




# FW: letter form Chutter Ranch

November 15, 2022 10:22 AM

Subject	<b>FW: letter form Chutter Ranch</b>
From	Courtenay, Adam FOR:EX
To	Farmer, Patrick FOR:EX
Sent	September 22, 2022 10:08 AM
Attachments	<div> 2 emails</div> <div> letter to Adam C</div> <div> Plan of Lot A</div>

Hey Patrick,

As discussed this morning please see letters from David Chutter.

He has included my correspondence from over a year ago in this email. From my research and I spent a lot of time digging into this I found that the Lot A was never entitled to water rights.

All the water licenses legal descriptions need to be updated as they have changed over the years.

Enjoy!  
Adam

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

From: David Chutter  
Sent: September 7, 2022 12:07 PM  
To: Courtenay, Adam FOR:EX  
Subject: letter form Chutter Ranch

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Adam

Please find a letter to you as attached plus 2 other attachments that the letter refers to.

thanks

dave

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Please note new email address ([davechutter@ranchland.ca](mailto:davechutter@ranchland.ca)) for future correspondence.

David Chutter  
Chutter Ranch



## CHUTTER RANCH LTD.

2725 Nicola Cut-off Road  
PO Box 2509  
Merritt BC V1K 1B8

Phone 250-378-4955  
Fax 250-378-4956  
Email [info@ranchland.ca](mailto:info@ranchland.ca)

September 5<sup>th</sup>, 2022

Adam Courtenay  
Regional Hydrologist  
Ministry of Forests  
Kamloops, BC

Hi Adam,

Thank you for the water license information that you provided in your email dated 08/04/2021 (attached) with respect to Lot A and amending ranch licenses. This letter explains the water license issue involving Lot A. In order to resolve the issue I would greatly appreciate a reply by letter from you expressing your comments and the facts.

The issue involves Lot A (Plan No KAP44809 as attached), a 7 acre parcel, which my dad had subdivided off from ranch property dated March 18, 1991. Lot A was made by combining a small part from each of 3 larger adjacent ranch lots (DL 192, 962 and 666). Lot A is located on the east side of Plan 400 R/W (formally a railway spur and now our ranch access road). Presumably Lot A was allowed to be subdivided by the ALC because it did not involve partitioning off irrigated farmland as it is on hillside containing inferior clay soil, rough topography and not suitable for farming and/or irrigating.

My mother sold Lot A to a relative in the spring of 2015 who then started employment on the ranch. In the spring of 2020 the relative listed Lot A for sale claiming that "there are water rights connected to the property". The property disclosure stated "the water rights associated with the property are currently in the apportionment process (subdivision between the lot and the remainder of the 3 lots it was previously part of – directed by the Ministry of Forests)". The disclosure also stated "the apportionment process will more clearly define and explain the expectations/rights/obligations of both parties once complete including use of the existing pump and pipe."

My disagreement with the above claims by the relative is that I believe there never has been water rights connected to Lot A, apportionment of water rights to Lot A has never been in process and that apportionment is not an option because:

- a) The Final Water Licenses (3793 and 3794) mapped specific areas for the water to be applied to which do not include any areas of Lot A.
- b) Irrigated farmland having associated water rights was not part of the land subdivided to make up Lot A so there is no water right to apportion to Lot A. I assume that the purpose of

apportionment in the Water Act is to allow a portion of the water rights to follow a portion of the irrigated farmland that was partitioned off.

- c) I am sure that the ALC would not have approved to subdivide Lot A from the ranch property if it meant that water rights could be taken from 100 year old, irrigated and fertile farmland (resulting in an area drying up and out of production) just to irrigate a small hillside with poor soil..
- d) The Conditional Licenses dated Dec 24, 1991 that refer to the 3 District Lots (68656, 68660, 68661) were issued after the subdivision of Lot A (March 1991) with no water rights apportioned to Lot A.
- e) The Conditional Licenses attached water rights to a District Lot and each legal description of the District Lots (DL 192, 962 and 666) specifically excludes Lot A (Plan KAP44809), therefore apportionment to Lot A is not an option.
- f) With changes to farmland and reallocation of water quantities amongst the farmland (change from flood irrigation to sprinkler irrigation) plus with all water fully allocated to developed farmland, apportionment would not be considered 30 years after Lot A was subdivided...simply for the present day lot owner to inflate the property value.
- g) The "beneficial use" requirement is likely not achievable on Lot A.

