

Cory Labrecque

From: Aderichin, Al FLNR:EX <Al.Aderichin@gov.bc.ca>
Sent: November 9, 2020 4:40 PM
To: Cory Labrecque
Cc: Andrew Reeder; McMillan, Chris FLNR:EX; Oliphant, Elena FLNR:EX
Subject: RE: Referral - Land Use Contract Termination (F2017.138-ZONE)

Hi Cory,

Per my review, the only general comment I have is as follows:

Any lot owners/developers requesting future water service to additional lots from the Comptroller regulated water utility "Sage Mesa Water & Public Service Co. Ltd.", necessitating water service area expansion via request for CPCN amendment, would not be approved as there is a moratorium on utility's service area expansion due to inadequate system capacity issues and ongoing non-compliance with IHA's Drinking Water Standards. As you are most likely aware, the RDOS is working towards execution of a Utility asset ownership Transfer Agreement with the Chapmans, the longstanding Utility owners, as the initial step towards future transfer. For further info on transfer negotiation status, please contact Andrew Reeder at the RDOS.

Best regards,
Al

Al Aderichin, P. Eng.

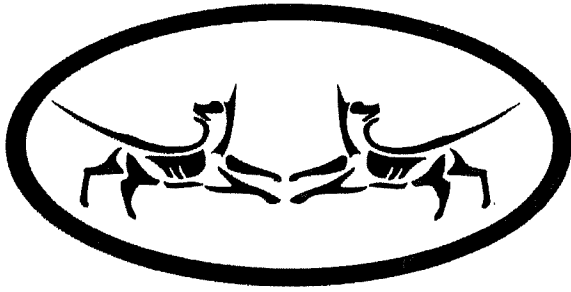
**Head, Water Utilities Engineering
Water Utilities Regulation Section
Water Management Branch
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone : (778) 698-7325
Fax: (250) 356-0605
Email : Al.Aderichin@gov.bc.ca**

From: Cory Labrecque <clabrecque@rdos.bc.ca>
Sent: November 5, 2020 1:11 PM
To: Aderichin, Al FLNR:EX <Al.Aderichin@gov.bc.ca>
Cc: Cory Labrecque <clabrecque@rdos.bc.ca>
Subject: Referral - Land Use Contract Termination (F2017.138-ZONE)

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good afternoon

This is an Regional District of Okanagan Similkameen (RDOS) Planning referral. You are being requested to comment on the attached bylaw for potential effect on your agency's interests.



Penticton Indian Band

Natural Resources Department
841 Westhills Drive | R.R. #2, Site 80, Comp.19
Penticton, B.C. CAN
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411 Fax: 250-493-2882

January 24, 2019

**WITHOUT PREJUDICE AND NOT TO
BE CONSTRUED AS CONSULTATION**

Regional District of Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

RTS ID: 3628

Referral ID: BL 2461.10

Referral Date: January 23, 2019

Reference ID: F2017.138-ZONE

Summary: Proposed early termination of Land Use Contract (LUC) No. LU-2-F and to replace it with a Small Holdings Four (SH4) Zone under Bylaw No. 2461, 2008.

ATTENTION: Christopher Garrish

We are in receipt of the above referral. The proposed activity is located within Okanagan Nation Territory and the PIB Area of Responsibility. All lands and resources within the vicinity of this referral are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

Penticton Indian Band has specific referral processing requirements for both government and proponents which are integral to the exercise of our Rights to manage our lands and resources and to ensuring that the Crown can meet its duty to consult and accommodate our Rights, including our Aboriginal Title and management Rights. There is a cost associated with PIB referral processing and engagement. In accordance with PIB policy, proponents are required to pay a processing fee for each referral.

This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be fully reviewed.

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

¹The area over which PIB asserts Aboriginal Rights and Title under Section 35 of the Constitution Act, 1982



If the proposed activity requires a more in-depth review, Penticton Indian Band will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

Invoice Number: 1252

	SubTotal	Tax	Total
Referral Processing	\$ 500.00	\$ 0.00	\$ 500.00
Total	\$ 500.00	\$ 0.00	\$ 500.00

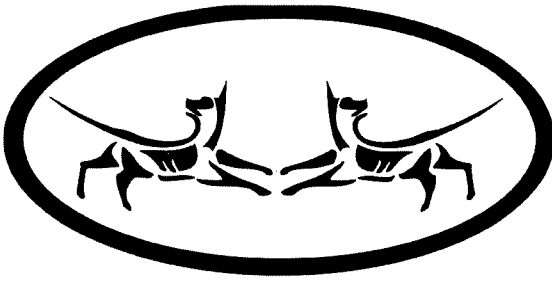
INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque payable to Penticton Indian Band. re: P.C.132 RTS #3628

limlæmt,

Natasha Slack
Referrals Administrator
P: 250-492-0411
Referrals@pib.ca

RTS ID: 3628 CC: ONA (nrmanager@syilx.org)



Penticton Indian Band

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Attention: Christopher Garrish

RE: Request for a 60 (sixty) day extension

Thank you for the above application that was received on January 24, 2019. This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 60 days from the existing timeline.

Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economical from those uses.

Please note that not receiving a response regarding a referral from Penticton Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

I appreciate your co-operation.

Limlæmt,
Natasha Slack
Referrals Administrator

RTS ID: 3628 CC: ONA (nrmanager@syilx.org)

RESPONSE SUMMARY


AMENDMENT BYLAW NOS. 2461.10

Approval Recommended for Reasons Outlined Below

Interests Unaffected by Bylaw

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Signature:  _____

Signed By: Janelle Rimell

Agency: Interior Health Authority

Title: Environmental Health Officer

Date: February 27, 2019