a). Fish sampling in 2001 and 2002 led to the conclusion that fish distribution is restricted to Reach 1 below the 8 m falls (See Appendix A – Map 2). Thus, fish are not present at the intake or in the majority of the diversion reach. The tailrace returns flow to Marion Creek 175 m downstream of the fish distribution barrier on Marion Creek. The barrier to anadromous fish is located in the Kennedy River downstream of the project so there are no salmon in the diversion reach. Low densities of rainbow trout populate the fish-bearing waters of Reach 1.





#### 1.4 LINKAGES WITH OTHER PROJECTS AND ROADS

The Project uses the Marion Creek Forest Service Road (FSR) and Branch MC30 to access the project. All road use permits / agreements are in place for use of these resource roads. There are no linkages with any other projects.

#### 1.5 MARKET FOR ELECTRICITY

All power is sold to BC Hydro under an Energy Purchase Agreement contract.

#### 1.6 SCHEDULE FOR COMPLETION OF PROJECT

The project is constructed and has been operating since 2005.





## 2 OVERVIEW OF POTENTIAL PROJECT IMPACTS

The following section will outline potential effects of increasing the maximum withdrawal rate from the originally licensed  $1.0 \text{ m}^3/\text{s}$  to  $1.4 \text{ m}^3/\text{s}$  through the acquisition of a new licence for  $0.4 \text{ m}^3/\text{s}$ .

### 2.1 FIRST NATIONS INVOLVEMENT

Marion Creek is within the traditional territory of the Tla-o-qui-aht First Nation. A letter of support has been provided by Tla-o-qui-aht Band Council and can be found in Appendix A.

An archeological overview assessment of the project area was completed during the project design and permitting phase (Archaeo Research 2001, Dewhirst 2002). This assessment concluded that there were no archaeological resources observed and very low potential for archaeological resources to be present given the nature of the project area. An environmental management system was developed for the Marion Creek facility following construction (Cuthbert 2002b) which is consistent with the ISO 14001 standard.

### 2.2 LAND ACCESS

All necessary licences and leases for the use of Crown land and road use permits were acquired for the construction and operation of the project. The powerhouse and transmission line are located in district lot DL 2179, Clayoquot District for which Marion Creek Hydro Inc. hold a lease (Crown File no. 1409836). The intake and penstock are within a Crown Utility Right-of-Way (ROW Plan VIP 82003, Crown File no. 1409890) also held by Marion Creek Hydro Inc.

### 2.3 PROJECT HYDROLOGY

A hydrological monitoring program has been in place to monitor flow downstream of the intake and flow in the tailrace. Monitoring of diversion reach flows has been in place since the commissioning of the project in 2005. Monitoring flow in the tailrace began in the fall of 2008 with the installation of a stilling well and pressure-transducer datalogger unit recording stage and temperature in 15-minute intervals. The hydrometric station is visited roughly quarterly to download data and measure discharge. The rating curve for this station was fully calibrated on May 26<sup>th</sup>, 2010 by ramping the plant down from full production (4.5 MW) to close to minimum production (0.5 MW) in 0.5 MW steps and measuring discharge in the tailrace once stage had stabilized. The discharge measured when the plant was at full production was  $1.30 \text{ m}^3/\text{s}$  using a Swoffer current meter and  $1.17 \text{ m}^3/\text{s}$  using the salt dilution method, with the true maximum use likely falling between these two values. The highest *in-situ* discharge measurement over the entire six year monitoring period calculated a discharge of  $1.34 \text{ m}^3/\text{s}$  using a current meter.





Further analysis of the hydrometric data for this application included the development of a rating curve incorporating all surveyed discharges to date (Figure 9). To assess potential error upper and lower rating curves were fit through the maximum and minimum estimated discharges based on normal expected hydrometric measurement error (5-15% for discharge measurements).

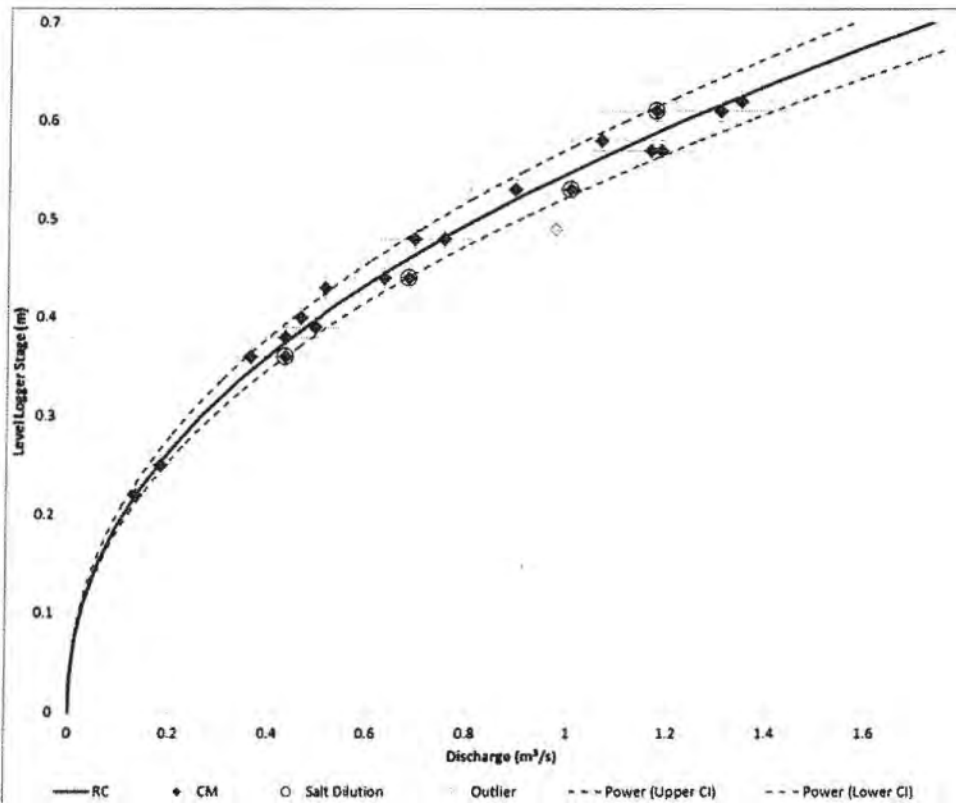


Figure 9. Rating curve for the Marion Creek tailrace hydrometric station.

