



PERMIT TO CONSTRUCT, USE, AND MAINTAIN ACCESS TO A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Infrastructure

Vernon Area Office
4791 23rd Street
Vernon, BC V1T 4K9
Canada

("The Minister")

AND:

Klayton Mertion

s.22

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

The operation and maintenance of:

One temporary industrial access to 5801 Brentwood Rd

restricted to one ingress and one egress per week with an overweight vehicle to transport the piece of equipment needed to perform the works required in the Riparian Areas Regulation Assessment Report dated July 15, 2013.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. The Minister shall designate an official ("the Designated Ministry Official") who shall act as the Minister's agent in the administration of this permit in the manner hereinafter set out.
2. The Use shall be carried out according to the reasonable satisfaction of the Designated Ministry Official.
3. The Permittee will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by any of them, at any time or times (whether before or after the expiration or termination of this permit) where the same or any of them are sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this permit.



4. The Permittee shall make diligent attempts to determine if there are other users of the right of way in the vicinity of the Permittee's location whose use may be affected. It shall be the responsibility of the Permittee to contact any such users before exercising any of the rights granted hereunder and to attempt to reach an accommodation.
5. The Minister shall take reasonable care to do as little damage or interference, as possible, to any Use authorized by this permit in the carrying out of the construction, extension, alteration improvement, repair, maintenance or operation of any work adjacent thereto, but the Minister shall not be responsible for any damage regardless.
6. The Minister at the absolute discretion of the Minister may, at any time, cancel this permit for any reason upon giving reasonable notice; provided, however, that in the case of default by the Permittee or in the case of an emergency no notice shall be necessary. The Minister shall not be liable for any loss incurred as a result of permit cancellation.
7. Placing of speed arresters on the access or in the Permittee's property without the prior consent in writing of the Designated Ministry Official shall render the permit void.
8. The Permittee shall be responsible for replacing any survey monuments that may be disturbed or destroyed by the Use. Replacement must be by a British Columbia land surveyor at the Permittee's expense.
9. The Permittee shall remove any mud, soil, debris, or other foreign material tracked onto the highway from the access authorized herein. Such removal shall be at the Permittee's expense and shall be done at any time the material unduly inconveniences traffic and, in any event, daily.
10. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
11. At the end of the term of this permit, or when the permit is cancelled or abandoned, the Permittee shall, if so requested by the Minister, remove all installations and shall leave the site as near as reasonably possible in the condition it was in before this permit was issued or such other condition as shall reasonably be required by the Designated Ministry Official. If the Permittee refuses to comply with these obligations, the Minister may perform them as required and the Permittee shall be liable to the Minister for the costs of doing so.
12. The rights granted to the Permittee in this permit are not assignable without the consent of the Minister.
13. As a condition of this permit, the permittee unconditionally agrees with the Ministry of Transportation and Infrastructure that the permittee is the prime contractor, as described in Section 118 of the Workers Compensation Act, for the purposes of the work described by this permit, at the work location described in this permit, and that the permittee will observe and perform all of the duties and obligations which fall to be discharged by the prime contractor pursuant to the Workers Compensation Act and the Occupational Health and Safety Regulation.
14. The permittee is advised and acknowledges that the following hazards may be present at the work location and need to be considered in co-ordinating site safety: overhead hazards, particularly electrical or telecommunications lines; buried utilities, particularly electrical, telecommunication, and gas lines; traffic, danger trees, falling rocks, and sharp or infectious litter.
15. Any works within the Ministry right-of-way that fall within the scope of "engineering" under the Engineers and Geoscientists Act will be performed by a Professional Engineer, and shall comply with this Ministry's "Engineer of Record and Field Review Guidelines". The Guidelines can be viewed on the Ministry's website at http://www.th.gov.bc.ca/publications/Circulars/All/T_Circ/2009/t06-09.pdf
16. The permittee is responsible for preventing the introduction and spread of noxious weeds on the highway right-of-way as defined by the British Columbia Weed Control Act and Weed Control Regulation.
17. The Use shall be carried out according to the following drawings and specifications, which are attached and shall be considered to be part of this permit:
N/A
18. (a) The rights granted under this permit shall not be exercised before August 9, 2013.
(b) The Construction and Installations must be completed on or before N/A (existing).



