



# Water Licence Amendment/Abandonment

Change of Works

Tracking Number: 100169180

## APPLICANT INFORMATION

If approved, will the authorization be issued to an Individual or Company/Organization? Individual

Are you the individual this authorization will be issued for if approved? Yes

## APPLICANT CONTACT INFORMATION

Please enter the contact information of the Individual/Organization who is acting on behalf of the applicant.

Name: Glenn Proudfoot  
Phone: s.22  
Daytime Phone:  
Fax:  
Email: s.22  
Mailing Address: 1784 Elko-Grasmere Road  
Grasmere BC V0B1R1

## TECHNICAL INFORMATION

### WATER LICENCE

Please enter your water licence number to start your application. Click 'Verify' to check the number you have entered.

Licence Number: C042247  
Name of Source: Maguire Creek

### LICENCE HOLDER

Name	Billing Address
Glenn Cameron Proudfoot	1784 Elko-Grasmere Road, Grasmere BC V0B 1R1

### LAND WHERE THE WATER IS USED

68.4 AC OF SL 10 & 11 OF L 361 KOOTENAY DIST PLAN X40

### PURPOSES

We have the following purposes for your licence on record:

Purpose	Quantity	Irrigated Area
01A - Domestic	2.27305 m3/day	0 ha
03B - Irrigation: Private	210925.08 m3/year	27.68 ha

### TYPE OF AMENDMENT

If you select Yes for one of the following options then you will not be able to select any other options.

#### Abandonment

This option allows you to request the abandonment of all or part of a water licence. There is no fee to abandon all or part of the licence.

Do you want to abandon your water rights? No

#### Transfer of Appurtenancy

This option is used to request a transfer of all or part of the rights and obligations under a water licence to a different parcel of land. This application is valid only while the licensee continues to own the property described in the water licence. Application fees for a Transfer of Appurtenancy Amendment are payable upon receipt of new water rights. The recipient(s) of the new water licence(s) will be billed for the application fees and any outstanding rentals when the licence(s) are issued.

Do you want to transfer the licence to another No

property with a different legal land description?

#### Apportionment

This option is used to request the division of the rights and obligations of a water licence between multiple parcels of land when the land to which the licence was issued for has been subdivided or is now separately owned. The land before and after the division must be the same and the licence is not being transferred to a different parcel of land. Application fees for an Apportionment Amendment are payable upon receipts of new water rights. The recipient(s) of the new water licences will be billed for the application fees and any outstanding rentals when licence(s) are issued.

**Do you want to Apportion (divide) the water licence rights among 2 or more parcels of land?** No

You can apply for one or more of the following options but not in combination with any of the three options above.

#### ☒ Change of Works

This option is used to request a change to the works currently authorized by your water licence. Applications fees are payable upon submission of the application.

**Please describe what you would like to change and why:**

Further to discussions with the Water Steward Section Head - Boundary, this application is being made to correct existing water works that were fully constructed by a prior landowner in 1996. Some of the Works involve Joint Water Works that were installed with mutual agreement and the full participatory co-operation of then current owners of the Appurtenant Water Licenses: C042247, C111808 and C122681 (Note C122681's Appurtenant landowner at the time of construction was the same as the Applicant's C042247). In addition, an administrative oversight is required to make this Water License consistent with the same Point of Diversion now serving C042247, C111808, C121132 & C122681 (i.e. from PD 23972 to PD73165). Unfortunately, of significant note, the current owner of the Appurtenant land associated with C111808 and C121132, **s.22**

**s.22** relating to my Water License C042247 runs through his Private land such that it has caused C044227 Pipeline to rupture and fail to the point that not any water can be transported down the Domestic and Irrigation licensed volumes related to C042247. This updating of the Works related to C042247, is the first step required to resolve this issue and ultimately enable the C042247 Pipeline to repaired and restored to its original condition and design such that the related licensed water volumes can be beneficially used and prevent any future interference to the licensed water volumes relating to C042247.

### CHANGE OF WORKS

#### PURPOSES

We have the following purposes for your licence on record:

Purpose	Quantity	Irrigated Area
01A - Domestic	2.27305 m3/day	0 ha
03B - Irrigation: Private	210925.08 m3/year	27.68 ha

### CHANGES TO WORKS

Please add any previously approved works authorized by your water licence and specify the current status and your intention for each works. Also you may add any works that you would like to add to the existing licence under the 'New Works' section.

#### PREVIOUSLY APPROVED WORKS

Works	Status	Intention
Dam	Fully Constructed	Maintain and Operate as is
<b>Comments:</b>	A Joint Water Works Dam was fully constructed in 1996 to serve all the licensed volumes relating to C042247, C111808 and C122681. (Note: The owner of C111808 subsequently was granted Water License C121132	

in 2006 for Stockwatering which is also served by this Joint Water Works Dam and Screened Intake). This Dam is located immediately on the north side of Maguire Creek on Crown Land as shown of the attached document labeled "Exhibit B". The gravel bank on the north flank and the Dam structure enables an excavator to routinely remove any natural debris / runoff accumulation in the Dam Catch Basin. All the water flow in excess of the Licensed Water volumes that are captured by this Joint Water Works Dam and Screened Intake to return to flow into the natural Maguire Creek channel located on the South flank of the Dam Catch Basin. As a condition precedent to the Crown approval for this Dam structure, the Dam structure must be managed and maintained such that no water is allowed to return to an eroded man made abandoned ditchway on the North flank beneath the Dam.

Pipe	Fully Constructed	Repair, Restore, Maintain and Operate as is
<b>Comments:</b>	At the Point of Distribution located immediately after the Joint Water Works Pipeline's main lower shut-off gate valve, a proprietary 8" PVC pipeline was fully constructed in 1996 as shown by a red-dashed line on the attached Exhibit A document to exclusively serve all the licensed water volumes relating to C042247. As this gravity pressured pipe line serves both the domestic and the irrigation volumes relating to C042247, it was also buried at a frost free depth to enable year round use. In addition, the buried pipeline reduces the surface disturbance related to both parcels of Private Land it crosses through. The attached document labeled Exhibit A shows the location of this pipeline and the attached document labeled Exhibit D shows the location more precisely through the Private Lands other than the Private Lands that are Appurtenant to C042247. It should be noted that the mutual cooperation amongst the then current Private landowner related to C111808 (i.e..Sublot 15) was achieved by the concession of the then current Private landowner of C042247 & C122681 (i.e. same party) who also owned the West Half of Sublot 16 at the time the system was constructed and allowed for the needed main Joint Water Water Pipeline shown on Exhibit A to be installed as consideration for such consent. At the time of construction, no consent was required by the owner of the West Half of Sublot 16 as it was then owned by the same owner of C042247 & C122681.	