Final Water License #3794 with precedence date April 11, 1918, refers to DL192 which totals approx. 254 acres. Section (g) states "The area and description of the irrigable lands to which this license shall be appurtenant, subject to beneficial use being made of the water in the irrigation of the said lands, are 78 acres, comprising part of Lot 192; the extent and location of the said lands are further shown by cross-hatching in the said exhibit A". It is clear that the License pertains only to the specific 78 acre area which is only a "part of " the Lot as shown on the map, which does not include any area of Lot A.

The same can be said about Final Water License #3793. The third lot 666 did not have a water license at the time of subdivision.

The relative stated that "the provincial data base shows that Lot A (PID 017-217-598) has 3 water licenses." Your 20/04/2021 email to me clarified that "none of the licenses make reference to Lot A" and that "our provincial data base does not make reference to Lot A having any water rights".

A second statement made by the relative was that "written confirmation from a water officer was provided confirming that Lot A has those water rights." Your email reply to this stated "there are no documents that indicate that Lot A has water rights on file."

The relative stated that an apportionment application was submitted to the Vernon office in the spring of 2020. Could you determine if this occurred and, if so, how the application was handled?

In your 08/04/2021 email you noted that information has to be added to the three Conditional Licenses (68656, 68660, 68661) by completing "an office initiated amendment (order)". This information includes:

- 1) Mapping showing parcel info
- 2) Adding the correct legal description of each license, specifically excluding Plan KAP 44809 from each of the 3 District Lots.

Your comments, clarification and reference to facts would assist in resolving this issue. Please respond to each sentence or paragraph even if it means repeating your statements made in your emails of 08/04/2021 and 20/04/2021 as I'd like to have all of the information in one letter. The subjects to respond to include:

- 1) comments on the listing and disclosure statements (paragraph 3)
- 2) concur with my statements if you agree (paragraph 4)
- 3) repeat your response to the statements made by my relative (paragraph 7 and 8) as found in your attached emails
- 4) confirm if an apportionment application was made and if so the outcome (paragraph 9)

Your reply in the form of a letter and finalizing the "amendment (order)" would be very helpful in resolving this issue especially if received and completed by the end of September prior to a scheduled meeting set to settle this issue.

Thanks very much for your help.

A handwritten signature in black ink, appearing to read 'Dave', with a stylized, cursive flourish.

Dave Chutter

thanks

dave

On 08/04/2021 1:09 p.m., Courtenay, Adam FLNR:EX wrote:

Hi Dave,

I spoke with you on the phone last week with regards to Lot A (PID 017-217-598). I have looked into all your licenses and none of grants rights to Lot A. All your licenses were issued (Dec, 1991) after the subdivision (March, 1991) date. The licenses and maps issued with each licence should have included the updated legal description of each property. For example, Lot 192 should have read as follows "District Lot 192 KDYD Except Part Shown as Right-Of-Way on Plan 400 and Plan KAP44809". Lots 962 and 666 would read similar and should make reference to Plan KAP44809.

Since these licenses were issued after the subdivision of Lot A (KAP44809) no water rights are apportioned to the Lot A property.

I will have to complete an office initiated amendment (order) to correct the legal description of each licence and generate a new map for each licence to show the correct parcel information. This is not something that needs to be done immediately and once it has been completed you can expect an order and new maps to go with your original water licenses.