Site Specific Conditions:

19. The rights granted under this permit and certificate are temporary and will expire on Dec 31, 2013 or when the landowner receives a permanent permit, whichever is sooner.
20. The Permittee will ensure that the works do not, impair, impede or otherwise interfere with;
 - I. public passage on the Highways;
 - II. the provision of highway maintenance services by the Province, or by its servants, contractors, agents or authorized representatives of the Province in connection with the Highways; or
 - III. the operation of the Highways.
21. Industrial vehicles may not travel at speeds in excess of 30km/hr while on Brentwood Rd.
22. This permit is restricted to one trip in and one trip out per week with the piece of equipment needed to perform the works identified in the Riparian Areas Regulation: Assessment Report dated July 15, 2013.

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Vernon, British Columbia, this 9 day of August, 2013

On Behalf of the Minister

Lantenhammer, Desiree TRAN:EX

From: Lantenhammer, Desiree TRAN:EX
Sent: Thursday, April 23, 2015 3:30 PM
To: 'Kmertion'
Subject: Addendum to Permit 2013-04481
Attachments: 4481_Permit.pdf

Permit File #2013-04481 approved the use of unconstructed road right-of-way, for access to your property. It is understood that additional materials are needed (rock) to armour the cut slopes of your driveway in order to prevent water seepage and erosion.

As an addendum to your previously issued permit, you may:

Enter and exit your property, using Brentwood Rd, with dump trucks for the purpose of bringing the needed rock onto the site from April 24, 2015 to June 30, 2015.

The following are conditions of the above approval:

1. No more than 2 trips (2 ingress and 2 egress) can be performed per day 2. Trucks may not travel along Brentwood Rd at a speed greater than 25km/hr 3. No more than 50 trips can be made under this approval 4. Trucks leaving the site must be empty (ie: this does not give permission to haul material from your property) 5. All permit conditions remain unchanged. A copy has been attached.

Feel free to give me a shout if you have any questions.

Desiree Lantenhammer, BSc
Ministry of Transportation and Infrastructure Development Approvals Technician Vernon Office
Phone: (250) 503-3609
Cell: S.17
Fax: (250) 503-3631

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

From: Kmertion S.22
Sent: Thursday, April 23, 2015 2:40 PM
To: Lantenhammer, Desiree TRAN:EX
Subject: Re: Brentwood road

Hi Desiree the opportunity has arose for me to get rock tomorrow for a period through the end of June it won't be all hauled in at once it would be sporadic as blasting and sorting is done thanks

Sent from my iPhone

> On Apr 15, 2015, at 10:20 AM, Lantenhammer, Desiree TRAN:EX <Desiree.Lantenhammer@gov.bc.ca> wrote:
>
> Okay, let me have a few discussions today to make sure my management is in agreement with my decision.
>
> That photo would really help if you can send it.

>

> Desiree Lantenhammer, BSc

> Ministry of Transportation and Infrastructure Development Approvals

> Technician Vernon Office

> Phone: (250) 503-3609

> Cell: (250) 503-8963

> Fax: (250) 503-3631

>

>

>

> -----Original Message-----

> From: Kmertion S.22

> Sent: Wednesday, April 15, 2015 8:13 AM

> To: Lantenhammer, Desiree TRAN:EX

> Subject: Re: Brentwood road

>

> Sorry I know I was spit balling it and when I measured it actually

> came to 44 I thought I'd add a couple for good measure

>

> Sent from my iPhone

>

>> On Apr 15, 2015, at 7:45 AM, Lantenhammer, Desiree TRAN:EX <Desiree.Lantenhammer@gov.bc.ca> wrote:

>>

>> Hi Klayton, thank you for the email. When we spoke yesterday, you had said 20-30 loads. 50 is a lot and I will have to discuss this with my boss before issuing an approval.

>>

>> Can you email me the photo you showed me yesterday?