Pipe	Fully Constructed	Maintain and Operate as is
<b>Comments:</b>	A 10" Joint Water Works Pipeline was buried at a frost-free depth at location as shown by the solid red line on the attached document labeled "Exhibit A". A Joint Water Works upper buried gate valve works was installed immediately Westwardly downslope from the Dam and Screened Intake. A Joint Water Works lower buried gate valve is also installed immediately prior to the Point of Distribution shown on the attached Exhibit A. This Joint Water Works Pipeline was constructed in 1996 with the participatory cooperation of the then current owners of Water Licenses C042247, C111808 and C122681. (Note: The owner of C111808 subsequently was granted Water License C121132 in 2006 for Stockwatering which is also served by this Joint Water Works Pipeline). As the Private Land (i.e.the West Half of Sublot 16) that is used by this Joint Water Works Pipeline was owned by the same then current landowner as C042247 when this pipeline was installed, no consent was required to enable the construction and operation thereof.	

Screened Intake	Fully Constructed	Maintain and Operate as is
<b>Comments:</b>	A Joint Water Works Screened Intake was fully constructed in 1996 to serve all the licensed volumes relating to C042247, C111808 and C122681. (Note: The owner of C111808 subsequently was granted Water License C121132 in 2006 for Stockwatering which is also served by this Joint Water Works Screened Intake). This Screened Intake is located on Crown Land, the East Half of Sublot 16, approximately in the middle of the man made Joint Water Works Dam's Catch Basin as shown of the attached document labeled "Exhibit B".	

Are any new works required? No

#### JOINT WORKS

Are any of your works joint with another person's or group's works? Yes

### OTHER LANDS PHYSICALLY AFFECTED

Do your works affect another private landowner's property, 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.

Please select 'Yes' to the following question when one of the following applies:

- you have changed your works and they are now physically affecting someone else's property who has NOT given their permission when the licence was approved
- OR
- you had previously obtained permission from a land owner who is physically affected by your works but this land owner has changed.

**Are there other lands that would be physically affected by your works?** Yes

#### Land Description

Private Land

Parcel ID: 016-312-384

Legal Description: SUBLOT 15, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40

Private Land

Parcel ID: 016-313-232

Legal Description: THE WEST HALF OF SUBLOT 16, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40

Provincial Crown Land

Legal Description: THE EAST HALF OF SUBLOT 16, DISTRICT LOT 361, KOOTENAY LAND DISTRICT, PLAN X40

Metes and Bounds: A PIPELINE AND INTAKE SYSTEM EASEMENT 20 METERS WIDE BY 330 METERS LONG AS SHOWN ON THE DOCUMENT ATTACHED TO AS EXHIBIT A (APPROXIMATELY 0.66 HECTARES).

### ATTACHED DOCUMENTS

Document Type	Description	Filename
Other	Exhibit A - for Water Licence C042247	Exhibit A - Water Licence C...
Other	Exhibit B - Joint Water Works Dam and Screened Intake - Maguire Creek	Exhibit B - JWW Dam & Scree...
Other	Exhibit C - Survey of Appurtenant Land to Water License C042247	Exhibit C - Survey Plan of ...
Other	Exhibit D - Reference Plan for Easements	Exhibit D - Reference Plan ...

### PRIVACY DECLARATION

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

Personal information is collected by FrontCounter BC under the legal authority of section 26 (c) and 27 (1) of the Freedom of Information and Protection of Privacy Act (the Act).

The collection, use, and disclosure of personal information is subject to the provisions of the Act. The personal information collected by FrontCounter BC will be used to process your inquiry or application(s). It may also be shared when strictly necessary with partner agencies that are also subject to the provisions of the Act. The personal information supplied in the application package may be used for referrals or notifications as required. Personal information may be used by FrontCounter BC for survey purposes. For more information regarding the collection, use, and/or disclosure of your personal information by FrontCounter BC, please contact FrontCounter BC at 1-877-855-3222 or at:

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 prepopulated 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:**

**Contact Name:** Glenn Proudfoot  
**Contact Address:** 1784 Elko-Grasmere Road  
Grasmere, BC V0B1R1

**Contact Phone:**

**Contact Email:**

☒ 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.

#### SIGNATURES

#### OTHER LANDS PHYSICALLY AFFECTED

Consent is required from the landowners of the following properties.

Land Description	Status of Signature Request
Private Land Parcel ID: 016-312-384 Legal Description: SUBLOT 15, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40	Proof of contact attempts uploaded
Private Land Parcel ID: 016-313-232 Legal Description: THE WEST HALF OF SUBLOT 16, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40	Proof of contact attempts uploaded

#### 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.

- 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.
- Once you click 'Next' the application will be locked down and you will NOT be able to edit it any more.

#### DECLARATION

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

#### OTHER INFORMATION

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

There are many prevailing concerns and issues relating to the existing Water Licenses on Maguire Creek that the Crown Water Head for Kootenay Boundary is acutely aware of. This Application for a Change of Works associated with CL042247 has been encouraged by the Crown as first step to enable the formal documentation correction of the details related to CL042247. Several attempts to attach a document set related to Joint Works failed, so Joint Works document set has been forwarded by email directly to the Water Head Kootenay Boundary, for attachment to this application.

**APPLICATION FEES**

Item	Amount	Taxes	Total	Outstanding Balance
Water Licence Amendment Application Fee	\$125.00		\$125.00	\$0.00

**OFFICE**

Office to submit application to: Cranbrook

**PROJECT INFORMATION**

Is this application for an activity or project which  
requires more than one natural resource  
authorization from the Province of BC? No

**OFFICE USE ONLY**

Office Cranbrook	File Number	Project Number
	Disposition ID	Client Number



# Water Licence Amendment/Abandonment

Change of Purpose

Tracking Number: 100131052

## APPLICANT INFORMATION

**Name:** Virginia Purcell  
**Phone:** s.22  
**Daytime Phone:**  
**Fax:**  
**Email:** s.22  
**Mailing Address:** 31065 Woodland Heights  
Calgary AB T3R1C6

## CO-APPLICANTS

You have indicated earlier in the application that there is one or more co-applicant. Please add each co-applicant by clicking on the 'Add Individual' or 'Add Organization' button below depending if the co-applicant is an individual or an organization. Due to Freedom of Information and Protection of Privacy Act regulations you are only able to enter the name and email address for an individual.

**Name:** Robert Douglas Purcell  
**Phone:** s.22  
**Daytime Phone:**  
**Fax:**  
**Email:** s.22  
**Mailing Address:** 31065 Woodland Heights  
Calgary AB T3R 1C6

## SETUP QUESTIONS

The APPLICANT is the Individual(s) or Organization to whom the authorization will be issued, if approved. Before choosing your answer, please click on the HELP ICON(?) beside each question.