The stage at the hydrometric monitoring station at times rises above the maximum stage recorded during the rating curve calibration procedure. During extreme rainfall events, groundwater inflow may elevate water levels in the tailrace above what is issuing from the powerhouse and explain why the stage is above those recorded during the rating curve calibration exercise. Thus, maximum diversion is estimated to be between  $1.17 \text{ m}^3/\text{s}$  and  $1.30 \text{ m}^3/\text{s}$  based on the *in-situ* measurements during station calibration.

To ensure that the new water licence brings plant operations into compliance, and allows for possibly running the plant at slightly higher than rated capacity to maximize beneficial use of water, an increase in the maximum withdrawal rate to  $1.40 \text{ m}^3/\text{s}$  is being requested.





## 2.4 FISH AND WILDLIFE

An environmental impact assessment was produced during project permitting (Cuthbert 2002a) detailing potential impacts of the project as designed. As there are no changes to project facilities or operations no changes to wildlife habitat will occur as a result of this new water licence application.

Resident rainbow trout are present in Marion Creek in the lower 175 m of the diversion reach. The intake catchment area represents only 17% of the total watershed area upstream of the upper limit of fish distribution (See Appendix B – Map 1). Thus, the effect of water withdrawals on habitat conditions in the fish-bearing section of the diversion reach were considered to be negligible (Cuthbert 2002). The 5% MAD IFR will continue to support habitat for aquatic invertebrates in the Marionette Creek and Marion #3 Creek portions of the diversion reach. Five years of post-project water quality monitoring did not detect any adverse effects on water quality.





### 3 CONCLUSIONS

The Marion Creek hydropower facility has been in operation since 2005. Due to an underestimation of the maximum withdrawal rate during initial project development the current water licence is not sufficient to cover current use. To ensure that the new water licence brings plant operations into compliance, and allows for possibly running the plant at slightly higher than rated capacity to maximize beneficial use of water, an increase in the maximum withdrawal rate by  $0.40 \text{ m}^3/\text{s}$  is being requested. As there are no fish in the majority of the diversion reach and  $22 \text{ km}^2$  of unregulated watershed area upstream of the upper limit of fish distribution on Marion Creek no change relative to current conditions of project operations on fish habitat is expected.





## 4 REFERENCES

### 4.1 LITERATURE CITED

- Archaeo Research Ltd. 2001. An Archeological Overview Assessment of the Marion Creek Small Hydro Power Project, Clayoquot Sound, B.C. 9 pp. + append.
- Cuthbert, I.D. 2002a. Marion Creek Hydropower Development Project Environmental Impact Assessment Final Report. Consultant's Report to Executive House Power Corp.
- Cuthbert, I.D. 2002b. Marion Creek Hydro Inc. Environmental Management System. Consultant's Report to Marion Creek Hydro Inc.
- Dewhirst, J. 2002. An Archaeological Overview Assessment of the Revised Marion Creek Small Hydro Power Project, Clayoquot Sound, BC. Consultant's Report to Executive House Power Corp.
- Sjoman, P. 2002. Hydrological Assessment of Marion Creek. Consultant's Report to Executive House Power Corp.

### 4.2 SPATIAL DATA

- 1:20,000 TRIM positional files from the Land and Resource Data Warehouse (<http://lrdw.ca>). Copyright belongs to Her Majesty the Queen in Right of the Province of British Columbia.

#### Disclaimer:

Maps presented in this document are a geographical representation of known features. Although the data collected and presented herein has been obtained with the utmost attention to quality, this document is not an official land survey and should not be considered for spatial calculation. EDI Environmental Dynamics Inc. does not accept any liability for errors, omissions or inaccuracies in the data.





June 27, 2014

File: 1003028

**FILE COPY**

Tla-o-qui-aht First Nations  
c/o Saya Masso  
PO Box 18  
Tofino BC V0R 2Z0

Dear Sir or Madam:

Re: Conditional Water Licence Application WLA20140618-0002 by  
Marion Creek Hydro Inc. for an additional 0.4 cubic metres per  
second from Marion 3 Creek and Marionette Creek to be used as  
part of the Marion Creek Hydroelectric Generation System.

---

In regards to the above mentioned application, the Ministry of Forests, Lands and Natural Resource Operations would like to inform the Tla-o-qui-aht First Nations that the application has been received and accepted for adjudication.

As part of this application package, we received a supporting document letter (copy attached) dated March 12, 2014 from the Tla-o-qui-aht First Nations stating that there is no objection to the proposed water licence application.

In respect to this support for the project by the Tla-o-qui-aht First Nations, the Ministry of Forests, Lands and Natural Resource Operations feels that no further consultation will be required and; therefore, a referral for a request for consultation will not be sent.

If you have any questions, please feel free to contact myself at 250-751-7311.

