

## Shannon Duong

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**From:** Mont <[REDACTED]>  
**Sent:** October 24, 2021 8:12 PM  
**To:** Planning  
**Subject:** Fwd: PUBLIC INFORMATION MEETING Electoral Area "F" OCP & Zoning Bylaw Amendments Faulder Zoning Review; and Proposed Rezoning – 8151 & 8475 Princeton-Summerland Road

Hello there,

I recently spoke to Shannon from your office about the Faulder Zoning Review as I was unfortunately unable to participate in the electronic meeting on October 13th.

I live in Meadow Valley beyond the area I consider to be Faulder but because the review was in regards to water use and my home is dependent on the same aquifer I believe I should have the opportunity to comment on the planned bylaw amendments.

I have read the current bylaws that apply to the area and understand that the area is already considered single family use and that the amendments are intended to strengthen that by eliminating the possibility of carriage houses being built, home based businesses started up and so on. What I wanted to comment on or bring attention to is the large number of properties that currently have recreational vehicles (trailers, fifth wheels, truck campers, and motorhomes) on them right now that appear to be being lived in year round. From what I understand that is in violation of current bylaws which do not permit recreational vehicles (RV's) to be used as permanent residences. From what I recall they are permitted to be used short term for visiting family etc but cannot be somebodies ordinary residence.

Given that the amendments are attempting to address water use and to ensure the current shared system that the residents in Faulder rely on and the aquifer itself are not overburdened I think it would be imperative to address the extra living accommodations that are currently in place as part of that process. It seems that strengthening the bylaws to address this issue should go hand in hand with enforcing the regulations that already exist. People living in these RV's must be getting their water from somewhere as well as depositing their grey and black water somewhere. I'd like to hope they are all connected to the main properties septic systems but wonder if that waste is being properly treated or if it is possibly finding its way into Fish Creek which runs through the majority of the properties in Faulder.

If your staff were to drive through Faulder they would be able to see numerous properties with recreational vehicles being used as permanent residences right from the road. Without putting any effort into looking for them I counted 10 properties that appear to have people living permanently in RV's along Fish Lake road alone.

I understand that these are difficult times for people looking to find affordable rentals. I am not unsympathetic to that fact however given that the issue of water availability and use is enough of a concern that the RDOS is looking to amend related bylaws I think dealing with the unsanctioned/un-permitted residences should be a priority for the sake of all residents.

I would appreciate hearing back from you in regards to my comments and would like to ask that you pass my information on to bylaw enforcement as needed. If this is something your internal policies do not permit please let me know and I will file my own report/complaint should it be required.

Thanks very much for your time,

Joanne Basaraba

Begin forwarded message:

**From:** Kerri-Lynn Grell <[rdos-land-use-changes-projects-f@ca.regroup.com](mailto:rdos-land-use-changes-projects-f@ca.regroup.com)>  
**Subject:** PUBLIC INFORMATION MEETING Electoral Area "F" OCP & Zoning Bylaw Amendments Faulder Zoning Review; and Proposed Rezoning – 8151 & 8475 Princeton-Summerland Road  
**Date:** October 4, 2021 at 12:58:36 PM PDT  
**To:** "

The Regional District of Okanagan-Similkameen (RDOS) will be holding an electronic Public Information Meeting regarding proposed amendments to the Electoral "F" Official Community Plan (OCP) Bylaw and Zoning Bylaw for properties within the Faulder Water System Service Area and Meadow Valley Aquifer (i.e., the Faulder Zoning Review) and rezoning proposals involving 8151 & 8475 Princeton-Summerland Rd on Wednesday, October 13, 2021 from 7:00 p.m. to 9:00 p.m. via Webex.

#### Faulder Zoning Review

The purpose of the proposed OCP Bylaw and Zoning Bylaw amendments is to strengthen the policies and regulations governing subdivision and use of properties within the Faulder Water System Service Area and Meadow Valley Aquifer.

