

E.S. Jones, Esq.,
District Engineer,
Cranbrook, B.C.

July 18-38
Nelson-
Creston

3940
21-20-0

Lot 14618, Section 25, Indian
Reserve at Creston

Mr. Gallaher
July 8-38

Unless you have the funds
available, to purchase the
right of way in question,
I do not see that anything
can be done further, in
this matter.

A. DIXON

MCD/GM

DEPARTMENT OF PUBLIC WORKS

3940

FROM O.G. Gallaher, Esq., Asst. Dist. Engr., Nelson, B.C.	TO E.S. Jones, Esq., District Engineer, Public Works Dept., CRANBROOK, B.C.	DATE July 8th, 1938 ELECTORAL DISTRICT Nelson Creston OUR FILE 21-20-0 YOUR FILE
SUBJECT Lot 14618. Section 25, Indian Reserve at Creston.		REFERENCE YOUR LETTER

July 12th, 1938. Copy for Chief Engineer for your advice, please.

E. S. Jones.

Attached is a copy of ^{s.22} letter of July 4th regarding access to Lot 14618, Section 25 at Creston.

This matter has been under discussion for some time, the last rulling that I received in this connection was a copy of the Minister's memo in which he states that the Public Works Department would not purchase right-of-way. Please refer to the Department's letter of April 8th, File 3940.

It is quite evident now that we cannot secure access for ^{s.22} until some adjustment is made regarding the right-of-way in question and it is impossible to purchase any right-of-way at this point out of the Nelson-Creston District Vote.

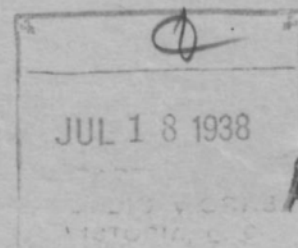
I would suggest that the proper thing to do would be for the Department of Lands to lay out the roads as originally suggested by the Department of Public Works and that they deduct these roads from the land sold and thereby allow the Department of Public Works to give access to ^{s.22} and others.

Unless there are funds nothing can be done N.

O. G. Gallaher,
Asst. Dist. Engr.

OGG.m
enc.

508186



copy

copy

Creston, B.C.,
July 4th, 1938.

Mr. Galliher,

Dear Sir:-

Some time ago ^{s.22} of Nelson was at our place and suggested we five new settlers on S.W. 1/4 of Sec. 25 and N.W. 1/4 of Sec. 24 work out our taxes together with some gratis work on our road. We would be very greatful to you if you could lay out a road for us as ^{s.22} has fence the N.W. 1/4 of Sec. 25 so we can not get out that way and the Indians tell me we can't go through their property any longer unless we pay them for the use of their road.

I will be ready to haul my gravel and building material in a weeks time also ^{s.22} and ^{s.22} who bought land from we are ready to build and are in bad need of a road. I have been paying taxes in B.C. for 36 years and have paid hundreds of dollars taxes. I have paid cash to the government for this property. surely, I am entitled to som consideration in a road. First time you are in Creston I would be glad to have you call and see me at the ^{s.22} ^{s.22} and oblige.

Yours truly,

^{s.22}

July 11th, 1938

s.22

Creston, B.C.

Dear Sir:-

Further to my letter dated May 18th, 1938, in reply to your letter of May 5th, 1938, I may say that a public crossing at the point requested would serve lots 14 and 15 only and having regard to the inadequate funds at our disposal to meet the many pressing needs through the Province, it would not be in the public interest to construct this crossing at present.

However, I can see no reason why you should not apply to the Board of Railway Commissioners for a private crossing if you so desire.

Yours very truly,

A. DIXON

Chief Engineer.

MCD/GM

E.S. Jones, Esq.,
District Engineer,
Cranbrook, B.C.

April 22-38
Nelson-
Creston
3940
21-0-58

Lot 14618, Sec. 25, Indian Reserve,
Creston

Mr. Gallaher

With reference to my letter to Mr. Gallaher of April 8th, 1938, copy of which was sent to you, I enclose copy of Mr. Gallaher's reply dated April 12th, 1938.

As you know ^{s.22} [redacted] advised he wished to finish his fencing this spring and wished to be advised as to what roads he should allow for.

You will note Mr. Gallaher has recommended the roads shown in red on the attached sketch. These roads will occupy 3.243 acres in excess of the area which may be resumed. The suggestion that the Lands Department should refund a portion of the purchase price cannot be entertained, and the cost of compensation for these 3.243 acres will have to be paid from the District Vote (these figures should however be checked). Payment should not of course be made to ^{s.22} [redacted] direct without first consulting the Superintendent of Lands who no doubt will wish payment to be credited to the Provincial Government on account of any indebtedness which may be existing with respect to ^{s.22} [redacted]'s purchase.

