



## 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

Sechelt Area Office  
Box 950  
Sechelt, BC V0N 3A0  
Canada

("The Minister")

#### AND:

Gordon Hamilton  
907 Stewart Road  
PO Box 1297  
Sechelt, British Columbia V0N3A0  
Canada

("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 installation of ditching and drainage works within Stewart Road right of way.
- 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 shall be commenced on or before the **April 14<sup>th</sup> 2017** and shall be prosecuted with due diligence and to the satisfaction of the Regional Director, Transportation, and shall be completed on or before the **May 5<sup>th</sup> 2017**.
- 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 or will appoint a qualified 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 or designated prime contractor 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](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.
23. All debris, slash and refuse created by these works to be cleaned up to the satisfaction of the District Official, Ministry of Transportation and Infrastructure
24. No excavated materials will be stockpiled on the travelled lane portion of the pavement or gravel.
25. Should any survey monuments be disturbed or removed by the Permittee or his agents, they are to be replaced by a B.C. Land Surveyor at the expense of the Permittee.
26. A copy of the permit is to be kept by the field supervisor, in order that he is aware of all permit conditions.
27. Permittee to be responsible for any settlement, erosion or other damage caused as a result of this construction for a period of two years from completion of construction.
28. Permittee to be responsible for all future drainage problems as they pertain to said works.
29. Permittee to be responsible for any settlement, erosion or other damage caused as a result of this construction for a period of two years from completion of construction.
30. Permittee is responsible to contact the Ministry of Forest and Range to apply for a 'License to Cut' permit, if required. Their authorization for cutting and disposing of timber from public right-of-way is required prior to commencing works.
31. All work to be contained within Ministry right-of-way. This permit does not grant permission to perform any work on private property. Permittee must obtain owner's permission before performing any work on private property.
32. Culverts must be installed if required to facilitate drainage, minimum culvert size is 400mm or 24" diameter.
33. The permittee shall at all times accept full responsibility of any accident that may occur or damage that may be done to any person or property, whatsoever, caused directly or indirectly by the said works and shall save harmless and keep indemnified the Crown from all claims and demands whatsoever in respect of the works.
34. The Permittee is to notify Capilano Highway Services at (604) 740-0667 at least 48 hours in advance of commencing work.
35. Excavation across driveways ( private or commercial) are to be backfilled and thoroughly compacted within two (2) hours and have the surface restored to its original condition within 48 hours. The property owner must be notified at least 24 hours prior to the excavation of an existing driveway.
36. The Permittee is to ensure that no damage is done to any existing underground or overhead utilities.
37. All costs entailed in the construction and maintenance of the access are to be borne by the Permittee.
38. If the Permittee proceeds on this permit it is deemed that they have accepted all terms and conditions.
39. This permit in no way grants exclusive use to the permittee for any portion of the access on right-of-way.
40. Permittee is responsible for obtaining the necessary approvals from all other agencies whose interests may be affected by the proposed works.



41. All works are to be carried out to the satisfaction of the District Manager, Ministry of Transportation and Infrastructure. The Ministry reserves the right to have repairs carried out if the Permittee fails to comply with the clauses above, and to bill the applicant for the full cost of any such repairs or cleanup, if found necessary.

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 Sechelt, British Columbia, this 21 day of April, 2017

On Behalf of the Minister