#### Rezoning Proposal at 8151 Princeton-Summerland Rd

The purpose of the rezoning is to facilitate the subdivision of the subject property into one lot of approximately 2.3 ha and one lot of approximately 1.0 ha. More specifically, it is being proposed to change the designation of the subject parcel from Small Holdings Two (SH2) to Small Holdings Three (SH3) under the Electoral Area "F" Zoning Bylaw No. 2461, 2008.

#### Rezoning Proposal at 8475 Princeton-Summerland Rd

The purpose of the rezoning is to facilitate the subdivision to facilitate the subdivision of subject property in order to create three (3) lots each of size not less than 1.0 ha. More specifically, it is being proposed to change the designation of the subject parcel from Small Holdings Two (SH2) to Small Holdings Three (SH3) under the Electoral Area "F" Zoning Bylaw No. 2461, 2008.

RDOS staff have prepared a video to provide background information on the Faulder Water System Service Area and the proposed amendments which can be viewed prior to the public information meeting: <https://youtu.be/IHydF9M9DFM>

Additional information regarding these proposed amendments, including draft amendment bylaws, and how to use Webex can be found at the Regional District's web site:

- **For the Faulder Zoning Review:** <https://www.rdos.bc.ca/development-services/planning/strategic-projects/faulder-zoning-review/>
- **For rezoning proposals at 8151 & 8475 Princeton-Summerland Rd:** <https://www.rdos.bc.ca/development-services/planning/current-applications-decisions/electoral-area-f/>

You received this message because you are subscribed to the [[Regional District of Okanagan-Similkameen, BC-Land Use Changes: Projects F](#)] group.

Visit this topic here: <https://rdos.ca.regroup.com/networks/rdos/groups/land-use-changes-projects-f/topics/public-information-meeting-electoral-area-f-ocp-zoning-by-law-amendments-faulder-zoning-review-and-proposed-rezoning-8151-8475-princeton-summerland-road-20211004145832>

To unsubscribe from this group click here:

{<http://rdos.ca.regroup.com/networks/rdos/groups/land-use-changes-projects-f/unsubscribe> }.

This message was sent to the following groups: Land Use Changes: Projects F, Land Use Changes: Applications F

**Lauri Feindell**

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**From:** Brad Besler [REDACTED]  
**Sent:** October 10, 2021 7:18 PM  
**To:** Christopher Garrish; Info E-Box  
**Subject:** 8132 Princeton-Summerland Road - Zoning Changes  
**Attachments:** Besler Garrish Email 2018.pdf

Hello Mr. Garrish,

This email is in regards to the RDOS proposed zoning changes in the Faulder water zone.

In 2018 I communicated with you about maintaining the site specific provisions for my mom Vicki Besler's property at 8132 Princeton-Summerland Road, which the RDOS agreed to, specifically regarding a convenience store and "eating and drinking establishment"; those emails from 2018 are attached.

If the zoning is changed again in the Faulder water zone, it is important that the property at 8132 Princeton-Summerland Road maintains its site specific provisions for a convenience store and "eating and drinking" establishment. Given the proposed zoning changes are in regards to secondary residences, this shouldn't be an issue.

Sincerely,

Brad Besler  
[REDACTED]



Brad Besler <bbslera@gmail.com>

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**RE: Zoning: 8132 Princeton-Summerland Rd. (X2018.069-ZONE)**

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Christopher Garrish <cgarrish@rdos.bc.ca>  
To: Brad Besler [REDACTED]

Fri, Jun 15, 2018 at 12:20 PM

Thank Brad.

**From:** Brad Besler [REDACTED]  
**Sent:** June 11, 2018 7:41 AM  
**To:** Christopher Garrish <cgarrish@rdos.bc.ca>  
**Subject:** Re: Zoning: 8132 Princeton-Summerland Rd. (X2018.069-ZONE)

Yes, with the site specific uses, that allows the property to maintain its commercial options.

Thanks,

Brad Besler

On Sun, Jun 10, 2018, 6:04 PM Christopher Garrish, <cgarrish@rdos.bc.ca> wrote:

Hi Brad,

I wanted to touch base and follow-up on my previous email of May 16<sup>th</sup> regarding the proposed Small Holdings Four Site Specific (SH4s) zoning change for the property at 8132 Princeton-Summerland Road.

