

LOWER NICOLA **INDIAN BAND**

Lands Management Advisory Committee

LMAC Meeting: Monday, August 24, 2020

Details to Join Skype Meeting by Phone:

Dial-in toll number: 1 (647) 260-0507

Conference ID: 121 618 322 #

If you would like to join by Skype to see meeting materials as we discuss them, find details on the LNIB website or email Jerrica.Joe@lnib.net for more information.

Notes:

- 1. To maintain audio quality and meeting flow, non-LMAC attendees may be muted during the meeting.*
- 2. Attendees may enter a “waiting room” as LMAC members get set up; everyone is let in as soon as we are ready to start (typically 5-10 minutes after 4:00pm).*
- 3. Questions and comments can be submitted to Jerrica.Joe@lnib.net prior to the meeting to be addressed during or after the meeting.*

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Agenda
August 24, 2020, 4:00pm
Virtual Skype Meeting**

| TIME | ITEM | PRESENTER |
|------|---|--|
| 4:00 | 1. MEETING OPENING 1.1. Opening Prayer 1.2. Introductions | |
| 4:10 | 2. ADMINISTRATION 2.1. Adoption of Agenda 2.2. Conflict of Interest Declaration 2.3. Adoption of Minutes <i>Reference: 2020-07-27 LMAC Meeting Minutes draft</i> | |
| 4:20 | 3. PRESENTATIONS 3.1. Environmental Management Plan (EMP) <i>Reference: EMP Presentation to LMAC</i> | David Carson & Lindsay Hutchinson, Land Forest People |
| 5:20 | 4. FOR INFORMATION AND DISCUSSION 4.1. Project Funding: Indian Act Legacy Issues <i>Reference: 2020-2021 Illegal Dumping Proposal Budget; Illegal Dumping Mitigation Strategy; LNIB Expropriation Law Proposal</i> 4.2. LMAC Quarterly Report <i>Reference: LMAC Quarterly Report for Q1</i> 4.3. LMAC Meeting Schedule <i>Reference: 2020-2021 LMAC Meeting Schedule</i> 4.4. Fencing Along Mamit Lake Road <i>Reference: MOTI Hwy Fencing Program Application; Fencing Map</i> 4.5. Enforcement Law Review: Community Justice Process <i>Reference: ILRU Conflict Resolution Literature Review</i> 4.6. Business Licensing Law Review (continued) <i>Reference: LNIB Business Licensing Law Draft 01 (excerpt)</i> | Stephen Jimmie Brandi O’Flynn Brandi O’Flynn Brandi O’Flynn Stephen Jimmie Stephen Jimmie |
| 5:20 | 5. NEW BUSINESS 5.1. Aspen Planers Road Use Agreement <i>Reference: Aspen Planers RUA; RUA Map; Resolution No. 2020-06</i> | Brandi O’Flynn |
| 6:55 | 6. MEETING CONCLUSION | |

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Minutes**

**July 27, 2020, 4:00 pm
Virtual Skype Meeting**

| | | | |
|-----------------|---|-----------------|-------------------------------|
| Present: | Bill Bose (Chair) | Madeline Lanaro | Louise Moses |
| | Hrolfe Joe (Co-Chair) | Robert Sterling | Sondra Tom (departed 5:49 PM) |
| Absent: | Gene Moses (excused) | | |
| Guests: | Shawn Speirs, Lands Advisory Board Resource Centre (LABRC) Tyson Lamarsh, Miller Titerle & Company | | |
| Staff: | Stephen Jimmie | Brandi O'Flynn | Jerrica Joe |

1. MEETING OPENING

The meeting was called to order at 4:06 PM. All attendees participated via phone or computer.

1.1. OPENING PRAYER

An opening prayer was offered by Bill Bose.

1.2. INTRODUCTIONS

Tyson Lamarsh of Miller Titerle & Company and Shawn Speirs of the First Nations Lands Management Advisory Board Resource Centre (LABRC) provided introductions of themselves to the LMAC.

2. ADMINISTRATION

2.1. ADOPTION OF AGENDA

Motion (01): That the LMAC Meeting Agenda dated July 27, 2020, be adopted with the following amendment:

- Add 2.2 Conflict of Interest Declaration

Moved: Sondra Tom

Seconded: Madeline Lanaro

Motion Carried

2.2. CONFLICT OF INTEREST DECLARATION

During the presentation of item 3.1 Trans Mountain Expansion Project & LNIB Lands, it was discussed and determined that Robert Sterling had a conflict of interest regarding this topic.

2.3. ADOPTION OF MINUTES

Reference Materials: 2020-07-13 LMAC Meeting Minutes draft

Motion (02): That the LMAC Meeting Minutes dated June 13, 2020, be adopted as circulated.

Moved: Sondra Tom

Seconded: Hrolfe Joe

Motion Carried

3. PRESENTATIONS

3.1. TRANS MOUNTAIN EXPANSION PROJECT & LNIB LANDS

Reference Materials: 2020-07-22 Presentation to LMAC re TMEP Easement; LNIB TMEP Permits

Tyson Lamarch presented the reference materials, overviewing the background and next steps for LMAC and LNIB regarding Trans Mountain and the Trans Mountain Expansion Project (TMEP).

Points of discussion and questions included:

- To the best of Tyson’s knowledge, most or all of the affected individual landholders have concluded their negotiations with Trans Mountain;
- Tax revenues for LNIB for the duration of operation of the pipeline through LNIB Lands, with the easement lasting 99 years and being renewed thereafter—this revenue is essentially indefinite;

Discussion ensued on whether Robert Sterling was in a conflict of interest regarding this topic. Sondra and Madeline both noted their opinions that Robert should not be present during this item and other LMAC members agreed. Robert departed the meeting at 4:57 PM, per LMACs determination.

The presentation and discussion resumed once Robert departed. Points of discussion and questions included:

- LNIB compensation from the TMEP, and monies received by LNIB through the Mutual Benefits Agreement with Trans Mountain;
 - Options to return to Trans Mountain for further negotiations and the fiduciary obligation of Council and committees to seek the best compensation for the community;
 - LNIB Band Lands may have been compensated significantly lower than individually-held lands;
 - LNIB membership’s referendum results that supported the Mutual Benefits Agreement and the fact that Trans Mountain has started the permitting process to bypass LNIB Lands;
 - Community needs that could benefit from additional compensation from Trans Mountain;

Decision (01): LMAC would like Tyson Lamarch of Miller Titerle & Co. to pursue further compensation for the Trans Mountain Expansion Project easement across LNIB Band Lands, given LMAC’s fiduciary obligations to LNIB membership.

Tyson confirmed the next steps for this item and that updates shall be provided to LNIB through Kari Reilander (Executive Director), Leesa Mike (Director of Economic Development), and Stephen Jimmie (Director of Lands). Tyson departed the meeting at 5:48 PM. Sondra departed the meeting at 5:49 PM.

4. FOR INFORMATION AND DISCUSSION

4.1. ENFORCEMENT LAW REVIEW: COMMUNITY JUSTICE PROCESS

Reference Materials: ILRU Conflict of Interest Literature Review

Stephen reminded the LMAC of the ongoing discussion regarding a Community Justice Process to be included in the Enforcement Law. Stephen overviewed the reference materials. As not all members had a chance to review the materials, due in part to the small print, this will be reviewed at the next meeting.

Action (01): Jerrica will print out two additional, larger-print copies of the ILRU Conflict Resolution Literature Review document for Bill Bose and Madeline Lanaro to pick up from outside the Lands office.

4.2. BUSINESS LICENSING LAW REVIEW

Reference Materials: LNIB Business Licensing Law Draft 01

Review of the drafted Business Licensing Law continued, with a member reading aloud, from section 10. Questions and comments included:

- Possibility of a meeting motion having been passed at a Council meeting which determined that catered foods are to be prepared on-site, not in members' homes;
- Scope of the term "licensed professionals", which excludes professions such as hairdressing, and how to clearly include these non-licensed professions in section 11.2, so that they would not require a business license;
- Whether this Law considers logging, and other businesses based on-reserve through a home-based office, and for which business activities may be conducted off-reserve;
- Minor spelling or grammatical errors to be corrected throughout;
- The expiration of business licenses on December 31 and the responsibility of businesses to apply for their licenses far enough in advance to avoid being without a license at the start of the calendar year, when LNIB staff may be out of the office;
- Community consultation requirements for retail cannabis businesses despite the community survey whose results showed a majority of LNIB member respondents in favour of this type of business;

The review of this draft law shall continue at the next meeting, starting at *Part 6 – General Requirements for all Licenses*, section 33.

5. MEETING CONCLUSION

5.1. NEXT LMAC MEETING

Discussion ensued on when to hold the next LMAC meeting.

Decision (01): Next Meeting: Monday, August 24, 2020, at 4:00 PM.

Motion (04): That the Lands Management Advisory Committee meeting be concluded at 7:09 PM.

Moved: Bill Bose

Seconded: Madeline Lanaro

Motion Carried

Lower Nicola Indian Band

ENVIRONMENTAL MANAGEMENT

Presentation to Lands Management
Advisory Committee
August 24th, 2020



Land
Forest
People.

- We wish to acknowledge the territory of the Nłeʔkepmxc Nation and Scw'exmx people
- We thank Chief and Council for the opportunity to share with you today
- We thank the staff at LNIB for their support and confidence



Land Forest People.®



*Founded in 2011 with the purpose of helping build
strong communities through environmental
stewardship*

Environmental Management



Project Team

LNIB Lands Sector

- Stephen Jimmie
- Brandi O'Flynn
- Jerrica Joe

Land Forest People Consulting

- David Carson
- Lindsay Hutchinson
- Tammy Peters



Purpose and Scope

- The *Environmental Management Plan* (EMP) is enabled by the *LNIB Environmental Management Law*
- The purpose of the EMP is to ensure that environmental policy, practices, and administrative procedures are in place to support a healthy and sustainable community as envisioned by the people
- The scope of the plan is limited to LNIB lands included in *Land Code*, excluded therefore is Hihium



Approach

- Manage and minimize impacts on the environment
- Reflect LNIB values shaped by the community
- Set policies and administrative procedures to implement the vision
- Increase awareness and promote sustainability
- Evaluate and measure our progress



Vision

- LNIB *Vision Statement*
- LNIB *Strategic Plan*
- CCP framework
- Land use plans (previous and in development)
- Looking forward to community level input once COVID limitations on travel and gathering are loosened



Planning and Regulatory Context



Regulatory Context

- Inherent rights
- *Framework Agreement on First Nation Land Management, Land Code*
- Enabled by the *LNIB Environmental Management Law* (under development)
- Consistent with all related LNIB strategic plans, policies, suite of legislation (under development)