**Are you an individual or an organization?** Individual  
**Are you applying on behalf of the applicant?** No  
**Are there co-applicants for this application?** Yes  
**Have you obtained authorization from each co-applicant to enter their personal information such as their name, address and phone number for this application?** Yes

## TECHNICAL INFORMATION

### WATER LICENCE

Please enter your water licence number to start your application. Click 'Verify' to check the number you have entered.

**Licence Number:** C122681  
**Name of Source:** Maguire Creek

### LICENCE HOLDER

Name	Billing Address
Virginia A Purcell and Robert D Purcell	31065 WOODLAND HEIGHTS, CALGARY AB T3R 1C6

### LAND WHERE THE WATER IS USED

31.7 AC OF WEST 1/2 OF SUBLOT 16 DL 361 KD PLAN X40

### PURPOSES

We have the following purposes for your licence on record:

Purpose	Quantity	Irrigated Area
01A - Domestic	2.27305 m3/day	0 ha

**TYPE OF AMENDMENT**

If you select Yes for one of the following options then you will not be able to select any other options.

**Abandonment**

This option allows you to request the abandonment of all or part of a water licence. There is no fee to abandon all or part of the licence.

**Do you want to abandon your water rights?** No

**Transfer of Appurtenancy**

This option is used to request a transfer of all or part of the rights and obligations under a water licence to a different parcel of land. This application is valid only while the licensee continues to own the property described in the water licence. Application fees for a Transfer of Appurtenancy Amendment are payable upon receipt of new water rights. The recipient(s) of the new water licence(s) will be billed for the application fees and any outstanding rentals when the licence(s) are issued.

**Do you want to transfer the licence to another property with a different legal land description?** No

**Apportionment**

This option is used to request the division of the rights and obligations of a water licence between multiple parcels of land when the land to which the licence was issued for has been subdivided or is now separately owned. The land before and after the division must be the same and the licence is not being transferred to a different parcel of land. Application fees for an Apportionment Amendment are payable upon receipts of new water rights. The recipient(s) of the new water licences will be billed for the application fees and any outstanding rentals when licence(s) are issued.

**Do you want to Apportion (divide) the water licence rights among 2 or more parcels of land?** No

You can apply for one or more of the following options but not in combination with any of the three options above.

☒ **Change of Purpose**

This option is used to request a change to the purposes currently authorized by your water licence. Applications fees are payable upon submission of the application.

**Please describe what you would like to change and why:**

We would like to apply to allocate a small portion of our existing irrigation water volumes for the purpose of stock watering.

**CHANGE OF PURPOSE**

This application allows you to request a change to the purposes previously approved for your water licence.

**PURPOSES**

We have the following purposes for your licence on record:

Purpose	Quantity	Irrigated Area
01A - Domestic	2.27305 m3/day	0 ha
03B - Irrigation	97814.964 m3/year	12.829 ha

**CHANGED PURPOSES**

You can select one or more purposes for your water licence.

Please note that the total quantity of water must not exceed your existing licensed quantity. If you require additional water you must apply for a new water licence for the additional quantity.

**NEW PURPOSES**

Purpose	Quantity	Use of Water	Comments	Fee
Stockwatering	2 m3/day - Stock: 10 (Bison, Horse, Mule)	Year Round		\$150.00

**Please describe why you want to make changes to the purposes:**

We have horses to water year round. We will be providing the water applied for using existing works (hydrant, waterer) in a pasture location on the west side of our property.

## PRIVACY DECLARATION

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

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The collection, use, and disclosure of personal information is subject to the provisions of the Act. The personal information collected by FrontCounter BC will be used to process your inquiry or application(s). It may also be shared when strictly necessary with partner agencies that are also subject to the provisions of the Act. The personal information supplied in the application package may be used for referrals or notifications as required. Personal information may be used by FrontCounter BC for survey purposes. For more information regarding the collection, use, and/or disclosure of your personal information by FrontCounter BC, please contact FrontCounter BC at 1-877-855-3222 or at:

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.

## SIGNATURES

### CO-APPLICANTS

You will have to obtain approval from all co-applicants before you can proceed with your application. Please select one option for each.

Name	Status of Signature Request
Robert Douglas Purcell	Email sent - Approved

## 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.

- 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.
- Once you click 'Next' the application will be locked down and you will NOT be able to edit it any more.

### 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
Water Licence Amendment Application Fee	\$100.00		\$100.00	\$0.00

## OFFICE

Office to submit application to: Cranbrook

## PROJECT INFORMATION

Is this application for an activity or project which  
requires more than one natural resource  
authorization from the Province of BC? No

<b>OFFICE USE ONLY</b>		
Office Cranbrook	File Number	Project Number
	Disposition ID	Client Number



July 14, 2015

**File: 4005250**

Virginia A Purcell and Robert D Purcell  
31065 WOODLAND HEIGHTS  
CALGARY AB T3R 1C6

**Dear Virginia Purcell and Robert Purcell:**

**Re: Water Licence Amendment AMD20150714-0002**

We have accepted your application for a change of purpose, as noted above.

Enclosed is your Receipt R573092 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.

If after the processing of your application, it is determined that your works will occupy Crown land, including a foreshore or land covered by water, where the pipe extends over 15 metres (approximately 50 feet), a permit will be issued and you will be billed for the application fee.

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.

If your proposed intake is located in a stream which supports fish life, you may be requested to provide adequate screening of the intake in accordance with any requirements of authorities having jurisdiction over fisheries in your area.

If your proposed works cross a public road, you must notify the agency that has jurisdiction over the road.

Water licences do not authorize entry onto privately owned land for the construction, maintenance of works or flooding. Permission or an easement should be obtained from the affected land owner. If that cannot be achieved you have expropriation rights under the Water Act.

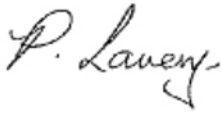
1

There may be other federal, provincial, regional district or municipal agencies that have jurisdiction with regard to streams and watercourses. It is your responsibility to ensure that you obtain any approvals or specifications from such agencies.

This letter does not constitute permission to divert and use water. The next step in the application process may be an on-site inspection of your proposal. You may be contacted to arrange a mutually agreeable time for this inspection.

If you have any questions or comments, please contact this office at the number below.

Yours Truly,

A handwritten signature in cursive script, appearing to read "P. Lavery".