>>

>> Desiree Lantenhammer, BSc

>> Ministry of Transportation and Infrastructure Development Approvals

>> Technician Vernon Office

>> Phone: (250) 503-3609

>> Cell: S.17

>> Fax: (250) 503-3631

>>

>>

>>

>> -----Original Message-----

>> From: Klayton Mertion S.22

>> Sent: Wednesday, April 15, 2015 7:03 AM

>> To: Lantenhammer, Desiree TRAN:EX

>> Subject: Brentwood road

>>

>> Desiree

>> As per our conversation on April 14th, I went this morning and did an estimation of approximately 50 loads of rock for erosion control on the Malim right of way where we have constructed the driveway.

>> Please add this as an addendum

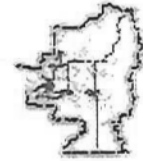
>> Thanks

>> Klayton Mertion

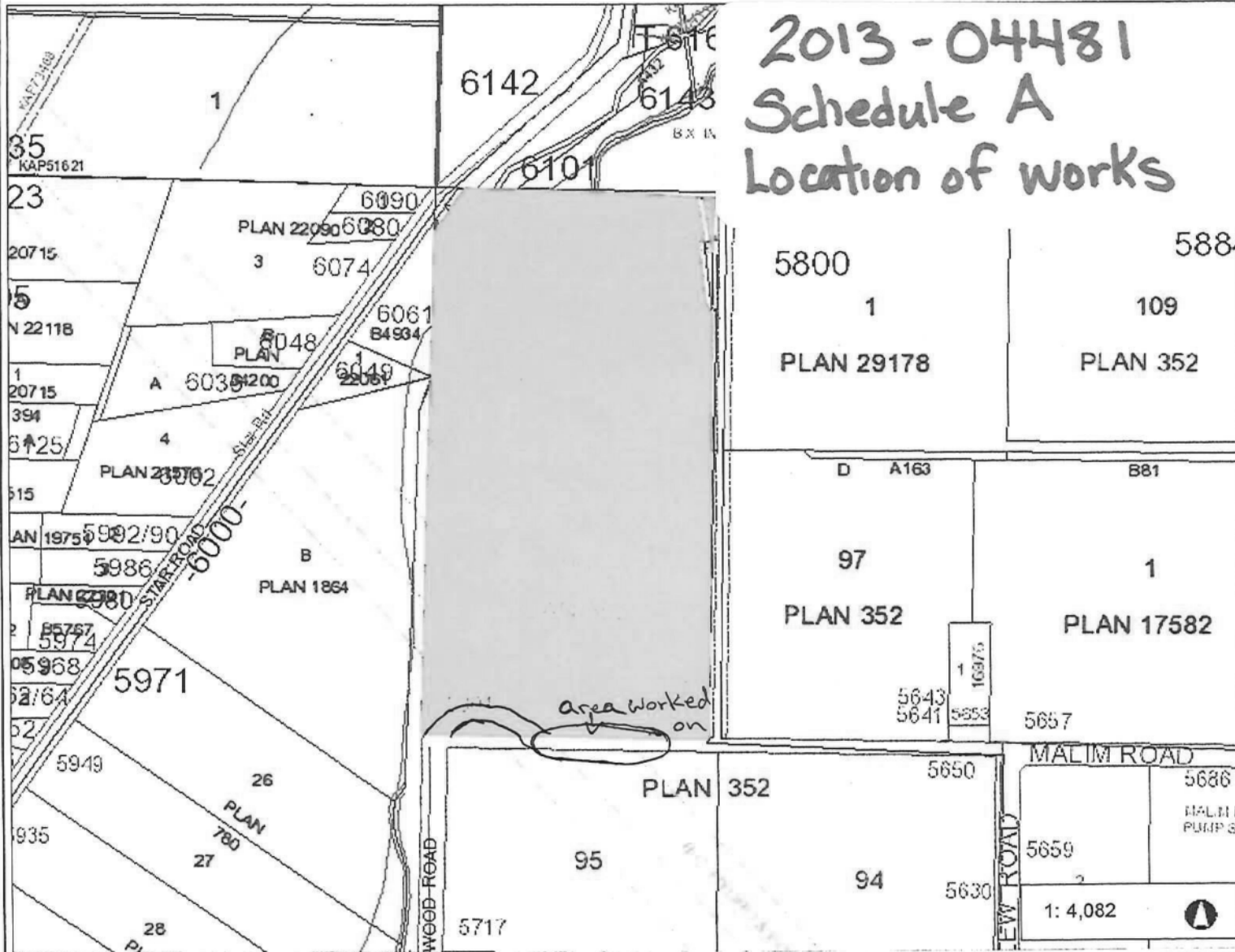
>> Sent from my iPad



Regional District of North Okanagan Mapping Site



2013-04481
Schedule A
Location of works



- CAD Lines
- easement RW
- Electrical RW
- Gas RW
- GVW RW
- Railway RW
- Roadway RW
- Utility RW
- GV Parks RW
- LUC
- Prop_SRW
- Creeks
- Hooks
- LD_DL_LS
- Lease Lot
- Lot Lines
- River
- Strata Lot
- Strata Rd
- Stream
- Swamp
- Trailer Lot
- Trailer Rd
- TWP_RGE_LINE
- Water Body
- Int Bdry
- Des Area Bdry
- IR Bdry

Notes

207.4 0 103.69 207.4 Meters

NAD_1983_UTM_Zone_11N
© Regional District of North Okanagan

Date and Time Printed: 5/23/2013 10:05 AM

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



PERMIT TO CONSTRUCT, USE, AND MAINTAIN WORKS WITHIN THE RIGHT-OF-WAY OF A PROVINCIAL PUBLIC HIGHWAY

**PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE
MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE
NISGA'A FINAL AGREEMENT ACT.**

BETWEEN:

The Minister of Transportation and Infrastructure

Vernon Area Office
4791 23rd Street
Vernon, BC V1T 4K9
Canada

("The Minister")

AND:

Klayton Mertion

s.22

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

To perform works upon unconstructed road right-of-way (Malim Rd) in order to improve internal access on adjacent private lands described as PID: 012-497-037, Lot 96, Sec 7, Tp 5, ODYD Plan 352. Approximate area of works is shown in attached Schedule A.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. That the construction and maintenance of the said works is carried out to the satisfaction of the Regional Director, Transportation.