Kindly therefore arrange to submit form P.W. 120, showing the compensation recommended.

Also kindly arrange for ^{s.22} [redacted] to be advised without delay as to his fences.

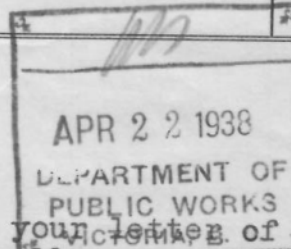
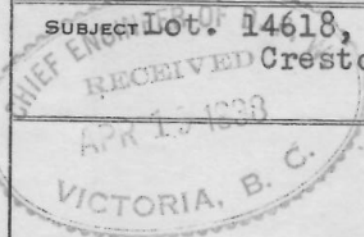
A. DIXON

ICB/GM
encl

PROVINCE OF BRITISH COLUMBIA

DEPARTMENT OF PUBLIC WORKS

FROM O.G. Gallaher, Esq., Asst. Dist. Engr., Nelson, B.C.	TO Chief Engineer, Public Works Dept., Parliament Buildings, VICTORIA. B.C.	DATE April 12th, 1938. ELECTORAL DISTRICT Nelson-Creston OUR FILE 21-0-58 YOUR FILE 3940
SUBJECT Lot. 14618, Sec. 25, Indian Reserve, Creston.		REFERENCE April 8/38 YOUR LETTER



With reference to your letter of April 8th, when it was originally proposed to sell this land to s.22 and others, s.22 and the intending purchasers asked that the roads necessary to this land be laid out in order that they could be exempted from the land when sale was made, and at his request I had Mr. C. Moore make a survey in co-operation with Local Foreman, A.L. Palmer and the roads as surveyed give the best access to the land in question. The land is rough and in places cut up by gulleys which would prohibit road building, and the road along the line between Lot 14618 and the Indian Reserve was considered the best possible road to get.

As regards to the width of 66 feet, this is no more than is necessary as a great deal of the work would be side hill constructed and I would remind you that in the Creston area and at Nelson we have been caused considerable embarrassment where narrower right-of-way than 66 feet has been allowed and we are trying to reconstruct the road.

As regards putting a road along the south boundary of Lot 14618, you will see from the plan originally submitted by me that there is other land to which access is required. In connection with the Lister Road, access to this is prevented by the ground itself. Your sketches are returned herewith.

O. G. Gallaher
O. G. Gallaher,
Asst. Dist. Engr.

OGG.M
encls.

501275

c.c. to E.S. Jones.

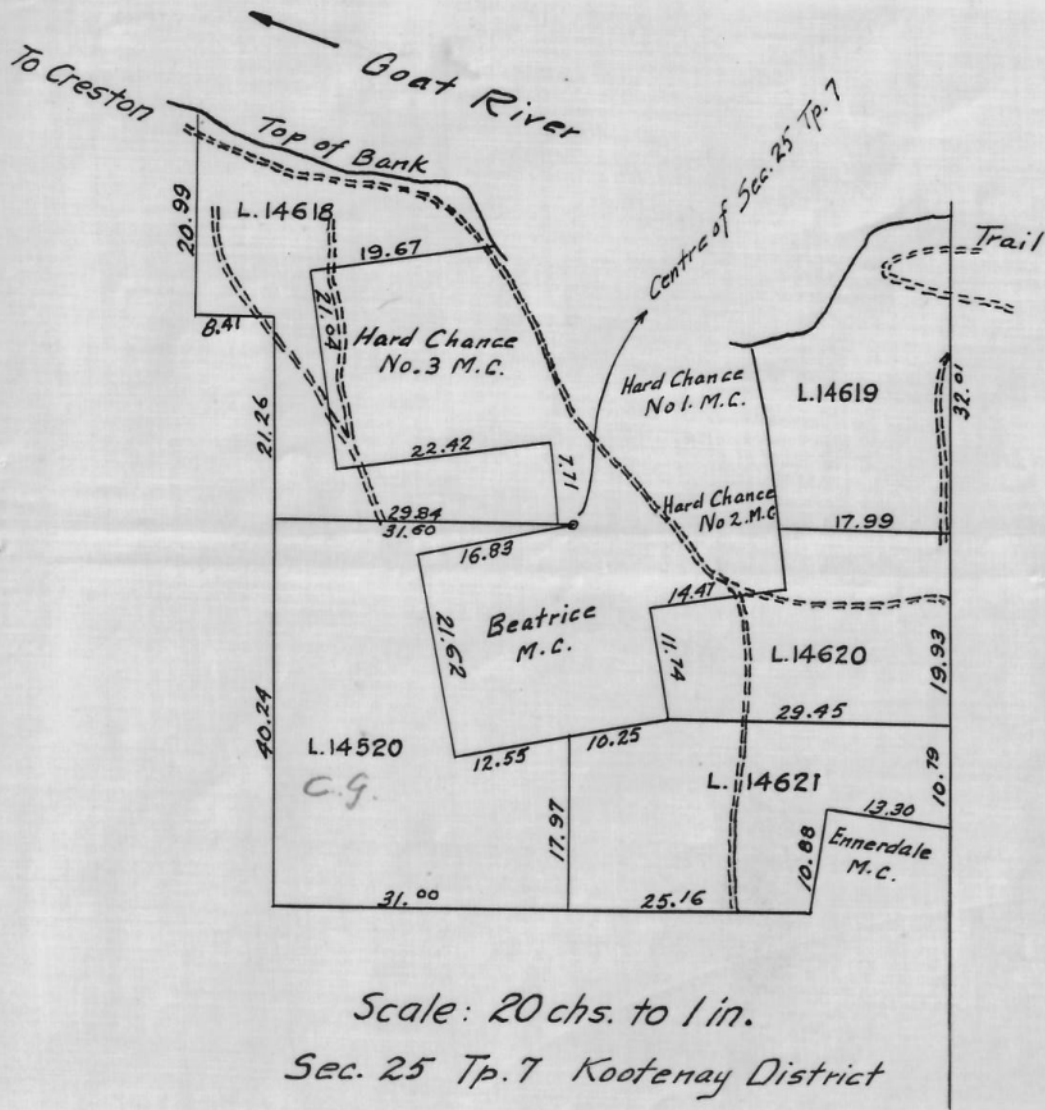
A. E.