Yours truly,

Dave Skarbo  
Water Authorizations Officer

Enclosure

Copy of March 12, 2014 support letter from Saya Masso, Tla-o-qui-aht First Nations





July 02, 2014

File: 1003028

Marion Creek Hydro Inc  
c/o EDI Environmental Dynamics Inc.  
208A – 2520 Bowen Road  
Nanaimo, BC V9t 3L3

**Dear David Bean:**

**Re: Water Licence Application WLA20140618-0002**

---

We have accepted your application, as noted above, on the following stream(s):

Marion 3 Creek,  
Marionette Creek

Enclosed is your Receipt R545807 for the Application fee. If additional fees are required, they will be calculated and assessed at a later date.

During the application review, your application may be referred for comment to First Nations, other government agencies having statutory responsibilities related to your application, and the general public.

The application review requires the Province to undertake legally required consultation with those First Nations which may have asserted aboriginal rights and interests in the area of your application. In order to meet the Province's legal obligations to First Nations, it is important to ensure that an appropriate level of consultation is completed. In addition, some applications may require further study (e.g. archaeological assessments, or review by other authorities such as the Environmental Assessment office). The length of time to complete an application review will vary and depends upon the complexity of the application, the potential for social and environmental impacts and the effect the proposal may have on asserted aboriginal rights and interests.

If joint use and maintenance of works is involved, this is a matter for arrangement between the parties concerned. Additional information on creating a joint works agreement is available on the Water Stewardship web site.



**Downstream User:**

Fisheries & Oceans Canada  
200 – 401 Burrard Street  
Vancouver, BC V6C 3S4

Licence C111199 on File 1001933





Ministry of Forests, Lands &  
Natural Resource Operations

Receipt

RETAIN THIS COPY FOR  
YOUR RECORDS

April 09, 2014

Received on behalf of:

David Bean

Receipt Number: R536206

Received Date: April 09, 2014

Payment Amount: \$5,000.00

Reference Number: 077143

From:

David Bean

Description	Invoice	Authorization #	Tracking #	Tax Paid	Amount Paid
New Water Licence Application Fee			100096878	N/A **	\$5,000.00
<b>Total:</b>					<b>\$5,000.00</b>

GST/HST Registration #: R107864738

**Cash Handling Area/** Virtual FrontCounter BC  
**Receipting Office:** FrontCounter BC  
c/o Finance and Management Services Branch  
2nd Floor, 1483 Douglas Street  
Victoria, BC V8W 3K4  
(877) 855-3222

**Payment Method:** Visa

**Card Number:** XXXXXXXXXXXXXXXX

**Transaction Date:** Apr 09, 2014 14:49:22

**ISO Response Code:** 00

**Transaction Id:** 6695070

**Response Code:** 0

**Response Message:** Web method call success

**Terminal Number:** Y20722272011

**Invoice Number:** 68821027



## Turlock, Jane FLNR:EX

---

**From:** West Coast Land Referrals FLNR:EX  
**Sent:** Wednesday, July 2, 2014 12:26 PM  
**To:** 'dbean@edynamics.com'  
**Subject:** Application for a Water Licence from Marion 3 and Marionette Creeks, File: 1003028  
**Attachments:** 1003028 Client Ack letter.pdf; Reciept R536206.pdf; proof of serving (for downstream notification.pdf; New application - NOTICE OF APPLICATION - downstream.pdf

Please find attached confirmation of your recently applied for Water Licence, further instructions are enclosed.

*FrontCounter BC  
Ministry of Forests, Lands & Natural Resource Operations  
Suite 142, 2080 Labeix Road  
Nanaimo BC V9T 6J9  
Telephone: (250) 751-7220  
Fax: (250) 751-7224  
Toll Free: 1-877-855-3222*

[www.frontcounterbc.gov.bc.ca](http://www.frontcounterbc.gov.bc.ca)



### How Did We Do?

Clients of **FrontCounter BC** are invited to take our [customer satisfaction survey](#). We'd appreciate your input.



## Referral

Referral Type: Water Licence

Referral Number: 71093986

Reference Number: Forests, Lands and Natural Resource Operations / 1003028

Completed Date: mmm dd, yyyy

Status: Waiting For Response

[EXTEND DUE DATES...](#)[CANCEL REFERRAL...](#)[Status](#) [Requests](#) [Response Documents](#) [Processes](#) [Referral Details](#)

Latest Due Date: Aug 1, 2014

## RESPONSE STATISTICS

## Requested:

	Open	Overdue	Closed	No Response	Total
Mandatory	0	0	0	0	0
Notification	1	0	0	0	1
Optional	2	0	0	0	2
Summary Only	0	0	0	0	0
	3	0	0	0	3

## Other:

Unsolicited:	0
Advertisement:	0

## RECOMMENDATIONS

Requested Other Recommendation

0 0 Based on criteria noted in this request, do you have any proposed names for the source? Please explain background and origin.

