



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
West Kootenay District
310 Ward Street
4th Floor
Nelson, BC V1L 5S4

("The Minister")

AND:

Gordon Heetebrij BC Timber Sales
1907 Ridgewood Road
Nelson, BC V1L 6K1

("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 new Forest Service Road access (FSR 8500) at 8.5km Kokanee Glacier Park Rd., as shown on drawing attached.

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 co-ordinating 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. The Use shall be carried out according to the following drawings and specifications, which are attached and shall be considered to be part of this permit:

Terrain Stability Assessment, prepared by Sitkum Consulting, Ltd., dated June 16, 2020.
18. Please be advised that the Ministry of Transportation and Infrastructure annually implements and enforces its Seasonal Load Restriction Program. This Program will limit the axle weight of various vehicles at certain times of the year. Check with the local Ministry office to see how this permit may be affected by the Program.
19. The layout and location of the access as per the attached drawing, is a condition of this permit, and any change in layouts without the prior consent in writing of the Ministry Representative shall render the permit void.
20. The access shall have minimum sight lines of no less than _130_ meters in both directions along their respective road.

DEFINITION OF SIGHT LINE - the distance measured in meters in a straight unobstructed line between two points 1.3 meters above the surface of the road or access. One point shall represent a driver's eye view of the highway from a vehicle entering the highway from the access. The other point represents a driver's eye view of the access from an approaching vehicle on the highway. These factors and their relationship with the posted speed of the highway determine line of sight requirements.
21. Should the sight line requirements as stated above not be achievable then the Permittee may be required to do the following:

For all industrial traffic entering/exiting the access, solely at the Permittee's expense, the Permittee shall use traffic control flaggers, certified to operate in the Province of British Columbia. Traffic Control Personnel shall be located at an appropriate distance from the permitted access point in order to ensure the safety of the travelling public and of the vehicles exiting the access point. Traffic control shall operate in such a manner as to minimize traffic disruption on the highway and hold traffic on the access until a sufficient gap appears in the highway traffic prior to entering.



22. If sight line requirements as stated above are met, then all movements may not be permitted. If not, the access may be restricted to right in/right out movements only.
23. The Permittee shall supply and install one, R-1 Stop sign on the access at the entrance to Kokanee Glacier Park Rd., as per the Ministry "Manual of Standard Traffic Signs & Pavement Markings", which may be found at:
https://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines/traffic-engineering-and-safety/traffic-engineering/traffic-signs-and-pavement-markings/manual_signs_pavement_marking.pdf.
24. No merchantable timber may be removed from the highway right-of-way without approval of the Ministry of Forests, Lands & Natural Resource Operations (MFLNRO). MFLNRO must be contacted and stumpage fee payment arrangements satisfied prior to the removal of any merchantable timber from highway right-of-way.
25. The entrance shall have a maximum grade of 2% and shall be perpendicular to the highway for a distance of at least 9 metres from the shoulder of the road along the centerline of the access.
26. Whether paved or graveled, the Permittee will ensure the first 9 meters of the access is suitably surfaced to minimize tracking of debris onto the highway.
27. The portion of the access located on highway right-of-way shall be a maximum of 9 metres wide.
28. As prescribed in Appendix B of the Terrain Stability Assessment, prepared by Sitkum Consulting, Ltd., dated June 16, 2020, culverts shall be installed and maintained to provide unimpeded flow of water at all times along Kokanee Glacier Rd.
29. Permittee shall be responsible for locating and for any damage to, other works within highway right-of-way.
30. The Permittee will apply dust abatement when deemed necessary by the District Manager Transportation.
31. Only rubber-tired equipment may be used on pavement or on shoulders of paved highways.
32. The Permittee shall not undermine the Ministry's highway in any way when constructing said access.
33. Roadways, ditches, and right-of-way to be restored to their previous condition or better, to that which existed prior to the work(s), and to the satisfaction of the Ministry Representative.
34. The Permittee is responsible for any fill which is placed in the Ministry right-of-way for the purposes of access construction and shall provide for the natural drainage of the adjacent ditch which it encompasses.
35. The highway surface shall be restored and kept clear and clean of materials and equipment at the end of each day. Shoulders shall not be used to store materials and/or equipment.
36. The Permittee shall remove, pile and burn or chip all slash, trees, and tree limbs from the road allowance and maintain the brush to maximize sight distance at all times.
37. No excavated materials will be stockpiled on the traveled portion of the highway.
38. The Permittee may not remove gravel, timber, stone and/or other materials from Ministry right-of-way for construction of the access without prior permission from the Ministry Representative.
39. The Permittee shall continuously provide sufficient space for a minimum of 2 off-street parking stalls and a turnaround. No parking is permitted on highway right of way.
40. The Permittee shall be solely responsible for all costs and other related permissions associated with the approval and construction of the access applied for herein.
41. The Permittee shall not place any permanent structure with a horizontal dimension exceeding zero point six (0.6) meters within a distance of four point five (4.5) meters from the property line.
42. This permit is issued only to the Permittee, for the sole purpose as stated in the permitted application. Any change in land-use will result in this permit becoming null and void.
43. The Permittee may not assign any part of this Agreement without the consent, in writing, of the Minister.
44. The Permittee will ensure that the works do not impair, impede or otherwise interfere with:
 - a) public passage on the Highways;
 - b) 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
 - c) the operation of the Highways;all of which together are hereinafter referred to as "the Use".



45. The Permittee shall ensure that the contractor working within Ministry right of way has Comprehensive Liability Insurance (Commercial) in the amount of two million dollars (\$2,000,000).
46. This permit does not provide licencing 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.
47. The permittee shall de-activate and remove the FSR access within 5 years or when logging and silviculture activities are complete, whichever is sooner.
48. The Ministry Representative is Juliet Spalding, Development Officer, West Kootenay District, Nelson - Juliet.Spalding@gov.bc.ca or (250) 354-6318.

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 Nelson, British Columbia, this 30 day of October, 2020

On Behalf of the Minister