Can I assume that the site specific provisions allowing convenience store and "eating and drinking establishment" will allow you to use the property for your intended commercial purposes?

Sincerely,  
Chris.

**From:** Christopher Garrish  
**Sent:** May 16, 2018 9:28 AM  
**To:** 'Brad Besler' [REDACTED]  
**Subject:** RE: Zoning: 8132 Princeton-Summerland Rd. (X2018.069-ZONE)

Hi Brad,

That is correct. We are reviewing all of the Tourist Commercial Zones in the Regional District as part of the draft of a single zoning bylaw for the Okanagan Electoral Areas and the property at 8132 Princeton-Summerland Road is the *only* property zoned CT3, so we are looking at alternative zonings.

As I mentioned in my letter, the property does not appear to have been used for commercial purposes for the past 10 years, and is too small for a campground use (i.e. the zoning bylaw requires a minimum of 1.0 ha of land) while gas stations are being moved into a specific Service Commercial One (CS1) Zone and motels are moving to the CT1 Zone. In terms of the remaining uses permitted by the CT3 Zone, this leaves a convenience store and eating and drinking establishment, which I am proposing to carry forward as a site specific allowance in the SH4s Zone to be applied to the property.

**Lauri Feindell**

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**From:** Cindy Boehm [REDACTED]  
**Sent:** October 12, 2021 11:11 AM  
**To:** Planning  
**Subject:** Faulder water system

## A simple history of the Faulder Water System

Inbox

**Cindy Boehm** [REDACTED]  
to rgettens, cgarrish, bnewell

Good Afternoon,

I have compiled a simple, hopefully uncomplicated, list of facts and events pertaining to the Faulder Water System.

Faulder had few residents and a history of unreliable water prior to the RDOS commissioning and connecting residents to a new community well.

The Faulder well was completed on July 4, 1993. The pump was placed at a depth of 193.58 feet. On July 28, 1993 the pump was recorded at 210 gpm, static water level in the well was 154.21 feet and the dynamic was 169.95 feet. When the pump was running there was 23.63 feet of water. On Feb 26, 2008 the pump was recorded at 150 gpm, static water level in the well was 172.91 feet and the dynamic was 182.10 feet. When the pump was running there was 11.48 feet of water. On July 13, 2009 the pump was recorded at 100 gpm, static water level in the well was 183.04 feet and the dynamic was 190.63 feet. When the pump was running there was 2.95 feet of water.

On Sept. 9, 2009 the pump was slowed to its lowest rate of 80 gpm.

On Feb. 3, 2010 with the pump at 80 gpm and in mid-winter we had 2.5 feet of water in the well when the pump was running.

We tried to blow the screens, we lowered a smaller pump into the casings, the well was on its way out. Residents kept grey water and used it for flushing toilets and watering plants. Locals who still had operational private wells watched them dry up too.

The average daily demand for water at that time was 30 gpm, with a historical pumping rate of 158 gpm.

Water taxes were first levied on our taxes in 1995 at \$446.54

By 2009 we were paying \$1805.09 and increase of 263% with a tiny pump running at 80 gpm (original pumping rate 210 gpm) and 2.5 feet of water in the well when the pump was on - system failure.

The original study by Golder and Associates was completed in September 2003. The engineering firm wrote that the water in the Faulder water system met or exceeded Canadian Drinking Water Quality Guidelines. The well was pumping at 400 gpm and the residents were given the assurance of an abundance of water.

This firm was again asked to do another study( completed in August of 2008) to address the declining water levels in the Faulder Community Well. On pg.4 they cite the lack of recharge to the aquifer in 2007. pg 8 the assumption is that the declining water levels in the Meadow Valley Aquifer were localized to Meadow Valley, Faulder and the area approximately 4 km South East to Summerland. The study concludes that the decrease in precipitation caused the decline in the aquifer from September 1993 to August 2008 where a static decrease of water in the aquifer fell 1.8m ( 6 feet ).