## REPORT

[RESPONSE ROLL-UP REPORT](#)[Cancel](#)[Top](#)



## Referral

Referral Type: Water Licence

Referral Number: 71093966

Reference Number: Forests, Lands and Natural Resource Operations / 1003028

Completed Date: mmm dd, yyyy

Status: Waiting For Response[EXTEND DUE DATES...](#)[CANCEL REFERRAL...](#)[Status](#) [Requests](#) [Response Documents](#) [Processes](#) [Referral Details](#)

Req No	Sent	Name	Due Date	Response Method	Referral Level	Send Summary	Closed	Created From Conflict Report
<a href="#">001</a>	Jul 2, 2014	Forests, Lands and Natural Resource Operations - Ecosystems - Nanaimo	Aug 1, 2014	Authenticated Web	Optional	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">002</a>	Jul 2, 2014	Forests Lands and Natural Resource Operations - Crown Lands - Nanaimo	mmm dd, yyyy	Authenticated Web	Notification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">003</a>	Jul 2, 2014	Alberni Clayoquot Regional District - Port Alberni	Aug 1, 2014	Authenticated Web	Optional	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[ADD BY DISTRIBUTION LIST](#)[ADD REFERRAL AGENCY](#)[ADD INTERNAL STAFF](#)[ADD RECIPIENT](#)[LOAD STATUS REPORT](#)[ADD UNSOLICITED RESPONSE...](#)[ADD ADVERTISEMENT RESPONSE...](#)[BULK UPLOAD](#)[LOAD SUPPLEMENTAL DATA](#)

## CONFLICT REPORT(S)

[UPLOAD](#)[Cancel](#) [Save](#)[Top](#)

Release 2.0.1, Screen ID: 100260377

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## Referral

Referral Type: Water Licence

Referral Number: 71093966

Reference Number: Forests, Lands and Natural Resource Operations / 1003028

Completed Date: mmm dd, yyyy

Status: Waiting For Response

[\(EXTEND DUE DATES...\)](#)[\(CANCEL REFERRAL...\)](#)
[Status](#) [Requests](#) [Response Documents](#) [Processes](#) [Referral Details](#)

## Working Notes:

File 1003028 - Water Licence for Marion Creek Hydro Inc

## Referral Description

Proponent: Marion Creek Hydro Inc

[+]

General Area Description: Powerhouse site located on Dist Lot 2179, Clayoquot district as held under Crown land file 1409836.

[-]

Source: Marion 3 and Marionette Creeks

Purpose: Power - General

Quantities: 0.4 m3/sec

Precinct: Alberni/Alberni

Proposed Work Period: 40 years

Comments: Increase water use allowed on existing Licence C115705

[\(ADD CLAUSE\)](#)

Mandatory Response Days:

N/A

Reminder Days:

21

Minimum Days Open for Optional Response:

30

\* Request Owner: Jane Turlock

\* Response Owner: David Skarbo

## REFERRAL TEXT

## Mandatory

Subject: Province of BC Referral Request on a Water Licence application

Preamble: You are invited to comment on the following application. A response is required in order for the application and adjudication process to move ahead

## Optional

Subject: Province of BC Referral Request on a Water Licence application

Preamble: You are invited to comment on the following application. A response is optional. If no response is received by the deadline, the application and adjudication process will move ahead.

## Notification

Subject: Province of BC Notification on a Water Licence application

Preamble: Please find attached a Notification on the following application for your information. No response is required

## Summary

Subject: Province of BC Summary on a Water Licence application

Preamble: Please find attached a summary on the following application for your information.

## DOCUMENTS

Description	File Name	Publishing Level	Include in Dist.	Include in Summary	Attach to Email
<a href="#">View Referral Package</a>	1003028 Referral Package.pdf	External Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[\(UPLOAD DOCUMENTS\)](#)
[Cancel](#) [Save](#) [Spell Check](#)



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing  
STREAM HIERARCHY REPORT

Page 1 of 6

Created By: Diane El  
Created: Jun-18-2014

**SELECTION CRITERIA:**

**POINT TYPES SELECTED:**

ALL MO PD RE RS RV SO FO BR PR SS  
YES

**START POINT:** PD76895 **END POINT:** Downstream most point **TRIBUTARIES:** No **DIRECTION:** Downstream

**STREAM:** Marion 3 Creek left of Marion Creek

**POINTS CODE:** S076890

**POD:** Marion 3 Creek left of Marion Creek

**POINTS CODE:** S076890

**POI COMMENTS:**

OUTFLOW FROM "LOUISE GOETTING" LAKE

**STREAM:** Marionette Creek left of Marion 3 Creek

**POINTS CODE:** S076891

**POD:** Marionette Creek left of Marion 3 Creek

**POINTS CODE:** S076891

**POI COMMENTS:**

FLows SOUTH WESTERLY INTO MARION 3 CREEK SOUTH OF "LOUISE GOETTING" LAKE

**STREAM:** Marionette Creek left of Marion 3 Creek

**POINTS CODE:** S076891

**POD:** 92F/SW-E(6-c) (PD76895)

**POINTS CODE:** PD76895

Licence No.	Licence Status	File No.	Priority Date	Job No.	Job Type	Rediv Flag	Purpose/Use Description	Quantity	Units	Qty Flag	Term Start	Term End
C115705	Current	1002091	Oct 27 2000	N/A		N	Power-General	0.99109	m3/sec	M	Jan 01	Dec 31

**Appurtenancy:**

A POWERHOUSE SITE LOCATED ON UNSURVEYED CROWN LAND LYING IN THE VICINITY OF KENNEDY RIVER AND ADDER MOUNTAIN, WITHIN CLAYOQUOT DISTRICT, HELD UNDER FILE 1409836 WITH LAND AND WATER BRITISH COLUMBIA INC.

