



MINISTRY OF FORESTS, LANDS & NATURAL RESOURCE OPERATIONS

COMPLIANCE & ENFORCEMENT

CONTINUATION REPORT

NRIS COMPLAINT ID #197		NRVR #
OTHER AGENCY FILE #: Lands File 3412526	NRIS INSPECTION # 702	ERA REPORT # 32649
REGION Thompson Okanagan		FIELD UNIT Okanagan Shuswap
GEOGRAPHIC LOCATION Okanagan Lake Killiney Beach		ACT/SECTIONS INVOLVED W/A
DATE	TIME	OFFICER / ACTIONS / MEASURES TAKEN
2014-03-12	1444hrs	<p>Below is an e-mail <u>string</u> sent to LEMP from WILDEMAN on 2014-06-12 at 1253hrs:</p> <p>Travis TORMALA (District Development Technician Ministry of Transportation and Infrastructure) Hi Michael,</p> <p>Thanks for speaking with me earlier today.</p> <p>I was contacted from a concerned resident due to a Hydro pole install for the North Westside Fire-Rescue Boat House in Killiney Beach. I know the boat house was permitted through either MoE or FLNRO since it would be treated as a dock and not within MoTI RoW.</p> <p>It is my understanding that it is considered a meter pole and was NOT installed by BC Hydro. From my initial research I think the pole does not fall within the adjacent RDCO lot and would fall within either MoTI RoW or Crown foreshore. I am currently in the process of determining the jurisdiction.</p> <p>My question is who installed the pole and the underground electrical line to service the boat house? My primary concern is if the underground line is safe and what the construction specification were.</p> <p>Any questions please let me know or if you would like to discuss further please give me a call.</p> <p>Thanks,</p> <p>Travis Tormala District Development Technician Ministry of Transportation and Infrastructure</p>

1454hrs

Vernon Office
Office Phone- 250-503-3606
Fax- 250-503-3631
From: Michael Noga
Sent: March-12-14 2:54 PM
To: Dan Wildeman
Cc: Chris Radford; Peter Rotheisler
Subject: North Westside Fire-Rescue Boat House

Hi Dan,

Pls. see the email below pertaining to a power pole for the North Westside Fire-Rescue Boat House.

The power pole appears to lie within public road right of way outside the boundaries of the RD lot at Killiney Beach. Pls. let me know if you will be able to address this inquiry with the Ministry of Transportation and Infrastructure. Was the power pole and civil works approved under the dock licence and located outside of high water mark?

Regards,
Michael Noga, ASCT
Engineering Technologist II
Regional District of Central Okanagan
Environmental Section, Community Services

2014-03-13 1108hrs:
From: Dan Wildeman
Sent: March-13-14 11:08 AM
To: 'Travis.Tormala@gov.bc.ca'
Cc: Chris Radford; Peter Rotheisler; Michael Noga
Subject: RE: North Westside Fire-Rescue Boat House

Good Morning Travis,

I would like to address your concerns and assure you that it is my understanding that we have all approvals for the construction of the boathouse including installation of the power pole that is in question. First, please allow me to explain the need for the hydro supply. The Boathouse and lift require a prolonged power source during winter conditions to avoid freezing which would dramatically impact responses to emergencies. The need to run a heater during sub-zero temperatures was beyond the capabilities of a generator or staff and the only option was to establish a permanent power supply. The installation was completed January 2014 through a licensed contractor with BC Hydro's approval. BC Hydro attended the site for a pre-installation meeting at which time the installation parameter were determined. The pole and service were installed and inspections completed by BC Safety Authority to ensure a safe and compliant installation.

I have attached files for your review that would indicate approval,

- FLNRO approval for the project dated Feb 21, 2013 . This indicated foreshore approval and fronting on Hodges Rd.
- FLNRO approval through Ecosystems Section dated Dec. 27, 2012
- MOTI email advising no objections dated March 26, 2012

- Quote for installation which indicates all work subject to BC Hydro approval

I have reviewed GIS which also indicated the pole location is extremely close to the edge of the MOTI right of way and high water mark for Crown Authority, while being within RDCO Park boundaries. If at all possible I would like to meet at your earliest convenience and discuss this matter to ensure MOTI's satisfaction and request the issuance of a letter of approval to avoid further complaints.

Respectfully,

Dan Wildeman

Fire Services & Inspections Manager
Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4
Office: 250-469-6246
Cell: 250-317-9088
Fax: 250-762-7011

2014-03-13 1500hrs:

From: Dan Wildeman
Sent: March-13-14 3:00 PM
To: 'Travis.Tormala@gov.bc.ca'
Subject: RE: North Westside Fire-Rescue Boat House

Hi Travis,

Nice talking to you today. I have attached the Safety Authority electrical inspection report and application for your review. The trench was 24" deep as required by code.

Thanks, let me know if I can assist any further.

Dan Wildeman

Fire Services & Inspections Manager
Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4
Office: 250-469-6246

2014-03-19 1302hrs:

From: Dan Wildeman [<mailto:dan.wildeman@cord.bc.ca>]
Sent: Wednesday, March 19, 2014 1:02 PM
To: Tormala, Travis TRAN:EX
Subject: FW: North Westside Fire-Rescue Boat House

Hi Travis,

Just checking in to see where we are at with permitting the pole.

Thanks

Dan Wildeman

Fire Services & Inspections Manager
Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4
Office: 250-469-6246
Cell: 250-317-9088
Fax: 250-762-7011

2014-03-20 1351hrs:

From: Tormala, Travis TRAN:EX
Sent: Thursday, March 20, 2014 1:51 PM
To: 'Dan Wildeman'; Weir, Keith FLNR:EX
Subject: RE: North Westside Fire-Rescue Boat House

Hi Dan,

After looking into the pole placed by RDCO Fire Services it appears it most likely fall in the highwater mark. This means the pole is located on Crown foreshore and not MoTI RoW. It is my understanding that the pole is permitted through the license of occupation issued by Forests, Lands and Natural Resource Operations (FLNRO). Please let Dan and I know if I misinterpreted anything on FLNRO's end Keith.

Regards,

Travis Tormala

District Development Technician
Ministry of Transportation and Infrastructure
Vernon Office
Office Phone- 250-503-3606
Fax- 250-503-3631

2014-03-21 0821hrs:

From: Weir, Keith FLNR:EX [<mailto:Keith.Weir@gov.bc.ca>]
Sent: March-21-14 8:21 AM
To: Dan Wildeman
Subject: RE: North Westside Fire-Rescue Boat House

Hi Dan

The attachments weren't sent to me. Can I get a copy of the FLNRO approval? I don't have any documentation on file, that approves the boat house.

Keith Weir
Senior Land Officer
Ministry of Forests, Lands and Natural Resource Operations
441 Columbia Street
Kamloops BC V2C 2T3
Phone: (250)828-4419 Fax: 828-4442

		<p>2014-03-21 0835hrs: From: Dan Wildeman [mailto:dan.wildeman@cord.bc.ca] Sent: Friday, March 21, 2014 8:35 AM To: Weir, Keith FLNR:EX Subject: RE: North Westside Fire-Rescue Boat House</p> <p>Hi Keith,</p> <p>Here you go , let me know if you need anything else</p> <p>Dan Wildeman</p> <p>Fire Services & Inspections Manager Regional District of Central Okanagan 1450 KLO Road Kelowna, BC V1W 3Z4 Office: 250-469-6246 Cell: 250-317-9088 Fax: 250-762-7011</p> <p>2014-03-21 0835hrs: From: Weir, Keith FLNR:EX [mailto:Keith.Weir@gov.bc.ca] Sent: March-21-14 08:55 To: Dan Wildeman Subject: RE: North Westside Fire-Rescue Boat House</p> <p>Thanks Dan</p> <p>It looks like everything is in good standing. Instead of amending the original license (file 3408066), another file was opened for the boat house (3412526). I looked on the original file and couldn't find anything, but either way, everything looks OK.</p> <p>Thanks.</p> <p>Keith Weir Senior Land Officer Ministry of Forests, Lands and Natural Resource Operations 441 Columbia Street Kamloops BC V2C 2T3 Phone: (250)828-4419 Fax: 828-4442</p>
2014-04-08	1632hrs	<ul style="list-style-type: none"> • Electronic complaint received
2014-04-28	1435hrs	<ul style="list-style-type: none"> • NRO's LEMP/KRYWONOS - Killeney Beach Looked at Hydro pole which had been installed on Beach. Spoke with Michelle Carson (complainant) – she showed us where the location of the pole had been flagged out to be put originally. This location was still marked on the day the contractor showed up to install the hydro pole. Approx 2-2.5m from N/B to power pole. Approx 1.0m from N/B to guy wire. If you consider wave action it is likely within the N/B. • LEMP took pictures of site.
2014-05-01	1340hrs 1834hrs	<p>LEMP spoke with NRO ZIMMERMAN who will attach notes re: his findings from his visit.</p> <p>LEMP received an e-mail from Clint ZIMMRMAN:</p>

		<p>Hi Don,</p> <p>Per our discussion and your request earlier today.</p> <p>The attached photos were viewed by Grant Rodgers, Water Stewardship, shortly after I took them and before I learned that a formal complaint had been received. Grant sits in the Kamloops office and would not be responsible for reviewing any Water Act applications for the Okanagan area, however I took advantage of his availability at the time to gauge a Water Stewardship perspective on the matter for future reference.</p> <p>Grant advised that absolutely, he would have expected to see a Section 9 Approval/Notification application submitted for this hydro pole installation as it appears the site is within the "stream channel". Not only the final pole and guy line anchor site, but the working area as the pole was being installed. He further suggested though, that he would not have approved the location as wave action and/or flood conditions could negatively affect the site. The pole simply ought to have been installed in a more upland location.</p> <p>If you haven't already done so, you should check the tenure file for the Fire Department's boathouse to verify if there is any provision for an electrical utility structure in the management plan, or anything that would preclude one from being added.</p> <p>Let me know if you have any questions!</p> <p>Clint Zimmerman Natural Resource Officer Ministry of Forests, Lands and Natural Resource Operations (MFLNRO) 250-371-6576</p>
2014-05-07	0911hrs	<p>LEMP sent JOHNSON an e-mail: Good morning Jerry! I am looking into a complaint with respect to this file which is a Fire Department Boat House on Okanagan lake at Killeney Beach. I am looking for any information on file pertaining to what was approved for power to the boat house. It does have its own generator and recently they put a Hydro pole in on the beach (in an inappropriate location)and ran hydro underground to the boat house. Any info on this would be appreciated.</p> <p>Don Lemp R.F.T. Natural Resource Officer</p>
	0915hrs	<p>LEMP sent e-mail to Jerry Johnson requesting info with respect to the lands file and what approvals are around the hydro pole.</p>
2014-05-07	0930hrs	<p>LEMP spoke with Michelle Carson to advise where he was at with file. She advised that the Community Assoc. had sent Dan Wildeman (CORD Fire Services Manager) a letter requesting relocating the hydro pole – last week. She called him yesterday to follow up and was told they would not be moving it. She forwarded LEMP a copy of the e-mail they sent.</p> <p>Hi Don...below is the letter that the North Westside Communities Association (NWCA) sent Dan Wildeman (RDCO- fire services manager). As you can see it was cc'd to Chris Radford who is Dan Wildeman's superior at RDCO, and to Jim Edgson our area</p>

director. The rest of the people on the cc list are NWCA Board members. I called Dan Wildeman yesterday morning as we had not received a response. His response was "no, the pole will not be moved." The same letter will be sent today to RDCO Board Chairman, Robert Hobson, with a request that it be put on the agenda for discussion at their next meeting, which I believe is on May 26/14.

Don, if you would like me to forward the quote from Four Sons Electric that our letter refers to, just let me know.

Thanks Don,
Michelle Carson

Sent from my iPad

Begin forwarded message:

1027hrs

From: Michelle Carson <mcbythelake@hotmail.com>

Date: 30 April, 2014 10:23:24 PDT

To: dan.wildeman@cord.bc.ca

Cc: doug.gardiner@cord.bc.ca, Chris Radford <chris.radford@cord.bc.ca>, Jim Edgson <jim.edgson@cord.bc.ca>, Marsali MacIver <marsali@xplornet.com>, Jason Satterthwaite <jasonsatterthwaite@hotmail.com>, Darryl Hordo <cdhordo@gmail.com>, John Degenhardt <johndeg@telus.net>, Leighanne Dick <glittergirl1950@gmail.com>, Bob Andrews <bob@enchantedpalace.net>, Joanne Pappin <joanepappin@yahoo.ca>, Cheryl and Don Williamson <willcherson@gmail.com>, jclane@telus.net

Subject: Hydro Pole - Killiney Beach

Dear Dan,

As you are aware the North Westside Communities Association (NWCA) has received several complaints regarding the hydro pole that has been installed on one of the Killiney Beach sites. The potential hazards associated with having a hydro pole and guide wire in the middle of a recreational beach site are too numerous to imagine and could very well be tragic.

As you are also aware we have investigated the possibility of a picnic table around the pole in an effort to minimize the aforementioned hazards. The NWCA board of directors has concluded that this is not feasible and the only real solution is to move the hydro pole to an appropriate location. Moving the pole to the originally planned location (facing the boathouse - to the left of the boathouse walkway) would minimize the visual impact of the hydro pole and maintain the safe recreational use of the beach site. Four Sons electrical contracting has given us a quote to move the pole to that location and it is substantially less than the quote Chief Gardiner got from Horizon electric to move the pole. Four Sons are aware of the circumstances under which this quote was given and understand that we are passing that information along to you. I will send you their quote following this letter.

We sincerely appreciate Chief Gardiner's apology for the misplacement of the hydro pole and understand that it was not his intention to have the pole installed in the middle of the beach site. However, a mistake has been made and it needs to be corrected.

In closing, the NWCA requests that you please reconsider the placement of the hydro pole and guide wire for the safety and wellbeing of the many residents and tourists who will soon flock to the beach for days of summer fun.