Regulatory Components

- Land Use and Zoning Law
 - to enable the well-balanced development of LNIB land*
 - Land Use Plan
- Subdivision, Development and Servicing Law
 - to promote environmentally sustainable, healthy, safe and well-planned development and construction on LNIB land*
 - LNIB Development Guidelines
 - Timber Permit Policy
 - Cultural Heritage Policy



Regulatory Components (2)

- Environmental Management Law

to ensure that the Lower Nicola Indian Band people's vision of a safe, prosperous, and sustainable community is achieved while caring for our land and water

- Environmental Management Plan
- Solid Waste Management Plan

- Enforcement and Ticketing Law

to promote fair, effective and efficient enforcement of our laws on LNIB lands



Environmental Management Law

- Enables the preparation of an environmental management plan and an emergency management plan
- Prohibits improper disposal of contaminants, wastes, industrial wastes, and litter
- Enables LNIB environmental operating procedures



Environmental Management Law (2)

- Controls the movement of soils
- Control of the handling, storage, and transportation of fuel and environmental contaminants
- The remediation of contaminated sites
- The issuing of environmental permits orders and remediation orders



Plan Content



Vision, Objectives, Strategies, Goals and Indicators



Policy

- It is the policy of LNIB to provide a clear and transparent process for the administration of environmental management on LNIB land within specific environmental resources or issues:
 - Water and wastewater
 - Air quality
 - Soil conservation
 - Hazardous and solid waste
 - Fuel storage and handling
 - Cultural resource protection
 - Fish and wildlife
 - Land development
 - Environmental emergency response
 - Climate change



Content: Environmental Operating Procedures (EOPs)



Content: Environmental Operating Procedures (EOPs)

- EOP 1 – Recycling
- EOP 2 – Composting
- EOP 3 – Hazardous Waste
- EOP 4 – Bio-hazardous Waste
- EOP 5 – Residual Waste Disposal
- EOP 6 – Industrial Waste
- EOP 7 – Land Filling And Soil Conservation
- EOP 8 - Fuel Handling And Storage
- EOP 9 - Fuel Spills And Response
- EOP 10 – Leaks Threatening Water
- EOP11 – Water And Wastewater
- EOP 12 – Air Quality
- EOP 13 – Land Development
- EOP 14 - Impact Assessment
- EOP 15 - Cultural Heritage Protection
- EOP 16 – Invasive Species
- EOP 17 – Species At Risk



Implementation and Administration

- Document control
- Annual planning and review
- Amendments and updates



Action Plan

- Obligations
- Priorities
- Mid-term planning
- Training and education



Project Status and Timeline



Project Status and Timeline

March 2019:

- Initial draft EMP and EM Law, in conjunction with phase I of solid waste planning

March 2020:

- Updated draft EMP in conjunction with phase II of solid waste planning

Remainder of 2020:

- Finalize EM Law, conduct community engagement on EMP and finalize EMP



THANK YOU



**Lower Nicola Indian Band Illegal Dumping Mitigation
Schedule 2020-2021**

| Parts | Proposal | In-Kind | Requested |
|---|------------------|------------------|------------------|
| I. Illegal Dumping Mitigation Strategy Implementation | | | |
| Installation of Gates x 5 @ \$6,000 per | \$30,000 | -\$12,000 | \$18,000 |
| Installation of Trail Cameras, Cellular Capable x 4 @ \$700 per | \$2,800 | -\$2,800 | \$0 |
| Installation of Trail Cameras x 16 \$200 per | \$3,200 | -\$3,200 | \$0 |
| Installation of Signs x 20 @ \$250 per | \$5,000 | -\$5,000 | \$0 |
| Spring Cleanup Event 2021 | \$10,000 | -\$10,000 | \$0 |
| II. Illegal Dumpsite Cleanup - Surface Removal | | | |
| Gandalf Consulting | | | |
| - Pre-waste removal coordination and planning | \$7,050 | | \$7,050 |
| - Soil sampling and analysis at APEC 5 and 6 | \$7,700 | | \$7,700 |
| - Reporting for APEC 5 and 6 | \$5,100 | | \$5,100 |
| Shulus Forestry Enterprise Ltd. | \$32,000 | | \$32,000 |
| - APEC 5 Mamit Lake Road 4 Mile Dump, IR1 | \$58,375 | | \$58,375 |
| - APEC 6 Buried Dump 1 Mamit Lake Ranch Road South, IR1 | \$7,230 | | \$7,230 |
| - APEC 7 Buried Dump 1 Mamit Lake Ranch Road North, IR1 | \$19,925 | | \$19,925 |
| - APEC 4 Lot 11 Dump Site, IR4 | \$11,540 | | \$11,540 |
| - APEC 1 Lot 9 Residential Dump, IR2 | \$6,920 | | \$6,920 |
| - APEC 3 Lot 6 Residential Dump, IR2 | \$10,390 | | \$10,390 |
| III. Expropriation Law Development | | | |
| Land Forest People - Expropriation Law Development | \$14,250 | | \$14,250 |
| Project Mangement and Coordination | | | |
| LNIB Director of Lands x 20 days @ \$480 per | \$9,600 | -\$9,600 | \$0 |
| LNIB Lands Manager x 30 days @ \$250 per | \$7,500 | -\$7,500 | \$0 |
| Land Forest People | \$23,100 | | \$23,100 |
| Totals | \$271,680 | -\$50,100 | \$221,580 |



**LOWER NICOLA
INDIAN BAND**

SOLID WASTE MANAGEMENT: ILLEGAL DUMPING MITIGATION STRATEGY



Prepared by:
Land Forest People Consulting Ltd.
1076 Verdier Avenue
Brentwood Bay, BC V8M 1E6

May 30th, 2020

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People**[®]

Land Forest People wishes to thank Lower Nicola Indian Band for the opportunity to be of service. We acknowledge the contributions made to this project by:

- The staff of Lower Nicola Indian Band
- The First Nations Land Management Resource Centre

Executive Summary

This report is a product of the second phase in LNIB solid waste management planning that began in early 2019. At the outset of the project, LNIB identified the elimination of inappropriate dumping as one of the project goals. Initial recommendations in 2019 include implementing low- and no-cost educational resources that encourage residents to use existing recycling programs for many household items that are being illegally dumped. This report is the result of further investigation into possible strategies that LNIB might employ to combat illegal dumping at known sites on their land.

We examined seven distinct known illegal dumping sites on LNIB land. The environmental site assessment process designates them as, areas of potential concern (APECs). A number of smaller undesignated dumping sites occur in close proximity to those APEC sites, and where it makes sense to do so, we include them in this assessment.

We have attempted to understand the range of physical and social factors that contribute to an individual's decision to engage in illegal dumping which we discuss in section 3.0. In section 4.0 we survey different strategies to combat illegal dumping, some of which were of particular interest to LNIB, and some of which are taken from a survey of best practices. We looked specifically at trail cameras, security gates and other physical barriers, and the use of other tools such as lighting and signage, as potential strategies that LNIB might employ. We did not look at legislation as a tool to combat illegal dumping as that is being developed by LNIB as part of another project. The seven known dump sites we investigated are:

- APEC 5 Mamit Lake Road 4 Mile Dump;
- APEC 6 Buried Dump 1 Mamit Lake Ranch Road South;
- APEC 7 Buried Dump 2 Mamit Lake Ranch Road North;
- APEC 4 Lot 11 Dump Site;
- APEC 1 Lot 9 Residential Dump;
- APEC 3 Lot 6 Residential Dump; and
- APEC 21 Nicola River Dump.

Finally, we make the following recommendations to combat illegal dumping on LNIB land:

- Install three gates or four gates and locks, plus one additional lock;
- Install sufficient trail cameras at individual sites, plus one series of cameras;
- Install conspicuous signage at all known dump sites;
- Implement a reporting mechanism, and develop appropriate messaging;
- Continue to offer or promote strategies that enable people to avoid illegal dumping; and
- Engage individuals with land interests in Joeyaska IR 2 to determine strategies to combat illegal dumping on those sites.

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1.0 INTRODUCTION

Illegal dumping is a significant issue for all communities across British Columbia, but can be particularly so for First Nations. Illegal dumping contributes to social stigma, and has negative effects on property values, public health and safety, and peoples' recreation and enjoyment of natural spaces. It also creates significant burdens on the authorities that must deal with the problem, in terms of the financial costs and the provision of staff time and other resources associated with cleanup and prevention. The potential for environmental damage and contamination from illegal dumping are serious concerns.

First Nations are uniquely challenged by illegal dumping, owing mainly to the problematic environmental management provisions of the *Indian Act*. In those First Nations communities where land management is governed by the Act, a summary conviction is required before a penalty can be imposed or a cleanup order issued. Because of this and other factors, the penalties themselves – a \$100 fine, 3 months in prison, or both – are unlikely to discourage people from participating in the practice. The federal government is responsible for surveillance and enforcement of waste disposal through a project-based permit system. According to a 2009 report by the Auditor General, INAC “neither promotes nor conducts significant surveillance on reserves to look for illegal dump sites ... and is not equipped to monitor compliance, conduct inspections, or enforce the regulations.”

The Lower Nicola Indian Band (LNIB) is a signatory to the *Framework Agreement on First Nations Land Management*, and as such has resumed control and governance of its reserve lands and resources. One task associated with this step is to enact LNIB legislation to replace those sections of the *Indian Act* that govern land management. LNIB is currently developing legislation to address illegal dumping on LNIB lands.

LNIB is faced with the issue of managing and preventing widespread illegal dumping of waste on LNIB lands. In 2019, a study of solid waste management on LNIB land was undertaken, in part to better understand this issue. Two recommendations regarding illegal dumping may be found in that document, each meant to contribute to addressing the issue on a different timeline. It was advised that in the short-term LNIB implement low- or no-cost educational resources regarding inappropriate dumping. The rationale was that educating community members on the full range of items that are accepted at local waste facilities at no cost should increase their participation and compliance in those programs, thereby reducing illegal dumping that is motivated by a lack of awareness of those programs, or false assumptions about their cost.

Further, LNIB were advised to investigate the feasibility of implementing new strategies or programs to combat inappropriate dumping, such as physical barriers, surveillance, signage, and legislative tools. This report is in response to this recommendation, and is an examination of the cost, utility, maintenance, and other relevant considerations of employing various tools to combat inappropriate dumping on LNIB lands.

- APEC 5 Mamit Lake Road Four Mile Dump;
- APEC 6 Buried Dump 1 Mamit Lake Ranch Road South; and
- APEC 7 Buried Dump 2 Mamit Lake Ranch Road South

Note that both APEC 5 and APEC 7 comprise the two blue markers nearest the given site.



Figure 2 – Three dump sites visited on March 3: APEC 5, APEC 6, and APEC 7

The focus of this report is to investigate strategies to prevent further illegal dumping activity at these sites. Cleanup efforts, and activities related to the environmental site assessment process are outside the scope of this report.

In our research we focused on specific tools of interest to LNIB (*i.e.* wildlife or trail cameras and physical gates), as well as other recommended tools, best practices and generally accepted strategies employed in site security worldwide.