We do not require anything further from you to complete this amendment (order). If you have any further questions feel free to contact myself (Adam Courtenay) or Ted Moore

Thank you,

Adam Courtenay, P.Ag  
Sr. Water Authorizations Technologist Cascades Natural Resource  
District Ministry of Forests, Lands, Natural Resource Operations &  
Rural Development  
Phone: 250-312-6650 | Email: [adam.courtenay@gov.bc.ca](mailto:adam.courtenay@gov.bc.ca)

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

From: Moore, Ted C FLNR:EX <[Ted.Moore@gov.bc.ca](mailto:Ted.Moore@gov.bc.ca)>  
Sent: April 8, 2021 11:43 AM  
To: Courtenay, Adam FLNR:EX <[Adam.Courtenay@gov.bc.ca](mailto:Adam.Courtenay@gov.bc.ca)>  
Subject: FW: some info

fyi

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

From: Chutter Ranch <[info@ranchland.ca](mailto:info@ranchland.ca)>  
Sent: April 7, 2021 5:42 PM  
To: Moore, Ted C FLNR:EX <[Ted.Moore@gov.bc.ca](mailto:Ted.Moore@gov.bc.ca)>  
Subject: Re: some info

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

**Subject:** RE: some info  
**From:** "Courtenay, Adam FLNR:EX" <Adam.Courtenay@gov.bc.ca>  
**Date:** 20/04/2021, 1:50 p.m.  
**To:** "info@ranchland.ca" <info@ranchland.ca>

Hi Dave,

Thanks for the phone call and yes your email was in my junk folder so I didn't know I had it until you called.

I looked into your property and all the active water licenses associated with it and none of the licenses make reference to Lot A. Our provincial data base does not make reference to Lot A having any water rights.

There are no documents that indicate that Lot A has water rights on file or from what I have researched.

Cheers!

Adam Courtenay, P.Ag  
Sr. Water Authorizations Technologist  
Cascades Natural Resource District  
Ministry of Forests, Lands,  
Natural Resource Operations & Rural Development  
Phone: 250-312-6650 | Email: [adam.courtenay@gov.bc.ca](mailto:adam.courtenay@gov.bc.ca)

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

From: Chutter Ranch <[info@ranchland.ca](mailto:info@ranchland.ca)>  
Sent: April 14, 2021 11:21 AM  
To: Courtenay, Adam FLNR:EX <[Adam.Courtenay@gov.bc.ca](mailto:Adam.Courtenay@gov.bc.ca)>  
Subject: Re: some info

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Adam

Checking to see if you got my email below re answers to the 2 questions.

thanks

dave

On 08/04/2021 3:20 p.m., Chutter Ranch wrote:

Hi Adam

thanks for reply.

So to be clear about my 2 points below to clarify, are you saying that the provincial data base does not show that Lot A has 3 water licenses?

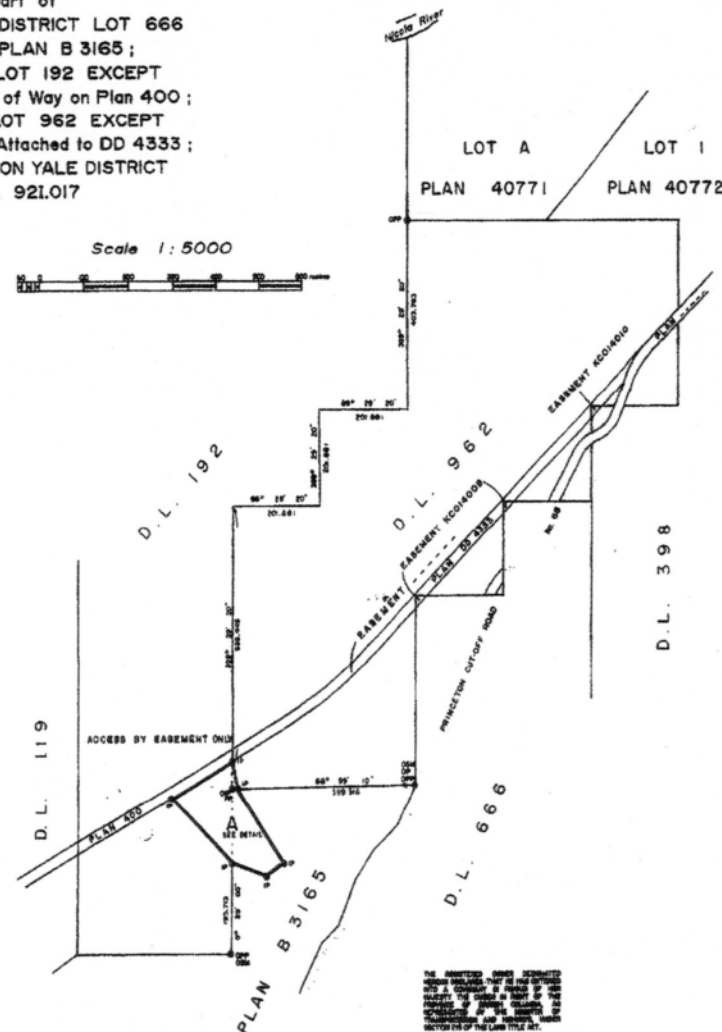
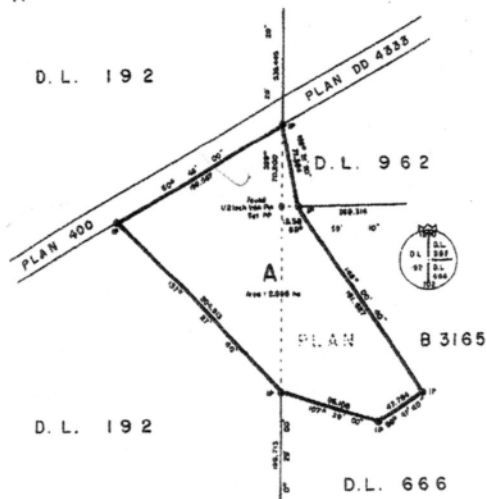
Did you find written confirmation from a water officer that Lot A has those water rights?