P. Lavery  
Natural Resource Officer

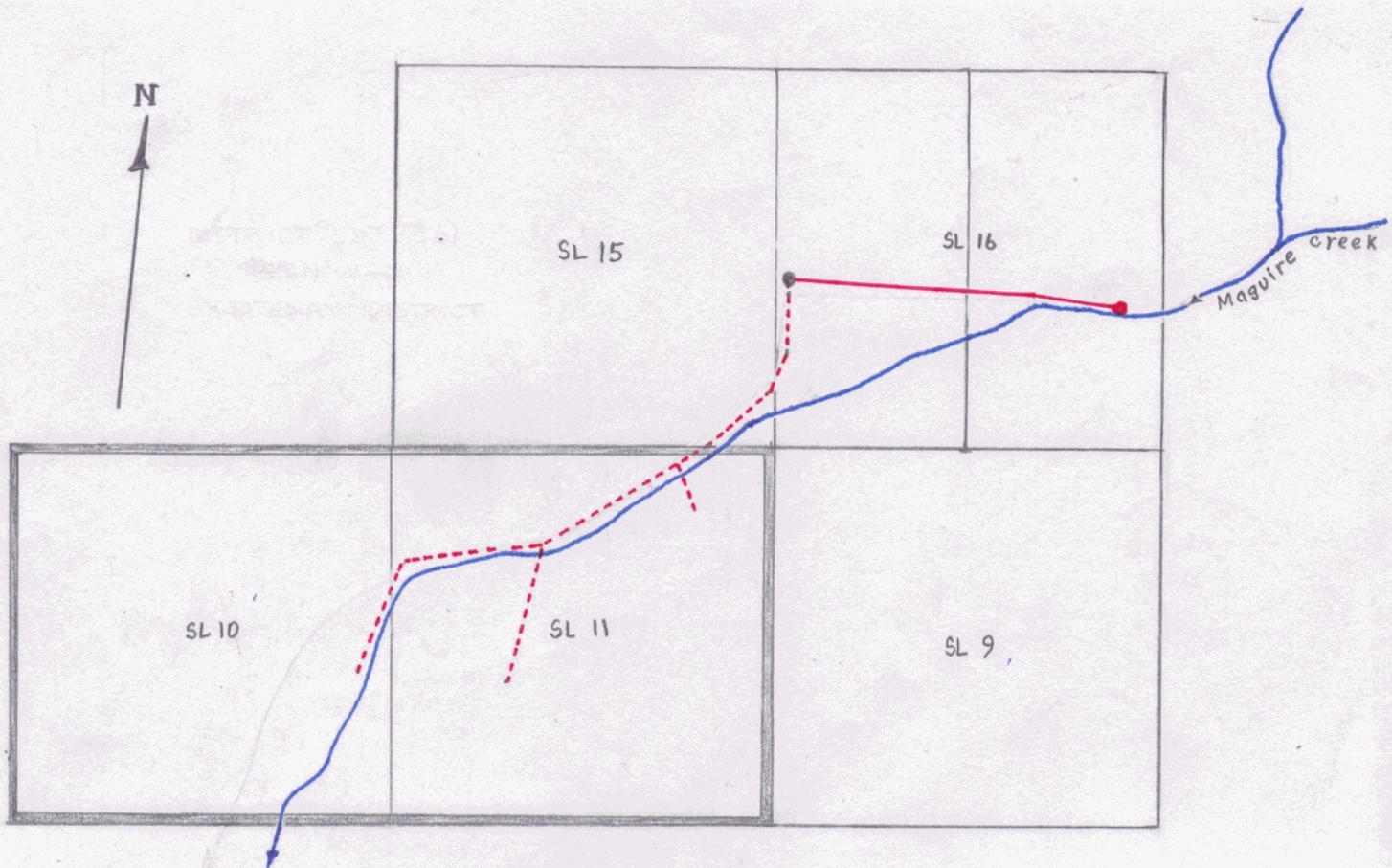
Enclosures

# Exhibit A

for Water Licence C042247

## BRITISH COLUMBIA

DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40



### LEGEND FOR WATER LICENCE C042247

SCALE: 1 : 10,000

MAGUIRE CREEK



PROPERTY BOUNDARY



APPERTENANT LAND PROPERTY BOUNDARY



JOINT WATER WORKS POINT OF DIVERSION 73165



JOINT WATER WORKS PIPELINE



POINT OF DISTRIBUTION



CO42247 PIPELINE



## Exhibit B

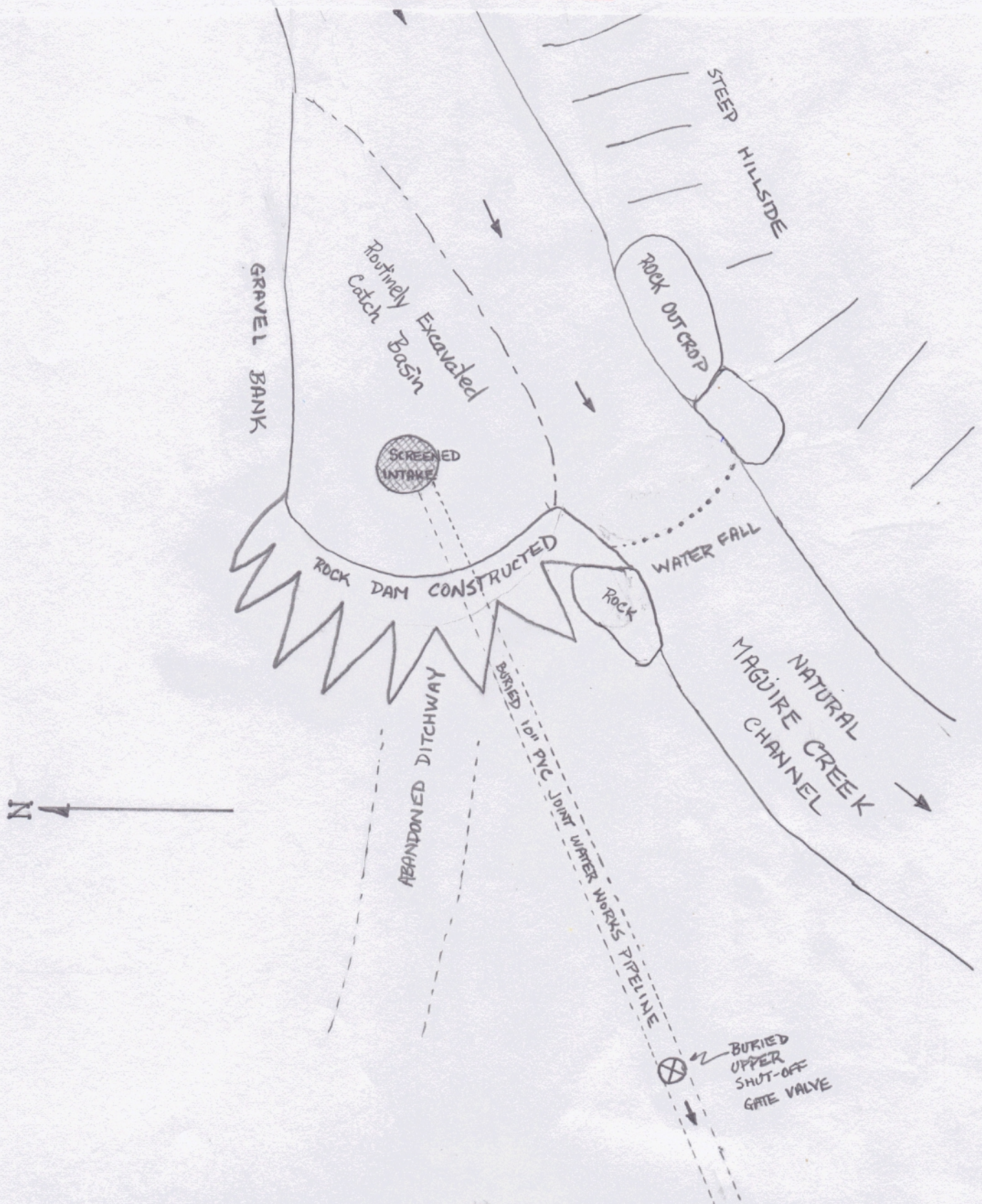
### JOINT WATER WORKS DAM AND SCREENED INTAKE - MAGUIRE CREEK

SERVING WATER LICENSES: C042247, C111808, C121132 & C122681

## BRITISH COLUMBIA

EAST HALF OF SUBLOT 16, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X40

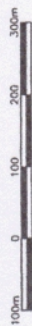
SKETCH PLAN - NOT TO SCALE