3.0 CONTRIBUTING FACTORS

Due to the covert nature of illegal dumping, it is difficult to conduct empirical research or draw definitive conclusions about why people dump waste material illegally. It is generally accepted opinion that people who participate in inappropriate dumping are a small minority of the population. Research suggests that the following factors contribute to illegal dumping.

Cost and effort

It is thought that illegal dumping is done as a way to avoid paying to dispose of certain materials, or to avoid onerous disposal measures associated with certain kinds of waste such as asbestos.

Lack of concern

It is likely that the average person is not fully aware of all of the negative impacts associated with illegal dumping, such as the environmental, financial, and social costs. It naturally follows then that such people may justify illegal dumping to themselves by minimizing the negative effects the practice, or not appreciating that the practice is in fact a crime.

Perception of risk and lenient penalties

Illegal dumping, by its nature, can be difficult to detect in real time. People who engage in illegal dumping are likely to have a very low expectation of being caught. If they are caught, they are also unlikely to expect significant consequences for their actions.

Social acceptance of the practice

While illegal dumping is widely regarded as unacceptable, some research indicates that people are more likely to participate in illegal dumping in areas where the practice is seen as more socially acceptable. For commercial operators, the public's disapproval of illegal dumping is a deterrent to their participation in the practice as their business and livelihood depends on their reputation.

Access to disposal facilities

Research has shown that illegal dumping activity increases with distance from disposal facilities, indicating that access to disposal facilities is a factor in a person's decision to dump illegally. Ultimately, the choice to participate in illegal dumping of waste is likely influenced by a range of factors. Therefore, any strategy to combat illegal dumping must be comprehensive and take into account all of these contributing factors described above in order to maximize its effectiveness.

4.0 MITIGATION TOOLS

Mitigating illegal dumping requires an integrated approach and consideration of the unique characteristics of a given site, as well as that of the landscape as a whole. Some of our strategies, such as physical barriers and surveillance devices, are aimed at combatting illegal dumping at individual sites. Others, such as a reporting tool and legislation, are meant to apply more generally, partly because they change the social context of the practice.

It is important to employ different tools or strategies aimed across the spectrum of activity: from deterrence, to detection, to enforcement. When considering what interventions are appropriate to combat illegal dumping on LNIB land, we have considered the following factors of behavioural change:

- Changing the physical environment (e.g. physical barriers such as gates);
- Changing the social context (e.g. implementing a citizen reporting mechanism);
- Implementing rules or restrictions (e.g. in legislation delivered under this or other projects);
- Education and persuasion (e.g. the *Community Education and Engagement Plan* delivered under this project);
- Coercion, or creating the expectation of a punishment or cost (e.g. knowledge of the existence of trail cameras); and
- Enablement, or increasing means or reducing barriers to participate in the desired activity (e.g. “Spring Cleanup” or similar events).

4.1 TRAIL CAMERAS

Trail cameras may be used as both a means of coercion (if their existence is advertised), and a means of enforcement. It should be noted however, that studies have shown that cameras are more effective as a means to detect and investigate crime, rather than of deterrence. Advertising their existence may also make them more susceptible to vandalism or theft.

Privacy

Privacy is a fundamental right guaranteed to all citizens by the *Canadian Charter of Rights and Freedoms*. Legislation governing freedom of information, privacy and personal information (which includes recorded audio or images of a person) on Indian Reserves is complex and beyond the scope of this report. LNIB has previously installed recording devices at certain administration buildings on Nicola Mameet IR 1 as a means of security for staff. At that time, they received legal advice regarding privacy and the collection and use of personal information. LNIB should continue to seek legal advice in order to be satisfied that any future actions that may be taken on LNIB land in respect of surveillance, privacy, and the rights of LNIB members to their personal information is lawful.

Features and Specifications

Trail cameras are designed to be used by hunters to track and capture footage of wildlife in a certain area, but can be easily adapted for security and surveillance. They are capable of

capturing either still or video images – some will do both – and work on a motion sensor. Data can then either be downloaded at a later time or sent in real time to an email or smartphone. Depending on the unit, images may be sent via a free app or software for which LNIB would pay a monthly fee.

A single unit ranges in cost from under \$100 to over \$700. For LNIB’s purposes, we recommend purchasing units with the following features and specifications:

- High-Definition (HD) video to ensure nighttime vision is of high enough quality to identify features;
- Image quality of at least 10 megapixels (MP) for decent capture of nighttime still images;
- The range of the motion sensor (distance it can detect motion) and the field of view (width of angles that can be detected) that is appropriate to the site;
- Wireless or cellular capability (subject to cellular coverage¹) so that images can be sent to LNIB in real time. This ensures that if a unit is stolen or tampered with, LNIB will still have the images of the activity. A unit that internally stores images or video until they are physically downloaded is useless in the case of theft or tampering;
- No-glow infrared (IR), which uses an invisible flash;
- Time stamp feature and lock feature;
- A battery indicator so that battery life can be easily ascertained by staff during checks;
- The lowest trigger time that is feasible so that moving cars can be captured before they have driven out of the range of vision; and
- Anti-theft cables and a security box.

Consider weighing the benefits of a viewing screen, which can help users ensure the correct angle when setting up, against the drawbacks, which include increasing the weight and bulk of the unit and draining the battery faster;

Batteries

Another important consideration beyond features and specifications is batteries. Generally speaking, the more features the unit has, the shorter the battery lifespan. Battery life will be generally in the range of six months to one year, but can be much shorter if low quality batteries are used, especially if the unit drains batteries quickly due to a high number of features.

The type of battery used matters a great deal, particularly in this application for LNIB.

Alkaline Batteries

Ensure to never use standard alkaline batteries. While they are inexpensive and readily available, they lose voltage quickly and fail in temperatures below freezing because they use a water-based electrode.

NIMH Rechargeable Batteries

¹ Coverage maps can be found online for all major cellular carriers. See for example <https://www.telus.com/en/bc/mobility/network/coverage-map>

NIMH batteries are rechargeable, and operate at a lower voltage than alkaline, but they maintain it. Because they use a metal-based electrode they are operational at temperatures below freezing. However, keeping track of used and charged batteries over several cameras can become problematic.

Lithium Ion Batteries

Lithium-ion batteries are recommended. They are more expensive than the other two options, but have a higher voltage, a longer lifespan, and are unaffected by cold.

Care should also be taken when placing the unit so as to extend the battery life. The motion of twigs or branches or even the rising or setting sun will set off the camera, shortening the batteries' lifespan unnecessarily.

Protecting from Theft and Damage

Trail cameras are vulnerable to theft or damage, particularly when being used for security surveillance purposes. Subject to legal advice, LNIB should consider whether they choose to advertise their use of trail cameras to combat illegal dumping. Some measures against theft are inherent in the features of the unit itself. For instance, no-glow IR cameras will not give away the unit's location. A lock feature uses a password to access images, meaning thieves will not be able to do so. A unit that sends images in real time ensures that even if a unit is stolen, LNIB will still have the images – as opposed to a unit that stores images on a memory card within the unit. Always use a theft cable or a security box. Security boxes can also enhance the unit's covertness.

Maintenance

Maintenance is an important consideration that must also be planned for. Ensure that units are checked at regular intervals. When performing a maintenance check, do all of the following:

- Inspect the batteries;
- Inspect for insect pests or use an insecticide around the unit;
- Update the software, if necessary;
- Keep the unit as dry as possible (this will depend in part on the consideration given to where it is set up);
- Clean the lens according to directions;
- Test the unit by walking up and making sure it captures your image;
- Inspect the exterior for animal damage – look for saliva, bite marks, dents, or scratches;
- Inspect the buckles and straps as they are most prone to wearing out. Replace as necessary; and
- Clean the unit regularly and always store it completely clean and dry.

Subject to the manufacturer's directions, maintenance checks are recommended every two weeks at a minimum and must be factored into LNIB's planning.

4.2 SECURITY GATES AND OTHER BARRIERS

There appears to be no standard name for the type of gate that LNIB is interested in using as a means of blocking access to illegal dump sites. For the purposes of this report, we refer to swinging single or double arm security gates (as depicted in Figure 3) that block road or other access to an area. They can be a strong deterrent to illegal dumping, as long as they cannot be easily circumvented. They will also be less effective at sites that can be accessed by foot. When deciding whether to install a swinging arm security gate, the characteristics of the individual site must be considered.



Figure 3 – Example of a Swinging Single Arm Security Gate

Specifications and Cost

Swinging arm security gates are a proven, relatively low-cost, and effective means of mitigating illegal dumping. They are generally made from either steel or aluminum. If feasible, aluminum alloy is preferred because it is as strong as steel while being lighter, and will not rust.

There are a number of suppliers of metal gates in Kamloops and the Lower Mainland². Initial research into the cost of a single arm swinging gate ranges from approximately \$900 - \$1,300, but quotes should be obtained, and are dependent on the actual specifications required. A gate in this price range still requires cutting, welding, drilling and bolting.

LNIB installed a single swinging arm gate on OK road in April, 2019 for Aspen Planers Ltd. The total cost was \$5,061, including \$1856 for installation, and \$60 for a sign notifying the public of the locked gate. The gate itself was \$3145.

Other Considerations

The most obvious consideration associated with installing a gate is access. While the gate's purpose is to bar access, LNIB must also consider what access they will need to maintain to an area and for whom. Any person who lives or has reason to travel beyond a gate must be able to access the area, as do emergency or other personnel who have reason to. The ability to quickly and safely evacuate an area in an emergency must be maintained.

Liability and the chance of injury due to poor design, or improper installation or maintenance must be considered by LNIB. Legal advice is recommended. As the gates are very heavy, a

² Acumen Machine, DSI Mechanical and Mario's Welding are three potential fabricators located in Kamloops. Graybar Metalworks in Richmond, Vulcan Metalworks in Langley, and Riteway Fencing in Kamloops all carry pre-fabricated gates.

model that locks both in the closed and in the open position is recommended to lessen the chances of injury or damage caused by the swinging arm.

While no lock is completely tamper-proof, using a poor lock that is easily cut renders the gate essentially useless. Combination locks are recommended over a model that uses a key. It is easier to provide a code than a key to members and other users who require access past a gate, and codes can be changed periodically to increase security. Fun-Key Enterprises, Inc. in Merritt is a potential supplier of industrial code locks.

Similarly, gates are only useful in areas where they block the only feasible access point, which depends in part on how far the dump site is from the gate, and whether vehicle access would be required to reach the site. A gate set across a road that can easily be bypassed because of open, flat terrain surrounding the area will not be effective. Additional barricades such as concrete blocks or earth berms can be used in conjunction with a gate in areas such as these.