23

PLAN OF SUBDIVISION  
of part of  
THAT PART OF DISTRICT LOT 666  
SHOWN ON PLAN B 3165;  
and DISTRICT LOT 192 EXCEPT  
Part Shown as Right of Way on Plan 400;  
and DISTRICT LOT 962 EXCEPT  
Part Shown on Plan Attached to DD 4333;  
KAMLOOPS DIVISION YALE DISTRICT  
B.C.G.S. 921.017

DETAIL  
Scale 1:2000

Scale 1:5000



PLAN NO. KAP44809

DEPOSITED IN THE LAND TITLE OFFICE AT KAMLOOPS, B.C.  
THIS 26<sup>TH</sup> DAY OF MARCH, 1991

*Don MacDonell*  
Surveyor

K.S. 19115

## LEGEND

DEANBLES ARE ASTROLOGICAL, DERIVED FROM PLAN B 3165.

PIPE POST ..... P  
IRON POST ..... I  
WOOD POST ..... W  
STONE MOUND ..... SM  
OLD FOUND ..... O

## APPROVAL

APPROVED UNDER THE LAND TITLE ACT, see BC Reg 314/70, S.3  
THIS 15<sup>TH</sup> DAY OF MARCH, 1991

*Don MacDonell*  
Surveyor

## OWNER

CHARTER RANGER LTD. (INC. NO. 189941)

*Don MacDonell*  
Authorized Signatory

THIS PLAN LIES WITHIN THE THOMPSON-HULLA PERSONAL DISTRICT.

I, JOHN MACDONELL, a British Columbia Land Surveyor of the City of Kamloops, 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 15<sup>TH</sup> DAY OF MARCH, 1991.

*John MacDonell*  
Surveyor

DEPOSITED UNDER THE LAND TITLE ACT  
THIS 26<sup>TH</sup> DAY OF NOVEMBER, 1990.

*John MacDonell*  
Surveyor

C. HENRY & ASSOCIATES  
P.L.C. LAND SURVEYORS  
KAMLOOPS, B.C. V2Y 5B2  
75 1004 P.B. 21/46 22

MH 314-31-70(110)

item 2



## RE: some info

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From: Courtenay, Adam FOR:EX <Adam.Courtenay@gov.bc.ca>  
To: info@ranchland.ca  
Sent: August 30, 2022 10:39:37 AM PDT

Hi Dave,

Yes you have the correct email address and contact info for me. My information doesn't change when in a new position.

Please see my contact info below for your reference.