I believe we have entered another drying trend as the indicator here in Faulder is our creek which is the overflow from the Meadow Valley Aquifer. The creek has run almost continuously for the last few years; this summer it has slowed considerably and stopped completely a number of times. Long time residents have learned that the overflow, the creek, indicates that the aquifer has recharged and there is extra water for surface flow. Historically, when the creek stopped, water levels would drop in the aquifer and the wells would lose their water depth, and subsequently many went dry.

## PROBLEM #2

Interior Health: IH 2001 standards for uranium in drinking water changed from .10 mg/L to .02 mg/L. Although they had this information, they decided to put Faulder on notice in 2007. The water samples came back at .0275 mg/L with an average of .005 over the allowable limit.

IH pushed hard for a solution. The residents of Faulder were not willing to pay even more money to extract the uranium when the well was failing. At this point, a group of individuals that were trying to help find solutions were asked to form a committee. The Faulder Water Advisory Committee was legitimized by Bill Newell on Sept.3, 2008 with a motion for Jeff, Cindy, Ivan and Matt to act as a liaison between the RDOS and the Faulder residents. There was a group FARA - Faulder Area Ratepayers Association that was also in operation, but this specific group's purpose was to help find solutions to our ever growing water issues. FARA let their BC Registry lapse in 2014 and is no longer operational. The Water Advisory Committee, who worked tirelessly with Director Michael Brydon, Andrew Reader and later Candice Pilling, took a back seat after the new well, uranium system, and generator were up and working. Our work was done.

One individual who helped a great deal with giving vital information pertaining to the flow and health of the Meadow Valley Aquifer to the RDOS Water Operators, Zoe Kirk, Andrew Reader and Candace, engineers, and staff from a number of different entities, as well as provincial reps was Alan Wiens. It cannot be understated how important historical 'unwritten' records are to help make wise decisions for the future. There are residents who have lived in Faulder/Meadow Valley for most of their lives, some all, whom can shed important light on the struggle to maintain the health of the Aquifer which we all depend on.

A special thanks to Rob Palmer and Adam Cunningham who with their staff help keep our water safe to drink. They have rode this journey with us.

I hope this gives a glimpse into our past and why the 80 homes, no more water connections, have been so important for those of us who have lived here for many decades.

Regards,  
Cindy Boehm  
Faulder resident

On a side note, the original FireSmart Committee was Bonnie and Dane Milton, David and Cindy Boehm, Ian Christensen and Doug and Kathy Penny of Meadow Valley. This group disbanded in the fall of 2020 when Bonnie and Dane moved. We felt it was time for others to step in.

## Lauri Feindell

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**From:** Cindy Boehm [REDACTED]  
**Sent:** October 12, 2021 11:09 AM  
**To:** Planning  
**Subject:** Faulder water system/Wednesday, Oct.13 meeting

Hi Shannon and staff,

Thank you for your discussions with me regarding the Faulder water system, the effect that continued subdivision is having on the water supply and the RDOS past promises that the system would never exceed 80 hookups. I am hoping that bylaws can be amended to help secure our water; an oversight that should have never happened. I have talked at length with Riley Gettings and have sent a number of emails to the RDOS giving detailed history of our water situation.

I did send emails in regards to John Rousausea and his subdivision that resulted in 2 additional users. This was to no avail. Hopefully we do not have a repeat of this. Please note, this is not a personal attack on any individual that would like to subdivide, as my property is subdividable, but rather a concern for the actual supply of water.

I will send a copy of my most recent emails to the RDOS.

Thank you,

Cindy Boehm



## Lauri Feindell

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**From:** pamelahinchliffe [REDACTED]  
**Sent:** October 14, 2021 10:45 AM  
**To:** Christopher Garrish; Riley Gettens  
**Subject:** Faulder water system

Thank you for the webex meeting last night. I appreciated the information that was shared.