**Billed Client  
Name & Address**

Marion Creek Hydro Inc (67611)  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing  
STREAM HIERARCHY REPORT

Page 2 of 6

Created By: Diane El  
Created: Jun-18-2014

STREAM: Marionette Creek left of Marion 3 Creek

POINTS CODE: SO76891

POD: 92F/SW-E(6-c) (PD76895)

POINTS CODE: PD76895

Licence No.	Licence Status	File No.	Priority Date	Job No.	Job Type	Rediv Flag	Purpose/Use Description	Quantity	Units	Qty Flag	Term Start	Term End
N/A	N/A	1003028	Mar 18 2014	WLA20140618-0002		N	07C - Power-General					

**Appurtenancy:**

Powerhouse Site located on District Lot 2179, Clayoquot District as held under Crown land File 1409836

**Billed Client  
Name & Address**

Marion Creek Hydro Inc (67611)  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5

STREAM: Marion 3 Creek left of Marion Creek

POINTS CODE: SO76890

POD:

POINTS CODE: MO176891

**POI COMMENTS:**

STREAM: Marion 3 Creek left of Marion Creek

POINTS CODE: SO76890

POD: 92F/SW-E(6-c) (PD76153)

POINTS CODE: PD76153

Licence No.	Licence Status	File No.	Priority Date	Job No.	Job Type	Rediv Flag	Purpose/Use Description	Quantity	Units	Qty Flag	Term Start	Term End
C115705	Current	1002091	Oct 27 2000	N/A		N	Power-General	0.99109	m3/sec	M	Jan 01	Dec 31

**Appurtenancy:**

A POWERHOUSE SITE LOCATED ON UNSURVEYED CROWN LAND LYING IN THE VICINITY OF KENNEDY RIVER AND ADDER MOUNTAIN, WITHIN CLAYOQUOT DISTRICT, HELD UNDER FILE 1409836 WITH LAND AND WATER BRITISH COLUMBIA INC.

**Billed Client  
Name & Address**

Marion Creek Hydro Inc (67611)  
C/O EXECUTIVE HOUSE POWER  
777 DOUGLAS ST  
VICTORIA BC V8W 2B5



**Ministry of Forests, Lands & Natural Resource Operations**  
**Water Licensing**  
**STREAM HIERARCHY REPORT**

Page 3 of 6

Created By: Diane El  
 Created: Jun-18-2014

**STREAM:** Marion 3 Creek left of Marion Creek

**POINTS CODE:** S076890

**POD:** 92F/SW-E(6-c) (PD76153)

**POINTS CODE:** PD76153

Licence No.	Licence Status	File No.	Priority Date	Job No.	Job Type	Rediv Flag	Purpose/Use Description	Quantity	Units	Qty Flag	Term Start	Term End
N/A	N/A	1003028	Mar 18 2014	WLA20140618-0002		N	07C - Power-General					

**Appurtenancy:**

Powerhouse Site located on District Lot 2179, Clayoquot District as held under Crown land File 1409836

**Billed Client  
Name & Address**

Marion Creek Hydro Inc (67611)  
 C/O EXECUTIVE HOUSE POWER  
 777 DOUGLAS ST  
 VICTORIA BC V8W 2B5

**STREAM:** Marion Creek left of Kennedy River

**POINTS CODE:** S076157

**POD:**

**POINTS CODE:** MO176890

**POI COMMENTS:**

**STREAM:** Kennedy River right of Kennedy Lake

**POINTS CODE:** S072178

**POD:**

**POINTS CODE:** MO176157

**POI COMMENTS:**

**STREAM:** Kennedy River right of Kennedy Lake

**POINTS CODE:** S072178

**POD:** 92F/SW-E(3-e) P (PD72648)

**POINTS CODE:** PD72648

Licence No.	Licence Status	File No.	Priority Date	Job No.	Job Type	Rediv Flag	Purpose/Use Description	Quantity	Units	Qty Flag	Term Start	Term End
C111199	Current	1001933	Jun 20 1996	N/A		N	Conserv.-Use Of Water	0.56634	m3/sec	T	Jan 01	Dec 31

**Appurtenancy:**

CONSERVATION UNDERTAKING WITHIN DIST LOT 617 CLAYOQUOT DIST

**Billed Client  
Name & Address**

Fisheries & Oceans Canada (14120)  
 200 - 401 BURNARD ST  
 VANCOUVER BC V6C 3S4

NR



Page 83 to/à Page 84

Withheld pursuant to/removed as

NR



Ministry of Forests, Lands & Natural Resource Operations  
Water Licensing  
STREAM HIERARCHY REPORT

Page 6 of 6

Created By: Diane El

Created: Jun-18-2014

STREAM: Marion Creek left of Kennedy River

POINTS CODE: S076157

POD: Marion Creek left of Kennedy River

POINTS CODE: S076157

POI COMMENTS:



**TITLE SEARCH PRINT**

2014-06-18, 13:28:45

Requestor: s.22

**Land Title District**

Land Title Office

VICTORIA

VICTORIA

**Title Number**

From Title Number

FB139238

CROWN GRANT

**Application Received**

2008-01-24

**Application Entered**

2008-01-29

**Registered Owner in Fee Simple**

Registered Owner/Mailing Address:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA AS REPRESENTED BY THE MINISTER OF  
AGRICULTURE AND LANDS  
P.O. BOX 9375 STN PROV GOVT  
VICTORIA, BC  
V8W 9M5

*Power house***Taxation Authority**

COURTENAY ASSESSMENT AREA

**Description of Land**

Parcel Identifier:

027-365-841

Legal Description:

DISTRICT LOT 2179 CLAYOQUOT DISTRICT

**Legal Notations**

NONE

**Charges, Liens and Interests**

Nature:

UNDERSURFACE AND OTHER EXC &amp; RES

Registration Number:

FB139239

Registration Date and Time:

2008-01-24 09:12

Registered Owner:

THE CROWN IN RIGHT OF BRITISH COLUMBIA

Remarks:

SECTION 50 OF THE LAND ACT

Nature:

LEASE

Registration Number:

FB142763

Registration Date and Time:

2008-02-04 14:03

Registered Owner:

MARION CREEK HYDRO INC.