Previous gates that have been installed on LNIB lands have been subjected to tampering, and even to unauthorized removal. It is recommended that any gate is installed securely such that removal by means of a winch or by towing is made more difficult. Other strategies, such as signage and other communication methods may also help to prevent unauthorized removal by alerting users to a gate's presence, allowing people to plan their movement accordingly.

While the maintenance of metal gates is relatively low, regular inspections and maintenance schedules must always be followed.

Other Physical Barriers

Other types of barriers may be used with greater effectiveness or lower cost than a swinging arm gate, depending on the site. Bollards are good choice for sites where it is desirable to maintain access by foot while blocking vehicle access. Bollards may be padlocked to be removable or hinged to allow vehicle access when necessary. Some examples of bollards are shown in Figure 4.



Figure 4 – Examples of Bollards

Installation requirements

For both swinging arm gates and bollards, installation will require excavation and concrete footings and should be factored into the overall cost. As mentioned, LNIB have experienced issues in the past with tampering, and even unauthorized removal, of gates. It is recommended that LNIB consider more robust installation methods than have been used previously, such as deeper concrete footings. Despite such efforts however, tampering may never be fully prevented.

4.3 OTHER TOOLS

In this section we discuss other potential interventions that we recommend LNIB implement to combat illegal dumping. LNIB can maximize their efforts with a range of strategies to address the broadest range of factors that change behaviour, as discussed in section 5.0.

Lighting

Where feasible, lighting (especially in conjunction with increased monitoring) is believed to be an effective deterrent to crimes of this nature, especially in well-populated areas. However, given the nature of the known dump sites on LNIB land, lighting is not a feasible or effective option at this juncture. If LNIB experiences issues with illegal dumping around buildings or other populated areas, lighting should be considered as an effective tool in those instances.

Reporting

Reporting by citizens is continually cited as an effective strategy against illegal dumping. Not only does it serve as a means of providing information on illegal dumping to the relevant authorities, it also helps to change the social context around the practice, both increasing the stigma associated with participating in the activity while also decreasing the stigma associated with reporting it.

LNIB is strongly encouraged to consider implementing a mechanism to report illegal dumping and publicly encouraging members and residents make use of it. A dedicated text, email, phone number, or website may be set up for this purpose, and would ideally allow users to remain anonymous. The Thompson-Nicola Regional District (TNRD) website (<https://tnrd.ca/content/illegal-dump-sites>) has an excellent example of a comprehensive tool that allows residents to report illegal dumping online - anonymously, if they choose. Screenshots of the TNRD website are depicted in Figure 5, and illustrate the level of detail that may be gathered.

A reporting mechanism may be implemented at no cost by using an existing contact, such as an email address or phone number already in use by staff in the Public Works Department. Quotes should be obtained should LNIB wish to develop of an online tool such as that used by the TNRD.

A reporting mechanism also serves as a tool of coercion, as it gives people who participate in illegal dumping an increased sense that there may be consequences for their actions.

A communication campaign aimed at normalizing or reducing the stigma associated with reporting illegal dumping should be coupled with this strategy.

Add Files
Browse... No file selected.
Drop a file here

LOCATION OF THE DUMP
Address: *
City:
Describe where the dump is on the property and any relevant landmarks that will help us locate the dump, be as specific as possible. Include the distance from the road and whether the dump is visible from the road: *
Name and telephone number of the property owner, if known:

TYPE OF WASTE
Please select at least one box or use the other field.
 Appliances
 Barrels
 Construction debris (wood, shingles, concrete, etc)
 Electronics (TV's, microwaves, computers, etc)
 Furniture
 Household trash
 Leaking liquids (oils, gasoline, pesticides, etc)
 Tires
 Yard debris
Other:

ESTIMATED AMOUNT OF WASTE
Bags:
Large Items:
Pickup Loads:
Tires:

ADDITIONAL INFORMATION
If you observed a vehicle used in the dumping, describe its make, model, any part of the license plate, and company name, if known:
Name and telephone number of the person or company you believe is responsible for the illegal dumping, if known:
Describe the suspect(s) you believe are responsible for the dumping, including height, weight, sex, race and any distinguishing characteristics:
Date you first observed the dump:
Date of illegal dumping, if known:
Comments:

CONTACT INFORMATION
Do you wish to be notified with the results of our investigation or when the dump is cleaned up?
 No
 Yes (provide your contact information below)
First name:
Last name:
Email Address:
Address:
City:
Postal Code:
Telephone:

Captcha
 I'm not a robot
reCAPTCHA
Privacy - Terms

SUBMIT

Figure 5 – TNRD Illegal Dumping Online Reporting Tool

Signage

Signage in and of itself is not necessarily a highly effective intervention against illegal dumping but when used in conjunction with other methods it is worth considering. The presence of signage contributes to changing the social context, communicating rules and restrictions, educating, and coercing people who might consider dumping illegally. Signage may be stand-alone or affixed to physical barriers such as gates.

Generic “No Dumping”, “Keep Out” or similar messages is inexpensive and readily available, and reinforce the message and purpose of physical barriers. Specially made signage that advertises the presence and location of gates, the use of surveillance, reporting mechanisms, or specific laws, offences and penalties for illegal dumping will be more expensive, but only relatively so.

Enabling strategies

There are a number of ways that LNIB can help to lower the barriers for their members and residents to properly dispose of household items. LNIB have previously had success with community wide cleanup events. One event held in 2018, in which LNIB rented a roll-off bin and invited members and residents to dump all manner of waste for free, was well received by the community. It did however cost LNIB approximately \$7,500 in tipping fees to dispose of. As stated in the 2019 *Solid Waste Management Plan*, LNIB should consider repeating this event, perhaps on an annual basis. Lessons learned from the 2018 event, such as separating out materials that may be dumped for free, will help to lower LNIB’s cost.

LNIB may also consider implementing a service to collect and dispose of items that may otherwise be illegally dumped (such as appliances) on behalf of their members. This could be as simple as advertising that members and residents may call or email the Department of Infrastructure to request the service. The option must be considered in relation to the availability of resources, such as Public Works staff time and equipment availability.

The 2019 *Solid Waste Management Plan* details other potential strategies, such as hosting a free store and making use of scrap vehicle collection programs.

5.0 SITE CHARACTERIZATIONS AND STRATEGIES

The majority of known dump sites have been designated as areas of potential environmental concern (APECs) under the environmental site assessment process. We refer to those sites using that terminology for the sake of consistency.

It should be noted that there are a number of non-designated dump sites on LNIB land, often in close proximity to APECs. Where it makes sense to do so, we treat those sites as belonging to the APEC.

5.1 APEC 5 MAMIT LAKE ROAD FOUR MILE DUMP



Figure 6 – Overhead view of APEC 5 Mamit Lake Road Four Mile Dump

Located on Nicola Mameet IR 1, APEC 5 is a short five-minute drive off the main road. A former dump that has since been decommissioned, this site was described in a 2011 Phase I Environmental Site Assessment by Columbia Environmental as follows:

A buried dump (80m x 15m) was observed within a fenced and gated compound east of Mamit Lake Road. The gate has been removed and some recent dumping has occurred at the gate. Contents and environmental impact of the buried materials is unknown. Two monitoring wells are installed adjacent to the buried debris. Dump has been decommissioned and covered.

- *Three (3) monitoring wells surround the buried dump*
- *Covered mound measures 80m x 15m x 1.2m*
- *Fence surrounds property, but gate has been removed & small pile of domestic waste is observed at entrance (3m diameter)*
- *Former dump site has been covered with soil.*
- *Dumped materials reportedly buried at the site include domestic waste, vehicle parts, building materials, appliances, metals, and various other wastes.*
- *Dumping was unsupervised and there is the potential for various types of waste within the buried dump.*
- *A recent pile of debris is located at the north gated entrance and includes mostly domestic waste.*

For our purposes, we are concerned with the dumping of domestic waste on the surface rather than the buried waste associated with the decommissioned dump, which the environmental site assessment process is addressing.

There has continued to be illegal dumping activity at this site following the covering of the former dump site. There are also a number of smaller, undesignated dump sites in the vicinity of APEC 5, particularly on the “low road”, which is a secondary access route to the site.

In addition to illegal dumping, animal poaching is a major concern in this area. Bear, cattle, and horses (including a foal), have all been found shot near this site. It is hoped that restricting access here will help to combat to these illegal activities.

APEC 5 Strategy

APEC 5 is well-suited to a gate located immediately after the turn off of Mamit Lake Road, just before the corrals. A gate in this location would block access to both routes to APEC 5, and to the smaller undesignated dump sites along the route. There is a wooden gate already in this location, which has recently been upgraded by a member, at his own cost of approximately \$1,000 - \$1,500, since the photo in Figure 7 was taken on March 3, 2020.

Access will need to be granted to a number of LNIB members who use the community corrals just beyond the gate. Many of these members also actively report illegal dumping and poaching activity, so are expected to be supportive of this strategy. These users will be given access via a combination lock.

Because the wooden gate has recently been upgraded, we recommend that LNIB consider using the existing gate in conjunction with a new, sturdy lock and a trail camera. If this doesn't prove to be an effective strategy, we recommend that LNIB incur the cost of installing a swinging-arm gate.



Figure 7 –Potential gate location leading to APEC 5 Mamit Lake Road Four Mile Dump

Ground level view of potential gate location leading to APEC 5 Mamit Lake Road Four Mile Dump, taken March 3, 2020

5.2 APEC 6 BURIED DUMP 1 AND APEC 7 BURIED DUMP 2



Figure 8 – Overhead view of APEC 6 and APEC 7 Buried Dumps

APEC 6 is a buried dump on Mamit Lake Ranch Road South and APEC 7 is a buried dump on Mamit Lake Ranch Road North.

APEC 6 and APEC 7 are located just off of Mamit Lake Ranch Road on Nicola Mameet IR 1. Both are former dumps that are now buried. Several small, undesignated dump sites are located in proximity to APEC 6 and APEC 7, an example of which is shown in figure 9.



Figure 9 – Small, undesignated dump site in the vicinity of APEC 6 and APEC 7

As with APEC 5, we are concerned with surface deposits of household waste rather than the buried dump sites, which continue to be addressed through the Environmental Site Assessment process.

APEC 6 is on a small spur road that terminates at a creek where irrigation intake infrastructure is located. The area is subject to seasonal flooding. APEC 6 is described in a 2019 Phase II Environmental Site Assessment report by Gandalf Consulting as follows:

Surface debris includes electronics, appliances, building materials, furniture, paint cans, scrap metals, rubber tires, and domestic waste.



Figure 10 – Ground level view of APEC 6 Buried Dump 1 Mamit Lake Ranch Road South

APEC 7 is described in the same report as follows:

Surface debris includes electronics, appliances, building materials, furniture, paint cans, scrap metals, rubber tires, and domestic waste.