My thoughts/questions I would share would be these:

- \* with the 8151 rezoning application to facilitate subdivision - I assume it was the owner that came on and said they would be drilling their own well not joining on the Faulder water system - if this is the case how does that turn out differently than John Rousseau situation where they are subsequently given a hook up.
- \* I am not sure personal reasons for subdividing should actually be considered in an application - whether you are a pensioner without a pension, a young parent with children to support, an enterprising young man who, like all developers, is taking a risk on buying land and hoping all development requirements go his way so that he can make money to stay on the land - I am not sure those are relevant issues for the community. Applications should be approved on whether they meet OCP objectives and are seen as beneficial to the community not the individual. Bottom line is land owners subdivide to make money - simple as that.
- \* when I watched the you tube video of the RDOS meeting of September 23rd when John Rousseau was presenting, someone whose name I did not get, said he should be granted the 2 hook ups because he had been paying taxes on them all these years. Well that is not correct - the previous owner had been paying taxes on the ONE unsubdivided lot - not three lots. John Rousseau created 2 new lots that had not been paying taxes.
- \* there was the opinion by some last night that 20 year old water studies and reports were outdated and redundant. I would say this opinion is self-serving. As Dave Boehm said the water supply seems to go in cycles so to dismiss data from 20 years ago - such a short time in the natural world - is short sighted. The subject of climate change and its effect on water supply was not even touched on - which really should be a big part of any water supply conversation. My favourite expression of late is " the only thing we learn from history is we don't learn from history"
- \* applicants who buy land that they know is not zoned for subdivision of smaller lots should not be so seemingly indignant if their application is denied. Buyers with future development plans should be well aware of the inherent risk of such a venture and not feel somehow it is unfair and against their rights to do what they want on their land.
- \* I support the Faulder SH7 zoning to limit further rezoning applications for the intent of subdividing within the Faulder water system as we are already over capacity with 81 connections. I do not believe at this time wells are a good alternative. If in the future a water study on the aquifer supports that there is an abundance of water and the developer or community decides to incur the costs to increase the reservoir capacity then development could be revisited.
- \* I do support secondary suites because I believe they can increase density without substantial water usage increase. I have one person in my basement whose water use is minimal. However I may also support it because we decided to put our empty nest basement to use and rent it out to supplement our retirement income- so really, again, it is about making money 😊

Thanks for your time  
Pam Hinchliffe

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## Interior Health

September 17, 2021  
Christopher Garrish, Planning Manager  
Regional District of Okanagan-Similkameen  
101 Martin Street  
Penticton, BC, V2A-5J9

Sent via email: [planning@rdos.bc.ca](mailto:planning@rdos.bc.ca)

**RE: File F2021.011-ZONE**

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Christopher Garrish:

Thank you for the opportunity to provide comments on this application. It is our understanding that the Regional District is proposing a number of textual and mapping amendments to Electoral Area "F" Official Community Plan and Zoning Bylaw No. 2461 in relation to the development within the Faulder Community Water System Service Area and the broader Meadow Valley Aquifer.

We recommend rezoning to discourage subdivisions in the Faulder Community. The Faulder Community Water System has had issues with drying out the previous well before the current well had been drilled. There are concerns if the community expanded, the current water source could not keep up with the water demand on a long term basis. If the community does wish to expand in the future, an in depth assessment of the water source would be needed to ensure it is sustainable or an additional water source (second well, surface source etc.) may be required.

Interior Health is committed to improving the health and wellness of all by working collaboratively with local governments and community partners to create policies and environments that support good health. If you have any questions specific to this referral, please direct them to [Keyana Bjornson](#), your local water protection Environmental Health Officer.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Osborne'.

Tanya Osborne  
Healthy Communities

A handwritten signature in black ink, appearing to read 'KBjornson'.

Keyana Bjornson  
Health Protection

We recognize and acknowledge that we are collectively gathered on the traditional, ancestral, and unceded territories of the seven Interior Region First Nations, where we live, learn, collaborate, and work together. This region is also home to 15 Chartered Métis Communities. It is with humility that we continue to strengthen our relationships with First Nation, Métis, and Inuit peoples across the Interior.