		<p>Your consideration is appreciated!</p> <p>Sincerely, Michelle Carson, NWCA V.P. On behalf of the NWCA board of directors</p> <p>Sent from my iPad</p>
2014-05-08	<p>0938hrs</p> <p>0943hrs</p> <p>0945hrs</p> <p>0950hrs</p> <p>2019hrs</p>	<p>LEMP received E-mail from JOHNSON with a copy Section 9 and Terms & Conditions.</p> <p>LEMP received E-mail from JOHNSON with a copy NWFR justification for a boathouse letter.</p> <p>LEMP received E-mail from JOHNSON with a copy of the Signed MOE Section9 letter. NW Boathusc</p> <p>LEMP received a electronic copy of Fire Boathouse Licence Document from JOHNSON.</p> <p>LEMP receive e-mail from Michelle CARSON</p> <p>Hi Don,</p> <p>I sent you the letter that the NWCA Board sent to Dan Wildeman (RDCO fire services manager) about relocating the hydro pole to the originally planned location and as you know his answer was "no." I then told you that we were sending the same letter to our area director (Jim Edgson) and Robert Hobson (RDCO Board Chair) with a request that the board review this issue. The result of that request is below and was sent by Chris Radford (RDCO - Director of Community Services). As you can see he claims that, "The pole was installed with all required approvals and permits." They (RDCO staff) are not willing to take this issue to the RDCO Board for review.</p> <p>Michelle Carson</p> <p>Sent from my iPad</p> <p>Begin forwarded message:</p> <p>From: Susan Fraser <susan.fraser@cord.bc.ca> Date: 8 May, 2014 16:53:09 PDT To: "mcbbythelake@hotmail.com" <mcbbythelake@hotmail.com> Cc: Jim Edgson <jim.edgson@cord.bc.ca>, Robert Hobson <robert.hobson@cord.bc.ca>, Dan Wildeman <dan.wildeman@cord.bc.ca>, "Chris Radford" <chris.radford@cord.bc.ca>, Mary Jane Drouin <mdrouin@cord.bc.ca> Subject: FW: Hydro Pole - Killiney Beach</p> <p>Good Afternoon,</p> <p>Please find attached, correspondence forwarded, on behalf of the Director of Community Services.</p> <p>Sincerely, Susan Fraser Community Services - Inspections and Fire Regional District of Central Okanagan 1450 KLO Road Kelowna BC V1W 3Z4 Telephone: 250-469-6216 Fax: 250-762-7011</p>

From: Michelle Carson [mailto:mcbythelake@hotmail.com]

Sent: Wednesday, May 07, 2014 10:50 AM

To: Jim Edgson

Cc: Robert Hobson; Marsali MacIver; Darryl Hordo; Jason Satterthwaite; John Degenhardt; Bob Andrews; Leighanne Dick; Joanne Pappin; Cheryl and Don Williamson; yclane@telus.net; Fritz van't Hullenaar

Subject: Hydro Pole - Killiney Beach

Good Morning,

Please find attached a letter we wish to have brought to the attention of the RDCO Directors at their next meeting. As this issue has caused some consternation in the community we felt it should be addressed not just by staff but also by the Board itself. We would appreciate this item being placed on the agenda of the RDCO Board for discussion at the next meeting. Chris Radford and Dan Wildeman have both been involved with discussions on this subject and are very aware of the concerns that have been raised.

Regards,

Michelle Carson

Vice President - NWCA

On behalf of the North Westside Communities Association Board of Directors



LEMP/LEMP COMMUNITY SERVICES
1100-1100-1100-1100

May 8, 2014

North Westside Communities Association
570 Edell Rd
Vernon BC, V1J 2G7

Attn: Michele Garsou

Dear Ms. Garsou,

Re: Hydro Pole - Killiney Beach

On behalf of Director I appear we wish to acknowledge receipt of your letter dated May 1, 2014 regarding the location of the power pole. This is an electrical area issue and subsequently will not form part of the meeting agenda for this topic.

Staff has been in consultation with Director Hodgson regarding the power pole guy wire that was installed to service power requirements for the North Westside Fire and Rescue Boat House.

Although I understand there may be some concern with the location of its installation in to utility poles located in areas that may be perceived as incongruous with human intentions from time to time.

The guy wire is fitted with a suitable marker that is now throughout the industry and serves a dual role for visibility and protection. The pole was installed with all required approvals and permits.

For these reasons relocation of the pole is not being put forward at this time.

Sincerely,

Chris Macfarlane
Director of Community Services

cc: R. Eason, Chris Macfarlane, Director of Community Services
J. Edgson, Director of Community Services

2014-06-02	0937hrs	LEMP sent JOHNSON an e-mail request for a copy of the section 9 for the boathouse.
2014-06-04	0908hrs	LEMP received an electronic copy of the Sec 9 from JOHNSON for NW Fire Boathouse.
2014-06-17	1628hrs	LEMP received e-mail from ZIMMERMAN with e-mail string attached: <ul style="list-style-type: none"> • TORMALA, Travis (MOTI) to NOGA, Michael (RDCO Engineering) March 12/14 at 1444hrs: <ul style="list-style-type: none"> ○ I was contacted from a concerned resident due to a Hydro pole install for the North Westside Fire-Rescue Boat House in Killiney Beach. I know the boat house was permitted through either MoE or FLNRO since it would be treated as a dock and not within MoTI RoW.

- It is my understanding that it is considered a meter pole and was NOT installed by BC Hydro. From my initial research I think the pole does not fall within the adjacent RDCO lot and would fall within either MoTI RoW or Crown foreshore. I am currently in the process of determining the jurisdiction.
- My question is who installed the pole and the underground electrical line to service the boat house? My primary concern is if the underground line is safe and what the construction specification were.
- **NOGA to WILDEMAN, Dan (Fire Services & Inspection Manager) March 12/14 at 1454hrs**
 - Pls. see the email below pertaining to a power pole for the North Westside Fire-Rescue Boat House.
 - The power pole appears to lie within public road right of way outside the boundaries of the RD lot at Killiney Beach. Pls. let me know if you will be able to address this inquiry with the Ministry of Transportation and Infrastructure. Was the power pole and civil works approved under the dock licence and located outside of high water mark?
- **WILDEMAN to TORMALA March 13/14 at 1108hrs :**
 - Good Morning Travis,
 - I would like to address your concerns and assure you that it is my understanding that we have all approvals for the construction of the boathouse including installation of the power pole that is in question. First, please allow me to explain the need for the hydro supply. The Boathouse and lift require a prolonged power source during winter conditions to avoid freezing which would dramatically impact responses to emergencies. The need to run a heater during sub-zero temperatures was beyond the capabilities of a generator or staff and the only option was to establish a permanent power supply. The installation was completed January 2014 through a licensed contractor with BC Hydro's approval. BC Hydro attended the site for a pre-installation meeting at which time the installation parameter were determined. The pole and service were installed and inspections completed by BC Safety Authority to ensure a safe and compliant installation.
 - I have attached files for your review that would indicate approval,
 - FLNRO approval for the project dated Feb 21, 2013 . This indicated foreshore approval and fronting on Hodges Rd.
 - FLNRO approval through Ecosystems Section dated Dec. 27, 2012
 - MOTI email advising no objections dated March 26, 2012
 - Quote for installation which indicates all work subject to BC Hydro approval
 - I have reviewed GIS which also indicted the pole location is extremely close to the edge of the MOTI right of way and high water mark for Crown Authority, while being within RDCO Park boundaries. If at all possible I would like to meet at your earliest convenience and discuss this matter to ensure MOTI's satisfaction and request the issuance of

a letter of approval to avoid further complaints.

- **WILDEMAN to TORMALA March 13/14 at 1108hrs :**
 - Hi Travis,
 - Nice talking to you today. I have attached the Safety Authority electrical inspection report and application for your review. The trench was 24" deep as required by code
- **WILDEMAN to TORMALA March 19/14 at 1302hrs**
 - Hi Travis,
 - Just checking in to see where we are at with permitting the pole.
- **TORMALA to WILDEMAN & WEIR, Keith (FLNRO Senior Lands Officer):**
 - Hi Dan,
 - After looking into the pole placed by RDCO Fire Services it appears it most likely fall in the highwater mark. This means the pole is located on Crown foreshore and not MoTI RoW. It is my understanding that the pole is permitted through the license of occupation issued by Forests, Lands and Natural Resource Operations (FLNRO). Please let Dan and I know if I misinterpreted anything on FLNRO's end Keith.
- **WEIR to WILDEMAN March 14/14 0821hrs:**
 - Hi Dan
 - The attachments weren't sent to me. Can I get a copy of the FLNRO approval? I don't have any documentation on file, that approves the boat house.
- **WILDEMAN to TORMALA March 21/14 at 0835hrs:**
 - Hi Keith,
 - Here you go , let me know if you need anything else
- **WEIR to WILDEMAN March 21/14 0855hrs:**
 - Thanks Dan
 - It looks like everything is in good standing. Instead of amending the original license (file 3408066), another file was opened for the boat house (3412526). I looked on the original file and couldn't find anything, but either way, everything looks OK.
- **WILDEMAN to LEMP, Don (FLNRO NRO) June 12./14 at 1253hrs:**
 - WILDEMAN sent LEMP above e-mail string
- **LEMP to ZIMMERMAN, CLINT (FLNRO SENIOR NRO) June 12/14 at 1558hrs:**
- **LEMP sent e-mail string to ZIMMERMAN to read and to discuss with JOHNSON, Jerry (FLNRO - Senior Lands Officer).**
- **JOHNSON, to ZIMMERMAN June 17/14 at 1537hrs:**

Clint, I have reviewed the file and there is no indication that a powerline was proposed to the fire boathouse dock and there is no indication of this approval on the file. The Environmental impact report completed by Vahalla Environmental Consulting Inc on April 23, 2012 indicated the aluminum gangway section will be connected to a remote start generator located in the boathouse.

		<p>Lighting and gangway lowering will be run off the generator.</p> <ul style="list-style-type: none"> ● ZIMMERMAN to LEMP June 17/14 at 1628hrs: <ul style="list-style-type: none"> ○ See Jerry Johnson's note below, which confirms File 3412526 has no documented reference to the hydro pole in question. Jerry also advised me of the following via phone earlier today: <ul style="list-style-type: none"> ● He didn't authorize the hydro pole installation, verbally or otherwise, and does not recall any reference to or discussion about a hydro pole being considered by the client while he adjudicated the file. ● Adjudication was fast-tracked due to political pressures and was based solely on information submitted by the client, which again did not reference installation of a hydro pole. ● I also spoke with Keith Weir earlier today, and he confirmed that he provided his opinion on the matter to CORD (see e-mail chain below) <u>after</u> the hydro pole installation was completed, following his review of the tenure document only. Keith did not review the management plan, which is referenced in the tenure document and ultimately limits what is approved to be constructed within the tenure boundary.
2014-11-24	1100hrs 1242hrs	<p>LEMP spoke with TOBIN and it was decided that LEMP would have a discussion with WILDEMAN and see if he can come to a gentleman's agreement about the pole instead of issuing a trespass notice. This is being done to foster the good working relationship we have with CORD.</p> <p>LEMP sent LACEY a request for R8-7508</p>
2014-11-25	0849hrs	<p>LACEY sent LEMP an e-mail: Hi Don, Here is the application etc. from Tappet. If you need more let me know</p> <p>Cathy Lacey</p> <p>Attached was the section 9 appl. And the Arc site map.</p>
2014-12-08	0955hrs	<p>LEMP spoke with Jerry JOHNSON to give update on power pole issue. He advised it could be down through an amendment to existing Licence. Liked the approach of a gentleman's agreement. That a section 9 would be required.</p>
2014-12-10	1100hrs	<p>LEMP reviewed Lands File 3412526 and the only reference to power supply for the Boat House was in Valhalla Environmental Consulting Inc. E.I.A. on page 1 under Proposed Works it says "The aluminum gangway section will be connected to are mote start generator in the boat house. Lighting and gangway lowering will be run off the generator."</p>
2014-11-21	1613hrs	<p>LEMP receives a copy of the LAND USE Report from ZIMMERMAN which identifies a conflict for future:</p> <p>Clearance and Other Conflicts: This application appears to be within an existing Licence of Occupation (file 0408066) issued to the Regional District of Central Okanagan (RDCO applicant) for boat launch, safe harbour and public recreation purposes fronting the park and road. The RDCO Park Services provided an internal memorandum acknowledged the existing licence covering this area and recommended that all future use and access of the water (or area (licence) adjacent to the swim area be conducted in a manner as to not have an adverse effect on recreational users. The Ministry of Transportation provided a letter of approval on this proposal since it fronts their road. No other concerns need to be addressed from the URR conflicts identified.</p>

2015-01-15	1230hrs 1316hrs 1345hrs	<p>LEMP received a call from Michelle CARSON wanting an update on the power pole situation. LEMP advised he was about to phone WILDEMAN to set up a meeting and hopefully come to a gentleman's agreement and avoid issuing a formal notice.</p> <p>LEMP left WILEMAN a v-mail asking him to call.</p> <p>WILDEMAN called LEMP and they set up a meeting in Kelowna at WILDEMAN's office to discuss the matter of the power pole. WILDEMAN commented to LEMP that he thought it was a done deal. LEMP advised that the issue had not yet been resolved.</p>
2015-01-19	1030hrs	<p>NRO's LEMP & KRYWONOS met at CORD offices on KLO in Kelowna with Dan Wildeman (Manager, Fire & Inspection Services), Doug Gardiner (Fire Chief – North Westside Fire Rescue) & Chris Radford (Director of Community Services). LEMP brought forward the fact that no authority was given for the power pole and underground service. Nor had a power pole been in their application. LEMP advised that he would be open/prefer if they would agree to do the work without the need to issue a Legal Order but if they were in disagreement that the order did allow for an appeal process. LEMP explained the appeal process and that it looks for whether or not they are in contravention and if proper procedure was followed by the issuing officer. RADFORD agreed that they had erred and would take appropriate measures to rectify the issue. He said that they would prefer not to be given a legal order as this would not look good. CORD made the stance that they required the electrical power as the generator system was inefficient. LEMP advised that they were not in disagreement with electrical power but it was not done with authority and input through referral was therefore not available by water or ecosystems had it been, location and other requirements would have been put in the tenure conditions. CORD (RADFORD) asked if there was a possibility that it would be approved where it was. LEMP responded he could ask (LEMP would supply contact info for that discussion) however it would be highly unlikely as Water had advised they would not permit the pole at that location due to several concerns. CORD is concerned about now requiring two poles as hydro distance requirements have to be met and the current pole is at the outer limits of that requirement. LEMP advised as long as they can place the pole in a suitable location they should be able to keep it in the BC Hydro requirements as underground services do not have the same restriction. With that RADFORD said they would probably need a new underground service as the current one is too short and you cannot just splice a piece on. CORD agreed that they would get a QEP to look at the issue and come up with recommendation as how best to resolve. They would apply for a sec 9.</p>
2015-01-20	1548hrs	<p>LEMP left WILDEMAN an e-mail advising: Good afternoon Dan.</p> <p>As mentioned yesterday Jerry Johnson advised that the Power Pole can be included as an amendment under your current tenure.</p> <p>Jerry Johnson 250-828 4418 would also be the person to talk to about seeing if the power pole could be left as is.</p> <p>Brian Robertson is the Ecosystems Specialist who will likely be the one doing up the section 9 (250-558-1700).</p> <p>If you require any further information please contact me.</p>

