

From: Nugent, Tim TRAN:EX
To: s.22
Cc: Edmonds, Ryan TRAN:EX
Subject: 2020-04520 Access Permit - Spur Valley
Date: October 14, 2020 2:00:00 PM
Attachments: 2020-04520 - Permit.pdf

Hi Ron and Mike,

Attached is the access permit for logging in Spur Valley, your window for harvesting is between now and until November 30th (may be extended depending on frost probe data), after which you will have to wait until load restrictions have been lifted.

Regards,

Tim Nugent |Development Services Officer

Ministry of Transportation and Infrastructure

Rocky Mountain District - Cranbrook

Phone: 250-426-1667

Cell: 250-919-8341

Subdivisions<http://www.th.gov.bc.ca/da/L1_apply.asp>

Permits<<http://www.th.gov.bc.ca/permits/Apply.asp>>

BCeID<https://www.bceid.ca/register/basic/account_details.aspx?type=regular>



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

Rocky Mountain District
129 10th Avenue S
Cranbrook, BC V1C 2N1
Canada

("The Minister")

AND:

Fountain Capital Corporation
3296 Pritchard Road
Cranbrook, British Columbia V1C 7B2
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:

Access from Flume Road, Luxor Creek Road, and Ashton Road to harvest timber as shown on attached map. The rights granted under this permit are temporary and only allow access between October 14th, 2020 and November 30th, 2020. The end date may be extended but is at the discretion of the ministry representative. Activity can recommence in the spring of 2021 after load restrictions have been lifted.

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 shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or 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 based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the 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 accesses) 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 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.
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://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines/technical-circulars/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:

HERE DESCRIBE THE ATTACHMENTS

18. (a) The rights granted under this permit shall not be exercised before October 14th, 2020.
Exceptions:
19. The rights granted under this permit and certificate are temporary and only allow access between October 14th, 2020 and November 30th, 2020. The end date may be extended but is at the discretion of the ministry representative. Activity can recommence in the spring of 2021 after load restrictions have been lifted.

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 Cranbrook, British Columbia, this 14 day of October, 2020



BRITISH
COLUMBIA

Ministry of
Transportation

Permit/File Number: 2020-04520

Office: Rocky Mountain District

On Behalf of the Minister

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UWgh 611 001

September 25, 2020

The Ministry of Transportation and Infrastructure
c/o Tim Nugent, Dev. Services Officer, Ron Sharp, District Manager
and Ryan Edmonds, Area Manager Roads
Via Email

RE: Potential Winter Logging East of Community of Spur Valley

Dear Ron, Tim & Ryan;

I would like to take this opportunity to express the concerns of the Regional District of East Kootenay (RDEK) regarding the potential damage to water infrastructure caused by logging of a parcel of land immediately east of the community of Spur Valley this winter.

The RDEK is the owner and operator of the community water utility in Spur Valley. Most of the water system infrastructure is buried under or near the unpaved rural roads of the community. What little traffic that travels on these roads is primarily personal vehicles travelling at low speeds.

Our concern is the depth to which that frost will be driven by heavily laden logging trucks driving on the unpaved Spur Valley roads. Any water infrastructure that is located under a Spur Valley road, particularly any infrastructure at a shallower than customary depth of bury, is at risk of being frozen by the frost penetration due to the heavy logging traffic.

This risk is exacerbated by the low occupancy rate of residences in the community. The community has 73 homes of which only about 10 are occupied permanently. This leaves a large percentage of the water system with little or no flow for long periods of time, which increases the freezing risk.

The RDEK would respectfully like to ask that the Ministry of Transportation and Infrastructure consider alternatives to allowing heavily laden logging trucks on the roads of Spur Valley, such as rerouting the logging traffic to the north of the community, during the periods of time when ground frost is present.

Best regards

Brian De Paoli
Engineering Technician

cc: Brian Funke, Engineering Services Manager
Gerry Wilkie, RDEK Area Director
Bruce Kaufman, Spur Valley Utility Advisory Commission

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