**TITLE SEARCH PRINT**

2014-06-18, 13:28:45

Requestor s.22

Nature:  
Registration Number:  
Registration Date and Time:  
Registered Owner:  
Remarks:

s.22

**Duplicate Indefeasible Title**

NONE OUTSTANDING

**Transfers**

NONE

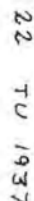
**Pending Applications**

NONE

**Corrections**

NONE





Crown File No. 1409836

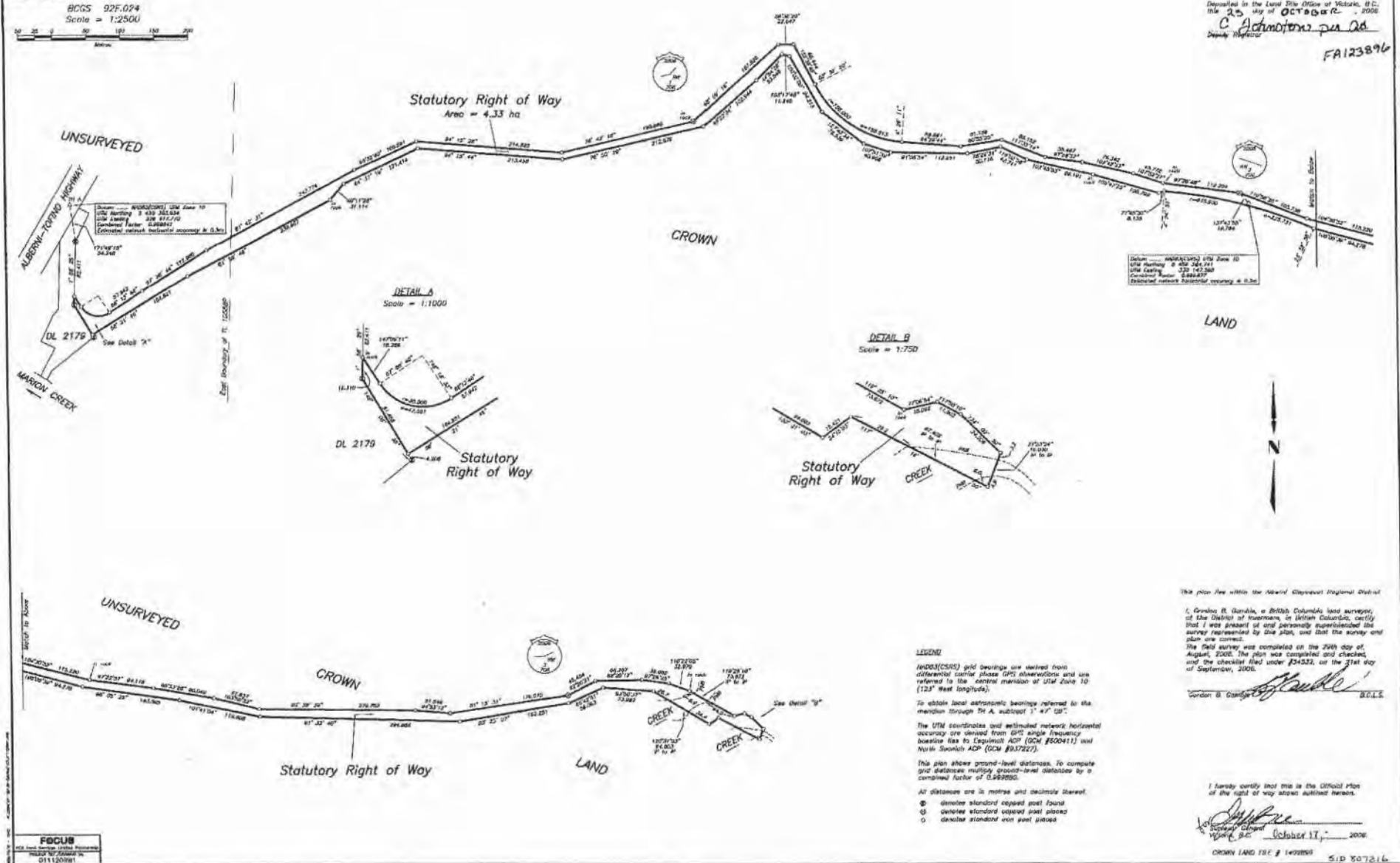


PLAN OF STATUTORY RIGHT OF WAY  
OVER UNSURVEYED CROWN LAND,  
CLAYOQUOT DISTRICT.

PLAN VIP 82003

Deposited in the Land Title Office of British Columbia, B.C.  
this 25 day of OCTOBER, 2006  
C. Johnston per A.B.  
Deputy Registrar

FA123896



Penstock



**Invoice**

Invoice Number: WSI184106  
Client: Marion Creek Hydro Inc (67611)  
Original Invoice Amount: \$5,000.00 CAD  
Outstanding Invoice Balance: \$0.00 CAD

Invoice Generation Date: Jun 18, 2014  
Payment Due Date: Aug 31, 2014  
Fee Balance: \$0.00 CAD  
Interest Balance: \$0.00 CAD

**Fees and Payments** **Invoice** **Details** **G/L Transactions** **Case Notes**

**FEES:**

Fee Date	Description	Auth #	Tracking #	Amount	Tax Amounts	Fee Total	Adjustment
Apr 9, 2014	<u>Water Licence Application Fee</u>		<u>WLA20140618</u> <u>-0002</u>	\$5,000.00		\$5,000.00	