$$\text{Area L. } 14618 \\ = 66.3 \text{ ac}$$

$$\text{For proposed Rate} \\ 6.55\%$$

$$1/20 = \frac{3.311}{3.243}$$

Excess



O.G. Callaher, Esq.,
Asst. Dist. Engineer,
Kelowna, B.C.

April 8th, 1938

3940

21-0-58

Lot 14618, Sec. 25, Indian Reserve,
Creston.

March 14-38

As ^{s.22} is anxious to do his fencing at once, I am writing direct to you, sending a copy to Mr. Jones.

Enclosed is a sketch plan showing ^{s.22}'s lot (L 14618) and also the other lots in this section. All of these lots are under agreement for purchase except lot 14520, which is Crown granted.

The sketch shows existing roads as found by the Surveyor.

I enclose larger plan showing lot 14618, on which I have shown in red the roads which you propose, which would take 6.558 acres more or less, or 3.243 acres in excess of the one twentieth which may be resumed and for which compensation must be paid.

Will you please advise me the reasons for recommending that these roads be taken and if the roads are absolutely necessary, why a road as wide as 66 feet is suggested. Access to lot 14520 could surely be given from the Camp Lister Road and I do not see the necessity of giving access to this lot at its N.E. corner, nor for a road along the southerly boundary of lot 14618.

Please advise me fully as early as possible and return the sketches.

A. DIXON

ICB/GM
encls

C.C. to E.S. Jones

O.G. Gallaher, Esq.,
Asst. Dist. Engineer,
Nelson, B.C.

April 7, 1938

3940
21-0-58

Lot 14618, Sec. 25, Indian Reserve,
Creston

March 14-38

As ^{s22} is anxious to do his fencing at once, I am writing direct to you, sending a copy to Mr. Jones.

Enclosed is a sketch plan showing ^{s22}'s lot (L 14618) and also the other lots in this section. All of these lots are under agreement for purchase except lot 14520, which is Crown granted.

The sketch shows existing roads as found by the Surveyor.

I enclose larger plan showing lot 14618, on which I have shown in red the roads which you propose, which would take 6.558 acres more or less, or 3.243 acres in excess of the one twentieth which may be reserved and for which compensation must be paid.

Will you please advise me why you consider it necessary to take these lots, and if necessary why a 66 foot road is suggested. Access to lot 14520 could surely be given from the camp Lister Road.

If it is absolutely necessary to give access to lot 14520 at its north east corner, I do not see the necessity for a road along the southerly boundary of lot 14618.

Please advise me fully as early as possible and return the sketches.