	1555hrs	<p>WILDEMAN responded back: Good Afternoon Don,</p> <p>I appreciate your assistance in this matter and will be in contact with Jerry Johnson shortly.</p> <p>Regards,</p> <p>Dan Wildeman</p>
2015-01-27	1109hrs	<p>LEMP received e-mail from WILDEMAN: From: Dan Wildeman [mailto:dan.wildeman@cord.bc.ca] Sent: Tuesday, January 27, 2015 11:09 AM To: Johnson, Jerry FLNR:EX Cc: Chris Radford; Lemp, Don FLNR:EX Subject: Killeney Beach Power Pole</p> <p>Good Morning Mr. Johnson,</p> <p>I was directed by Natural Resource Officer Don Lemp to give you a call regarding amending a current tenure we have in place for our fire department boathouse at Killeney Beach. If you have time available I would like to attend your office and discuss next steps to ensure compliance to your satisfaction. I regret having to initiate this meeting by email but I have been unsuccessful reaching you at 250-828-4418. I look forward to meeting at your convenience . My afternoons are open for the remainder of the week .</p> <p>Regards,</p> <p>Dan Wildeman</p> <p>Fire Services & Inspections Manager Regional District of Central Okanagan 1450 KLO Road Kelowna, BC V1W 3Z4 Office: 250-469-6246 Cell: 250-317-9088 Fax: 250-762-7011</p>
2015-01-28	1043hrs	<p>Email from JOHNSON to WILDEMAN: From: Johnson, Jerry FLNR:EX [mailto:Jerry.Johnson@gov.bc.ca] Sent: January-28-15 10:43 To: Dan Wildeman Cc: Lemp, Don FLNR:EX; Symonds, Josie FLNR:EX Subject: RE: Killeney Beach Power Pole</p> <p>Dan, I understand from discussions with Don Lemp that the power pole location would require a Section 9 Approval under the Water Act since I have been advised it is located below the high water mark or natural boundary of the lake. This would require discussions between the Don Lemp and Josie Symonds on the proposed approval of this power pole location.</p>

2015-01-28	1403hrs	<p>Email WILDEMAN to LEMP: From: Dan Wildeman [mailto:dan.wildeman@cord.bc.ca] Sent: Wednesday, January 28, 2015 2:03 PM To: Lemp, Don FLNR:EX Cc: Symonds, Josie FLNR:EX; Chris Radford Subject: RE: Killeney Beach Power Pole</p> <p>Hi Don,</p> <p>I just finished speaking with Jerry Johnson and he advised that he doesn't need to be involved as it is an enforcement issue. Mr. Johnson did advise that we would be required to address the Section 9 issue as he feels the pole sits below the high water mark. Our mapping and survey show it is above but regardless it is close either way and we want to make this right . Would it be possible to meet with both you and Josie Symonds to discuss the matter, review our mapping and find the most efficient and cost effective means to resolve this issue.</p> <p>Regards,</p> <p>Dan Wildeman</p>
2015-01-28	1636hrs	<p>E-mail Symonds to WILDEMAN: From: Symonds, Josie FLNR:EX Sent: Wednesday, January 28, 2015 4:36 PM To: 'dan.wildeman@cord.bc.ca' Cc: Lemp, Don FLNR:EX Subject: RE: Killeney Beach Power Pole</p> <p>Hi Dan,</p> <p>I have had conversations with both Don Lemp and Jerry Johnson about this file today. I understand that a power pole was placed below the high water mark of Okanagan Lake without authority under the Water Act. We do not provide Approvals or Notifications under Section 9 of the Water Act for works that are already constructed.</p> <p>Based on conversations with Compliance and Enforcement, I understand that the proposed action at this time is to remove the existing power pole and relocate it above the high water mark. In order to do these removal/replacement works, you will need to submit a Water Act Section 9 Application. Information on the application process is available at the following website: http://www.env.gov.bc.ca/wsd/water_rights/licence_application/section9/. I suggest that you work with a qualified environmental professional to ensure that the works are designed and constructed in accordance with provincial best practices for instream works. I also suggest that you contact Margaret Bakelaar at the RDCO to determine if there are any environmental requirements from the RDCO for your proposed works.</p> <p>I do not see a need for me to meet with you on this file. However, please feel free to contact me if you need additional information.</p> <p>Josie</p> <p>----</p> <p>Josie Symonds, M.Sc., R.P.Bio.</p>

		Ecosystems Biologist BC Ministry of Forests, Lands & Natural Resource Operations 102 Industrial Place, Penticton, BC V2A 7C8 (250) 490-2254 Josie.Symonds@gov.bc.ca
2015-04-30	1409hrs	LEMP sent WILDEMAN a e-mail asking for an update to the power pole issue. Afternoon Dan. I have nopt heard back from you on how you addressed the power pole issue yet. Could you give me a update please. Don Lemp R.F.T Natural Resource Officer
2015-05-12	1400hrs	Michelle Carson : called wondering whats going on. She called WILDEMAN as well and he advised it was not on his priority list and did not give her a time line.
2015-05-13	1310hrs	LEMP called WILDEMAN asked what was going on: <ul style="list-style-type: none"> • He advised he has been busy and now fire season is coming and this has not been a priority. • Jerry Johnson was not overly concerned the trespass was not with him. LEMP explained that Jerry was not approving it as it was U/A. That he could amend the Tenure to include the power coming into the boathouse. That the pole was U/A and was needing to be relocated. That there QP could talk to Brian Robertson if he had questions around the application. WILDEMAN said he would start working on it. WILDEMAN also said he had a call from Michelle Carson wanting to know what was happening.
	1545hrs	LEMP spoke with Michelle Carson: she advised the same thing she left in her e-mail. LEMP advised he called WILDEMAN and he was going to give this to there QP.
2015-06-01	1519hrs	LEMP sent WILDEMAN an email re power pole update: Good day Dan: On January 19, 2015 we had a meeting at your office to discuss this issue and it was agreed that we would get this resolved without the issuance of a Trespass Notice. On May 13, 2015 we spoke about this issue and you advised me that do to priorities that you had not proceeded with dealing with the power pole but would start working on it. I have not heard anything from you since that time. I have checked to see if a Section 9 application has been submitted but cannot find one. Over 4 months have passed since our meeting in January and I have not seen any progress on this issue. This leaves me no other option but to issue a Trespass Notice ordering removal of the power pole.
	1523hrs	LEMP received reply beck from WILDEMAN: I am meeting with an EP tomorrow at 09:00. FYI Regards Dan
	1548hrs	Dan, Thanks for the timely response and I am looking forward to hearing about what comes

		<p>out of your meeting.</p> <p>Don Lemp R.F.T Natural Resource Officer</p>
2015-06-03	<p>0910hrs</p> <p>1425hrs</p> <p>1430hrs</p> <p>1440hrs</p>	<p>LEMP spoke with TRINA Koch (250-309-2806 or 541-1030)- Biologist working on Sec 9 app for P/P relocation and brought her up to speed on issue. She advises they are also looking at putting 4 pilings in with bumpers to make it easier to get boat into the boathouse during rough weather.</p> <p>Updated Michele Carson on situation as per her voice mail request left on 2015-06-02.</p> <p>LEMP spoke with Jerry Johnson to bring him up to speed on issue. Jerry advised that Trina had called him earlier about issue.</p> <p>LEMP spoke with SYMONDS to bring her up to speed and she advised ROBERTSON might get it now that there are piling involved.</p>
2015-06-05	<p>0830hrs</p> <p>1549hrs</p> <p>1600hrs</p> <p>1615hrs</p>	<p>LEMP checked v-mail: KOCH had left a message wanting to talk about leaving the power pole in place. Email from WILDEMAN to KOCH: From: Dan Wildeman [mailto:dan.wildeman@cord.bc.ca] Sent: June-05-15 3:49 PM To: trina@westernwater.ca Cc: Chris Hadford Subject: Western Water Proposal for K Iliev Beach Environmental Services</p> <p>Hi Trina,</p> <p>As per our telephone discussion today, please resubmit an amended proposal with the intent of validating the power pole in the current location. Please also consider this email as approval to proceed and I will forward a PO early next week following receipt of the amended proposal. I would also be happy to meet with you on your site visit to discuss any concerns you may have.</p> <p>Regards,</p> <p>Dan Wildeman Fire Services & Inspections Manager</p> <hr/> <p>Regional District of Central Okanagan 1450 KLO Road Kelowna, BC V1W 3Z4 Office: 250-869-6246 Cell: 250-317-9088 Fax: 250-762-7011</p> <p>LEMP called KOCH back and KOCH advised that RDCO had advised her that they wanted to leave the powerpole and services in. LEMP advised it had to be removed.</p> <p>LEMP spoke with Josie SYMONDS to give her a heads up on situation.</p>
2015-06-08	0953hrs	KOCH sent WILDEMAN an E-mail:

Trina Koch

From: Trina Koch <trina@westernwater.ca>
Sent: June 08 15 9:53 AM
To: Don Wilzenan
Subject: Version 2 of the Western Water Proposal for Killiney Beach Environmental Services field visit request
Attachments: WWAL P15-052 - Killiney Beach Environmental Services v2 080615.pdf

Hi Dan,

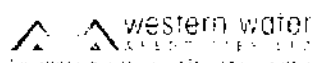
Please find version 2 of the proposal attached.

I can complete the site visit Tuesday (tomorrow) or Thursday this week. Would you be able to meet me at the site at 9:00 am on either of those days?

Thanks very much.

Trina

**Trina Koch, B.Sc. R.P.Bio.
Environmental Scientist / Biologist**



106-5145 26th Street, Vernon, B.C. V1T 8G4
E: trina@westernwater.ca, W: www.westernwater.ca P: 250-541-1030 M: 250-309-2806

2015-06-15 0949hrs

LEMP received e-mail from Trina KOCH:
Hi Don,

Are you available to meet Dan and I Thursday morning at Killiney beach?

Sorry for the late email,

Trina

Sent from my iPhone

2015-06-16 1013hrs

LEMP responded to KOCH's e-mail:

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

From: Lemp, Don FLNR:EX
Sent: Tuesday, June 16, 2015 10:13 AM
To: 'Trina'
Cc: Johnson, Jerry FLNR:EX

Subject: RE: On site meeting request at killiney beach

Good Morning Trina.

I will not be meeting with you on site. It is not my position to advise on power pole placement.

All I can tell you is that the power pole was placed without authority and as such was not part of the referral process that would have addressed any issues with it and or its location (inclusive of the pole and underground services to the Boat House).

<p>2015-06-16</p> <p>1052hrs</p> <p>1205hrs</p>	<p>The location of the power pole needs to:</p> <ul style="list-style-type: none"> - addresses public safety. - not be within the Present Natural Boundary of the Lake or the area which can be influenced by normal wave action, wave action due to storms or years of high flood waters. <p>You may want to contact Lands to see if a Lands Officer can attend.</p> <p>Trina Koch responds to above e-mail and cc Jerry Johnson asking him if he can attend an onsite meeting.</p> <p>JOHNSON responds to e-mail: -----Original Message----- From: Johnson, Jerry FLNR:EX [mailto:Jerry.Johnson@gov.bc.ca] Sent: June-16-15 12:05 PM To: 'trina@westernwater.ca' Cc: Lemp, Don FLNR:EX Subject: RE: On site meeting request at killiney beach (file 3412526)</p> <p>Trina, I think an application to amend or modify this existing Licence of Occupation area, I have not seen any plans or proposals for this yet. Also a Water Act Approval application will be required. It would be premature to have an onsite meeting without an application at this time. Please email me or call me if you have any questions on this matter. Thank you.</p>
<p>2015-06-16</p> <p>1308hrs</p>	<p>Reply from KOCH to JOHNSON: OK Jerry,</p> <p>Thank-you for your consideration.</p> <p>Trina</p>
<p>2015-09-22</p> <p>0909hrs</p>	<p>LEMP received e-mail from Trina KOCH asking: Hi Don,</p> <p>We have received the response from the MFLNO regarding the Section 9 <i>Water Act</i> notification/approval for Killiney Beach (attached).</p> <p>Can you please let us know when you think the response to the land tenure amendment will be ready?</p> <p>Thank-you,</p> <p>Trina</p> <p>Trina Koch, B.Sc. R.P.Bio. Environmental Scientist / Biologist</p> <p>Also attached was a section9 approval : Re: Section 9 Water Act application for Killiney Beach for the purpose of installing four</p>

		bumper pilings and adding protective reinforcements to an anchored (reinforcements are not addressing agreement to remove electrical pole).
	0920hrs	LEMP called KOCH and advised that they would need to talk with Jerry Johnson in Kamloops.
	1020hrs	LEMP spoke with Johnson and Jerry advised Koch had got hold of him this morning and he was willing to accept amending it into the licence being that ecosystems was going to accept it.
	1030hrs	LEMP left Lora Nield a v-mail to call him.
	1400hrs	LEMP called NIELD but received no answer.
2015-09-23	1045hrs	LEMP spoke with Nield and brought her up to speed on file – unfortunately with ROBERTSON retiring info was not passed on crucial to decision making for file (in retrospect T/N should have been issued and a gentleman's agreement should not have been entered into).
	1054hrs	LEMP sent NIELD photo's of power pole.
	1120hrs	LEMP spoke with JOHNSON brought him up to speed with respect to conversation with NIELD. JOHNSON had received e-mail from NIELD this morning with a file # which he assumed was with respect to the power pole. LEMP verified # and forwarded copy of approved Sec 9 to him.
2015-10-06	0911hrs	LEMP was cc'd a e-mail sent to NIELD from FURNESS: I had a call from a lady about a hydro pole at Kileny Beach (?) Vernon. Maybe unauthorized. She indicated the Robertson had been involved previously. And that Don Lemp had been on site. I suggested that this file will or has come to the CC, and that you will, be providing direction to Don. Grant Furness Ecosystems Section Head, Penticton
2015-10-07	0956hrs	NIELD forwarded LEMP above e-mail asking if he knows about complaint.
2015-10-19		LEMP spoke with Lora NIELD who advised she would be sending DAN WILDEMAN a letter rescinding SEC9 approval for P/P.
2015-10-23	1531hrs	LEMP received e-mail from NIELD that was sent to JOHNSON & WILDEMAN: Dan, As discussed I have to withdraw my response on file R8-3298. This was application for the installation of 4 bumper piles and anchoring for an electrical pole at Killiney beach. I was unaware of the existing non-compliance issue at the site. I will put this file on hold until I have confirmation that there is no compliance concerns remaining. Thank you and sorry for the confusion, Lora Lora Nield, Senior Ecosystem Biologist
2015-10-28	0929hrs	LEMP sent NIELD an e-mail asking her if she had a response back to the Oct 23, 2015 e-mail she sent WILDEMAN rescinding her SEC 9 approval.