# POSTING PLAN OF SUBLOTS 10 AND 11, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X-40

Pursuant to Section 68 of the Land Title Act

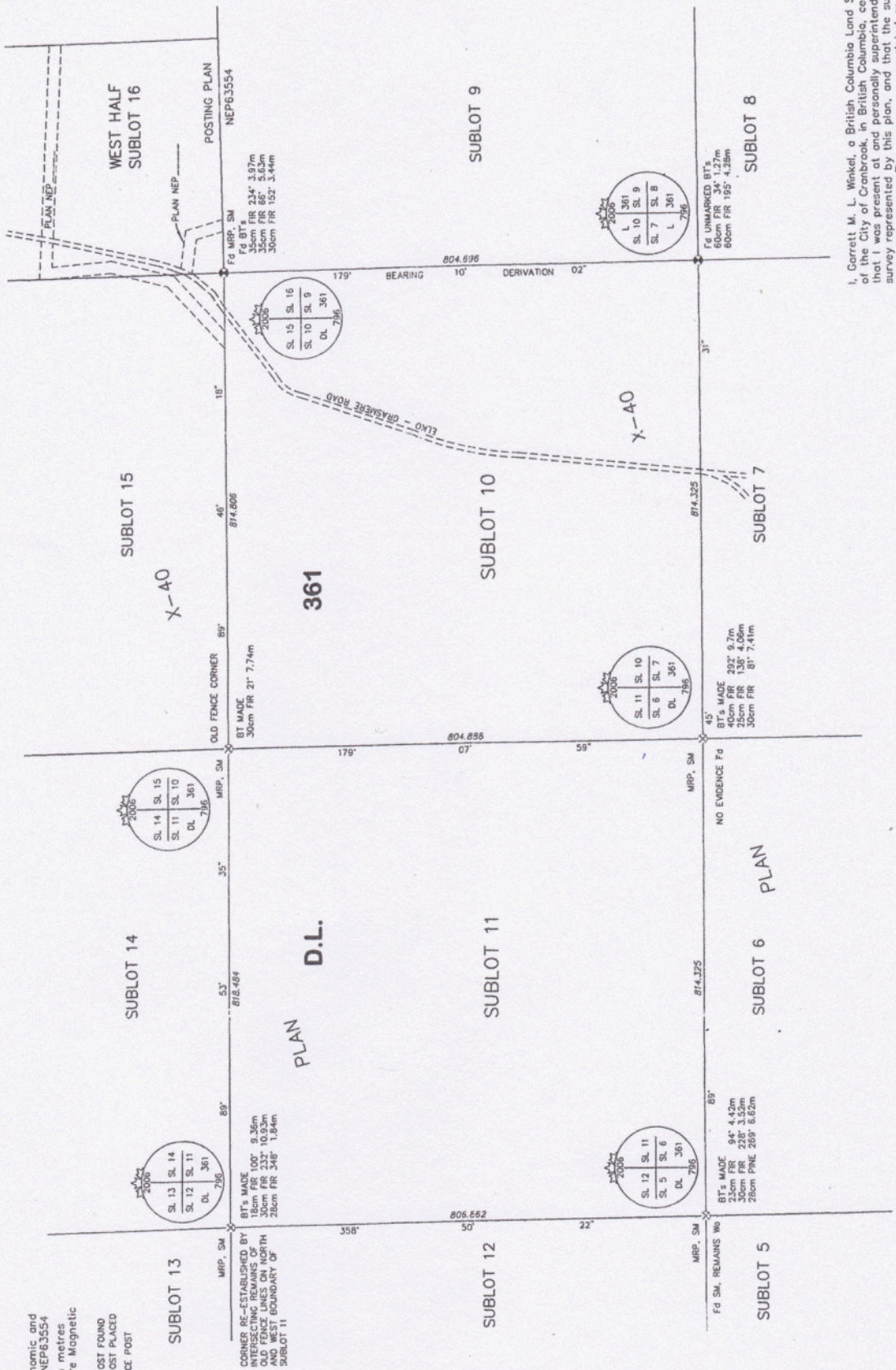
BCGS 82G.015



SCALE 1:5000

## LEGEND

- Bearings are Astronomic and derived from Plan NEP63554
- All distances are in metres
- Bearings to BT's are Magnetic
- STANDARD CAPPED POST FOUND
- STANDARD CAPPED POST PLACED
- MRP - METAL REFERENCE POST



## PLAN NEP

Deposited in the Land Title Office at Kamloops B.C., this \_\_\_\_ day of \_\_\_\_, 2006.

Registrar

I, Garrett M. L. Winkler, a British Columbia Land Surveyor, of the City of Cranbrook in British Columbia, certify that I was present at and personally supervised the survey represented by this plan, and that the survey and plan are correct. The survey was completed on the 22nd day of September, 2006. The plan was completed and checked, and the checklist filed under #54595 the 23rd day of September 2006.