Payment Locations**PAYMENTS:**

Date	Receipt	Payor	Fee Description	Method	Reference Number	Amount
Jun 18, 2014	<u>R545807</u>	Virtual FrontCounter BC	Water Licence Application Fee	Collected by vFCBC		\$5,000.00
					Total (CAD):	\$5,000.00





# *Tla-o-qui-aht First Nations*

PO BOX 18 TOFINO, BC V0R 2Z0  
TELEPHONE: (250) 725-3233 FAX: (250) 725-4233

March 12, 2014

Environmental Dynamics Inc.  
Unit 208A - 2520 Bowen Road  
Nanaimo, BC V9T 3L3

Attention: Dave Bean

**Re.: Marion Creek Hydro Water License Application**

Based on the information you have provided, we understand that your client, Marion Creek Hydro Inc. is applying to the Province for a new or amended water license for their hydroelectric facility at Marionette Creek (a.k.a. Marion 3), a tributary to Marion Creek. The application is to request an increase to the maximum allowable water diversion, from 1.0 m<sup>3</sup>/s to 1.4 m<sup>3</sup>/s. We understand that there are no changes planned to the facility infrastructure or current operations associated with the application.

You have indicated that the same bypass flow / conservation flow will continue to be provided in Marionette Creek at the intake. There are no fish in the upper diversion reach for this facility, and the extent of the diversion reach overlap with fish bearing waters is limited to the deep canyon pool that the tailrace empties into. Given this, and your statement that there is no construction or in-stream work entailed, and notwithstanding our Nations Aboriginal Rights and Title within its Traditional Territory, Tla-o-qui-aht First Nations has no objection to the water license application and proposed water use for the duration of the proposed water license.

Respectfully

Saya Masso, Councillor Tla-o-qui-aht First Nation  
Director Tla-o-qui-aht First Nation Development Corporation



**Letter of Appointment**

**March 6th, 2014**

**Dear Sirs,**

**To whom it may concern, I, Sam Jackson, President of Executive Power Ltd., owner and operator of Marion Creek Hydro Inc., give full authority to EDI Environmental Dynamics Inc. to undertake the acquiring of the water license amendment for Marion Creek Hydro Inc.**

**Sincerely,**

A handwritten signature in black ink, appearing to be 'SJ' followed by a long horizontal line.

**Sam Jackson**

**Contact info: cell 250 709-1736**

**samdjackson@yahoo.com**





**BRITISH  
COLUMBIA**

The Best Place on Earth

**Via Courier**

Date: January 18, 2008

Our File: 1409836

Clay & Company  
837 Burdett Avenue  
Victoria, BC V8W 1B3

Attention: Paul Scambler

Dear Paul Scambler:

**Re: Registrable lease over District Lot 2179, Clayoquot District issued in the name of Marion Creek Hydro Inc.**

Further to your letter of December 3, 2007 and our telephone discussion today, attached in triplicate is lease No. 111822 in registrable form over the above noted area issued for powerhouse, access road, powerline and trailrace purposes.

This registrable lease has been issued per your request to replace the fully executed unregistered lease number 112726.

Please note that title to District Lot 2179, Clayoquot District has not been raised in the Land Title Office as of this date. A request has been submitted to the Land Title and Survey Authority of British Columbia (LTSA) requesting that title be raised. LTSA advises that title should be raised within a two week period.

The enclosed lease has been signed by the Province in advance to facilitate early registration. Note that as title has not been raised, we are unable to complete the Land Title Office (LTO) Form C to reflect the Parcel Identification Number. Please confirm with the LTO that this number has been assigned and complete the Form C in this regard prior to submitting to the LTO to ensure that registration is streamlined. This lease is issued on the condition that you will provide our office with an original signed lease and registration particulars in due course.



Integrated Land  
Management Bureau

Ministry of  
Agriculture and Lands

Mailing/Location Address:  
Suite 142  
2080 Labeaux Road  
Nanaimo BC V9T 6J9

Telephone: 250-751-7238  
Facsimile: 250-751-7224  
Web Address:  
<http://www.al.gov.bc.ca>





**BRITISH  
COLUMBIA**

The Best Place on Earth

SEP 19 2007

File: 1409836

Marion Creek Hydro Inc.  
777 Douglas Street  
Victoria, BC V8W 2B5  
Attention:  
Derryck Jackson

Dear Derryck Jackson:

Enclosed is an originally executed copy of Lease No. 112726, covering District Lot 2179, Clayoquot District, shown outlined on sketch attached, containing 0.7400 hectares.

This Lease is issued in the name of Marion Creek Hydro Inc. for a term of 30 years commencing the 1st day of October, 2007, for powerhouse, access road, powerline and trailrace purposes.

We acknowledge receipt of rental in the amount of \$2,800.00, representing the fee for the first year.

Should you have any further questions, please contact me at (250) 751-7240.