2015-10-29	1023hrs	LEMP received e-mail from NIELD responding to LEMPS e-mail of 2015-10-28: I spoke to him on the phone. He is waiting to hear from J.Johnson or you on the status of the non compliance issue. Once he has that he will get back in touch with me.
2015-11-24	1100hrs	LEMP LEFT A MESSAGE FOR Trina KOCH to call him
2015-11-25	1055hrs 1100hrs	LEMP left message with Ron FRALICK (RDCO) to call him FRALICK (Manager of Planning) called LEMP. He advised he had taken over the file from WILDEMAN as per his supervisor – Chris Radford. LEMP advised: <ul style="list-style-type: none"> • LEMP explained that the sec 9 approval was cancelled as Lora NIELD was taking over the file from B. ROBERTSON after he retired and that she was unaware of the non-compliance issue concerning the pole. • Pole was never authorized • Boathouse application/tenure only allows for generator • Social impacts • Safety issues with pole and guy line • Pole in middle of access to small beach • Works performed in and about a stream without authority • Pole at H/W mark guy wire appears below H/W mark • Pole and guy wire can be subject to flood waters & wave action • Would not have been approved in current location had it been applied for and put through referral process. • Complainant had advised that they understood pole was going up by the beginning of the walkway to the Boathouse. • Had the pole gone at the location by the walkway it would have necessitated: <ul style="list-style-type: none"> ○ Second pole to meet Hydro span requirements, a new underground service and removal of a tree. (LEMP said he talked to Travis from Hwys and removal of the tree is not an issue). • LEMP had been clear all along as to the necessity to remove/relocate the pole. • The Sec9 appl for Dock piling/bumpers to help get the boat in/out of the Boathouse during rough weather was not the issue
2015-11-26	1030hrs	LEMP called KOCH and left a message for her to call him
2015-11-26	1138hrs	LEMP received a copy of the RDCO Water Lot (3408066) Tenure from Jerry JOHNSON: It only allows for a boat launch, safe harbour and public recreational purposes: <p style="margin-left: 40px;">2.1 On the terms and conditions set out in this Agreement, we grant you a licence of occupation of the Land for boat launch, safe harbour, and public recreational purposes, and you acknowledge this licence of occupation does not grant you exclusive use and occupancy of the Land.</p> <p>4.1</p>

2015-12-01	0900 hrs	<p>(g) not construct, place, anchor, secure or affix any Improvement in, on, to or into the Land except as necessary for the purposes set out in section 2.1 and, despite those purposes, you will not construct, place, anchor, secure or affix anything on or to the Land that may interfere with the riparian right of access of any person over the Land without first obtaining from that person a statutory right of way, in registrable form and in our favour, by which that person allows us to curtail his or her riparian right of access over the Land;</p> <p>Ron FRALICK (Regional District) contacted Patrick TOBIN (Regional Manager Compliance and Enforcement) to discuss issue. Mr FRALICK suggested that if we did not make this issue go away the complainants would be empowered to barrage us with complaint after complaint. Mr FRALICK suggested that there was significant conflict between the Area Director for the Area and Mr WILDEMAN and as a result FRALICK had been assigned the file as Mr WILDEMAN was to close to the issue. Mr FRALICK and TOBIN discuss a number of the issues (reports etc) none of which authorize the pole being placed where it is. Allegedly there are issues with safety, and potential interference with recreational enjoyment of the site but most importantly there is no authorization for the pole to be where it is located. FRALICK and TOBIN discuss "review" process which would seek to determine whether or not authority exists for the poles placement/location. TOBIN suggests FRALICK meet with Officer LEMP to go over the file and our investigation evidence. FRALICK agreed to contact LEMP after lunch (December 1st) to arrange a time to review file information. FRALICK requested that LEMP not issue the Trespass Notice until they have had a chance to meet to discuss.</p>
2015-12-01	0915	<p>TOBIN discusses call with Officer LEMP and LEMP explains that he was already planning on trying to have a discussion with FRALICK about the file before he made the final decision on a Trespass Notice.</p>
2015-12-02	1435hrs	<p>LEMP received a call from FRALICK: FRALICK advised he had talked to TOBIN who mentioned some concerns that had been identified by RDCO Parks. He advised LEMP that he talked with them and could not find anything. LEMP advised FRALICK that it was an Internal Memo and was part of the Sec9 application for the NW Boat House. LEMP e-mailed FRALICK a copy of the Supporting Info/Justification Letters that RDCO sent Lands Officer Jerry JOHNSON on October 23, 2012. LEMP then went over the Conclusion portion of the Letter and the Internal Memorandum with FRALICK. FRALICK advised:</p> <ul style="list-style-type: none"> • That he had talked with the RDCO Parks Director and indicated that as the p/p was there now that it was okay with parks. • RDCO would not be removing the pole as it was going to be expensive. • They would not get the budget to relocate the pole. • This issue is very political. • That the current Area Director who was let go by RDCO as the Fire Chief of NWFD had an agenda to remove NW Fire Services • Is there not a fine they could pay? • Is there no way that they could keep the pole (3 times during conversation) • They give variances (RDCO) for certain things. <p>LEMP re-iterated the reasons from their last conversation as to why the pole needed to be removed. LEMP explained the legislation and the process that he would have to follow - issue a Trespass Notice.</p> <p>LEMP was asked by FRALICK what would happen if they did not remove pole when issued the T/N. LEMP advised that the Ministry would remove the Pole and</p>

		<p>bill RDCO for the removal.</p> <p>FRALICK asked the time frame on removal under the order being that it was winter. LEMP advised that he would have to look at various factors (color zone/works in water etc) before giving a time frame.</p> <p>FRALICK asked how long before they would receive T/N and to whom it would be sent to. LEMP advised within 2 weeks attention to Chris Radford RDCO.</p>
2015-12-15	1131hrs	LEMP received a v-mail from CARSON asking status of file.
2015-12-16		LEMP sent T/N out by Registered Mail
2015-12-16	1415hrs	LEMP left CARSON a message on her v-mail advising that the Investigation was still active and that LEMP had taken further steps with the investigation today.
2016-01-12	1107hrs	TOBIN receives e-mail from CORD with a dispute Notification to T/N 2014-197
2016-01-11	1551hrs	<p>E-mail from TOBIN to JOHNSON & MEEKS</p> <p>Good afternoon Don/Jerry.</p> <p>Don as we discussed here is a copy of Officer Don Lemp's continuation report.</p> <p>Please treat this as confidential and do not share with any-one outside of your program as this is an active and ongoing investigation. I am sharing this with you in order to assist you in understanding the background relating to this matter.</p> <p>We have engaged in an enforcement action. I would request that the issue be allowed to progress through that process.</p> <p>If you need to speak with NRO Lemp or myself please feel free to do so. If you need/want any of the background reports/documents we can arrange for you to see them as well.</p> <p>Take care.</p> <p>Patrick Tobin, RPF</p>
2016-01-13	0920hrs	<p>E-mail from JOHNSON to LEMP</p> <p>Don, as you are aware of we have received an application from the Regional District of Central Okanagan to amend the existing Fireboat licence to include the power pole. We will be reviewing this application and following due process in making a decision on this matter.</p> <p>Jerry Johnson Senior Land Officer</p>
2016-01-13	1030hrs	<p>LEMP spoke with KOCH:</p> <p>Discussions she had were with Dan WILDEMAN.</p> <p>Dan had it in his mind that the pole could be approved where it was.</p> <p>Advised Dan that they should relocate pole as requested by MFLNRO.</p> <p>Prepared initial report to relocate pole but was then given direction by WILDEMAN to do up report with measures so that they can keep the pole where it is.</p> <p>Did her field work on June 9, 2015.</p>
2016-03-10	0843hrs	<p>E-mail from OETTER to LEMP/NORLOCK</p> <p>Don and Jim</p>

This is to let you know I made a statutory decision today to allow the power pole to become legitimized under tenure for the Fireboat house.

The tenure amendment will take a bit of time to formalize. We will include a condition that if and when the pole needs to be replaced they will be made to move it. We did meet with RDCO staff and informed them that if we decided to legitimize the pole that C&E may well still be taking some form of punitive action as they did the works without a section 9 or authority under the Land Act.

I will be leaving by Tuesday next week and will not be back until April.

I am asking Don Meeks to coordinate with you to ensure that appropriate wording goes in the offer letter etc.

We made it very clear to RDCO staff that we did not want any form of construction without authority in the future. They understood. We also made it clear they are responsible for the safety aspects of this placement and they are the ones to be accountable for public concern. They agreed to this.

Once again I want to thank you guys for your diligence in your investigation

Any questions please ask

Thanks

Andy Oetter
Director of Resource Authorizations
Thompson Okanagan Region

FILE CLOSED

DATE CONCLUDED:

INVESTIGATOR:

SIGNATURE:

DATE:



TRESPASS NOTICE

Notice under Section 59 of the *Land Act*

ERA File: DOS-32649

Incident File: 2014-197

- (1) This notice is given to: Regional District of the Central Okanagan (Attention: Chris Radford).
- (2) Address of person to whom this notice is given: 1450 KLO Road Kelowna, BC V1W 3Z4.
- (3) Date that this notice is given: 2015-12-17.
- (4) Date of the contravention(s) of Section 60 of the *Land Act*: on or about 2014-04-28 (ongoing).
- (5) Place of the contravention(s) of Section 60 of the *Land Act*: on the unsurveyed Crown Foreshore being part of the bed of Okanagan Lake and fronting Hodges Road within District Lot 2197 ODYD and at the approximate GPS co-ordinates: 50°11.5N by 119°29.97W.
- (6) On the date and at the place described in paragraphs 4 and 5 above, you contravened Section 60 of the *Land Act* by:
 - (a) occupying or possessing Crown land without lawful authority,
 - (b) using Crown land without lawful authority,
 - (c) being the holder of a lease, right of way, easement, licence of occupation, permit or other disposition issued under the *Land Act*, using Crown land for a purpose not provided for in the disposition,
 - (d) constructing on Crown land a building, structure, enclosure or other works, or dredging, excavating or filling, without the authorization of the Minister,
- (7) **The details of the contravention(s) are the following: You have installed:**
 - An Un-authorized Hydro pole.
 - An un-authorized underground hydro service to your Fire Service Boathouse.
 - An un-authorized guy wire.
- (8) **By authority of Section 59 of the *Land Act*, you are required to do the following:**
 - (a) **immediately cease the unauthorized occupation and use of the Crown land and give up possession of the land,**
 - (b) **before the 31 day of March, 2016 remove from the Crown land:**
 - The un-authorized Hydro pole.
 - The un-authorized underground hydro service to your Fire Service Boathouse.
 - The un-authorized guy wire.

**Ministry of Forests,
Lands and Natural
Resource Operations**

Compliance & Enforcement Branch
Thompson Okanagan Region

Mailing/Location Address:
2501 – 14th Ave
Vernon, BC
V1T 8Z1

Telephone: (250) 558-1700
Facsimile: (250) 549-5485
Web Address:
<http://www.gov.bc.ca>

Before commencing any work over top of the water, within the water or below the Natural Boundary of Okanagan Lake you must receive a *Water Act* approval (Section 9). You may obtain a *Water Act* approval through Front Counter British Columbia at (250) 558-1700. Be advised that a *Water Act* approval may take up to 45 days to process and it is recommended that you put your *Water Act* application in as early as possible. You must remove all structures, as noted above and restore the land to its natural, safe and sanitary condition.

- (9) **If you fail to comply with this notice, a Sheriff or Public Officer from the Ministry of Forests, Lands and Natural Resource Operations may seize on behalf of the Crown all improvements, goods, chattels and other materials you have placed on the Crown land.**
- (10) Section 59 of the *Land Act* provides that:
- (a) where a person fails to remove an improvement made by the person on Crown land to the satisfaction of the Minister, within the time specified in the notice, the Minister may remove the improvement and require the person to pay the cost of removal,
 - (b) where a person fails to comply with the notice, a penalty of up to \$1,000 may be imposed upon that person,
 - (c) anything seized becomes the property of the government and the Minister may authorize it to be sold, rented, removed or destroyed.
- (11) A contravention of Section 60 of the *Land Act* is an offence and upon conviction, a person is liable to a fine of not more than \$20,000, or to imprisonment for a term of not longer than 60 days, or to both a fine and imprisonment.
- (12) **If you wish to dispute the alleged contravention(s) described in this notice or object to a requirement of this notice, you must immediately and no later than 30 days from the date of this notice provide written reasons for your dispute, including your telephone number to the Regional Manager Compliance & Enforcement, Thompson Okanagan Region, Ministry of Forests, Lands and Natural Resource Operations, 2501- 14th Avenue, Vernon BC V1T 8Z1. Your dispute or objection will be considered and you will be notified of the outcome of that consideration.**
- (13) **Your disputing or objecting to anything in this notice will not act as a stay or suspend the requirement imposed upon you to comply with the terms of this notice.**
- (14) All payments that you may be required to make under this notice must be paid before the date specified and must be delivered to Ministry of Forests, Lands and Natural Resource Operations, 441 Columbia Street, Kamloops, BC V2C 2T3. NOTE: Interest and collection provisions of the *Land Act* will be applied upon failure to comply with this notice.
- (15) You may obtain further information about this notice by contacting Don Lemp, Natural Resource Officer, Ministry of Forests, Lands and Natural Resource Operations, at (250) 558-1771.

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Don Lemp RFT
Natural Resource Officer
Okanagan Shuswap Field Unit
Thompson Okanagan Region
Compliance & Enforcement Branch
Ministry of Forests, Lands & Natural Resource Operations

**Ministry of Forests,
Lands and Natural
Resource Operations**

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Trina Koch

From: Trina Koch <trina@westernwater.ca>
Sent: June-08-15 9:53 AM
To: 'Dan Wildeman'
Subject: Version 2 of the Western Water Proposal for Killiney Beach Environmental Services, field visit request
Attachments: WWAL P15-062 - Killiney Beach Environmental Services v2 080615.pdf

Hi Dan,

Please find version 2 of the proposal attached.

I can complete the site visit Tuesday (tomorrow) or Thursday this week. Would you be able to meet me at the site at 9:00 am on either of those days?

Thanks very much,

Trina

Trina Koch, B.Sc. R.P.Bio.
Environmental Scientist / Biologist



Consultants in Hydrogeology and Environmental Science

106-5145 26th Street, Vernon, B.C. V1T 8G4

E: trina@westernwater.ca, W: www.westernwater.ca P: 250.541.1030 M: 250.309.2806

From: Dan Wildeman [mailto:dan.wildeman@cord.bc.ca]
Sent: June-05-15 3:49 PM
To: trina@westernwater.ca
Cc: Chris Radford
Subject: Western Water Proposal for Killiney Beach Environmental Services

Hi Trina,

As per our telephone discussion today, please resubmit an amended proposal with the intent of validating the power pole in the current location. Please also consider this email as approval to proceed and I will forward a PO early next week following receipt of the amended proposal. I would also be happy to meet with you on your site visit to discuss any concerns you may have.

Regards,

Dan Wildeman

Fire Services & Inspections Manager

Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4
Office: 250-469-6246
Cell: 250-317-9088
Fax: 250-762-7011



September 21, 2015

File: R8003298

Regional District of Central Okanagan
1450 KLO Road
Kelowna BC V1W 3Z4

Attention: Dan Wildeman

Re: Section 9 Water Act application for Killiney Beach for the purpose of installing four bumper pilings and adding protective reinforcements to an anchored electrical pole

Staff with the Ecosystems Section of the Ministry of Forests, Lands and Natural Resource Operations have reviewed the above mentioned notification application. A Section 9 *Water Act* Approval is not required for the proposed work as long as the work is done in accordance with BC Regulation 204/88 – Part 7.

As per section 42 (1) *To protect habitat, a person making a change in and about a stream under this regulation, other than under section 44(1)(o) to (s) or (2), must make that change in accordance with terms and conditions specified by the habitat officer. **The terms and conditions you must follow for your works are outlined on the attached document.***

It is the proponent's responsibility to ensure their activities are in compliance with all legislation, including the *Fisheries Act*, as well as with local government bylaws and regulations.

If you have further questions please contact the undersigned at 250-490-8212.