# Exhibit D

## REFERENCE PLAN FOR EASEMENTS

### PLAN NEP

Deposited in the Land Title Office at  
Kamloops B.C. this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Registrar

## REFERENCE PLAN FOR EASEMENT OF PARTS OF SUBLOT 15 AND THE WEST HALF OF SUBLOT 16, DISTRICT LOT 361, KOOTENAY DISTRICT, PLAN X-40

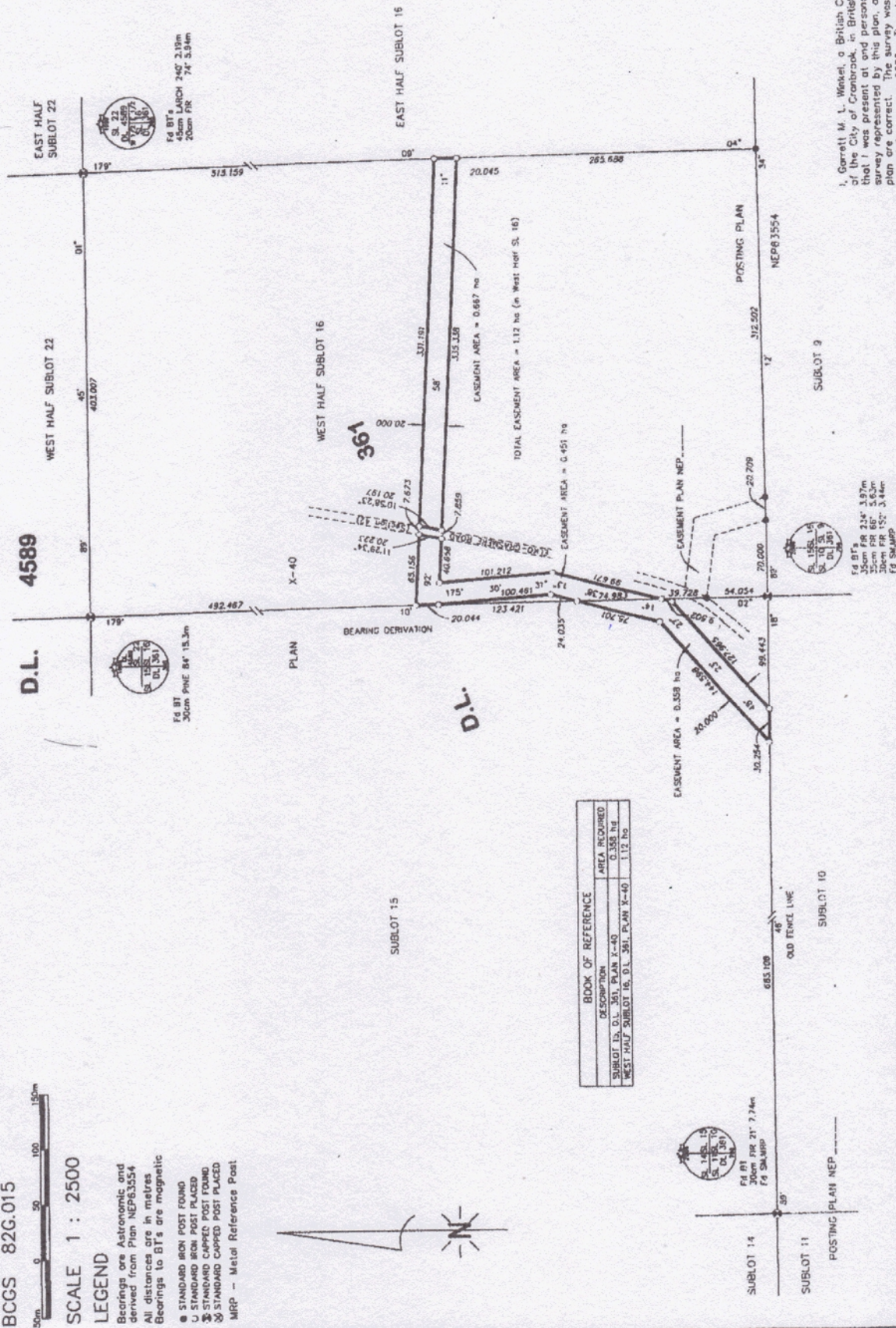
Pursuant to Section 99(1)(e) of the Land Title Act

BCGS 82G.015

Scale 1 : 2500

LEGEND

- Bearings are Astronomic and derived from Plan NEP63554
- All distances are in metres
- Bearings to BT's are magnetic
- STANDARD IRON POST FOUND
- U STANDARD IRON POST PLACED
- ⊗ STANDARD CAPPED POST FOUND
- ⊗ STANDARD CAPPED POST PLACED
- MRP - Metal Reference Post



I, Garrett M. L. Winkel, a British Columbia Land Surveyor, of the City of Cranbrook, in British Columbia, certify that I was present at and personally supervised the survey represented by this plan, and that the survey and plan are correct. The survey was completed on the 21st day of September, 2006. The plan was completed and checked, and the checklist filed under # \_\_\_\_\_ the day of \_\_\_\_\_, 2006.



June 06, 2016

**File: 0050715**  
**vFCBC Tracking #: 100169180**

Glenn Cameron Proudfoot  
1784 Elko-Grasmere Road  
Grasmere BC V0B 1R1

**Dear Glenn Proudfoot:**

**Re: Water Licence Amendment AMD20160606-0001**

We have accepted your application, as noted above.

Enclosed is your Receipt R594929 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 after the processing of your application, it is determined that your works will occupy Crown land, including a foreshore or land covered by water, a permit may be issued and you will be billed for the application fee.

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.

1

If your proposed intake is located in a stream which supports fish life, you may be requested to provide adequate screening of the intake in accordance with any requirements of authorities having jurisdiction over fisheries in your area.

If your proposed works cross a public road, you must notify the agency that has jurisdiction over the road.

Water licences do not authorize entry onto privately owned land for the construction, maintenance of works or flooding. Permission or an easement should be obtained from the affected land owner. If that cannot be achieved you have expropriation rights under the Water Sustainability Act.

There may be other federal, provincial, regional district or municipal agencies that have jurisdiction with regard to streams and watercourses. It is your responsibility to ensure that you obtain any approvals or specifications from such agencies.

This letter does not constitute permission to divert and use water, except for the purpose of conducting a test for the quality or quantity of water or a flow test. The next step in the application process may be an on-site inspection of your proposal. You may be contacted to arrange a mutually agreeable time for this inspection.

If you have any questions or comments, please contact this office at the number below.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Barry Comin', with a stylized flourish at the end.