Figure 11 – Ground level view of APEC 7 Buried Dump 2 Mamit Lake Ranch Road North

APEC 6 and APEC 7 Strategy

We recommend that LNIB direct a significant portion of their resources toward APEC 6 and APEC 7. These two sites, as well as the general area around them, are the most active illegal dump sites on LNIB land owing to their close proximity to the community and extensive tree cover.

We recommend the use of gates and cameras in this area. It is not possible to completely block access to both sites, nor to all of the smaller undesignated sites in the vicinity, with a single gate or even series of gates. The aim would be to use both gates and cameras strategically in order to reduce activity in this area as much as possible.

Recommended gate locations for APEC 6 are shown below in figure 12, near the entrance to the access road. Restricting access here rather than closer to the site will help to mitigate dumping at undesignated sites along the route, as well as making use of the fencing here. There are two entrances, so both must be blocked. This may be accomplished with one gate at each entrance, or by completing the fencing of the entrance seen on the right, and installing a gate at the entrance on the left. More research should be done to determine which of the two options (two gates, or one gate plus fencing), is a better or more cost-effective option. Either of these options to restrict access to APEC 6 would provide an additional benefit of restricting access to the irrigation intake infrastructure and flooding area, which are concerns for LNIB. As far as we are aware, there is no need to give access to the APEC 6 site, and in fact access here should be broadly restricted for safety reasons.

It is slightly more difficult to restrict access entirely to APEC 7. The entire area is flat and drivable, making a gate easily circumvented. We recommend using two gates, located at some distance from the actual site itself, as a means of controlling access to APEC 7. The first gate would be located north of the entrance to APEC 7 on Mamit Lake Ranch Road at close to the driveway of the one residential trailer here. A second gate would be located at the intersection of Mamit Lake Ranch Road and Highway 97C. Access for the trailer resident is maintained from the south, or from the north by obtaining the access code for the lock. In winter the road to the north is not plowed, and often not accessible. An additional benefit of restricting access at the trailer site is that access to the irrigation ditch will also be restricted, which is of interest to LNIB.

We understand this area may be developed in the future, both for housing and as a secondary access to the Rocky Pines subdivision, which has been cut off by flooding in the past. We expect that this area will be less appealing for illegal dumping if it is subject to more development. LNIB should weigh the investment associated with these strategies against the likelihood, timeframe, and degree of future development.



Figure 12 – Potential Gate Locations near APEC 6

5.3 APEC 4 LOT 11 DUMP SITE



Figure 13 – Overhead view of APEC 4 Zoht Lot 11 Dump Site

APEC 4 Zoht Lot 11 Dump Site is described in the 2019 Gandalf report as follows:

Dump contains two areas of debris scattered down a steep ravine and embankment. Debris includes domestic waste, one appliance, occasional 20L pails, furniture, and dimensional wood waste. Recent debris was noted in the 2014 site reconnaissance.

APEC 4 Strategy

Mill Creek Road, the main road by which APEC 4 is accessed, is heavily travelled by members and the wider community and the secondary road is generally unfenced, making a gate impractical here. APEC 4 is suited to the use of a camera.

5.4 APEC 1 LOT 9 RESIDENTIAL DUMP AND APEC 3 LOT 6 RESIDENTIAL DUMP



Figure 14 – Overhead view of APEC 1 Lot 9 Residential Dump and APEC 3 Lot 6 Residential Dump

APEC 1 and APEC 3 are located on Joeyaska IR 2 near the junction of Highway 97C and Highway 5A. The *2015 Phase I Environmental Site Assessment Update* report by Columbia Environmental describes the sites as follows:

APEC 1: Dump contains abandoned vehicles, empty oil containers, automotive parts, metal debris, domestic waste, furniture, and building materials spread over a shallow ravine measuring approximately 8 m in width by 35 m in length. No longer appears in use.

APEC 3: Dump contains abandoned vehicles, metal debris, automotive parts, appliances, propane tanks, furniture, domestic waste, and building materials.

APEC 1 and APEC 3 Strategy

Joeyaska IR 2 is subject to unresolved land claims from within the community. In light of this, it is inadvisable for LNIB to make any decisions with respect to access or surveillance until

appropriate discussions have taken place with all individuals who have or assert interests in this area. We understand that LNIB is actively engaged in resolving traditional land holdings; engagement may be done subject to that work, or any policies or laws that are developed as an outcome of that work.

5.5 APEC 21 NICOLA RIVER DUMP



Figure 15 – Overhead view of APEC 21 Nicola River Dump

This site is located on the south side of the Nicola River, close to the boundary of Nicola Mameet IR 1. Access to this site is across IR 1.

The 2019 Gandalf report describes the site as follows:

Site is down a bedrock slope between Lindley Creek Road and the Nicola River. The area is densely vegetated riparian area at the toe of slope and is within the floodplain of the Nicola River. Debris includes numerous abandoned vehicles, appliances, domestic waste, scrap metals, furniture, building materials, and rubber tires. Debris and abandoned vehicles were observed within the wetted portion of the river.

APEC 21 Strategy

A previous attempt to restrict access to this site using cylindrical cement blocks was thwarted by residents, who physically removed the blocks. The road is also an access route to homes and hunting areas, so cannot be blocked. For these reasons, this site is suited to the use of a trail camera and signage.

6.0 RECOMMENDATIONS

Our recommendations are based on the following strategies to prompt those residents who would consider engaging in illegal dumping to change their behavior:

- Restrict access to known dump sites by installing gates in strategic locations;
- Increase the perception and potential for consequences by installing monitoring cameras and erecting conspicuous signage;
- Reinforce the social stigma associated with illegal dumping by implementing a reporting mechanism; and
- Enable LNIB members to properly dispose of material by offering regular “Spring Cleanup” type events for residents, and promoting “Free Disposal Days” offered by the TNRD.

These recommendations are meant to work together with those of other products delivered under this project to target the spectrum of behavioural change discussed in section 4.0.

Communication and Education

It should be noted that many of the illegally dumped items found at the known dump sites, such as appliances, paint cans, tires, and electronics may be disposed of for free at the nearby Lower Nicola Eco-Depot. Communicating this to LNIB members and residents is crucial. The *Community Education and Engagement Plan* and resources (delivered separately as part of this project) address this and other aspects of solid waste management.

Costs

Where possible, we include an estimate of the costs associated with each recommendation. Please see the *Residual Waste Improvement Strategy* delivered under this project for details on recommendations to implement a user fee and investigate potential funding sources in order to recoup these and other costs associated with solid waste management.

Recommendations

| | |
|-------------------|--|
| Recommendation #1 | Install three or four gates, plus one additional lock. |
|-------------------|--|

As discussed in section 5.0, the following sites are well suited to the use of a gate to physically restrict access. Because LNIB have experienced issues with tampering and removal, we recommend the use of gates over less robust structures such as bollards or chains.

- A lock only on the existing wooden gate at APEC 5, as described in 5.1;
- On or two gates at APEC 6, as decided by LNIB; and
- Two gates near APEC 7, as described in 5.2

Access will be maintained for corral users at APEC 5, and the general membership for the gates around APEC 7, by using a combination lock. Signage will be used to let users know how to obtain the code from LNIB.

The estimated cost of this recommendation is \$18,000 - \$24,000. We estimate that LNIB should budget up to \$6,000 per gate based on the 2019 cost of \$5,000 plus an additional 20% for more robust installation. Supplier Funkey Enterprises in Merritt advises that specialized locks cost in

the range of approximately \$150 to \$250, and that a model that suits LNIB's purposes is approximately \$175. Total cost for four or five locks is therefore approximately \$700 - \$875, but may be as much as \$1,000 to \$1,250.

| | |
|-------------------|---|
| Recommendation #2 | Install sufficient trail cameras at individual sites, plus one series of cameras. |
|-------------------|---|

The use of trail cameras is the best strategy for sites where it would not be appropriate to restrict access by installing a gate. Accordingly, we recommend installing trail cameras at the following sites:

- APEC 4
- APEC 5
- Vicinity of APEC 6 and APEC 7 (series of cameras)
- APEC 21

More investigation should be done at the individual sites to determine the number of trail cameras that will be required in order to provide effective surveillance at each site. The number of cameras required will depend on the model chosen, its field of view, and specific factors at each site that can only be known with more research. A series of cameras is recommended in the area of APEC 7, owing to the flat, open terrain and the number of dumping areas.

The total estimated cost depends on the number of cameras required, up to \$700 per camera, plus installation and ongoing maintenance.

| | |
|-------------------|--|
| Recommendation #3 | Install conspicuous signage at all known dump sites. |
|-------------------|--|

Signage is recommended at all sites, regardless of other strategies used. Signs that convey that dumping is illegal, the penalties associated with illegal dumping, and how to report illegal dumping are appropriate at all sites. Signs advertising the presence of a gate, as well as how to get access, and the presence of surveillance (in accordance with legal advice), are appropriate at the sites that employ those strategies.

LNIB should engage with any individuals who have land interests in Joeyaska IR 2 prior to erecting signage at APEC 1 and APEC 3.

| | |
|-------------------|---|
| Recommendation #4 | Implement a reporting mechanism, and develop appropriate messaging. |
|-------------------|---|

A reporting tool is recommended for several reasons.

First, it will help to provide LNIB with information about who is engaging in the practice of illegal dumping, as well as which sites are actively being used, and any potential new sites that can then be investigated.

Secondly, a reporting mechanism helps to reinforce the social context around illegal dumping – both that the practice is stigmatized, and that reporting it is encouraged. Coupling the implementation of the tool with proper messaging will be important. Messaging should highlight positive concepts of reporting, such as good citizenship and the benefits to the community as a whole.

As discussed in section 4.3, there are a number of methods that could be employed, from an existing phone number or email address to a dedicated web application. Costs will range depending on the tool. Costs may be minimized by using an existing phone number or email address. Quotes should be obtained for new tools, such as a web application, if necessary.

| | |
|-------------------|--|
| Recommendation #5 | Continue to offer or promote strategies that enable people to avoid illegal dumping. |
|-------------------|--|

We recommend that LNIB offer regular “Spring Cleanup” events, annually if possible, and actively promote other “free dump days” held by TNRD. Increasing awareness of these events that allow people to appropriately dump all kinds of material, especially bulky items.

A Spring Cleanup event held in 2018 cost approximately \$7,500 but that cost could be reduced by removing items that may be dumped for free at the TNRD Eco-Depot. Costs associated with promoting TNRD events is minimal.

| | |
|-------------------|---|
| Recommendation #6 | Engage individuals with land interests in Joeyaska IR 2 to determine strategies to combat illegal dumping on those sites. |
|-------------------|---|

We are aware that LNIB is actively working to address traditional land holdings and interests on LNIB lands. Subject to that process, we recommend that LNIB engage directly with individuals who have such interests on Joeyaska IR 2 to reach an agreement on the use of physical barriers, trail cameras, or other means to address illegal dumping at the two known sites on this reserve.