2. That, before opening up any highway or interfering with any public work, intimation in writing of the intention to do so must be given to the District Official at least seven days before the work is begun.
3. That any person appointed by the Regional Director, Transportation, for the purpose shall have free access to all parts of the works for the purpose of inspecting the same.
4. That the construction of the said works may be commenced on September 25, 2013 and shall be prosecuted with due diligence and to the satisfaction of the Regional Director, Transportation, and shall be completed on or before September 25, 2014.
5. (a) The highway must at all times be kept open to traffic. The roadway must be completely restored for traffic as soon as possible. At all times the permittee must safeguard the traveling public.
(b) That, unless with the consent of the Regional Director, Transportation, no more than forty-five (45) metres of pipe-track or other excavation in any public highway is to be kept open at one time.



(c) All excavation work must be carried out in accordance with the BC Occupational Health and Safety Regulation. Care shall be taken to protect adjacent property.

(d) That all excavations shall be carefully back-filled with suitable material, which is to be tamped into place, and that the permittee shall restore the surface of the road and shoulders and ditches at his own expense. All surplus material is to be removed from the Provincial Crown lands, or deposited where and as required by the District Official of the Ministry of Transportation and Infrastructure. The permittee is financially responsible for any maintenance works required on said ditch for a period of one year. The Ministry will carry out the necessary remedial work and invoice the permittee monthly.

(e) The pipeline crossing installation is to be placed by drilling and (or) jacking in such a manner as to afford minimum grade settlement. No water jetting will be permitted. That where, in the opinion of the District Official, an excavation or opening for a pipeline crossing installation could be made which would not be detrimental to the highway or its users, permission will be granted for said works. On throughways, freeways, and main highways no open cuts will be allowed.