Barry Comin  
Senior Natural Resources Specialist

Enclosures

**Hendricks, Duane FLNR:EX**

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0050715

**From:** Hendricks, Duane FLNR:EX  
**Sent:** Thursday, April 28, 2016 4:53 PM  
**To:** s.22  
**Subject:** Water Licence Amendment

Hello Glenn,

Thanks for your call today regarding the process for applying for a water licence amendment. As discussed, I understand you wish to amend your existing licence to reflect the works as they are currently constructed. From our conversation, I think you already found the Virtual Front Counter BC website, which is the location to apply for the amendment:

<http://www.frontcounterbc.gov.bc.ca/>

Also, you may wish to look up the iMap BC tool to assist you in creating the drawing for your water licence map:

<http://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/databc/geographic-data-and-services/imapbc>

Best regards,

Duane

Duane Hendricks, P.Eng  
Water Stewardship Section Head - Kootenay Boundary  
Ministry of Forests, Lands and Natural Resource Operations  
205 Industrial Road G  
Cranbrook, BC V1C 7G5  
250-489-8529

## Hendricks, Duane FLNR:EX

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**From:** Glenn Proudfoot s.22  
**Sent:** Thursday, May 26, 2016 1:18 PM  
**To:** Hendricks, Duane FLNR:EX  
**Cc:** Daigle, Michael J FLNR:EX  
**Subject:** Change of Works Application # 100169180  
**Attachments:** JWW Document History.pdf

0050715

Hi Duane

After considerable effort and becoming acquainted with using the online system to do the change documentation as well as assemble the proper background information, maps, sketch plans and surveys; I finally succeeded in getting it off into the Front Counter BC system this morning. As this Application is a retroactive correction to the documentation that was effectively needed before the systems were installed and fully constructed in 1996, it required perhaps more detail than normal. There was a software glitch concerning no ability to upload the information relating to Joint Works. Several attempts failed due to "Internal Server Error". However, consistent with the notation on the Application form, I have attached the JWW Document set to this email below so that your office have the information and can link it to this Application.

I appreciate your earlier advise that the Approval review will be queued in the order it is received by your office and the current lag time is anticipated to be approximately 3 or 4 months - thus putting my ability to beneficial use my domestic and irrigation water volumes in suspense until this Change of Works Application is approved ... that will then allow me to proceed to expropriate if necessary the easement needed from s.22

s.22

Thank you your guidance and I hope the detail I provided in this rather complicated matter is sufficient to enable the outstanding corrections needed by CL042247 to made concerning both the right Point of Diversion and the location of the Joint and Proprietary water works related thereto.

You can contact me anytime by email or cell phone at s.22

Sincerely

Glenn Proudfoot

Maguire Creek Documentation Supporting Joint Use Agreement Requirement for:  
CL042247 – Glenn Proudfoot  
CL122681 – Douglas & Virginia Purcell  
CL111880 and CL121132 – Jason Horst

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Considerable documentation exists supporting the requirement for a Joint Use Agreement to govern the Joint Use of a common intake system and pipeline system. This system was originally constructed in 1996 by the then current Appurtenant landowners to the above Water Licenses (the McIntyre family for CL042247, the McIntyre family for CL122681, and Phillips for CL111880 and the additional water associated with CL121132). Unfortunately, to date, no such Agreement has been able to be concluded. The following is the documentation known to Glenn Proudfoot that is consistent with this requirement:

1. The attached "Engineer's Report of a Water Application" dated 2/21/1980 noted the need to "maintain a joint intake" and "the point of diversion to be in common".
2. Correspondence between the Crown and Phillips dated 8/18/1995 attached shows notations by the Crown that "McIntyre is going in on half the project".
3. The consent of McIntyre's to Phillips to install the related underground pipeline through their private land (West Half of Sublot 16) dated 8/30/1995.
4. The letter from Phillip's dated 8/31/1995 clarifying that the new intake will be "replacing McIntyre's".
5. The joint letter from McIntyre and Phillips to the Crown dated 9/20/1995 requesting a construction delay for the joint works.
6. The Joint Water Works Construction contract between the independent contractors, McIntyre and Phillips dated 5/16/1996.
7. The letter dated 8/14/2006 from Horst (the current new owner of Appurtenant Land associated with CL111880 and CL121132) to the then current Appurtenant landowner of CL042247 acknowledging:
  - a. the construction cost sharing of the Joint Water Works system that was incurred by the prior Appurtenant landowners (i.e. McIntyre's and Phillips) was 50% / 50%; and
  - b. "A Joint Works Agreement also needs to be reached with regards to the day-to-day operation and maintenance of the common water system."
8. The land purchase contract dated 8/15/2006 between the then current owner of the West Half of Sublot 16 and the new owner, Purcell, containing a contractual commitment to resolve and formalize the easements and Joint Water Works cost sharing (please see attached documentation).
9. A letter from the Crown to Purcell dated 6/21/2007 stating "As your proposed works are joint with other other licensees, you are urged to develop a Joint Works Agreement to clarify issues surrounding your shared works. Enclosed are general information and as an example."
10. A letter from the Crown to Purcell dated 10/3/2013 that stated "... users of this intake system must put aside any differences and work together to produce a joint works use and maintenance agreement."

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BY  
FLNRD

11. A letter from Proudfoot to the Crown dated 10/6/2014 reported s.22 to the main proprietary pipeline of CL042247 at the point CL042247's pipeline enters land owned by s.22 (It should be noted that, generally speaking, this is not a Joint Water Works issue but an issue between CL042247 and s.22. Despite the clear and immediate directive rendered in person by the responding Environment Compliance and Enforcement Officer for s.22 s.22
- s.22 (Please note: Consistent with the concerns raised by Proudfoot at the time of s.22 would likely fail, it predictably failed in August 2015 disabling any further beneficial use by CL042247 until a reversal repair can be executed).
12. A "without prejudice" meeting with Proudfoot, Horst, Purcell and Melling was held 11/1/2014 in an effort to hopefully resolve the parties' management of the Joint Water Works system and try to reach a recommended solution regarding the pending EAB-WAT-029 Appeal process. This was meeting achieved at the formal request of the Environmental Appeal Board in the context of EAB 2013-WAT-029. Unfortunately, no formal agreement was reached other than to convene another meeting. Such follow-up meeting has not occurred to date likely due to the frustrations /conflict cited in #13 below.
13. The Purcell's proceeded with an upgrade to the water works serving their domestic and irrigation systems that immediately follows the lower Joint Water Works shut-in valve at the Point of Distribution for works associated with all subject water licenses. An opportunity to participate in this upgrade which included providing a buried pipeline to Horst's property as a replacement to the above ground works serving his proprietary pipeline was extended by Purcell to Horst. Horst's existing proprietary water works were compromising Purcell's use and enjoyment of their private property as well as jeopardizing the frost free integrity of the common Joint Works system and the adjacent proprietary water works of all parties. Purcell also wished to resolve in hopeful cooperation with Horst the ongoing frustrations they were each experiencing with the poor performance of their domestic water supply systems. For reasons unknown to Proudfoot, Horst declined to participate in the system upgrades proposed by Purcell. Despite the protests of Horst, Purcell elected to proceed with the upgrade/betterment without Horst's participation. During this time, a recommendation was forthcoming from Purcell to both Horst and Proudfoot to replace the faulty lower Joint Water Works shut-off valve during the Purcell's upgrade/betterment project. Purcell was able to secure Proudfoot's consent but not able to secure Horst's participation, so it was agreed by Proudfoot and Purcell not to proceed with replacing this lower main valve at this time without Horst onside. s.22
- s.22
- s.22 However, Purcell proceeded to do the repairs /upgrades independently. A significant issue of accountability / responsibility then arose when the Purcell construction project experienced a major failure (i.e. loss of pressure control due to a breakage at the Joint

s.22

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BY  
FLNRD

A draft of a Joint Water Works Agreement was provided by Proudfoot to Purcell at the time of their purchase of the West Half of Sublot 16, with the intent that it would be executed in reasonable due course consistent with the attached undertaking by Purcell at the time of purchase. It was understood that Purcell required some time to resolve several issues that relate their property relative to s.22

s.22

Despite all the foregoing Crown directives, supporting evidence, contractual obligations, and the declared need for a Joint Water Works Agreement between the parties; no Joint Water Works Agreement has been reached. It is unlikely that a formal Joint Water Works Agreement can be properly constituted without being explicitly mandated by the Crown.