7.0 REFERENCES

<https://www.buildingtalk.com/blog-entry/a-best-practice-guide-to-specifying-manual-and-automated-gates/>

SecuraGate Industrial Gates and Perimeter Security Handbook, Leda Security Products, 2013

Vehicle Barriers: Their Use and Planning Consideration, US Department of Agriculture, 2006

Public Sector Surveillance Guidelines, Office of the Information and Privacy Commissioner for British Columbia, updated January 2014

Illegal Dumping Prevention Guidebook, United States Environmental Protection Agency, 1998

Illegal Dumping Research Report, Environment Protection Authority, State of New South Wales, 2015

Illegal Dumping Prevention and Enforcement, Regional District of Nanaimo, 2019

<https://www.rdn.bc.ca/illegal-dumping-prevention-and-enforcement>

2009 Fall Report of the Auditor General of Canada, Chapter 6

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Expropriation Law Proposal

To: Chief and Council
Prepare By: Brandi O’Flynn, Lands Manager
Date: August 18, 2020

Introduction

Lower Nicola Indian Band (the “LNIB”) became operational under its Land Code on December 1st, 2016. According to the Land Code, LNIB has the authority to pass laws regarding LNIB land and to develop and implement related policies and procedures. The Lands Sector’s 2020-2021 Workplan includes the development of an Expropriation Law (the “Law”).

Proposal for Expropriation Law

Purpose: The purpose of the Expropriation Law is to clarify the rights of all parties, and to establish procedures for LNIB government expropriations on LNIB lands.

Expropriation is the act of a government in taking privately owned property to be used for purposes designed to benefit the overall public. The Law will apply to all reserves or LNIB Land and to land held under Certificate of Possession. This is a tool that can ensure LNIB has access and maintenance rights related to LNIB infrastructure. LNIB may expropriate parcels of land associated with LNIB infrastructure with fair compensation paid to the Member(s).

The Law may include provisions regarding:

- the voluntary transfer of an interest or licence in relation to land to the Lower Nicola Indian Band from an interest holder;
- rights and interests that may be expropriated;
- limits on expropriation by LNIB;
- expropriation notice and community approval;
- right to compensation for an interest holder;
- the calculation of compensation; and
- compensation payment requirements.

Draft Outline

- Part 1 – Interpretation
- Part 2 – Application
- Part 3 – Land Administration and Authority
- Part 4 – Expropriation
- Part 5 – Pre-Expropriation Procedures
- Part 6 – Compensation

- Part 7 – Basis for Compensation
- Part 8 – Payment of Compensation
- Part 9 – Effective Date of Expropriation
- Part 10 – Dispute Resolution
- Part 11 – Forms
- Part 12 - Amendment

LNIB's Authority to Enact Proposed Laws

Subsections 6.1, 6.2, 7.1 and 7.2 of the Land Code (extracted below) provide LNIB with the power and authority to enact laws and related policies and procedures regarding the expropriation of LNIB Land. Exercising such authority by passing the Law will clarify the rights of all parties, and establish procedures for LNIB government expropriations on LNIB lands.

Extracts from Land Code

Council may make Laws

- 6.1 Council may, in accordance with this Land Code and subject to any applicable Community Approval requirements set out in section 12 [Community Approval] make Laws in relation to LNIB Land.
- 6.2 For greater certainty and without limiting the generality of 6.1 [Council May Make Laws] Council may make Laws relating to:
- ...
 - (i) expropriation;
 - ...

Proposing Laws

- 7.1 A proposal for a Law may be introduced at a duly convened meeting of Council by:
- (a) the Chief or a Councillor;
 - (b) a representative of the Lands Management Advisory Committee, or other body or authority composed of Members that may be authorized by Council to do so;
 - (c) the Lands Manager; or
 - (d) a Petition presented to Council signed by at least 20 per cent of Eligible Voters, setting out the request for development of a Law addressing a specific subject matter or issue.

Written proposal

- 7.2 A proposal for a Law in 7.1 [Proposing Laws] shall be in writing and shall contain:
- (a) a proposed title;
 - (b) a brief description of the subject matter to be addressed;
 - (c) a reason why the proposed Law is necessary;
 - (d) a draft outline of the Law; and
 - (e) the section or sections of the Land Code which authorize the proposed Law.



**Lower Nicola Indian Band
Lands Management Advisory Committee
Quarterly Report**

2020-2021 First Quarter Ending June 30, 2020

Prepared by:

Stephen Jimmie, Brandi O'Flynn, and Jerrica Joe

FIRST QUARTER MEETINGS

APRIL 06, APRIL 15, APRIL 22, MAY 11, JUNE 01, AND JUNE 29

AGENDA ITEMS:

Updates:

- 2020-05-11 Traditional Holdings Project: Phase 1 Report

Information and Discussion Only:

- 2020-04-15 LMAC Quarterly Report
- 2020-04-15 Lands Sector Quarterly Report
- 2020-04-15 Law Ratification Schedule
- 2020-04-15 Enforcement Law Review
 - Resolution No.2020-03 draft for discussion
- 2020-04-15 Infracon Site Lease
 - Motion: Having reviewed and discussed the Briefing Report for LMAC RE: Infracon Lease dated April 15, 2020 prepared by Stephen Jimmie, Director of Lands, the LMAC supports and recommends that the Chief and Council:
 - Secure a direct lease between LNIB and Infracon; and
 - Require Infracon to pay the outstanding rental arrears from 2017 or consider initializing eviction procedures.
- 2020-04-22 Enforcement Law Review (continued)
- 2020-05-11 LMAC Quarterly Report
- 2020-05-11 Enforcement Law Review (continued)
- 2020-05-11 Allotment Policy Update
- 2020-06-01 Enforcement Law Review (continued)
- 2020-06-29 Lands Sector Quarterly Report
- 2020-06-29 Enforcement Review: Community Justice Process

New Business:

- 2020-06-01 Trans Mountain 2020 Survey Request -Tabled
 - Resolution No.2020-04 That the Lands Management Advisory Committee recommend that the Chief and Council grant Trans Mountain Corporation permission to access the LNIB-owned land on Zoht IR No.5 for the sole purpose of completing the following:
 - A Legal survey of the proposed line and temporary workspaces; and
 - A sweep for any existing utilities or other encumbrances in the proposed Right of Way.
- 2020-06-01 Lot Allotments
- 2020-06-29 Lot 11 Dispute Resolution Process
 - Resolution No.2020-05 That the LMAC supports and recommends that Chief and Council approve the Proposed Lot 11 Dispute Resolution Procedure, setting specific dates noted in the procedure.

Training and Opportunities:

- 2020-06-29 Conflict of Interest Training Presentation
- 2020-06-29 Webinars Follow-Up

LMAC MEETING SCHEDULE 2020-2021

| | |
|------------------|---------------------------------------|
| MEETING TIME | 4:00 - 7:00 PM |
| MEETING LOCATION | Skype or LNIB Lands Office Boardroom* |

The following is a tentative schedule of LMAC meetings, subject to change as needed.

*All meetings held only via Skype while in-person meetings are not practicable.

| EVENTS LEGEND | DATES | MONTH | MEETING DAYS | MONTH | MEETING DAYS |
|-----------------|---------------------|----------------|--------------|--------|--------------|
| LMAC | See chart to right. | SEPTEMBER | 14, 28 | MARCH | 08, 29 |
| CHIEF & COUNCIL | Tues. TBD | OCTOBER | 19 | APRIL | 12, 26 |
| BAND GENERAL | TBD | NOVEMBER | 02, 16, 30 | MAY | 10, 31 |
| HOLIDAYS | As highlighted. | DECEMBER | 07 | JUNE | 14, 28 |
| BREAKS (SD 58) | As highlighted. | JANUARY (2021) | 11, 25 | JULY | 12, 26 |
| WEEKENDS | Sat. & Sun. | FEBRUARY | 08, 22 | AUGUST | 09, 23 |

| SEPTEMBER | | | | | | | OCTOBER | | | | | | | NOVEMBER | | | | | | | DECEMBER | | | | | | | JANUARY | | | | | | | FEBRUARY | | | | | | |
|-----------|----|----|----|----|----|----|---------|----|----|----|----|----|----|----------|----|----|----|----|----|----|----------|----|----|----|----|----|----|---------|----|----|----|----|----|----|----------|----|----|----|----|----|----|
| S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S |
| | | 1 | 2 | 3 | 4 | 5 | | | | | 1 | 2 | 3 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | | | 1 | 2 | 3 | 4 | 5 | | | | | | 1 | 2 | | 1 | 2 | 3 | 4 | 5 | 6 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 27 | 28 | 29 | 30 | | | | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 29 | 30 | | | | | | 27 | 28 | 29 | 30 | 31 | | | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 28 | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | 31 | | | | | | | | | | | | | |

| MARCH | | | | | | | APRIL | | | | | | | MAY | | | | | | | JUNE | | | | | | | JULY | | | | | | | AUGUST | | | | | | |
|-------|----|----|----|----|----|----|-------|----|----|----|----|----|----|-----|----|----|----|----|----|----|------|----|----|----|----|----|----|------|----|----|----|----|----|----|--------|----|----|----|----|----|----|
| S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S | S | M | T | W | T | F | S |
| | 1 | 2 | 3 | 4 | 5 | 6 | | | | | 1 | 2 | 3 | | | | | | | 1 | | 1 | 2 | 3 | 4 | 5 | | | | | 1 | 2 | 3 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 28 | 29 | 30 | 31 | | | | 25 | 26 | 27 | 28 | 29 | 30 | | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 27 | 28 | 29 | 30 | | | | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 29 | 30 | 31 | | | | |
| | | | | | | | | | | | | | | 30 | 31 | | | | | | | | | | | | | | | | | | | | | | | | | | |

APPLICATION DEADLINE: **SEPTEMBER 30, 2020**

Applications must meet the following goals:

- Eligibility to Schedule 2, Schedule 1, Secondary Numbered, and high priority Secondary Paved Roads. This new program includes any railway fences that are adjacent to a highway corridor.
- Must be a livestock producer.
- The fence must be part of a complete fencing system to contain livestock.

TO FILL IN THIS ELECTRONIC APPLICATION, TAB BETWEEN ITEMS AND TYPE IN THE INFORMATION.