Adam Courtenay, P.Ag  
Regional Hydrologist  
Water Management  
Thompson Okanagan Region  
Ministry of Forests  
Phone: 250-312-6650 | Cell:778-694-5813  
Email: adam.courtenay@gov.bc.ca

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

From: Chutter Ranch <info@ranchland.ca>  
Sent: August 25, 2022 2:56 PM  
To: Courtenay, Adam FOR:EX <Adam.Courtenay@gov.bc.ca>  
Subject: Re: some info

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Adam

I would like to send you an email but I understand there is a new water ministry so checking to see where in the govt ministries you are at and where you are located.

thanks

dave

On 08/04/2021 1:09 p.m., Courtenay, Adam FLNR:EX wrote:

Hi Dave,

I spoke with you on the phone last week with regards to Lot A (PID 017-217-598). I have looked into all your licenses and none of grants rights to Lot A. All your licenses were issued (Dec, 1991) after the subdivision (March, 1991) date. The licenses and maps issued with each licence should have included the updated legal description of each property. For example, Lot 192 should have read as follows "District Lot 192 KDYD Except Part Shown as Right-Of-Way on Plan 400 and Plan KAP44809". Lots 962 and 666 would read similar and should make reference to Plan KAP44809.

Since these licenses were issued after the subdivision of Lot A (KAP44809) no water rights are apportioned to the Lot A property.

I will have to complete an office initiated amendment (order) to correct the legal description of each licence and generate a new map for each licence to show the correct parcel information. This is not something that needs to be done immediately and once it has been completed you can expect an order and new maps to go with your original water licenses.

We do not require anything further from you to complete this amendment (order). If you have any further questions feel free to contact myself (Adam Courtenay) or Ted Moore

Thank you,

Adam Courtenay, P.Ag  
Sr. Water Authorizations Technologist  
Cascades Natural Resource District  
Ministry of Forests, Lands,  
Natural Resource Operations & Rural Development  
Phone: 250-312-6650 | Email: adam.courtenay@gov.bc.ca

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

From: Moore, Ted C FLNR:EX <Ted.Moore@gov.bc.ca>  
Sent: April 8, 2021 11:43 AM  
To: Courtenay, Adam FLNR:EX <Adam.Courtenay@gov.bc.ca>  
Subject: FW: some info

fyi

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

From: Chutter Ranch <info@ranchland.ca>  
Sent: April 7, 2021 5:42 PM  
To: Moore, Ted C FLNR:EX <Ted.Moore@gov.bc.ca>  
Subject: Re: some info

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Ted

I would greatly appreciate being able to clear the 2 statements in question off of my desk. As emailed to Patrick 2 months ago and then to you below, they are:

1) the provincial data base shows that Lot A (PID 017-217-598) has 3 water licenses. Please provide a copy of the provincial data base statement.

2) written confirmation from a water officer was provided confirming that Lot A has those water rights. Please provide a copy of the written confirmation from a water officer.

thanks for your help.

Dave

On 23/02/2021 4:16 p.m., Moore, Ted C FLNR:EX wrote:

Hi Dave

Patrick has asked me to look into this for you. Are you able to send me the licence numbers for the 3 licenses that Mark was able to compile? I am having difficulty finding any water licenses associated with the PID 017-217-598. Thank you.

Sincere Regards,

Ted Moore, RFT  
Authorizations Officer – Water  
Cascades Natural Resource District  
250.378.8423 / email: Ted.Moore@gov.bc.ca

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

From: Chutter Ranch <info@ranchland.ca>  
Sent: February 14, 2021 11:30 AM  
To: Farmer, Patrick FLNR:EX <Patrick.Farmer@gov.bc.ca>  
Subject: some info

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Patrick

To clear up the unanswered question on apportionment. Mark had mentioned that he got from your office a search in the provincial database showing that the Lot A does have 3 irrigation licenses and also written confirmation from a water officer, I assume you, that Lot A has those rights. (Lot A PID 017-217-598)

Can you email those 2 sheets to me.

thanks

dave

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David Chutter  
Chutter Ranch

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David Chutter  
Chutter Ranch

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Please respond to new email address (davechutter@ranchland.ca) David Chutter Chutter Ranch