September 20, 2021

File: 0280-30

Local Government File: F2021.011-ZONE

Christopher Garrish  
Planner Manager  
Regional District of Okanagan-Similkameen  
Via Email: [planning@rdos.bc.ca](mailto:planning@rdos.bc.ca)

Dear Christopher Garrish,

**Re: Textual and Mapping Amendments to OCP Bylaw No. 2790.03 & Zoning Bylaw No. 2461 in relation to development within the Faulder Community Water System.**

Thank you for providing the Ministry of Agriculture, Food and Fisheries (Ministry) staff the opportunity to comment on textual and mapping amendments to the Electoral Area "F" bylaw to address development within the Faulder Community Water System and the greater Meadow Valley Aquifer. The Ministry offers the following comments:

- Within the Faulder Water System area, there does not appear to be any commercial or large agricultural operations that would be affected by the SH7 new zoning restrictions.
- Ministry staff acknowledge that the proposal likely supports producers who have existing licences for both livestock watering and irrigation that may be pulling from the same aquifer who are not within the Faulder Water System area.
- Non-domestic groundwater users may exist within the Meadow Valley/bedrock aquifer area that have not yet applied to have their licence brought into the current water licencing scheme under the *Water Sustainability Act*. As such, users have until March 1, 2022 to have their fees waived and date of precedence saved.
- Ministry staff identify potential for the policy to preclude support for accessory dwellings on agriculturally productive land for workers and labour required to manage farming operations; however, given the lack of commercial agricultural operations within the SH7 water service area, we do not see this as a concern at the current time.

Please contact Ministry staff if you have any questions regarding the above comments.

Sincerely,



Alison Fox, P.Ag.  
Land Use Agrologist  
Ministry of Agriculture, Food and Fisheries  
Alison.Fox@gov.bc.ca  
(778) 666-0566



Philip Gyug, P.Ag.  
Regional Agrologist  
Ministry of Agriculture, Food and Fisheries  
Philip.Gyug@gov.bc.ca  
(250) 378-0573

Email copy: Sara Huber, ALC Regional Planner, Sara.Huber@gov.bc.ca



**Penticton Indian Band**  
Natural Resources Department  
841 Westhills Drive | Penticton, B.C.  
V2A 0E8  
Referrals@pib.ca | www.pib.ca  
Telephone: 250-492-0411  
Fax: 250-493-2882

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**Project Name:**

F2021.011-ZONE - Faulder Zone Review

**FN Consultation ID:**

L-210819-F2021-011-ZONE

**Consulting Org Contact:**

Planning RDOS

**Consulting Organization:**

[Regional District of Okanagan Similkameen](#)

**Date Received:**

Tuesday, August 24, 2021

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

August 26, 2021

Attention: Planning RDOS

File number: F2021.011-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was received on 2021-08-24T00:00:00.

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, the Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 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 economically 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.

lilmłmt,

Heather McDougall

Referrals Clerk

Natural Resources Department

Penticton Indian Band

P: 250-492-0411

[Referrals.clerk@pib.ca](mailto:Referrals.clerk@pib.ca)



**Penticton Indian Band**  
Natural Resources Department  
841 Westhills Drive | Penticton, B.C.  
V2A 0E8  
Referrals@pib.ca | www.pib.ca  
Telephone: 250-492-0411  
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**Project Name:**

F2021.011-ZONE - Faulder Zone Review

**FN Consultation ID:**

L-210819-F2021-011-ZONE

**Consulting Org Contact:**

Planning RDOS

**Consulting Organization:**

Regional District of Okanagan Similkameen

**Date Received:**

Tuesday, August 24, 2021

**File number:**

F2021.011-ZONE

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

Attention: Christopher Garrish

We are in receipt of the above referral. This proposed activity is within the PIB Area of Interest within the Okanagan Nation's Territory, and the lands and resources 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.

PIB has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 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 reviewed.

1. Invoice Number: L-210819-F2021-011-ZONE

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque or cash payable to Penticton Indian Band. re: P.C.132 and send to 841 Westhills Drive, Penticton, British Columbia, Canada V2A 0E8

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.