WHEN COMPLETED, SAVE THE DOCUMENT AND EMAIL TO: fencebc@cattlemen.bc.ca

CONTACT INFORMATION:

| | |
|----------------------------------|-------------------------------------|
| Last name: Muir | First name: Shane |
| Mailing Address: 5929 Beech Road | |
| City and Province: Merritt | Postal Code: V1K 1M6 |
| Home Phone: 250-378-4933 | Work Phone: |
| Mobile/Cell Phone: 250-378-1964 | Email Address: sd.muirinc@gmail.com |

FENCE/PROJECT DETAILS:

| | |
|--|--|
| Legal Land Description | Land Description Nicola Mameet IR No.1 BC215 CLSR BC |
| Property Identification Descriptor (PID) | N/A |
| Land Designation (i.e. Private, Crown) | Indian Reserve |
| Brief Description of Physical Location of Fence | Fence is set back approx. 10 meters from Hwy 97C |
| Highway Number/Highway Name | Hwy 97C Merritt to Logan Lake |
| Highway or Railroad Mile Marker (cross-road name, hydro Pole # or other descriptive reference point) | Hwy 97C Merritt to Logan Lake |
| Please indicate Railway Designation (CP/CN or other) | N/A |
| On what side of the highway or railroad is the fence located (e.g. North, South, East, West) | East and West |
| Length of fence (in metres) | Approx. 17,746 Meters |
| GPS Coordinates for start of fence | Start West Side - South Coordinates – N 50.167850, W 120.852630 Start East Side – N 50.168156, W 120.852079 |

| | |
|---|--|
| GPS Coordinates for end of fence | End West Side - North Coordinates – N 50.243373, W 120.835537 End East Side – N 50.243646, W 120.834803 |
| Is there dead/defective timber along the right of way or within striking distance of fence? | No |
| If yes, explain details | |
| Age of fence | 40+ Years |
| Type of existing fence | Creosote Posts and barb wire |
| Regularly maintained (Yes/No) | Yes |
| Type of livestock | Cow Calf and Yearlings |
| Number of livestock | 500 |
| State months of use | September and October |
| <p>DESCRIBE NATURE OF ISSUE: Summarize the rationale for this project as it pertains to the key goals (<i>see page 1</i>) of the Highways Fencing Program.</p> <p>I am a Band Member from the <i>Lower Nicola Indian Band</i> (“LNIB”) and a member of the Nicola Stock Breeders Association; I am a livestock producer and run my cattle operation on LNIB reserve land and the LNIB Range. These lands have been utilized for decades by LNIB Member’s as pasture lands for their livestock. The current fence line that runs parallel to Hwy 97C is part of a complete fencing system on the LNIB reserve lands but due to its age it is in complete disrepair and needs to be replaced. Recently portions of the fence have fallen due to the old rotting creosote posts, other LNIB members and I have temporarily repaired the fence in an effort to contain our livestock. In its current state the fence could fall at any time allowing cattle to gain access to the highway. Effective fencing will help aid in running an efficient cattle operation and ensure the protection of the cattle and motorists who travel along Highway 97C.</p> | |

AGREEMENT AND SIGNATURE:

By submitting this application, I affirm that the information set forth in it is true and complete. I understand that any false statements, omissions, or other representations made by me on this application may result in disqualification of my application.

After construction, successful applicants will be responsible for regular fence line maintenance.

Name:

Date submitted:

Signature not required when submitting the application electronically, your signature will be obtained by the program later in the process.

Signature: _____ Date signed _____

MAIL COMPLETED APPLICATIONS TO:
Highways Fencing Program

QUESTIONS?
#4 – 10145 Dallas Drive

Kamloops, BC. V2C 6T4
OR FAX TO: 250-573-5155
Email electronic form to: fencebc@cattlemen.bc.ca

Call toll-free: 1-866-398-2848, option #3
or 778-412-7000
Fax: 250-398-7498
Visit the website: <http://www.cattlemen.bc.ca/fencing.htm>
Or Email: fencebc@cattlemen.bc.ca

Program Delivery Partners:



Ministry of
Transportation
and Infrastructure



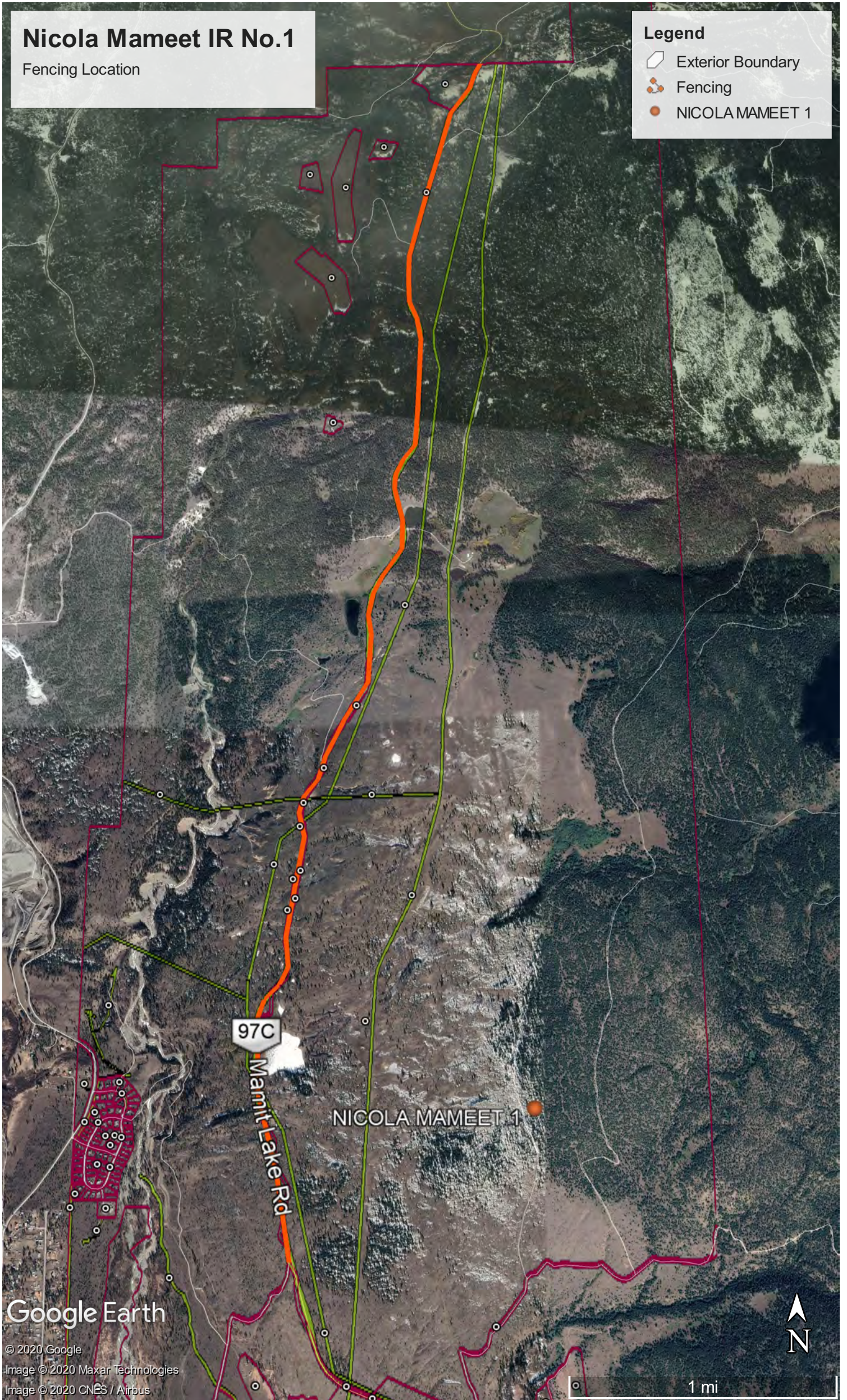
Ministry of
Forests, Lands, Natural
Resource Operations
and Rural Development

Nicola Mameet IR No.1

Fencing Location

Legend

- Exterior Boundary
- Fencing
- NICOLA MAMEET 1



Google Earth

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Image © 2020 CNES / Airbus

Tribunals/Panels/Committees

Some Indigenous communities have developed, or are developing, dispute resolution tribunals, panels, or committees. These processes can be organized by one community, a tribal council, or by a partnership between several communities. They often work together with other models, like mediation or peacemaking, or even with courts. These models have formal and transparent structures, policies, and procedures. There are clear rules and a process with clearly defined steps. They are usually public rather than private.

| Name | Communities served? | Who can access it? | How do parties access it? | Issues dealt with? | Steps in Process? | Outcomes? |
|--|--|--|---|--|---|---|
| Long Plain First Nation | Long Plain First Nation in Manitoba. | Longs Plain First Nation members. | A participant seeking the resolution of a dispute is required to file a written notice of appeal with the Land Authority within 30 days of becoming aware of the issue. This must include the issues, facts, and arguments relied on and relief sought. | Applies to disputes around "interests and rights in Lands." ³⁶ The tribunal does not deal with Chief and Council decisions that are unrelated to lands, to housing decisions or administration of estates, unless all the immediate relatives consent. | Parties move through the following ordered stages of dispute resolution: "facilitated discussions," appeal, or as a final option, court adjudication. If the parties are unable to reach consensus through facilitated discussion, the appeals stage is triggered. | The Appeal Panel may order an action be taken or stopped; confirm, reverse, substitute a decision; or refer a matter back for a new decision. The decisions of the Appeal Panel must be in writing and signed by the Chair and are binding except for review by a court of competent jurisdiction. |
| Anishina-bek Nation Tribunal and Commission | 39 Anishinabek First Nations in Ontario. | First Nations, citizens, and non-members of the Anishina-bek Nation. | This is typically used where mediation or sharing circles may not work well for the parties or where the parties would like a decision made. | The tribunal's issues vary and includes nation-wide disputes such as between First Nations, governance and administration, election codes, constitutions, matrimonial real property, citizenship, etc. | Typically, three community members, who are trained in hearing evidence, sit on a panel and hear the parties. In cases where the community panel members may be in conflict with the dispute or the parties, a panel member may be brought in from another community. | The panel is given the authority to hear evidence, make recommendations, and to make a final decision. |
| Treaty Four Administrative Tribunal | 34 First Nations in Treaty 4 territory. | First Nation members where the First Nation law designates the Tribunal as the dispute resolution mechanism. | It is intended to be available when disputes cannot be resolved at the community level through other processes (mediation and peacemaking attempted first). | The tribunal deals with disputes involving the application of First Nation laws in Treaty 4 territory. Does not deal with criminal matters or make decisions dealing with awards for costs or damages. | The process involves five stages: 1. determination of Treaty 4 jurisdiction, 2. pre-hearing stage, 3. the hearing, 4. decision writing, and 5. after the decision Lawyers for both disputing parties may be present but are precluded from actively participating and cross examination is limited. | The Tribunal can make findings of fact and settle disputes through the application of First Nation law. They may also make non-binding recommendations on possible ways to resolve the conflict, suggest "recommendations on the development [and] implementation of First Nation law and policy," and issue "interim orders or injunctions during the course of its proceedings." While recommendations of the tribunal are non-binding, "the agreement to participate in the adjudicative process amounts to consenting to the binding Tribunal decision." |

Source: Indigenous Law Research Unit, Faculty of Law, University of Victoria: Hadley Friedland, Jessica Asch and Dr. Val Napoleon - A Toolkit for On-Reserve Matrimonial Real Property Dispute Resolution (pp. 27-45). Retrieved from: <http://coemrp.ca/wp-content/uploads/2015/12/Final-MRP-DR-Toolkit-Version-1.0.pdf>

Circle Processes

Some Indigenous communities have adopted circle models of decision-making and dispute resolution. These typically address issues involving harm or safety concerns and are most commonly connected to criminal justice or child protection systems. Circle processes are called many different things, but tend to follow a similar format, with certain elements in common. All participants have to consent to participating in them. They are facilitated by a trained facilitator. They are usually private with only the participants and invited others being involved and aware of what happens. Family, community members, and professionals may be invited to participate and there is a focus on involving extended family and community where possible.