A. DIXON

IGB/GM
encl

MEMORANDUM

File 3940

March 31st, 1938

Re letter 499771

In 1936 the Lands Department took up with this Department the question of providing road on Sec. 25, Township 7, K.D., with a view to assistance to incoming settlers. The Public Works Department advised the Lands Department that there were no funds to construct roads at the present time, or to make the survey, but later Mr. Gallaher made this survey and sent print. Copy of his letter was sent to the Superintendent of Lands but not the print and in the meantime the Lands Department had already advised the Government Agent it was not considered advisable to make any Government subdivision and that any parties desiring to locate would have to stake and advertise and they were to be assured that they would have to provide their own road access.

s.22 [redacted] applied and obtained, under agreement for sale, lot 14520, which lot was traversed by the Camp Lister road.

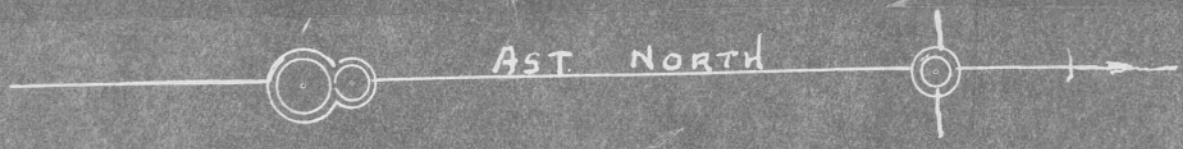
s.22 [redacted] wrote the Department about laying out the road and Mr. Gallaher reported he had already submitted a plan, but that no notice had been taken of it and suggested that lot 14520 be resurveyed to show access to the adjoining property. There was correspondence with the Deputy Minister of Lands and the Secretary Treasurer of the Corporation of B.C. Land Surveyors and the matter died.

On February 8th, 1938 s.22 [redacted] asked two questions:-

- Lister*
1. Has the ~~Kuster~~ road which follows the river along the north side of his place been eliminated from his acreage.
 2. He wishes to finish fencing this spring and wants to know what road he should allow for.

Mr. Gallaher suggests as per attached plan, which will require 6-1/2 acres of land which is 3.15 acres in excess of one twentieth allowed to be rescinded. Mr. F.O. Morris made it clear to me that any agreement to purchase is subject to the terms of the Final Crown Grant re road and that any existing road is excepted from the grant although the total area of the grant includes such existing road; further that the 1/20 which may later be resumed, is additional to any roads which were existing at the time the land was sold.

SHOWING PROPOSED SUBDIVISION OF Part of SEC 25 TP 7 Kootenay Dist. B.C.



NOTE:-

The position of new road shown has been checked over to serve the District.
Compiled from Survey & Projected Scheme of Subdivision & Road Layout By Chas. Moore B.C.L.S. March 1936 CRESTON B.C.

INDIAN RESERVE



SEC. 24 TP 7

SCALE: 400 FT. = 1 INCH

LOT 12716

3940

March 14th, 1938.

O.G. Gallaher, Esq.,
Asst. Dist. Engr.,

E.S. Jones, Esq.,
District Engineer,
Public Works Dept.,
Cranbrook, B.C.

Nelson-Creston

21-0-58

3940

APR 2 1938

DEPARTMENT OF
PUBLIC WORKS
VICTORIA, B. C.



Lot 14618, Sec. 25, Indian Reserve.
Creston.

March 21st, 1938.
Copy for Chief Engineer.

E. S. Jones.

With reference to the Department's letter of Feb. 21st, to which is attached a copy of ^{s.22} [redacted]'s letter of February 8th, in March, 1936 Mr. C. Moore made a survey and drew up a plan of the roads that were considered necessary in Section 25.

At that time several parties were applying to buy land in this area and the matter being referred to ^{s.22} [redacted], he asked that these roads be located before any disposition was made of the land.

The plan was submitted to the Department of Lands but when the surveys were later made of the individual parcels the roads as laid down by this Department were entirely disregarded in the Land Department's plan which was also made by Mr. Moore. I drew this to the Department's attention at the time.

However, in order to allow ^{s.22} [redacted] to fence his land he should be told to proceed as follows:- place his fence 66 feet from the line along the Indian Reserve boundary and 33 feet north of the line forming his south boundary.

not including 66.3 acres
This means that 6.5 acres of land are taken for road purposes from ^{s.22} [redacted]'s property, Lot 14618, this is 3.185 acres in excess of the 1/20 allowed by law. The Land Department should refund the purchase price of this land to ^{s.22} [redacted].

499771

C.
A.E.
^

KP
adv

March 14.

21-0-58

3940

-----Page 2-----

No deduction has ever been made from Lot 14618 for the area of what ^{s.22} ^{s.22} calls the Lister Road or for the other roads laid down in this Department's plan of March, 1936. This total road area is 6.5 acres.

A sketch of the roads as laid out in March, 1936 is attached.

O. G. Gallaher,
Asst. Dist. Engr.

OGG.M
encl. *per*