If the proposed activity requires a more in-depth review, PIB 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.

limlæmt,

Heather McDougall  
Referrals Clerk  
Natural Resources Department  
Penticton Indian Band  
W: 250-492-0411  
[Referrals.clerk@pib.ca](mailto:Referrals.clerk@pib.ca)

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**Penticton Indian Band**  
Natural Resources Department  
841 Westhills Drive | Penticton, B.C.  
V2A 0E8  
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Fax: 250-493-2882

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**Project Name:**

F2021.011-ZONE - Faulder Zone Review

**FN Consultation ID:**

L-210819-F2021-011-ZONE

**Consulting Org Contact:**

Planning RDOS

**Consulting Organization:**

Regional District of Okanagan Similkameen

**Date Received:**

Tuesday, August 24, 2021

**File number:**

F2021.011-ZONE

WITHOUT PREJUDICE AND NOT TO BE CONSTRUED AS CONSULTATION

November 10, 2021

Attention: Christopher Garrish

Re: F2021.011-ZONE - Faulder Zone Review

Invoice # -L-210819-F2021-011-ZONE

We write regarding your failure to pay invoice L-210819-F2021-011-ZONE to conduct a review to obtain additional information in the area of the above referral. To date, no payment has been received and we have therefore been unable to conduct a review of this referral; we must therefore put you on notice that we do not consent, agree or otherwise approve of the activity / development referred to by you in your letter to us dated August 24, 2021.

Invoice Number: L-210819-F2021-011-ZONE

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

The syilx/Okanagan Nation holds unextinguished aboriginal title to the land and resources within our traditional territory. The above-noted activity / development is within PIB's Area of Responsibility within syilx/Okanagan territory and as such, is subject to syilx/Okanagan title, jurisdiction, rights and interests, and PIB decision making and responsibility.

Over the last two decades, the Supreme Court of Canada has clarified the law respecting the rights of aboriginal people in British Columbia, which includes the Penticton Indian Band, syilx/Okanagan Nation. The Court has clarified that Aboriginal title continues to exist in British Columbia, and is protected by s. 35 of the Constitution Act, 1982.

In June 2014, the Supreme Court of Canada in the Tsilhqot'in case set out the following characteristics and implications of



Aboriginal title:

- Aboriginal title is not limited to intensively used sites; it extends to lands physically occupied and lands over which Indigenous peoples exercised control. Regular use of territories for hunting, fishing, trapping and foraging, with an intention and capacity to control the lands, grounds Aboriginal title.
- The Crown has no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in Aboriginal title lands and resources; the beneficial interest is held by the Aboriginal title holding group. Allocations of Aboriginal title lands or resources to third parties are serious infringements of Aboriginal title.
- Aboriginal title includes the right to proactively use and manage the resources.
- Once Aboriginal title is "established", the constitution prohibits incursions without the consent of the Aboriginal title holders unless the Crown can justify the infringement, which in turn requires a compelling and substantial public purpose as well as consistency with the Crown's fiduciary duty to the Aboriginal title holders, requiring the involvement of the Aboriginal title holding group in decisions.
- Before Aboriginal title is "established", the only way to ensure certainty is to obtain consent; in the absence of consent, the Crown must consult and accommodate. If consultation or accommodation is inadequate, the Crown decision can be suspended or quashed. Moreover, fulfilling the duty to consult and accommodate does not provide the certainty that consent provides; once Aboriginal title is established, the Crown may be required to cancel projects where there was no consent and the justification test noted above cannot be met.

Most recently, in November 2019, the province of British Columbia implemented the United Nations Declaration on the Rights of Indigenous Peoples which aims to emphasize the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations. The United Nations Declaration on the Rights of Indigenous Peoples ("the Declaration") recognizes and affirms:

- Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- Article 8(2): States shall provide effective mechanisms for prevention of, and redress for: (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 26(2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
- Article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources particularly in connection with the development, utilization or exploitation of minerals, water or other resources.

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co-existence or accommodation of our jurisdiction and title. The Province continues to act as though we have no beneficial interest or authority, and it takes for itself the revenues derived from our lands and resources. The payment of the referral fee is necessary in order for us to assess your proposal, assess potential impacts and determine whether it should be approved and if so, on what conditions. Because we are unable to undertake such an assessment, we must at this time advise you that we are opposed to your proposed development/activity.

limlæmt,

Heather McDougall  
Referrals Clerk  
Natural Resources Department  
Penticton Indian Band  
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