Yours truly,

Lora Nield
Senior Ecosystems Biologist

LN/cl

Attachment: Habitat Officer's Terms and Conditions for changes in and about a stream specified by Ministry of Environment Habitat Officers, Okanagan Region dated April 2011

cc: Front Counter BC DOSRESOU@VICTORIA1.GOV.BC.CA



Community Services

1450 K.L.O. Road
Kelowna, B.C. V1W 3Z4

Telephone: (250) 469-6227
Fax: (250) 762-7011
www.regionaldistrict.com

January 12, 2016
Our File: 3020-01

VIA EMAIL AND MAIL

ERA File: DOS- 32649
Incident File: 2014-197

Ministry of Forests, Lands and Natural Resource Operations
Compliance & Enforcement Branch – Thompson Okanagan Region
2501 – 14th Ave.,
Vernon, B.C., V1T 8Z1

Attention: Patrick Tobin, Regional Manager

Dear Mr. Tobin:

Re: Trespass Notice under Section 59 of the *Land Act* – North Westside Fire Boat House power pole, underground hydro service & guy wire

With respect to the above noted matter, please be advised that the Regional District of Central Okanagan is providing your office with formal notification disputing the process leading up to issuance of the Trespass Notice on December 17, 2015 (as per Section #12 of the Notice).

While the RDCO acknowledges that the power pole, underground hydro service & guy wire was installed slightly below the high water mark without the required Section 9 *Water Act* Authorization, these works were certainly not carried out intentionally and were completed from a public interest perspective to meet Fire Underwriters requirements as well as being dictated by BC Hydro and BC Safety Authority guidelines.

It is noted that initial evaluation of the pole location was based on Burton Marine Pile Driving Inc.'s feedback and familiarity of Okanagan Lake and the established High Water Mark (HWM). This is the contractor that constructed and installed the approved Fire Boat House.

In considering our dispute, the RDCO believes it is important for you to have an understanding of the events that transpired subsequent to installation of the works in April of 2014. The following represents a chronology and some of the key events that from our standpoint substantiates our position and reasons for disputing the Trespass Notice.

April, 2014 - Generator at Fire Boat House replaced with electrical power fed from existing lines along Hodges Road. A power pole was installed by an approved electrical contractor slightly below the HWM (approved by BC Safety Authority). Section 9 *Water Act* approval was not obtained.

April 8/14 – Public complaint filed with MFLNRO (Compliance & Enforcement)

Jan 19/15 – RDCO staff met with Don Lemp, Natural Resource Officer to discuss the Section 9 infraction. Don recommended that the Regional District obtain services of a Qualified Professional (QP) to prepare an Environmental Assessment to support a Section 9 *Water Act* Approval.

Jan 20/15 - Email from Don Lemp indicating and confirming that the power pole can be included as an amendment under the RDCO's current tenure and that Jerry Johnson is the person to talk to about whether the power pole could be left as is.

Jan 28/15 - Email from Jerry Johnson, Senior Land Officer confirming that a Section 9 approval is required under the *Water Act* for existing pole as it is located below the High Water Mark (HWM).

June 2015 - RDCO commissioned Western Water Associates Ltd. to prepare an Environmental Assessment (EA). Assessment was completed by Trina Koch, Biologist with Western Water and results of the EA were summarized in an Environmental Memo.

June 11 email from Trina to Dan Wildeman indicating that it was her understanding based on the January 20/15 response from Don Lemp that the existing location of the pole could be included in the amendment.

July 2015 - RDCO commissioned a registered surveyor (Jason Shortt) to complete a survey of the HWM, pole & anchor to support the above noted EA.

July 2015 - Proposed Modification letter prepared by Trina Koch of Western Water Assoc. Ltd. highlighted a proposed amendment to the Foreshore Management Plan of Foreshore License #342020. Modification letter forwarded to Mr. Jerry Johnson, Senior Land Officer with MFLNRO on July 28, 2015.

Sept. 22/15 - Letter received from Lora Nield, Senior Ecosystems Biologist with MFLNRO indicating that a Section 9 *Water Act* approval is not required for the proposed work, subject to compliance with BC Reg. 204/88 – Part 7.

Oct. 23/15 - Email from Lora Nield indicating that they have withdrawn their response (approval) on file R8-3298 as they were unaware of the existing non-compliance issue at the site. File has been placed on hold until confirmation received that there are no compliance concerns remaining.

It is very clear from reading the EA and modification letter that the power pole and anchor were already in place and that the report was intended to provide mitigation strategies to address environmental risks.

Nov. 26/15 - Manager of Planning, Ron Fralick contacted Jerry Johnson, Senior Land Officer with MFLNRO requesting information on this file. Jerry indicated that he would ask their Compliance and Enforcement Officer, Mr. Don Lemp to contact Ron.

Nov. 26/15 - Ron Fralick discussed history of the file with Don Lemp. Don did not appear to have knowledge of the EA completed by Trina Koch with Western Water Assoc. There are concerns other than environmental (ie: safety, as pole is located in public beach area).

Don indicated that their office will be issuing an Order Letter to the RDCO within the next week or two. There is an appeal process available should the RDCO wish to pursue that avenue.

Dec 17/15 - Trespass Notice under Sec. 59 of the *Land Act* issued to RDCO

While we acknowledge that a procedural step was inadvertently missed with installation of the power pole and associated works, in our attempt to rectify this matter the Regional District has been provided with what we believe was misleading information and direction as evidenced in the chronology noted above. Based on the January 20/15 response from Don Lemp, the RDCO along with our Qualified Professional were led to believe that the existing location of the pole could be included in the amendment and we proceeded as such.

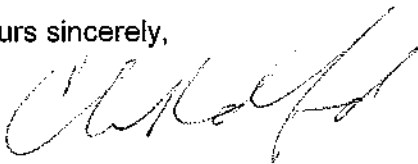
There appear to be discrepancies with the direction provided by some Ministry staff and RDCO staff is very perplexed by the events that led to the Trespass Notice.

The Regional District understands that the Crown Land Adjudication section of your Ministry continues to review the circumstances associated with this matter and we trust that you will thoroughly review the contents of this letter and all correspondence leading up to issuance of the Trespass Notice. It is our hope that the trespass issue can be rectified via a modification to the existing License without need for removal and relocation of the pole and associated works. As you can appreciate, this process would involve substantial staff resources along with significant costs to the taxpayer.

We trust that the information provided in this letter fulfills the requirement of Section #12 of the December 17, 2015 Trespass Notice. The Regional District wishes to bring this matter to a successful conclusion and note that we are committed to ongoing cooperation and collaboration with your Ministry.

The Regional District of Central Okanagan looks forward to receipt of your response.

Yours sincerely,



Chris Radford
Director of Community Services

cc: Dan Wildeman, Manager, Fire and Inspection Services
Ron Fralick, Planning Manager



Ministry of Forests, Lands and Natural Resource Operations

ERA file: DOS-32649
Incident: 2014-197
Your file: 3020-01

January 22, 2016

Mr Chris Radford
Director of Community Services
Regional District of the Central Okanagan
1450 K.L.O. Road
Kelowna, British Columbia
V1W 3Z4

SENT VIA EMAIL and REGISTERED MAIL

Dear Mr Radford

Thank you for your January 12, 2016 letter requesting a review of the Land Act Section 59 Trespass Notice issued by Natural Resource Officer (NRO) Don Lemp on or about December 17, 2015 concerning a hydro pole placed on Crown land at or near Killeney Beach, Okanagan Lake, B.C.

I have reviewed the electronic background files for this structure (Lands file 3408066 and lands file 3412526) and reviewed the investigation file 2014-197 with NRO Lemp. In addition I have reviewed and taken into consideration the correspondence you shared with me on January 12, 2106.

Review Parameters

The primary focus of this review is to ascertain whether or not there were any authorizations granted for the Hydro pole located below the high water mark of Okanagan Lake at the Killeney Beach location.

There is a secondary purpose of this review which is to address some of the concerns regarding process you raised with respect to your efforts to have the trespass Hydro pole authorized, after the fact, in its current location. While outside the scope of a typical review as specified in our Trespass Notices I feel it necessary to share with you some more information surrounding this issue than is presented in your correspondence of January 12, 2016.

Findings with Respect to Authorization of the structure

In conducting a review of this file I found the following:

1. The area in question is serviced by two overlying Crown tenures:

**Ministry of Forests, Lands
and Natural Resource
Operations**

Thompson Okanagan Region
Okanagan Shuswap Resource District

Mailing Address:
2501 – 14th Ave
Vernon, BC V1T 8Z1

Tel: (250) 558-1700
Fax: (250) 549-5485

Review of 2014-197 - RDCO

- a. Licence of Occupation associated with Lands file# 3408066 which provides non-exclusive use of the foreshore for the purposes of using and maintaining a boat launch, safe harbour and public recreation purposes. Issued originally on December 30, 2005 this tenure is sometimes referred to as a "water lot tenure" in correspondence from RDCO staff.
 - b. Licence of Occupation # 346482 associated with Lands file# 3412526 was issued on January 15, 2013 provides for non-exclusive use of the foreshore for the purposes of constructing and using a "community fireboat dock".
2. Neither of the two aforementioned Licences mention that a hydro pole constructed below the present natural boundary (ie often referred to as the mean annual, or average, "high water mark") was required or authorized. The foreshore licence associated with Lands file 3408066 was for a boat ramp, recreational use and a safe harbour "breakwater structure". Licence of Occupation # 346842 associated with Lands file 3412526 was specifically for the boathouse structure built overtop of Okanagan Lake and did not extend onto the foreshore in anticipation of services being provided via hydroelectricity.
3. The June 11, 2012 application for crown land submitted by Mr. Rod Miller, Manager of Fires Services for the RDCO, indicates that electrical power would be supplied by a generator housed in the boathouse structure.
4. Accompanying documentation provided by Rod Miller to Senior Lands Officer Jerry Johnson dated October 23, 2012 contains the following statement written in an internal memo dated September 12, 2012 by Mr Murray Kopp Director – Park Services to Mr Rod Miller:

"As advised in our meetings and previous discussions, a public swim area has been identified south of the proposed boat house locations and Parks staff would recommend that all future use and access of the water lot area adjacent to the swim area be conducted in a manner as to not have an adverse effect on recreational users."
5. The approved legal description maps associated with the two Licences of Occupation mentioned above make no mention of, or reference, a hydro pole being required below the present natural boundary.
6. The survey map generated by Russell Shortt Land Surveyors dated July 7, 2015 which forms an integral part of the professional report generated by Western Water Associates for the RDCO, shows the location of the pole in question as being below the managed elevation of Okanagan Lake at 343 m. It is important to note that elevation bands are not considered sole determinates of the present natural boundary which defines the line between crown and private land on the foreshore. The process of wind and wave action has to also be considered in determining where the present natural boundary is. It is clear, however, that the pressure treated hydro pole is below the present natural boundary and within the influence of lake water processes.

Review of 2014-197 - RDCO

7. The hydro pole was allegedly installed at its current location sometime in January of 2014. There was no Water Act authorization for this installation which is a contravention of the Water Act Section 93(2)(q) “make changes in or about a stream without lawful authority”

Based on this review I am of the opinion that the hydro pole was installed without authority under the Land Act and as such is in trespass.

As a result the Trespass Notice issued by NRO Lemp on or about December 17, 2015 is valid.

Findings with Respect to Process:

In conducting a review of this file I found the following communications occurred that provide a broader context for this discussions that apparently took place from roughly March 2014 to December 2015:

- It would appear, based on correspondence received as part of our investigation, that the pole was not, in fact, installed in April of 2014 as you have indicated in your letter of January 12, 2016 but was installed some time earlier. Possibly in January or February of 2014. This assumption is supported by correspondence that occurred in March of 2014 as summarized below. **Note the installation of the pole without authority contravenes Sections 4.1(c), (e), (f) (g) of the licence condition for the Licence of Occupation associated with 3408066.**
- March 2014 – Various Correspondence regarding hydro pole between Dan WILDEMAN (RDCO), Travis TORMALA (MOTI), Michael NOGA (RDCO), Keith Weir (FLNRO)
 - a. March 12, 2014 -1444 hrs TORMALA contacts WILDEMAN and informs WILDEMAN that the pole was not installed by BC Hydro and that he (TORMALA) was seeking to ascertain whether the pole falls within MoTI right of way or Crown foreshore.
 - b. March 12, 2014 - 1454 hrs NOGA contacts WILDEMAN and asks, “*Was the power pole and civil works approved under the dock licence and located outside of high water mark?*”
 - c. March 13, 2014 -1108 hrs WILDEMAN responds to TORMALA (with a cc to NOGA and others) stating the following, “...it is my understanding that we have all approvals for the construction of the boathouse including installation of the power pole that is in question.” – [Note – this was, in fact, inaccurate, as a **Water Act Authorization was not granted for the pole placement nor did the Land Act Tenures contemplate the pole being required or placed**]
 - d. March 20, 2014 – March 21, 2014 correspondence between WILDEMAN, TORMALA and WEIR suggest that the pole may be located “in the high water mark” of the foreshore. WILDEMAN seeks confirmation from WEIR as to the legal status of the pole and Weir reported back “*I looked on the original file and couldn't find anything, but either way everything looks ok*”. [Note – neither

Licence documents mention the pole because it was never contemplated either tenure as being required. Information provided by WEIR may not have been made with full knowledge of the issue]

- April 8, 2014 – 1632 hrs complaint concerning pole at Killeney beach received
- May 8, 2014 - Letter from Chris RADFORD to North Westside Communities Association states: *“The pole was installed with all required approvals and permits”* [Note - this statement is not accurate as there were no Water Act authorizations for the pole nor did the tenures contemplate, or authorize, the pole placement. It is arguable that the initial review by WEIR may have lead the RDCO to believe the Land Act tenures allowed the pole but a more thorough review of the tenures shortly afterwards revealed this not to be the case]
- The March 2014 e-mail exchange itemized (in part) in sections (a)-(d) above was forwarded by NRO LEMP to NRO Clint ZIMMERMAN to discuss with Jerry JOHNSON (FLNRO Senior Lands Officer) on or about June 12, 2014. JOHNSON reported to ZIMMERMAN on June 17, 2014 at 1537 hrs *“Clint, I have reviewed the file and there is no indication that a powerline was proposed to the fire boathouse dock and there is no indication of this approval on the file. The Environmental impact report completed by Valhalla Environmental Consulting Inc on April 23, 2012 indicated the aluminium gangway section will be connected to a remote start generator located in the boathouse. Lighting and gangway lowering will be run off the generator.”*
- ZIMMERMAN reported to LEMP later in the day of June 17, 2014 *“Jerry also advised me of the following via phone earlier today: He didn’t authorize the hydro pole installation, verbally or otherwise, and does not recall any reference to or discussion about a hydro pole being considered by the client while he adjudicated the file”* Zimmerman goes on to add *“I also spoke with Keith Weir earlier today, and he confirmed that he provided his opinion on the matter to CORD after the hydro pole installation was completed, following his review of the tenure document only. Keith did not review the management plan, which is referenced in the tenure document and ultimately limits what is approved to be constructed with the tenure boundary”*
- January 19, 2015 NRO LEMP and NRO Dan KRYWONOS met with WILDEMAN, Doug GARDINER (RDCO) and RADFORD at RDCO offices in Kelowna. What follows are salient points taken from NRO LEMP’s investigation Continuation Report for file 2014-197
 - a. *LEMP brought forward the fact that no authority was given for the powerpole and underground service. Nor had any powerpole been in their application.*
 - b. *LEMP advised that he would be open/prefer if they would agree to do the work without the need to issue a Legal Order but if they were in disagreement that the order did allow for an appeal process.*

- c. *RADFORD agreed that they had erred and would take appropriate measures to rectify the issue. He said that they would prefer not to be given a legal order as this would not look good.*
 - d. *CORD made the stance that they required the electrical power as the generator system was inefficient. LEMP advised that they were not in disagreement with electrical power but it was not done with authority and input through referral was therefore not available by water or ecosystems had it been, location and other requirements would have been put in the tenure conditions.*
 - e. *CORD (RADFORD) asked if there was a possibility that it would be approved where it was. LEMP responded he could ask (LEMP would supply contact info for that discussion) however it would be highly unlikely as Water had advised they would not permit the pole at that location due to several concerns. (emphasis added).*
 - f. *LEMP advised as long as they can place the pole in a suitable location they should be able to keep it in the BC Hydro requirements as underground services do not have the same restriction (emphasis added).*
- January 20, 2015 e-mail from NRO LEMP to WILDEMAN:

Good afternoon Dan.

