



PERMIT TO CONSTRUCT, USE, AND MAINTAIN ACCESS TO A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Infrastructure
Vancouver Island District
Third Floor
2100 Labieux Road
Nanaimo, BC V9T 6E9

("The Minister")

AND:

Ross and Shary Stevens
PO Box 1173
Port Alberni, British Columbia V9Y 7M1

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

The installation, operation, and maintenance of Commercial Access (1 X 10m) to serve Lot 1, District Lot 149, Alberni District, Plan VIP1647 for commercial/residential use from Sarenga Road, as shown on drawing submitted with application.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. The Minister shall designate an official ("the Designated Ministry Official") who shall act as the Minister's agent in the administration of this permit in the manner hereinafter set out.
2. The Use shall be carried out according to the reasonable satisfaction of the Designated Ministry Official.
3. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.
4. The Permittee shall make diligent attempts to determine if there are other users of the right of way in the vicinity of the Permittee's location whose use may be affected. It shall be the responsibility of the Permittee to contact any such users before exercising any of the rights granted hereunder and to attempt to reach an accommodation.
5. The Minister shall take reasonable care to do as little damage or interference, as possible, to any Use authorized by this permit in the carrying out of the construction, extension, alteration improvement, repair, maintenance or operation of any work adjacent thereto, but the Minister shall not be responsible for any damage regardless.
6. The Minister at the absolute discretion of the Minister may, at any time, cancel this permit for any reason upon giving reasonable notice; provided, however, that in the case of default by the Permittee or in the case of an emergency no notice shall be necessary. The Minister shall not be liable for any loss incurred as a result of permit cancellation.



7. Placing of speed arresters on the access (or accesses) or in the Permittee's property without the prior consent in writing of the Designated Ministry Official shall render the permit void.
8. The Permittee shall be responsible for replacing any survey monuments that may be disturbed or destroyed by the Use. Replacement must be by a British Columbia land surveyor at the Permittee's expense.
9. The Permittee shall remove any mud, soil, debris, or other foreign material tracked onto the highway from the access authorized herein. Such removal shall be at the Permittee's expense and shall be done at any time the material unduly inconveniences traffic and, in any event, daily.
10. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
11. At the end of the term of this permit, or when the permit is cancelled or abandoned, the Permittee shall, if so requested by the Minister, remove all installations and shall leave the site as near as reasonably possible in the condition it was in before this permit was issued or such other condition as shall reasonably be required by the Designated Ministry Official. If the Permittee refuses to comply with these obligations, the Minister may perform them as required and the Permittee shall be liable to the Minister for the costs of doing so.
12. The rights granted to the Permittee in this permit are not assignable without the consent of the Minister.
13. As a condition of this permit, the permittee unconditionally agrees with the Ministry of Transportation and Infrastructure that the permittee is the prime contractor or will appoint a qualified prime contractor, as described in Section 118 of the Workers Compensation Act, for the purposes of the work described by this permit, at the work location described in this permit, and that the permittee or designated prime contractor will observe and perform all of the duties and obligations which fall to be discharged by the prime contractor pursuant to the Workers Compensation Act and the Occupational Health and Safety Regulation.
14. The permittee is advised and acknowledges that the following hazards may be present at the work location and need to be considered in coordinating site safety: overhead hazards, particularly electrical or telecommunications lines; buried utilities, particularly electrical, telecommunication, and gas lines; traffic, danger trees, falling rocks, and sharp or infectious litter.
15. Any works within the Ministry right-of-way that fall within the scope of "engineering" under the Engineers and Geoscientists Act will be performed by a Professional Engineer and shall comply with this Ministry's "Engineer of Record and Field Review Guidelines". The Guidelines can be viewed on the Ministry's website at <http://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines/technical-circulars/2009/t06-09.pdf>
16. The permittee is responsible for preventing the introduction and spread of noxious weeds on the highway right-of-way as defined by the British Columbia Weed Control Act and Weed Control Regulation.
17. (a) The rights granted under this permit shall not be exercised before April 6, 2021.
(b) The Construction and Installations must be completed on or before July 6, 2021.
18. The layout shown on the submitted drawing is a condition of this permit, and any change in location without the prior consent in writing of the Designated Ministry Official shall render the permit void.
19. The Permittee shall, at his cost, supply, erect, and maintain standard traffic control devices in accordance with the Ministry of Transportation and Infrastructure Traffic Control Manual for Works on Roadways and WCB Regulation, Part 18.
20. The access (or accesses) shall be graveled to an extent satisfactory to the Designated Ministry Official to prevent the tracking of mud and soil onto the highway surface.
21. The profile of the access (or accesses) shall not exceed 2% grade from the ditch-line for a distance of at least 10 metres as measured away from the highway along the centerline of the access.
22. The finished grade of the access (or accesses) at the ditch-line shall be 15 cm below the highway shoulder elevation.
23. Access to be constructed at 90 degrees to the highway for a distance of 10 metres from the highway shoulder.
24. This permit does not provide licensing and insurance and/or oversize, overweight authorization for a commercial vehicle to access a provincial highway from an industrial road. Commercial vehicle operators require authority pursuant to Section 8 of the Commercial Transport Act, R.S.B.C. 1996, and should contact the Provincial Permit Centre at 1-800-559-9688 to obtain a Highway Crossing Permit.
25. Archaeological Interests

