



PERMIT TO CONSTRUCT, USE, AND MAINTAIN WORKS WITHIN THE RIGHT-OF-WAY OF 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
Canada

("The Minister")

AND:

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, British Columbia V9T 6N2

("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 a Roadside Gravel Trail (including culverts & signage) within Peterson Road and Kaye Road, located Block 564, Nanoose District, as shown on revised design drawing submitted on October 23, 2023.

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. That the construction and maintenance of the said works is carried out to the satisfaction of the Regional Executive Director.
2. That, before opening up any highway or interfering with any public work, intimation in writing of the intention to do so must be given to the District Official at least seven days before the work is begun.
3. That any person appointed by the Regional Executive Director for the purpose shall have free access to all parts of the works for the purpose of inspecting the same.
4. That the construction of the said works shall be commenced on or after NOVEMBER 7, 2023, and shall be prosecuted with due diligence and to the satisfaction of the Regional Executive Director and shall be completed on or before MAY 7, 2024.
5. (a) The highway must at all times be kept open to traffic. The roadway must be completely restored for traffic as soon as possible. At all times the permittee must safeguard the traveling public.
(b) That, unless with the consent of the Regional Executive Director, no more than forty-five (45) metres of pipe-track or other excavation in any public highway is to be kept open at one time.
(c) All excavation work must be carried out in accordance with the BC Occupational Health and Safety Regulation. Care shall be taken to protect adjacent property.



(d) That all excavations shall be carefully backfilled with suitable material, which is to be tamped into place, and that the permittee shall restore the surface of the road and shoulders and ditches at their own expense. All surplus material is to be removed from the Provincial Crown lands or deposited where and as required by the District Official of the Ministry of Transportation and Infrastructure. The permittee is financially responsible for any maintenance works required on said ditch for a period of one year. The Ministry will carry out the necessary remedial work and invoice the permittee monthly.

(e) The pipeline crossing installation is to be placed by drilling and (or) jacking in such a manner as to afford minimum grade settlement. No water jetting will be permitted. That where, in the opinion of the District Official, an excavation or opening for a pipeline crossing installation could be made which would not be detrimental to the highway or its users, permission will be granted for said works. On throughways, freeways, and main highways no open cuts will be allowed.

(f) That all pipelines in excess of a nominal diameter of 5 cm., whether gas, oil, water, pressure sewers, conduits, etc., shall be installed where indicated by the District Official, encased in a steel casing-pipe or conduit-pipe of sufficient strength to withstand all stresses and strains resulting from the location, such casing to extend the full width of the highway right-of-way if deemed necessary to the District Official. The ends of the casing-pipe shall be suitably sealed and, if required, properly vented above the ground with vent-pipes not less than 5 cm. in diameter and extending not less than 1.2 metres above ground surface. Vent-pipes shall be connected 30 cm. from the ends of the casing-pipe, and the top of each vent shall be fitted with a turn-down elbow, properly screened, and equipped with identification markers.

All pipelines of non-rigid material, i.e., plastic or copper, of any diameter, shall be cased, or embedded in sand.

The inside diameter of the casing-pipe shall be at least 25 percent larger than the outside diameter of the pipeline. The casing-pipe shall be installed with an even bearing throughout its length, and in such a manner so as to prevent leakage, except through the vents.

The top of the casing-pipe, or the pipeline where casing is not required, shall be located as directed by the District Official, and shall in no case be less than 1.2 metres below the surface of the highway and not less than 75 cm below the highway ditches. Pipelines must not obstruct drainage structures or ditches or interfere with traffic on the highway or with highway maintenance.

6. That where the work for which permission is hereby granted comes in contact with any bridge, culvert, ditch, or other existing work, such existing work must be properly maintained and supported in such manner as not to interfere with its proper function during the construction of the new work, and on the completion of the new work the bridge, culvert, ditch, or other existing work interfered with shall be completely restored to its original good condition.
7. 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.
8. 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.
9. That the permission herein granted to use and maintain the works is only granted for such times as the land or public work in, upon, or over which the said works are constructed is under the jurisdiction of the Minister of Transportation and Infrastructure. This permission is not to be construed as being granted for all time and shall not be deemed to vest in the permittee any right, title or interest whatsoever in or to the lands upon which the works are constructed. Should the lands affected at any time be included within that of an incorporated municipality or city, this permission shall become void, unless the works are on a highway duly classified as an arterial highway pursuant to Section 45 of the Transportation Act.
10. That after receiving notice in writing of the intention on the part of the Provincial Government to construct, extend, alter, or improve any public work, the person or persons responsible for the maintenance of the works for which permission is hereby granted shall within six weeks move or alter such work at their own expense to such new positions or in such manner as may be necessitated by the construction, extension, alteration, or improvement proposed to be carried out by the Provincial Government.
11. That while reasonable care will be taken on the part of the Provincial Government to do as little damage as possible to any private work in the carrying-out of the construction, extension, alterations, improvement, repair, or maintenance of any public work adjacent thereto, the Provincial Government can accept no responsibility for any kind of such damage.
12. That the permission hereby granted to construct, use, and maintain work is granted without prejudice to the provisions of the Transportation Act, or other Acts governing Crown lands and public works or their use by the public.
13. That this permission shall be in force only during such time as the said works are operated and maintained by the applicants, to the entire satisfaction of the Regional Executive Director.
14. That the Ministry will not be responsible for grade changes on accesses caused by reconstruction of any Provincial highway.
15. This permit is valid only for the specific works stated herein. Any alterations or additions must be covered by a separate permit.