(f) That all pipelines in excess of a nominal diameter of 5 cm., whether gas, oil, water, pressure sewers, conduits, etc., shall be installed where indicated by the District Official, encased in a steel casing-pipe or conduit-pipe of sufficient strength to withstand all stresses and strains resulting from the location, such casing to extend the full width of the highway right-of-way if deemed necessary to the District Official. The ends of the casing-pipe shall be suitably sealed and, if required, properly vented above the ground with vent-pipes not less than 5 cm. in diameter, and extending not less than 1.2 metres above ground surface. Vent-pipes shall be connected 30 cm. from the ends of the casing-pipe, and the top of each vent shall be fitted with a turn-down elbow, properly screened and equipped with identification markers.

All pipelines of non-rigid material, i.e., plastic or copper, of any diameter, shall be cased, or embedded in sand.

The inside diameter of the casing-pipe shall be at least 25 percent larger than the outside diameter of the pipeline. The casing-pipe shall be installed with an even bearing throughout its length, and in such a manner so as to prevent leakage, except through the vents.

The top of the casing-pipe, or the pipeline where casing is not required, shall be located as directed by the District Official, and shall in no case be less than 1.2 metres below the surface of the highway and not less than 75 cm below the highway ditches. Pipelines must not obstruct drainage structures or ditches or interfere with traffic on the highway or with highway maintenance.

6. That where the work for which permission is hereby granted comes in contact with any bridge, culvert, ditch, or other existing work, such existing work must be properly maintained and supported in such manner as not to interfere with its proper function during the construction of the new work, and on the completion of the new work the bridge, culvert, ditch, or other existing work interfered with shall be completely restored to its original good condition.
7. That when necessary all excavations, materials, or other obstructions are to be efficiently fenced, lit, and watched, and at all times every possible precaution is to be taken to ensure the safety of the public.
8. That the person or persons for whom these works are being constructed, or by whom these works are maintained, shall at all times accept full responsibility for any accident that may occur or damage that may be done to any person or property whatsoever caused directly or indirectly by these works, and shall save harmless and keep indemnified the Crown from all claims and demands whatsoever in respect of the works.
9. That the permission herein granted to use and maintain the works is only granted for such times as the land or public work in, upon, or over which the said works are constructed is under the jurisdiction of the Minister of Transportation and Infrastructure. This permission is not to be construed as being granted for all time, and shall not be deemed to vest in the permittee any right, title or interest whatsoever in or to the lands upon which the works are constructed. Should the lands affected at any time be included within that of an incorporated municipality or city, this permission shall become void, unless the works are on a highway duly classified as an arterial highway pursuant to Section 45 of the Transportation Act.
10. That after receiving notice in writing of the intention on the part of the Provincial Government to construct, extend, alter, or improve any public work, the person or persons responsible for the maintenance of the works for which permission is hereby granted shall within six weeks move or alter such work at his or their own expense to such new positions or in such manner as may be necessitated by the construction, extension, alteration, or improvement proposed to be carried out by the Provincial Government.
11. That while reasonable care will be taken on the part of the Provincial Government to do as little damage as possible to any private work in the carrying-out of the construction, extension, alterations, improvement, repair, or maintenance of any public work adjacent thereto, the Provincial Government can accept no responsibility for any kind of such damage.
12. That the permission hereby granted to construct, use, and maintain work is granted without prejudice to the provisions of the Transportation Act, or other Acts governing Crown lands and public works or their use by the public.
13. That this permission shall be in force only during such time as the said works are operated and maintained by the applicants, to the entire satisfaction of the Regional Director, Transportation.
14. That the Ministry will not be responsible for grade changes on accesses caused by reconstruction of any Provincial highway.