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Exhibit B  
Water Works Sketch Plan  
Maguire Creek Joint Water Works Agreement

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MAY 26 2015

Legend

 Maguire Creek



Common Point of Diversion at Intake Dam Structure



Common Pipeline Right of Way on Crown Land



Lot Boundary



Canyon Cut-Off Road



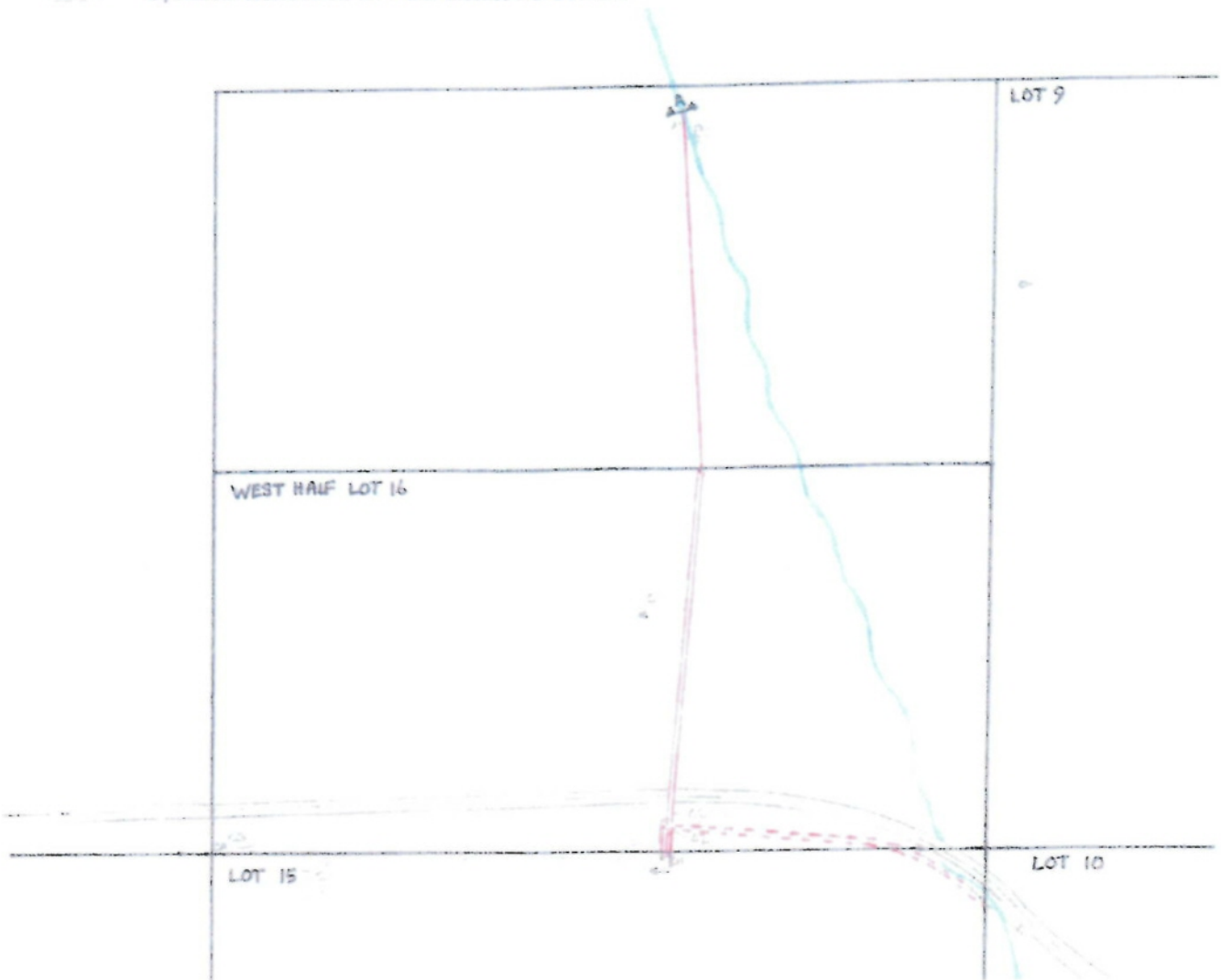
Common Pipeline Easement on Private Land: West Half of Sublot 16, DL 361, Plan X40, K1.D



Proprietary Pipeline Easements on Private Land: Sublot 15, DL 361, Plan X40, K1.D



Operation Access Route for Water Licence No. C111880



Page 26 to/à Page 43

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DUPLICATE

**Atkinson, Carol FLNR:EX**

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**From:** Flaata, Debby L FLNR:EX  
**Sent:** Wednesday, May 18, 2016 7:56 AM  
**To:** Hendricks, Duane FLNR:EX  
**Cc:** Hills, Gerald FLNR:EX; Atherton, Carol FLNR:EX  
**Subject:** Maguire Creek complaint

Hi Duane,

The NROs received a complaint from s.22 on May 15, 2016 regarding three water licences on Maguire Creek. The complaint involved three water licences that the s.22 believes are not being used at this time.

Upon inspection of this complaint it was noted that, Virginia Purcell owner of water licence C122681, has an amendment waiting for approval on this licence.

A call was placed on May 17, 2016 at 12:30, to Gary Proudfoot regarding his water licence (CO42247), and he informed me he is in the process of applying for an amendment to his water licence.

A call was placed on May 13, 2016 and May 17, 2016, to Thomas Melling, messages were left on both occasions on the phone recorder, asking for call backs regarding his water licence C127713. At this time, I cannot determine if there is a non-compliance of this water licence.

The Natural Resource Office contacted s.22 to update him on these finding.



Debby Flaata  
Natural Resource Officer  
Rocky Mountain Field Unit  
Compliance and Enforcement Branch  
Ministry of Forests Lands and Natural Resource Operations  
Phone: 250.489.8583  
Fax: 250.489.8506 Email: [debby.flaata@gov.bc.ca](mailto:debby.flaata@gov.bc.ca)