

Appendix E: Ministry of Transportation Setback Permit



BRITISH
COLUMBIA

Ministry of
Transportation

Permit/File Number: 2023-02925
Office: Saanich Area Office

**PERMIT TO REDUCE BUILDING SETBACK LESS THAN 4.5 METRES FROM THE
PROPERTY LINE FRONTING 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

Saanich Area Office
240-4460 Chatterton Way
Victoria, British Columbia V8X 5J2
Canada

("The Minister")

AND:

[Redacted Name]

("The Permittee")

[Redacted Name]

("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 construction of a building, the location of which does not conform with British Columbia Regulation 513/04 made pursuant to section 90 of the Transportation Act, S.B.C. 2004, namely; to allow a 105 square foot 12 foot by 8 foot wood framed utility shed located on a concrete slab within the 4.5 meter setback from Piper Lane PID 027-254-003. As see on attached survey drawing.
- 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. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
- 2. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
- 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



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- 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. Should the said structure be destroyed, removed or dismantled, this permit is automatically cancelled and another permit will not necessarily be granted for a new similar structure.
 5. This permit is valid only for the specific works stated herein. Any alterations or additions must be covered by a separate permit.
 6. 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.
 7. The Permittee will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation and Infrastructure, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by 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 sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this permit.
 8. If any BCLS survey posts are removed, moved or damaged during the construction of the said Works they must be replaced by a registered BC Land Surveyor at the expense of the Permittee.
 9. Any damage to the Ministry of Transportation and Infrastructure's right-of-way as a direct result of the permitted works, shall be repaired and maintained by the Permittee in perpetuity.
 10. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
 11. The Ministry of Transportation and Infrastructure and/or the Maintenance Contractor shall not be held accountable for any damage(s) to the said structure, however caused.
 12. The Permittee may not assign any part of this Agreement without the consent, in writing, of the Minister.
 13. The Permittee must ensure that the most current editions of the following standards and specifications, manuals and guides are utilized and complied with during the installation, operation and maintenance of the Works:
 - (a) Ministry Utility Policy Manual
 - (b) Ministry Traffic Control Manual for Work on Roadways
 - (c) Ministry Traffic Management Guidelines for Work on Roadways
 - (d) Ministry Standard Specification for Highway Construction
 14. It is the responsibility of the Permittee to ensure that all equipment and vehicles crossing Provincial highways or side roads have the proper approval and insurance as required and issued by the Commercial Vehicle Safety and Enforcement Division. For permits or inquiries please contact the Provincial Permit Centre at 1-800-559-9688.
 15. A copy of this permit must be on site at all times during the said works.
 16. The Permittee shall determine the location of highway right-of-way to ensure their permitted work is within Ministry jurisdiction. The Permittee is responsible for all trespass issues.
 17. This permit in no way grants exclusive use to the Permittee for any portion of the access on right-of-way.
 18. 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.
 19. No further additions or improvements shall be made to the said structure without prior consent of the Ministry of Transportation and Infrastructure.
 20. 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.
 21. 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.
 22. Permittee to be responsible for all future drainage problems as they pertain to said works.
 23. The Ministry, or its contractors, will not be responsible for installation or maintenance of the landscaping.



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24. The Permittee to be responsible for any settlement, erosion or other damage caused as a result of this construction for a period of two years from completion of construction.
25. All costs entailed in the construction and maintenance of the works are to be borne by the Permittee.
26. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
27. The rights granted under this permit and certificate are for an indefinite period.
28. If the Permittee proceeds on this permit, it is deemed they have accepted all terms and conditions.
29. The Permittee must contact the Archaeology Branch immediately at (250) 953-3334 if archaeological site deposits are encountered on the subject property. In the event that any item of archaeological, heritage, historical, cultural, or scientific interest is found on the project site, the Permittee shall have a Chance Find Procedure in place and utilize it when required.

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 Victoria, British Columbia, this 21 day of June, 2023

Ryan Pinches

On Behalf of the Minister