15. This permit is valid only for the specific works stated herein. Any alterations or additions must be covered by a separate permit.
16. This permit may be canceled, at the discretion of the Minister, without recourse, should the permittee fail to comply with all the terms of the permit. Thirty days notice will be given before cancellation.
17. When the requirements of the Ministry necessitate use of the said lands for Provincial purposes, at the discretion of the Minister, this permit may be cancelled.
18. That these works shall be identified with this permit number in a manner satisfactory to the District Official of the Ministry of Transportation and Infrastructure.
19. As a condition of this permit, the permittee unconditionally agrees with the Ministry of Transportation and Infrastructure that the permittee is the prime contractor, as described in Section 118 of the Workers Compensation Act, for the purposes of the work described by this permit, at the work location described in this permit, and that the permittee will observe and perform all of the duties and obligations which fall to be discharged by the prime contractor pursuant to the Workers Compensation Act and the Occupational Health and Safety Regulation.
20. The permittee is advised and acknowledges that the following hazards may be present at the work location and need to be considered in co-ordinating site safety: overhead hazards, particularly electrical or telecommunications lines; buried utilities, particularly electrical, telecommunication, and gas lines; traffic, danger trees, falling rocks, and sharp or infectious litter.
21. Any works within the Ministry right-of-way that fall within the scope of "engineering" under the Engineers and Geoscientists Act will be performed by a Professional Engineer, and shall comply with this Ministry's "Engineer of Record and Field Review Guidelines". The Guidelines can be viewed on the Ministry's website at http://www.th.gov.bc.ca/publications/Circulars/All/T_Circ/2009/t06-09.pdf
22. The permittee is responsible for preventing the introduction and spread of noxious weeds on the highway right-of-way as defined by the British Columbia Weed Control Act and Weed Control Regulation.

Site specific conditions:

23. **Protection of Survey Monuments**
The Permittee shall be responsible for the preservation during construction of all geodetic benchmarks, survey monuments and property markers on the right-of-way. The Permittee shall use, at no expense to the Ministry, a British Columbia Land Surveyor to replace any survey monuments destroyed or damaged as a result of the Permittee's negligence. At locations where construction work will cover or destroy such markers, the Permittee shall not move or remove them until written direction is received from the Ministry Representative.
24. **Harvesting of Timber on Highway Right-of-way**
Permittee is to contact the Ministry of Forests, Lands and Natural Resource Operations to obtain the necessary approval for removal of merchantable timber within the Highway right-of-way.
Merchantable timber shall be cold decked and loaded from approved access locations. Merchantable timber shall not be loaded from the traveled roadway or road shoulder.
25. Any and all material excavated from within the unconstructed road right-of-way must remain on-site. No materials taken from the right-of-way can be transported off-site or used for commercial purposes.
26. Issuance of this permit does not relieve the Permittee from adhering to all legislation, regulations and bylaws.
27. Proposed works must not encroach onto, or affect any neighboring properties.
28. The Permittee is responsible for drainage within his/her own property. These permitted works must not cause drainage to be directed onto road right-of-way or neighboring properties.
29. This permit does not grant the Permittee exclusive use of the right-of-way.
30. This permit may be cancelled in the future if this right-of-way is required for construction of a public road.



BRITISH
COLUMBIA

Ministry of Transportation
and Infrastructure

Permit/File Number: 2013-04481

Office: Vernon Area Office

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Vernon, British Columbia, this 25 day of September, 2013

On Behalf of the Minister

Lantenhammer, Desiree TRAN:EX

From: Kmertion s.22
Sent: Thursday, February 26, 2015 2:13 PM
To: Lantenhammer, Desiree TRAN:EX
Subject: Re: Forthcoming application for driveway access

K thanks

Sent from my iPhone

On Feb 26, 2015, at 2:00 PM, "Lantenhammer, Desiree TRAN:EX" <Desiree.Lantenhammer@gov.bc.ca> wrote:

Hi Klayton, I had a thought about something after you left my office. Can you please include on the drawing, the location of the encroaching fence? If you can still accommodate your driveway with the fence where it is, we will not be pursuing the relocation of that fence.

Thanks,

Desiree Lantenhammer, BSc

Ministry of Transportation and Infrastructure

Development Approvals Technician

Vernon Office

Phone: (250) 503-3609

Cell: s.17

Fax: (250) 503-3631