Provincial records indicate the proposed works are located within an area with only limited potential to contain archaeological sites protected by the Heritage Conservation Act.



However, the Permittee should be aware that there is still a chance that the area may contain previously unrecorded archaeological material that is protected under the Heritage Conservation Act. This would most likely be indicated by the presence of areas of dark-stained soils containing conspicuous amounts of fire-stained or fire-broken rock, artifacts such as arrowheads and other stone tools, or even buried human remains. If such material is encountered during demolition or construction, a Heritage Conservation Act Permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.

Please contact the Archaeology Branch immediately at (250) 953-3334 if archaeological site deposits are encountered on the subject property.

26. Protection of Survey Monuments

The Permittee shall be responsible for the preservation during construction of all geodetic benchmarks, survey monuments and property markers on the right-of-way. The Permittee shall use, at no expense to the Ministry, a British Columbia Land Surveyor to replace any survey monuments destroyed or damaged as a result of the Permittee's negligence. At locations where construction work will cover or destroy such markers, the Permittee shall not move or remove them until written direction is received from the Ministry Representative.

27. The Permittee will ensure that the works do not, impair, impede or otherwise interfere with:

- I. public passage on the Highways;
- II. the provision of highway maintenance services by the Province, or by its servants, contractors, agents or authorized representatives of the Province in connection with the Highways; or
- III. the operation of the Highways;

28. That where the said works are in the proximity of any bridge, culvert, ditch or other existing work, such work shall be properly maintained and supported in such manner as not to interfere with its proper function, and on the completion of the said works any bridge, culvert, ditch or other existing work interfered with shall be completely restored to its original condition.

29. That before opening up any highway or interfering with any public works, written notice of intention to do so must be given to the Designated Ministry Official at least 72 hours before the work is begun, except in the case of an emergency situation, the Permittee will immediately contact the Road & Bridge Maintenance Contractor or local RCMP.

30. That when necessary all excavations, materials, or other obstructions are to be efficiently fenced, lit, and watched, and at all times every possible precaution is to be taken to ensure the safety of the public.

31. The permittee is responsible for obtaining the necessary approvals from all other agencies whose interests are affected.

32. The permittee will be responsible for any damage to existing overhead or underground utilities in the area covered by this permit.

33. The Permittee is responsible for keeping the area of the crossing clean and free of any debris tracked onto the roadway from the commercial access.

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Nanaimo, British Columbia, this 6 day of April 2021

Tammy Thompson

On Behalf of the Minister