16. This permit may be canceled, at the discretion of the Minister, without recourse should the permittee fail to comply with all the terms of the permit. Thirty days' notice will be given before cancellation.
17. When the requirements of the Ministry necessitate use of the said lands for Provincial purposes, at the discretion of the Minister, this permit may be canceled.
18. That these works shall be identified with this permit number in a manner satisfactory to the District Official of the Ministry of Transportation and Infrastructure.
19. 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.
20. 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.
21. 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 "Professional Assurance Guidelines". The Guidelines can be viewed on the Ministry's website at <https://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines/technical-circulars/2023/t01-23.pdf>
22. 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.
23. The Permittee to be responsible for the supply of all labour, equipment, materials in connection with these works.
24. The Minister is under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating, or developing the Permit Area or the Improvements and the Permittee is solely responsible for all costs and expenses associated with their use of the Permit Area and Improvements.
25. The Permittee is responsible for obtaining approval from all other agencies affected by the works.
26. The Permittee shall be responsible for any damage to existing overhead or underground utilities in the area covered by this permit.
27. The Trail shall be constructed with culvert pipes which are a minimum of 450mm in diameter, manufactured to CSA or ASTM standards and laid at ditch invert elevation.
28. The Permittee shall be responsible for maintaining positive drainage in the location covered by this permit. Maintenance and periodic cleaning of the culverts is the responsibility of the Permittee.
29. The Ministry requires an invasive plant management plan detailing appropriate ground disturbance rehabilitation and weed control measures.
30. The Permittee shall obtain and maintain Commercial General Liability insurance including non-owned automobile and contractual liability insurance in an amount of not less than \$5,000,000.00. The insurance shall comply with all terms and conditions of the Ministry Certificate of Insurance (H0111) and evidence of such insurance shall be given by way of a duly completed H0111. All insurance coverage shall be issued with insurers acceptable to the Ministry and issued by companies licensed to transact business in the Province of British Columbia and Canada.
31. In accordance with Sections 000.03 Non-Ministry Developments on Ministry Land or That are Intended to Become Ministry Assets and 165.20 Archaeological and Paleontological Discoveries of the Design Build Standard Specification for Highway Construction - In the event that any item of archaeological, heritage, historical, cultural or scientific interest is found on the project site, the following Chance Find Procedure shall apply:

Such item(s) shall remain the property of the Province and the Permittee shall, on making or being advised of such a find, immediately cease operations in the affected area, minimize activities which create ground disturbance in and adjacent to the affected area, and notify the District Official and the Archaeology Branch of the British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development [Ministry of Forests]. Work shall not resume within 30 m of the discovery site until an appropriate directive has been received from that agency. To protect archaeological and paleontological sites that are situated within or adjacent to a project site, the Permittee may be required to use a variety of mitigative measures, including but not limited to drainage or erosion control, slope stabilization measures, or erecting fences or other suitable barriers to protect archaeological or paleontological sites that are situated within or adjacent to a project site. These measures, with any negotiated extensions of time for completion of the Works they require, will be determined, and adopted at the discretion of the District Official. The costs associated with such mitigative measures will be borne by the Permittee.

A buffer zone, in which no land alteration or other activity is permitted, may be required to ensure adequate site protection. The width of this buffer zone shall be determined by the District Official in consultation with a representative of the Archaeology



Branch of the British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development [Ministry of Forests]. The Permittee shall be responsible for the actions of employees and subcontractors with respect to site vandalism and the unlicensed collection of artifacts from Designated archaeological sites in and around the work location.

The Permittee shall ensure that all workers and Subcontractors are fully aware of these requirements and processes.

32. 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;

33. Excavations across entrances

Excavations across entrances, whether private or commercial, must be backfilled and thoroughly compacted by the end of the current working day. The surface must be restored, whether paved or gravel, to its original condition within 48 hours.

Affected property owners must be notified at least 48 hours in advance before excavating a driveway.

34. The Permittee is responsible for ensuring that all works are contained to the highway right of way. Any works located within private property must have the owner's permission.

35. 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.

36. Protection of Roads

The Permittee shall ensure all equipment working on or hauling material on to and from the Site does not damage or deposit material onto any part of an existing roadway. Materials spilled onto the public roadways or driveways opened to public traffic shall be cleaned up immediately. The Permittee has the full responsibility to repair any damage to existing highways, local roads and driveways caused by its construction equipment and/or operations.

37. Accommodation of Traffic

The Permittee shall, at their cost, supply, erect, and maintain standard traffic control devices in accordance with the Ministry of Transportation and Infrastructure Traffic Management Manual for Work on Roadways and Occupational Health and Safety Regulation.

38. Clean Up

All unsuitable material and inorganic debris shall be removed from the project area. All surplus or unsuitable organic waste and debris shall be removed from the site unless its complete burning is approved by the Designated Ministry Official in compliance with the B.C. Open Burning Smoke Control regulation.

39. Revegetation Seeding

Sites are to be reseeded to standards set out in Section 757, Standard Specifications for Highway Construction.

40. That all trail signs shall be at least THREE metres from the edge of the nearest traveled lane.

41. Installation and maintenance of trail signage shall be the responsibility of the Permittee.

42. Sign and posts must be installed according to Ministry of Transportation specifications.

43. The sign must be removed immediately if and when the right-of-way is required by the Ministry of Transportation and Infrastructure.

44. The Permittee is responsible for any damage claims that may arise due to the trail signage.

45. The Permittee shall be the first point of contact for any disputes regarding the use of the Permit Area and shall make every effort to resolve the dispute.

46. The Permittee shall keep the Permit Area and the Improvements in a safe, clean, and sanitary condition satisfactory to us, and at our written request, make the Permit Area and the Improvements safe, clean, and sanitary.



- 47. The Permittee shall be responsible for the maintenance of all drainage courses during the project and for the restoration of such drainage courses to their original condition upon completion of the project.

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 November 2023

On Behalf of the Minister