As mentioned yesterday Jerry Johnson advised that the Power Pole can be included as an amendment under your current tenure.

Jerry Johnson 250-828 4418 would also be the person to talk to about seeing if the power pole could be left as is.

Brian Robertson is the Ecosystems Specialist who will likely be the one doing up the section 9 (250-558-1700).

If you require any further information please contact me.

[NOTE – NRO LEMP maintains that his communication concerning amendment to the tenure to include the pole was predicated on the pole being moved to a suitable location within the tenure area.]

- January 28, 2015 at 1043 hrs Jerry JOHNSON responds to WILDEMAN in an e-mail:

Dan, I understand from discussions with Don Lemp that the power pole location would require a Section 9 Approval under the Water Act since I have been advised it is located below the high water mark or natural boundary of the lake. This would require discussions between the Don Lemp and Josie Symonds on the proposed approval of this power pole location.

Review of 2014-197 - RDCO

- On January 28, 2015 at 1636 hrs Josie SYMONDS (FLNRO Ecosystems Biologist) sent notification via e-mail to WILDEMAN. It reads, in part:

*I have had conversations with both Don Lemp and Jerry Johnson about this file today. I understand that a power pole was placed below the high water mark of Okanagan Lake without authority under the Water Act. **We do not provide Approvals or Notifications under Section 9 of the Water Act for works that are already constructed.***

Based on conversations with Compliance and Enforcement, I understand that the proposed action at this time is to remove the existing power pole and relocate it above the high water mark. In order to do these removal/replacement works, you will need to submit a Water Act Section 9 Application

- On May 13, 2015 at 1310 hrs NRO LEMP had a phone conversation with WILDEMAN. From the phone conversation notes taken by NRO LEMP:
 - a. He (WILDEMAN) advised he has been busy and now fire season is coming and this has not been a priority.
 - b. Jerry Johnson was not overly concerned the trespass was not with him. [this appears to have been a statement made by WILDEMAN]
 - c. LEMP explained that Jerry was not approving it as it was U/A [unauthorized]. That he could amend the Tenure to include the power coming into the boathouse. **That the pole was U/A and was needing to be relocated.** That there QP could talk to Brian Robertson if he had questions around the application.
 - d. WILDEMAN said he would start working on it.
- An e-mail exchange between NRO LEMP and WILDEMAN on June, 2015 between 1519 hrs and 1548 hrs provides an update on actions taken to date:

Good day Dan:

On January 19, 2015 we had a meeting at your office to discuss this issue and it was agreed that we would get this resolved without the issuance of a Trespass Notice.

On May 13, 2015 we spoke about this issue and you advised me that do to priorities that you had not proceeded with dealing with the power pole but would start working on it. I have not heard anything from you since that time. I have checked to see if a Section 9 application has been submitted but cannot find one.

Over 4 months have passed since our meeting in January and I have not seen any progress on this issue. This leaves me no other option but to issue a Trespass Notice ordering removal of the power pole.

LEMP received reply back from WILDEMAN:

I am meeting with an EP tomorrow at 09:00. FYI

Regards

Dan

Dan,

Thanks for the timely response and I am looking forward to hearing about what comes out of your meeting.

*Don Lemp R.F.T
Natural Resource Officer*

- On June 3, 2015 at 0910 hrs NRO LEMP spoke with Trina KOCH (Biologist hired to work on proposal for RDCO). A summary of their conversation follows:

LEMP spoke with TRINA Koch (250-309-2806 or 541-1030)- Biologist working on Sec 9 app for P/P relocation and brought her up to speed on issue. She advises they are also looking at putting 4 pilings in with bumpers to make it easier to get boat into the boathouse during rough weather.

- On June 5, 2015 at 0830 hrs NRO LEMP reviewed a voicemail message left by KOCH wanting to talk about leaving the powerpole in place.
- On June 5, 2015 at 1549 hours WILDEMAN sent an e-mail to their Qualified Environmental Professional KOCH instructing her:

"As per our telephone discussion today, please resubmit an amended proposal with the intend of validating the power pole in the current location."

- On June 5 at 1600 hrs LEMP called KOCH back and KOCH advised that RDCO had advised her that they wanted to leave the powerpole and services in. **LEMP advised her it had to be removed.**
- Between June of 2015 and October 2015 there are a number of e-mail exchanges regarding the issuance of a Section 9 Water Act authorization and the subsequent rescinding of that authorization once the FLNRO Ecosystems supervisor Lora NIELD was made aware of the fact that the matter concerning the unauthorized powerpole was involved in an enforcement action. **[Note it is apparent that the use of a "gentleman's agreement" to resolve this issue rather than a formal notification may have contributed to the issuance of a Section 9 from the Ecosystems staff.]**
- On November 25, 2015 at 1100 hrs NRO LEMP spoke with Ron FRALICK of the RDCO. What follows is a summary of that conversations as noted by NRO LEMP:

FRALICK (Manager of Planning) called LEMP. He advised he had taken over the file from WILDEMAN as per his supervisor ·· Chris Radford. LEMP advised:

Review of 2014-197 - RDCO

- *LEMP explained that the sec 9 approval was cancelled as Lora NIELD was taking over the file from B. ROBERTSON after he retired and that she was unaware of the non-compliance issue concerning the pole.*
 - *Pole was never authorized*
 - *Boathouse application/tenure only allows for generator*
 - *Social impacts*
 - *Safety issues with pole and guy line*
 - *Pole in middle of access to small beach*
 - *Works performed in and about a stream without authority*
 - *Pole at H/W mark guy wire appears below H/W mark*
 - *Pole and guy wire can be subject to flood waters & wave action*
 - *Would not have been approved in current location had it been applied for and put through referral process.*
 - *Complainant had advised that they understood pole was going up by the beginning of the walkway to the Boathouse.*
 - *Had the pole gone at the location by the walkway it would have necessitated:
Second pole to meet Hydro span requirements, a new underground service and removal of a tree. (LEMP said he talked to Travis from Hwys and removal of the tree is not an issue).*
 - **LEMP had been clear all along as to the necessity to remove/relocate the pole.**
 - *The Sec9 appl for Dock piling/bumpers to help get the boat in/out of the Boathouse during rough weather was not the issue*
- On December 1, 2015 at about 0900 hrs FRALICK contacted Patrick TOBIN (FLNRO Regional Manager Compliance and Enforcement). See below for summary of the conversation:

Mr FRALICK and TOBIN discuss a number of the issues (reports etc) none of which authorize the pole being placed where it is. Allegedly there are issues with safety, and potential interference with recreational enjoyment of the site but most importantly there is no authorization for the pole to be where it is located. FRALICK and TOBIN discuss "review" process which would seek to determine whether or not authority exists for the poles placement/location. TOBIN suggests FRALICK meet with Officer LEMP to go over the file and our investigation evidence. FRALICK agreed to contact LEMP after lunch (December 1st) to arrange a time to review file information. FRALICK requested that LEMP not issue the Trespass Notice until they have had a chance to meet to discuss.

- December 2, 2015 1435 hrs NRO LEMP receives a call from FRALICK: See below for a summary of the conversation:

LEMP received a call from FRALICK: FRALICK advised he had talked to TOBIN who mentioned some concerns that had been identified by RDCO Parks. He advised LEMP that he talked with them and could not find anything. LEMP advised FRALICK that it was an Internal Memo and was part of the Sec9 application for the NW Boat House. LEMP e-mailed FRALICK a copy of the Supporting Info/Justification Letters that RDCO sent Lands Officer Jerry JOHNSON on October 23, 2012. LEMP then went over the

Review of 2014-197 - RDCO

*Conclusion portion of the Letter and the Internal Memorandum with FRALICK.
FRALICK advised:*

- *That he had talked with the RDCO Parks Director and indicated that as the p/p was there now that it was okay with parks.*
- *RDCO would not be removing the pole as it was going to be expensive.*
- *They would not get the budget to relocate the pole.*
- *This issue is very political.*
- *That the current Area Director – who was let go by RDCO as the Fire Chief of NWFD had an agenda to remove NW Fire Services*
- *Is there not a fine they could pay?*
- *Is there no way that they could keep the pole (3 times during conversation)*
- *They give variances (RDCO) for certain things.*

LEMP re-iterated the reasons from their last conversation as to why the pole needed to be removed. LEMP explained the legislation and the process that he would have to follow - issue a Trespass Notice.

LEMP was asked by FRALICK what would happen if they did not remove pole when issued the T/N. LEMP advised that the Ministry would remove the Pole and bill RDCO for the removal.

FRALICK asked the time frame on removal under the order being that it was winter. LEMP advised that he would have to look at various factors (color zone/works in water etc) before giving a time frame.

FRALICK asked how long before they would receive T/N and to whom it would be sent to. LEMP advised within 2 weeks attention to Chris Radford RDCO.

- The Trespass Notice was sent on December 17, 2015.

Discussion with respect to process.

It would seem to me as I review the chronology contained within your letter of January 12, 2016 and compare it with the history related to the investigation file for 2014-197 that there may be gaps in information that you may not have been aware of. It is apparent to me that:

- The pole was not contemplated to be built as part of the existing tenures
- That the pole was placed below the high water mark without consultation and/or a request for an amendment to your tenure from the Crown Land program.
- That the pole was placed below the high water mark without Water Act authorization.
- That NRO LEMP was forthcoming on a number of occasions regarding the requirement to move the pole to a more suitable location.

Review of 2014-197 - RDCO

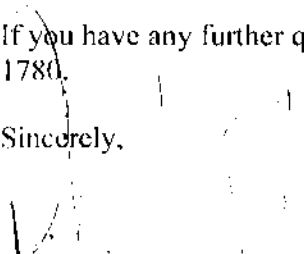
- RDCO staff elected to engage their Qualified Environmental Professional in developing a plan to keep the pole at its current location.

It would seem to me as I review this file that the pole was clearly placed at its current location prior to any approvals being sought or granted. As such there can be no claim to "officially induced error" as a defence. Also it seems evident to me that NRO LEMP has re-iterated on a number of occasions that the pole as placed currently is not suitable and had it been applied for prior to placement, as was legally required, the application for its current location would likely have been denied. I cannot comment on why the RDCO elected to ignore these communications.

Should you not be able to complete the works in the timeframe specified in the Trespass Notice I suggest you contact Officer LEMP to seek an extension. Failure to remove the power pole as per instruction may result in further enforcement action.

If you have any further questions concerning this review please feel to contact me at 250-558-1780.

Sincerely,


Patrick Tobin, RPF
Regional Manager-Thompson Okanagan
Compliance and Enforcement Branch
Ministry of Forests, Lands and Natural Resource Operations

pc: Natural Resource Officer Don Lemp, Thompson Okanagan Region
Don Meeks, Manager, Land Authorizations
Ian S Brown, Deputy Director, FLNRO Compliance and Enforcement Branch

Jupp, Sandra FLNR:EX

Subject: Fireboat power pole RDCO

From: Oetter, Andy FLNR:EX
Sent: Thursday, March 10, 2016 8:43 AM
To: Lemp, Don FLNR:EX; Norlock, Jim D FLNR:EX
Cc: Meeks, Don FLNR:EX; Johnson, Jerry
Subject: Fireboat power pole RDCO

Don and Jim

This is to let you know I made a statutory decision today to allow the power pole to become legitimized under tenure for the Fireboat house.

The tenure amendment will take a bit of time to formalize. We will include a condition that if and when the pole needs to be replaced they will be made to move it. We did meet with RDCO staff and informed them that if we decided to legitimize the pole that C&E may well still be taking some form of punitive action as they did the works without a section 9 or authority under the Land Act.

s.22

I am asking Don Meeks to coordinate with you to ensure that appropriate wording goes in the offer letter etc.

We made it very clear to RDCO staff that we did not want any form of construction without authority in the future. They understood. We also made it clear they are responsible for the safety aspects of this placement and they are the ones to be accountable for public concern. They agreed to this.

Once again I want to thank you guys for your diligence in your investigation

Any questions please ask

Thanks

Andy Oetter

Director of Resource Authorizations
Thompson Okanagan Region
Ministry of Forests, Lands and Natural Resource Operations
441 Columbia St, Kamloops, BC V2C 2T3
Phone: (250) 828-4445 Note new Number
Fax: (250) 828-4442

Cell: (250) 851-1412
[mail to: andy.oetter@gov.bc.ca](mailto:andy.oetter@gov.bc.ca)





REASONS FOR DECISION

January 11, 2013

FILE NUMBER: 3412526

APPLICANT: REGIONAL DISTRICT OF CENTRAL OKANAGAN

BACKGROUND:

The applicant wishes to obtain Licence of Occupation for a new community fireboat dock located fronting Hodges Road on Okanagan Lake at Killiney Beach. This proposed dock will be used by the North Westside Fire and Rescue to store a recently purchased Fireboat which will be used for fire protection for waterfront properties on Okanagan Lake.

DECISION: OFFERED

An offer has been made subject to any terms and conditions that need to be met before the tenure is issued.

REASONS FOR DECISION:

The proposed tenure on this area is consistent with provincial government policy. No significant impacts on the environment and aboriginal rights are anticipated. The approval contains the usual conditions for environmental protection of this area required by the Ministry of Environment.

For More Information Contact:

Andy Oetter
Manager of Authorizations

A handwritten signature in black ink, appearing to be "A. Oetter".