Yours truly,

Jas Johal  
Portfolio Administrator

Enclosures

pc: BC Assessment Authority, Central Vancouver Island, Nanaimo  
Regional District of Alberni-Clayoquot  
Ministry of Forests, Port Alberni

**Integrated Land  
Management Bureau**

Ministry of  
Agriculture and Lands

Mailing/Location Address:  
Suite 142  
2080 Labieux Road  
Nanaimo BC V9T 6J9

Telephone: 250-751-7220  
Facsimile: 250-751-7224  
Web Address:  
<http://www.al.gov.bc.ca>





**Ministry of  
Sustainable Resource  
Management**

Land and Water British Columbia  
Suite 501, 345 Wallace Street  
Nanaimo BC V9R 5B6  
Telephone: (250) 741-5650  
Facsimile: (250) 741-5686  
GST Registration No. R107864738

---

February 15, 2005

Our File: 1409890

Marion Creek Hydro Inc.  
777 Douglas St  
Victoria BC V8W 2B5

**ATTENTION:** Derryck Jackson

Dear Derryck Jackson:

Enclosed is an originally executed copy of Licence No. 111563, covering unsurveyed right of way over unsurveyed Crown land lying in the vicinity of Kennedy River, together with unsurveyed foreshore or land covered by water being part of the beds of various unnamed creeks, all within Clayoquot District, containing 6.28 hectares.

This licence is issued in the name of Marion Creek Hydro Inc. for a term of 10 years commencing the 1st day of October, 2004, for intakes, penstocks and temporary access road purposes.

We acknowledge receipt of rental in the amount of \$500, representing the fee for the first year.

Should you have any further questions, please contact me at (250) 741-5673.

Yours truly,

MaryAnn Jones  
Portfolio Administrator

Enclosures

pc: BC Assessment Authority, Nanaimo  
Regional District of Alberni Clayoquot



October 17, 2003

File: 1002091

Marion Creek Hydro Inc.  
c/o Executive House Power Corporation  
777 Douglas St  
Victoria BC V8W 2B5

ATTENTION: E.D. Jackson, President

Dear E.D. Jackson:

Re: Conditional Water Licence No. 115705

Enclosed is a copy of your new water licence. Please make careful note of all its conditions.

If additional fees are required, you will be advised by the Comptroller of Water Rights, in due course.

Please note the following:

1. Water licences do not authorize entry on privately owned land for the construction of works, or flooding. Permission of the affected landowner must be obtained, or an easement expropriated. For your protection, we recommend that you obtain a written agreement which is registered with the appropriate Land Title Office.
2. Permission for installing works on lands or roadways which are under the jurisdiction of any Government agency, must be obtained from the agency concerned.
3. Please notify this office if:
  - a) there is any change to your mailing address;
  - b) you sell the land for which the licence is issued;
  - c) you intend to subdivide the land described in the licence;
  - d) you propose to alter the works authorized under the licence.

... 2





October 17, 2003

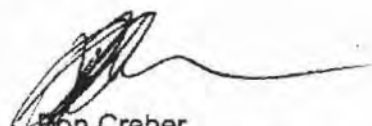
4. In order for you to keep your water licence in good standing, you must ensure the following:
- a) continued beneficial use of water, as authorized under your licence;
  - b) payment of annual rentals;
  - c) compliance with the terms of your licence;
  - d) compliance with the terms of the Water Act.

A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must:

- 1. be in writing;
- 2. be made within 30 days of the date of this letter;
- 3. include grounds for the appeal;
- 4. be accompanied by a fee of \$25 (cheque or money order payable to Minister of Finance); and,
- 5. be sent by registered mail to the Chair, Environmental Appeal Board, PO Box 9425, Stn Prov Govt, Victoria BC V8W 9V1; or personally delivered to the office of the Board at Fourth Floor, 747 Fort Street, Victoria BC V8W 3E9.

If you identify any error in the licence, or if you have any questions concerning this subject, please contact this office.

Yours truly,



Ron Creber  
Regional Water Manager

RC/mj

enclosure

cc: Water Revenue and Management – Land and Water British Columbia Inc.  
PO Box 9340 Stn Prov Govt Victoria BC V8W 9M1



# CONDITIONAL WATER LICENCE

The holder of a lease on Lands File 1409836 for the land to which this licence is appurtenant, is hereby authorized to divert and use water as follows:

- a) The streams on which the rights are granted are Marionette Creek and Marion #3 Creek.
- b) The points of diversion, denoted as PD76153 and PD76895, are located as shown on the attached plan.
- c) The date from which this licence shall have precedence is 27th October, 2000.
- d) The purpose for which this licence is issued is power (general).
- e) The maximum quantity of water which may be diverted is 1.0 cubic metre per second (35.3 cubic feet per second).
- f) The period of the year during which the water may be used is the whole year.
- g) The land upon which the water is to be used and to which this licence is appurtenant is that portion of unsurveyed Crown land lying in the vicinity of Kennedy River and Adder Mountain, within Clayoquot District, held under File 1409836 with Land and Water British Columbia Inc.
- h) The works authorized to be constructed are intakes, penstock, powerhouse, tailrace and transmission lines, which shall be located approximately as shown on the attached plan.
- i) The construction of the works authorized under Clause (h) hereof shall not be commenced until design plans, prepared by a professional engineer registered in the Province of British Columbia, have been submitted to, and leave to commence construction given in writing by an engineer under the Water Act.
- j) Prior to commencing the diversion and use of water, the licensee shall submit an operation plan, and must receive in writing from an engineer under the Water Act, leave to commence the diversion and use of water authorized in this licence.
- k) The licensee shall adjust the diversion, rate of diversion, and use of water, as may be ordered by an engineer under the Water Act from time to time, for the preservation of fish and fish habitat.
- l) The licensee shall measure the flow of water in the stream above the intake, and the water diverted from the stream. The licensee shall keep records of such flow measurements, and provide a copy of the records to an engineer under the Water Act, at his request.
- m) As-built drawings shall be prepared and submitted to an engineer under the Water Act within one year of commencing operation of the works.
- n) The construction of the said works shall be completed and the water beneficially used, on or before the 31st day of December, 2006.

  
Ron Creber  
Regional Water Manager



# BRITISH COLUMBIA