For more information see our website at
http://www.agf.gov.bc.ca/clad/tenure_programs/index.html (Click Current Land Applications)

Page 02

Withheld pursuant to/removed as

s.18

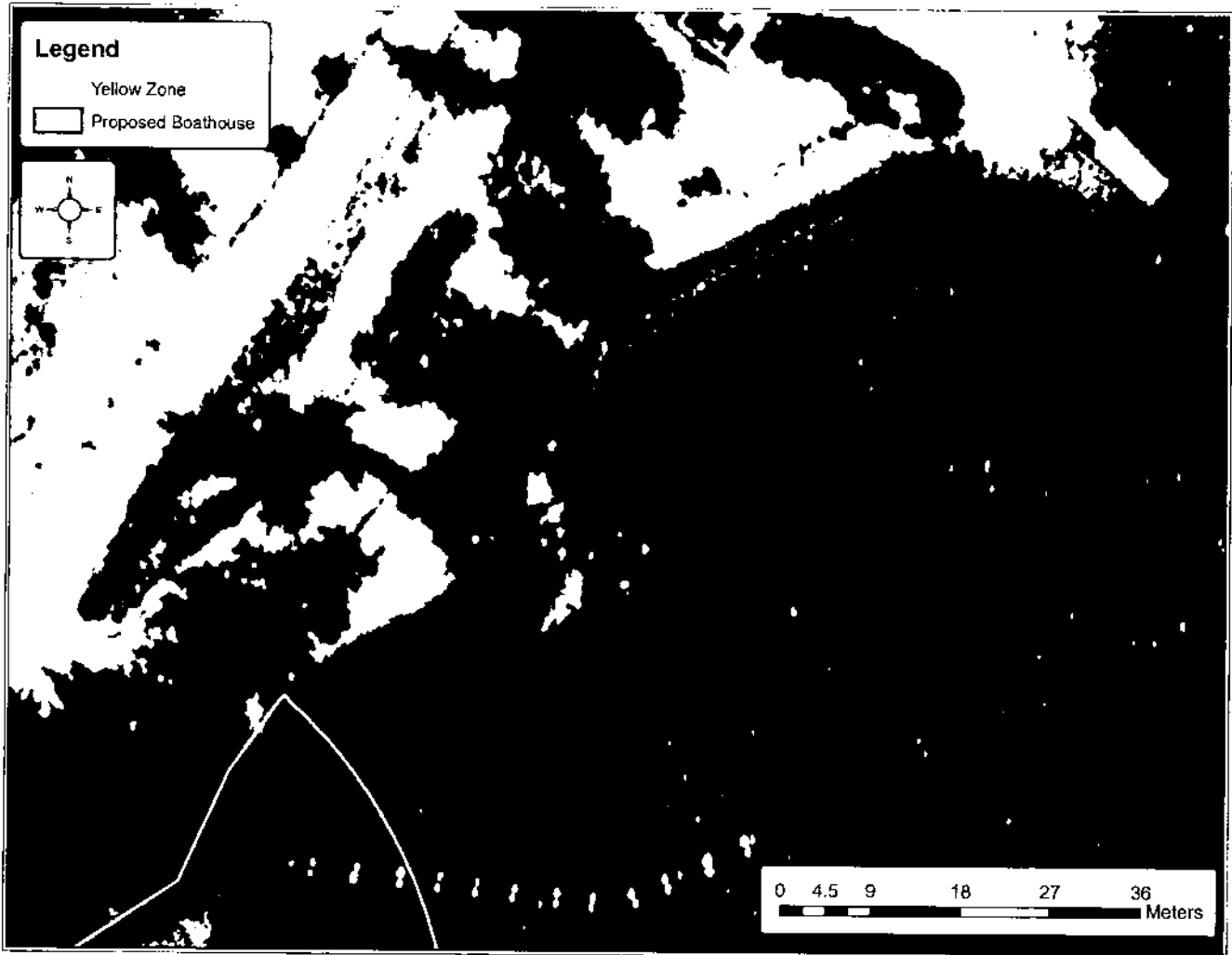


Figure 4. Proposed boathouse location relative to mapped yellow zone and existing dock/boat launch (safe harbour has been removed).



Ministry of Forests, Lands and
Natural Resource Operations
441 Columbia Street
Kamloops, BC V2C 2T3

Telephone No: 250-828-4293
Facsimile No: 250-828-4442

HST Registration No: R107864738

Your contact is: [redacted]

Our file: [redacted]

NOTICE OF FINAL REVIEW

[redacted]
[redacted]
[redacted]
[redacted]

Attention: [redacted]

Dear [redacted]:

Re: Your Application for a Tenure over Crown Land

The review of your application for a [redacted] for [redacted] purposes
over:

[redacted]
[redacted]
[redacted]

(the "Land") has reached the stage where we anticipate making our final decision once
the various matters described in this letter have been completed.

The Regional District of Central Okanagan, Park Services recommended that all future
use and access of the water lot area adjacent to the swim area be conducted in a
manner as to not have an adverse effect on recreational users.

1. Deadline for Completion of Requirements

We ask that you complete the requirements described below by [redacted]
[redacted]

If you do not wish to proceed further with your application, please check the
applicable box on the Response page and sign and return that page to us for
our records.

2. Requirements

Signing and Return of Tenure Documents

You must sign and deliver to us _____ copies of the _____ document which are enclosed with this letter. You are responsible for ensuring that this is properly completed including, if applicable, obtaining any appropriate corporate authorizations and having any Land Title Act form C or D witnessed by a solicitor, notary or commissioner.

3. Additional Requirements

Resolution:

A Board resolution must be passed by the Board to acquire the Land. The resolution must indicate that the Board will agree to acquire the Lease for the term of 30 years from the Province over the land described as all that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Hodges Road, within District Lot 2197, Osoyoos Division Yale District, containing 0.0358 hectares, more or less, for community fireboat dock purposes. The Board resolution was received by this office in a letter dated January 21, 2013 from the Director of Community Services.

Management Plan:

Attached is a Management Plan showing the configuration, location and dimensions of the dock. This authorized Management Plan must be signed, dated and returned to us on or before April 1, 2013. The approved Management Plan will be held on file by us and a copy will be returned to you for your records. Any future alterations or additions to the Improvements will require our prior written consent.

4. Process following completion of Requirements

If the requirements set out above are completed within the required time we expect to make our decision and advise you of that decision within 30 days.

Please note however that this letter does not constitute an offer by us and we reserve all our rights in connection with the decision making process, including, if appropriate, to disallow your application, to extend the decision making process and to establish additional requirements not set out in this letter.

Upon decision to issue the _____ to you we will sign and return one copy of the _____ to you.

5. Acknowledgments of the Applicant

You represent, acknowledge and agree that:

- (a) Your application for a Crown land tenure cannot be transferred to another person.
- (b) This Letter does not obligate us to issue the to you and does not give you any right to use or occupy the Land for any purpose.
- (c) You are responsible for, and encouraged to seek, your own legal advice with respect to:
 - (i) any laws, bylaws, orders, directions, ordinances and regulations associated with your use of the Land,
 - (ii) the terms and conditions set out in this Letter, and
 - (iii) the terms and conditions of, and your rights and obligations that will arise under, the .
- (d) You are responsible for the costs and expenses incurred by you in pursuing your application, including any cost you incur in connection with satisfying the requirements set out in this letter.
- (e) If you sign and return the to us that will constitute your offer to us to enter into the .

Freedom of Information

Personal information is collected under the *Land Act* for the purpose of administering Crown land. Information on your application, and if issued, your tenure, will become part of the Crown Land Registry, from which information is routinely made available to the public under freedom of information legislation.

The Crown Land Registry is available at or for records prior to 1980 please contact the Land Title and Survey Authority at 1-877-577-5872.

Yours truly,

Authorized Representative

Response to Notice of Final Review

File No. _____

Ministry of Forests, Lands and Natural Resource Operations

3977 Yonge Street, 3rd Floor

Toronto, Ontario M2H 1P5

Dear _____:

Re: Application for _____

I/We wish to proceed to obtain a _____ in accordance with the letter dated _____ from the Ministry of Forests, Lands and Natural Resource Operations and enclose all copies of the _____ which I/We have signed.

I/We do not wish to proceed to obtain a _____ in accordance with the letter dated _____ from the Ministry of Forests, Lands and Natural Resource Operations.

DATED the _____ of _____, _____.

Applicant's signature/Applicant's representative's signature

Applicant's signature/Applicant's representative's signature

Print name of person signing

Print name of person signing



Ministry of
Forests, Lands and
Natural Resource Operations

File: 3412526

March 14, 2016

Regional District of Central Okanagan
1450 K.L.O. Rd
Kelowna BC V1W 3Z4

VIA COURIER

Attention: Chris Radford, Director of Community Services

Please find attached two copies of the Modification Agreement for the Regional District's signature. This Agreement will modify the License by updating the purpose and increasing the area.

It was after careful consideration, the decision was made to modify the tenure to bring certain existing unauthorized works into compliance and to allow for the new proposed works as indicated in the attached Management Plan.

The decision for the Modification is based on the understanding of the following:

1. That prior to the installation of the new bumper pilings, the Regional District will acquire a Section 11 *Water Sustainability Act* approval;
2. The attached Management Plan specifies that if the power pole is replaced in the future, the location of the power pole should be shifted above the natural boundary of the Okanagan Lake;
3. This Modification is to incorporate the existing works into our Licence, and does not negate possible Compliance and Enforcement action for installing the works without the prior necessary approvals.

Conditions of the Modification:

Please have both copies of the Modification Agreement signed and return both copies to our office on or before **March 30, 2016**.

Monies Payable:

You must deliver to us the monies payable as follows:

Amendment Fee	\$	100.00
GST Total	\$	<u>5.00</u>
Total Fees Payable	\$	105.00

Management Plan:

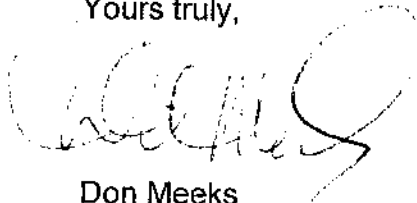
Attached is the authorized Management Plan, which must be signed, dated and return to this office. This Management Plan will be held on file by us, a copy will be returned for your records. Any future alterations or additions to the Improvements will require our prior written consent.

The above noted conditions (original signatures on the documents) must be submitted to our office **on or before March 30, 2016**. Once we have received all of the above, a fully executed copy of the Modification Agreement will be returned to you to attach to your document.

Please note that all other conditions and requirements of the Licence remain the same.

If you have any questions please contact Baljit Sall at 250-828-4302 or Jerry Johnson at 250-828-4418.

Yours truly,



Don Meeks
Manager, Land Authorizations

Attachment



MISCELLANEOUS LAND USE REPORT

SI - LAND MGMNT - SOUTHERN SERVICE REGION

File:	3412526	Inspected Date:	February 4, 2016
Reported By:	Jerry Johnson	Report Date:	March 9, 2016
Phone Number:		Complexity Level:	2
Applicant:	Regional District of Central Okanagan (RDCO)		

Decision: The application is allowed.

Application Type:	Licence of Occupation	LMM Policy:	
Purpose:	Institutional	Sub-Purpose:	Miscellaneous
Type:	Community/Institutional	Sub-Type:	
Commencement Date:		Term:	30 years
Purpose Statement:	Amendment of area & Modification of the Community Fireboat dock Licence of Occupation Management Plan to allow a power pole and underground powerline.		

BCGS Map Sheet:	82L.013
Air Photo No.:	See Google Earth image
Amended Area:	0.0524 Ha.
Location:	Killiney Beach, Hodges Road on the west side of Okanagan Lake

Legal Description:	All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Hodges Road, within District Lot 2197, Osoyoos Division of Yale District, containing 0.0524 hectares, more or less
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Background: An electronic complaint was filed with our Compliance and Enforcement Section since a power pole & underground powerline were installed without authority under the Land Act and also the Water Act. The RDCO submitted an application to amend the existing Licence of Occupation area Plan to allow an existing powerpole and underground powerline which provides power to a fireboat dock fronting Hodges Road on Okanagan Lake. The applicant hired a private contractor to install the powerpole and underground powerline and was installed according to the BC Safety Authority Standards.

The original proposal included the use of a generator as a power source for lights, boat lift and gangway, however, it was determined that a guaranteed source of power is required by the Fire Underwriters. The shore power provided residents with a more secure fire service and the mobile hydrant met house insurance requirements for homes within 300 meters of the shoreline.

In an email from Don Lemp (C&E) to Trina of Western Water Associates Ltd (WWAL) indicated the location of the pole needs to:

- address public safety
- not be within the Present Natural Boundary of the Lake or the area which can be influenced by normal wave action, wave action due to storms or years of high flood waters.

Our Compliance and Enforcement Section have issued a Trespass Notice to RDCO for contravention of the following: unauthorized Hydro pole, underground hydro service and guy wire. The deadline for removal of these improvements from the Crown land is March 31, 2016. A copy of Trespass Notice is on

the [redacted] indicating the actions taken.

The RDCO had an Environmental Assessment completed by Western Water Associates Ltd (WWAL) on this existing power pole location. In this report it indicated the following:
 "the location of the power pole and anchor are below the HWM (High Water Mark), their environmental impact was determined to be minimal. Their investigation into the Okanagan Lake daily water levels showed that the HWM (343m ASL) was exceeded during one flood event in 1948 and the pole and anchor elevations were exceeded in events 1946, 1948, 1951, 1972, 1990 & 1997. Moving the pole closer to Hodges Road was considered, however, this would require the removal of mature Black Cottonwood which is considered to be endangered in BC. Yellow listed pileated woodpecker have been observed in Cottonwood in this area by WWAL in this area" The EA also suggested the following to address the concern on the location of this pole:
 "proposed works include wrapping the base of the pole in a protective cover and hand placing two rows of boulder size (300-500 mm diameter) riprap around the base of the pole and guy wire."

A field inspection was completed on February 4, 2016 to inspect the location of the installed power pole and underground powerline. At the time of inspection the power pole was found to be well above (10 meters) the low water line of Okanagan Lake. It is my opinion that the water level would rarely ever reach the power pole location even with wave action. This is supported by the Environmental Assessment water level information quoted above. I have attached photographs of my inspection & a sketch showing the location of the power pole, anchor & underground power line.

On February 15, 2016 I asked Lora Nield (Ecosystems Biologist) if the location of the existing power pole & anchor would be a major environmental concern and she advised that it would not be. The foreshore area for this project is a no colour area from the previous Environmental Impact Report completed by Valhalla Environmental Consulting on April 23, 2012.

Referral Agencies/ Analysis:

Josie Symonds (Ecosystems) advised Dan Wildman (RDCO) that they don't provide approvals or notifications under the Water Act for works already constructed.

Ministry of Transportation & Infrastructure – no issues anticipated since their initial proposal was endorsed by them.

First Nation Consultation:

No concerns were identified in the previous First Nation Summary Report completed on the original application area. This amendment & modification of the Management Plan is considered to be a low impact on aboriginal rights.

Clearance and Other Conflicts:

This amendment application is within an existing Licence of Occupation (file 3408066) issued to the Regional District of Central Okanagan (RDCO-applicant) for boat launch, safe harbour and public recreation purposes fronting the park and road. No amendment to this existing Park licence (file 3408066) is required since this is only an amendment of the Fireboat Licence of Occupation on file 3412526. The RDCO Park Services provided an internal memorandum acknowledging the existing licence covering this area and recommended that all future use and access of the water lot area (licence) adjacent to the swim area be conducted in a manner as to not have an adverse effect on recreational users.

The Ministry of Transportation previously provided a letter of approval on this proposal since it fronts their road.

No other concerns need to be addressed from the ILRR conflicts identified.

Rental: no additional rental is required.

Concessionary value:

No change since this is a small amendment to the area and a modification of the management plan to allow a power pole and underground powerline.

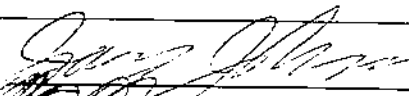
Discussion/Recommendations: I recommend we amend the area & modify the Management Plan on this Licence of Occupation to allow a power pole and underground powerline to the Fireboat Dock. Note: a small extension has also been added to the south of the boathouse for proposed bumper pilings. The new amended area of this Licence of Occupation will be 0.0524 hectares.


PA-

Information for client:

- 1) Please advise the licensee that prior to the installation of the new bumper pilings a Section 11 Water Act Approval will be required.
- 2) The attached new Management Plan will be required. Note: There is a requirement that if the power pole ever required replacement in the future the location should be shifted so it is above the natural boundary of the Okanagan Lake.
- 3) This licence amendment to bring existing works into compliance will not negate possible compliance and enforcement action for installing works without the necessary approvals.

Andy: Please advise the Compliance and Enforcement Section that we will be proceeding with the approval of this amendment application & modification of the Management Plan to allow the power pole, guy wire and underground power line to remain.

Recommended by:  Date: MAR 9, 2016

Approved by:  Date: MAR 10, 2016

License of Occupation

Legal Description Schedule

File No.: 3412526

Disposition No.: 903092

All that unsurveyed Crown foreshore being part of the bed of Okanagan lake and fronting on Hodges Road, within District Lot 2197, Osoyoos Division of Yale District, containing 0.0524 hectares, more or less.

Scale: 1:500

BCGS Mapsheet(s): 82L.013



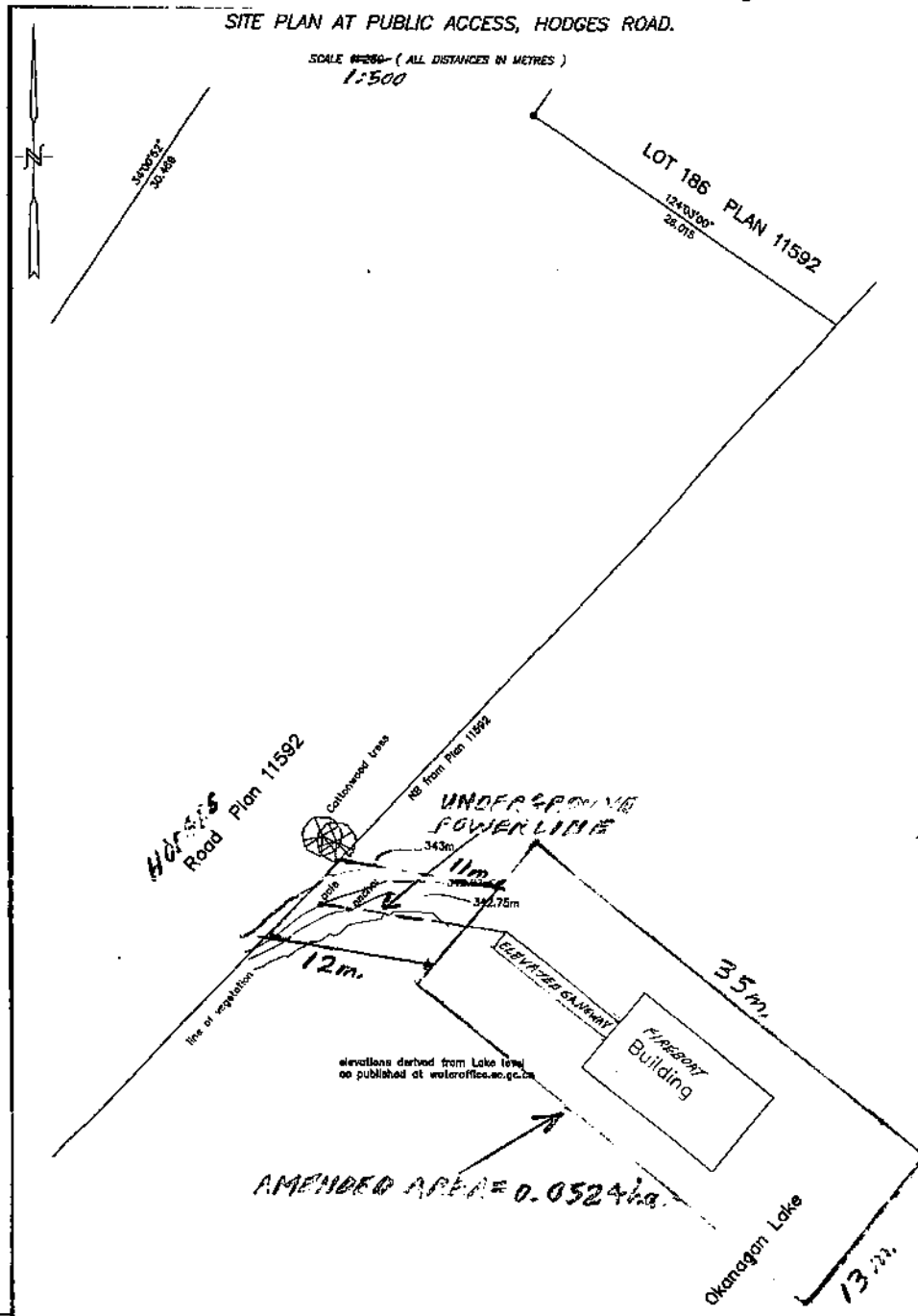
Community- Boat Launch/Boat House/powerline & power pole.

Page 1 of 1

SCHEDULE "A"

LEGAL DESCRIPTION SCHEDULE

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Hodges Road, within District Lot 2197, Osoyoos Division Yale District, containing 0.0524 hectares, more or less.



MISCELLANEOUS LAND USE REPORT

SI - LAND MGMNT - SOUTHERN SERVICE REGION

File:	3412526	Inspected Date:	Data on file
Reported By:	Jerry Johnson	Report Date:	January 15, 2013
Phone Number:		Complexity Level:	2
Applicant:	Regional District of Central Okanagan		

Decision: The application is allowed.

Application Type:	Licence of Occupation	LMM Policy:	
Purpose:	Institutional	Sub-Purpose:	Miscellaneous
Type:	Community/Institutional	Sub-Type:	
Commencement Date:	to be determined by PA	Term:	30 years
Purpose Statement:	Community Fireboat dock		

BCGS Map Sheet:	82L013
Air Photo No.:	
Application Area:	0.0358 Ha.
Recommended Area:	0.0358 Ha.
Location:	Killiney Beach, Hodges Road on Okanagan Lake

Legal Description: All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Hodges Road, within District Lot 2197, Osoyoos Division of Yale District, containing 0.0358 hectares, more or less.

Referral Agencies/ Analysis:

Brian Robertson (Ecosystems) provided a letter indicating that an approval is not required on this Section 9 notification application (see attached).

No other concerns were received from the other referral agencies.

First Nation Consultation:

No concerns were identified in the attached First Nation Summary Report completed on this application area.

Clearance and Other Conflicts:

This application appears to be within an existing Licence of Occupation (file 3403066) issued to the Regional District of Central Okanagan (RDCO-applicant) for boat launch, safe harbour and public recreation purposes fronting the park and road. The RDCO Park Services provided an internal memorandum acknowledged the existing licence covering this area and recommended that all future use and access of the water lot area (licence) adjacent to the swim area be conducted in a manner as to not have an adverse effect on recreational users.

The Ministry of Transportation provided a letter of approval on this proposal since it fronts their road. No other concerns need to be addressed from the iLRR conflicts identified.

Site Information: This is an application for a Licence of Occupation for a proposed fireboat dock fronting Hodges Road on Okanagan Lake. This proposed dock will be used by the RDCO North Westside Fire

and rescue for the storage of a recently purchased Fireboat which will be used as a marine water source and has firefighting and rescue capabilities. The proposal is to construct a dock with a boatlift and boathouse for this fireboat. At our request the RDCO has provided supplemental information providing justification for the proposed boathouse since our private moorage guidelines do not permit the construction of a boathouse on docks. They have indicated that the boathouse is required to address public safety and emergency response. Also protection from theft, vandalism and weather are other reasons that the boathouse is required.

Rental: \$1.00 prepaid consideration for 30 years as required as per the Community Institutional policy.

Concessionary value:

$\$776,136/\text{ha} \times 0.0358 \text{ ha} = \$27,786$

The above value was based on 50% of the 2012 BC Assessment Land value (\$1,552,273/ha.) on an upland parcel in the vicinity of the subject (Lot 1 of Plan KAP32338, District Lot 2197, Osoyoos Division of Yale District). The NRT value is based on the Fair Market Value of the land since the term is 30 years as per the Community and institutional Land use policy.

Discussion/Recommendations: I recommend we offer this area as a Licence of Occupation subject to:

- 1) Term of 30 years
- 2) area of 0.0358 ha.
- 3) for community fireboat dock purposes.
- 4) \$1.00 prepaid consideration for the term. — concessionary value = \$27,786
- 5) The terms and conditions outlined in the attached Section 9 notification letter of December 27, 2012.
- 6) A RDCO board resolution will be required.

For information only.

The Regional District of Central Okanagan Park Services recommended that all future use and access of the water lot area (licence) adjacent to the swim area be conducted in a manner as to not have an adverse effect on recreational users

Recommended by

Date

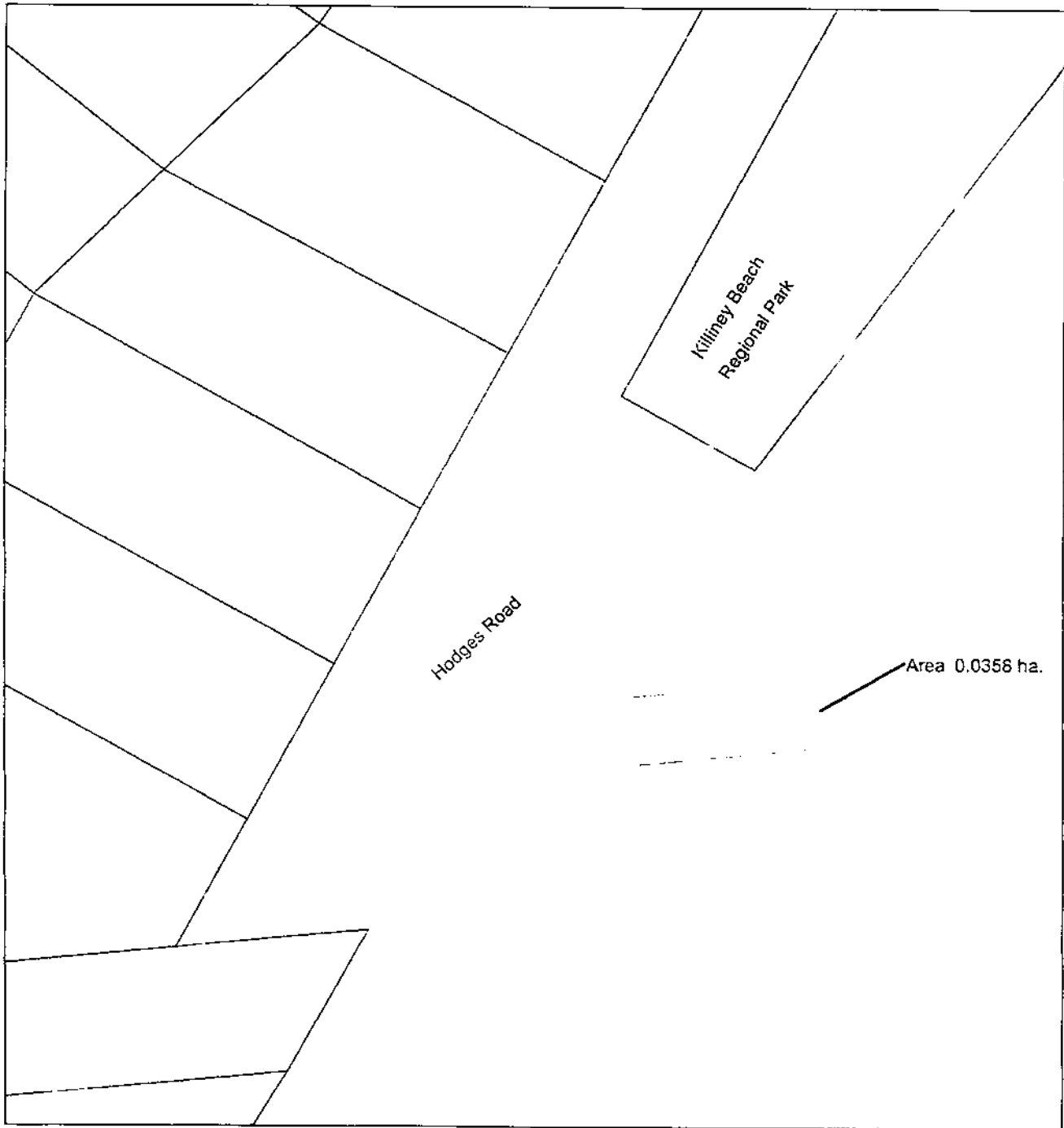
JAN 15, 2013

Approved by

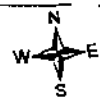
Date

JAN 17, 2013

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Hodges Road, within DL 2197, ODYD, containing 0.0358 hectares, more or less



Scale: 1:1,000
BCGS Mapsheet(s): 82L.013



Community-Boat launch/Boat House

Page ____ of ____

Trina Koch

From: Trina Koch <trina@westernwater.ca>
Sent: June-08-15 9:53 AM
To: 'Dan Wildeman'
Subject: Version 2 of the Western Water Proposal for Killiney Beach Environmental Services, field visit request
Attachments: WWAL P15-062 - Killiney Beach Environmental Services v2 080615.pdf

Hi Dan,

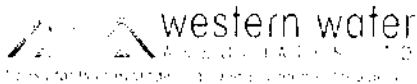
Please find version 2 of the proposal attached.

I can complete the site visit Tuesday (tomorrow) or Thursday this week. Would you be able to meet me at the site at 9:00 am on either of those days?

Thanks very much,

Trina

Trina Koch, B.Sc. R.P.Bio.
Environmental Scientist / Biologist



106-5145 26th Street, Vernon, B.C. V1T 8G4

E: trina@westernwater.ca, W: www.westernwater.ca P: 250.541.1030 M: 250.309.2806

From: Dan Wildeman [<mailto:dan.wildeman@cord.bc.ca>]
Sent: June-05-15 3:49 PM
To: trina@westernwater.ca
Cc: Chris Radford
Subject: Western Water Proposal for Killiney Beach Environmental Services

Hi Trina,

As per our telephone discussion today, please resubmit an amended proposal with the intend of validating the power pole in the current location. Please also consider this email as approval to proceed and I will forward a PO early next week following receipt of the amended proposal. I would also be happy to meet with you on your site visit to discuss any concerns you may have.

Regards,

Dan Wildeman

Fire Services & Inspections Manager

Regional District of Central Okanagan
1450 KLO Road
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