Common Steps in Circle Processes

| | |
|--|---|
| 1. Referral: | Depending on the issue, participants may be referred through the court system, the child welfare system, or, in some cases, they can self- refer or be referred through Chief and Council or other community-based helpers or service-providers. |
| 2. Preparation: | A trained and paid facilitator talks to the referred individuals and identifies family, extended family and community members, elders, supporters and professionals who should be present. The facilitator usually talks privately and individually to all possible participants, to gauge the dynamics, risks, and likelihood of success. In some processes, an elder or spiritual leader may also be involved. In some processes, there may be behavioural or spiritual preparation required. |
| 3. Opening: | The facilitator welcomes participants to the circle. Sometimes an elder or spiritual leader will open with a prayer, a smudge or a brief ceremony. Rules and expectations are clearly outlined for safety. |
| 4. Introductions/ Role Identification: | Most circle processes begin with a round of introductions, with all people identifying their roles and why they are present. |
| 5. Issue Identification | The facilitator invites all participants to talk about how they view the issue. This may include sharing impacts or taking responsibility, as well as discussing worries, strengths, priorities, interests, and hopes. Participants may feel and share strong emotions. This step may be more or less structured but it is always facilitated by a trained facilitator. |
| 6. Teaching/ Expanding Understanding: | There is often a teaching component to circle processes. Where elders, spiritual leaders, or other knowledgeable and respected people are involved, they may give cultural or spiritual teachings, advice or words of hope and encouragement. Where professionals are involved, they may discuss rules, expectations, and resources available to help. |
| 7. Development of a plan or resolution: | The facilitator may assist or may leave while participants develop an action plan or proposed resolution. This plan or resolution is usually put into writing. It may or may not follow a pre-made form. |
| 8. Acceptance of the plan or resolution: | The facilitator or someone else with authority (e.g., a social worker in child welfare matters) reviews the proposed plan or resolution and suggests modifications as required and accepts or approves it. Typically, participants sign this agreement, which the facilitator types up afterwards, gives to participants, and keeps on file. |
| 9. Closing: | The facilitator brings the circle to a close. Typically, all participants are given a chance to say something and check in about how they feel. Where elders or spiritual leaders are involved, they may end with a prayer, smudge, or brief ceremony. |
| 10. Follow-up: | The facilitator should follow up to see if the agreement or plan is being carried out. This may include assistance to connect to resources, or the provision of support and problem-solving. There may be specific timelines and dates to check in about progress, as well as consequences or alternate resolutions when a plan is not being followed. There may be an additional closing ceremony or celebration when the plan is complete, or a positive report to an authority like a court or government department involved. |

Source: Indigenous Law Research Unit, Faculty of Law, University of Victoria: Hadley Friedland, Jessica Asch and Dr. Val Napoleon - A Toolkit for On-Reserve Matrimonial Real Property Dispute Resolution (pp. 27-45). Retrieved from: <http://coemrp.ca/wp-content/uploads/2015/12/Final-MRP-DR-Toolkit-Version-1.0.pdf>

Some Circle Examples:

| | 1. Communities served? | 2. Who can access it? | 3. How do parties access it? | 4. Issues dealt with? | 5. Steps in Process? | Outcomes? |
|---|--|---|--|---|---|--|
| Tsuu T'ina Office of the Peacemaker ⁴⁷ | Tsuu T'ina Reserve in southern Alberta | Residents of the Tsuu T'ina First Nation | Cases go through the Tsuu T'ina Court. Cases are reviewed by the Crown counsel and the coordinator and, matters are diverted from regular court to the Office of the Peacemaker for resolution if appropriate. Participation must be voluntary and victims (if there are any) must agree to the peacemaking process. | Reserve bylaws and all criminal matters other than homicide and sexual assaults. | The process follows a standard routine, with an opening, 4 rounds, and a closing. There is preparatory work and follow up. | The offender signs an agreement to follow through with certain tasks according to the resolution reached within circle. Once these tasks are completed, there is a final peacemaking circle with a ceremony and celebration. The matter is then returned to court with the peacemaker's report. The prosecutor assesses the outcome and the nature of the offence and may withdraw charges or submit the report to the court for serious offences. |
| Qwi:qwelstóm - Stó:lō Healing and Peacemaking Circles ⁴⁸ | 24 Stó:lō First Nations in British Columbia | Residents of 24 Stó:lō First Nations | There are referrals from the RCMP (pre-charge), Crown Counsel (post-charge), probation officers (pre-sentence), department of fisheries and oceans, Xyolhemeylh, the Ministry of Children and Family Development, community members, and self-referrals. The person who has done the harm must take responsibility for it. | Criminal matters, to replace trial process, make sentencing recommendations, reintegrate offenders after prison, or develop healing plan as part of sentencing or probation orders. Community issues, such as family disputes, custody concerns, divorce settlements and improving relations between community members and professionals, between community members and Stó:lō employees, between Stó:lō staff and supervisors. | The process varies depending on the issue and whether it is a healing or peacemaking process. Participants are required to abstain from drugs and alcohol and rest for four days prior to a circle. | The outcome varies based on the issue, it may result in sentencing recommendations, healing plans, or agreements between participants. |
| Meenoostahtan Minisiwin Family Justice Program ⁴⁹ | 17 First Nation Communities in northern Manitoba plus Thompson, Winnipeg, the Pas, and Gillam. | First Nations families, children and service providers living in these areas. | There are referrals from Child and Family Services [CFS], CFS agencies, schools, Chief and Council, court system, community service providers, and self-referrals. Issues must be related to a mandated CFS matter and participation must be voluntary. | All aspects of mandated child welfare, other situations where children's best interests are at risk, including: care placement, parent-child conflict, family-agency-system conflicts, service plans for neglect and abuse, family violence, larger community-wide conflicts, advocacy for families trying to access service and to address larger systemic problems affecting children and families. | The process varies depending on the issue. It may include lengthy and complex shuttle diplomacy and use of representatives where warranted. | The outcome is a Family Action Plan, which details how the long-term care and protection of children will be addressed, including who and what resources need to be involved, each participant's contribution, monitoring, and contingencies. Standard follow up is 1, 3, and 6 months following agreement, but varies greatly according to specific issue and needs. |

Source: Indigenous Law Research Unit, Faculty of Law, University of Victoria: Hadley Friedland, Jessica Asch and Dr. Val Napoleon - A Toolkit for On-Reserve Matrimonial Real Property Dispute Resolution (pp. 27-45). Retrieved from: <http://coemrp.ca/wp-content/uploads/2015/12/Final-MRP-DR-Toolkit-Version-1.0.pdf>

Mediation/Arbitration

Some First Nations who have implemented their own land codes have decided to require or recommend that separating couples involved in matrimonial real property disputes attempt to reach an agreement through mediation prior to going to arbitration, a tribunal, or a court to resolve the matter. Interestingly, many provincial courts across Canada have a similar requirement or offer mediation services for family law matters. Where mediation is required there are usually exceptions made for certain circumstances, such as cases involving power imbalances or intimate partner violence. A First Nation may refer parties to an already existing outside roster of provincially regulated mediators, or create its own inside roster. Where First Nations create their own roster of mediators, they may include elders or other knowledgeable and respected community-based people on the roster, who can add cultural, spiritual, or ceremonial aspects to the mediation process. Mediation is a highly individualized and private process that typically results in a signed, written agreement or a confidential report stating why and on what issues an agreement cannot be reached. Agreements reached or confidential reports explaining why an agreement could not be reached are then filed with land managers.

| First Nation: | Is mediation mandatory or voluntary? | Mediation Roster – Is it maintained inside or outside community? | What is the next step if an agreement is not reached? |
|-------------------------------------|--------------------------------------|---|---|
| Beecher Bay First Nation | Mandatory | Inside community, Council maintains rosters, they must include “one or more elders qualified to apply traditional laws of the big house.” | Court |
| Kitselas and Westbank First Nations | Mandatory | Outside the community, parties access the BC Mediator Roster Society. | Court |
| Six Nations | Mandatory | Inside the community, mediators are drawn from inside the community and given mediation training if necessary. | Iroquois Dispute Resolution Tribunal |

Source: Indigenous Law Research Unit, Faculty of Law, University of Victoria: Hadley Friedland, Jessica Asch and Dr. Val Napoleon - A Toolkit for On-Reserve Matrimonial Real Property Dispute Resolution (pp. 27-45). Retrieved from: <http://coemrp.ca/wp-content/uploads/2015/12/Final-MRP-DR-Toolkit-Version-1.0.pdf>

BUSINESS LICENSING LAW

Enacted on _____

Authorized signatory for LNIB

[NAME]

| |
|--|
| DEPOSITED IN THE REGISTRY OF LAWS |
| ON ____/____/____ (Day/Mo/Year) |
| _____ Signature of Law Clerk |

BUSINESS LICENSING LAW

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Licence cancelled

32. (1) Council will cancel a retail cannabis business licence and provide notice to the licensee if:
- (a) the associated application is approved in error; or
 - (b) the associated application is approved due to a misrepresentation or concealment of fact.
- (2) In the event an application is approved under circumstances described at subsection (1), the applicant is not entitled to a refund of any fees.

PART 6 – GENERAL REQUIREMENTS FOR ALL LICENCES

Separate business

33. For the purposes of this Law, where a business is carried on, within, or from more than one premises on or within LNIB Land, the business carried on within or from each premises is deemed to be a separate business.

Business purchases and licence transfers

34. (1) Every licence issued under this Law is specific and exclusive to the Person and premises named in the licence and may not be transferred, given, lent or sold to another Person or used at another premises.
- (2) Where any Person purchases from another Person the controlling interest in a business licensed under this Law, the existing licence of that business will expire sixty (60) days after the purchase and if the purchaser wishes to continue operating the business, the purchaser must submit a new licence application in accordance with this law.

Access for inspection and enforcement

35. Every licence is deemed to grant access to the business or premises by an enforcement officer for inspections and enforcement in relation to this Law.

Requirement to post or carry

36. (1) A holder of a licence must post the licence and keep it posted in a conspicuous place on the premises for which it was issued.
- (2) A holder of a licence for a non-resident business must carry the licence on their person at all times while carrying on the business on or within LNIB Land.

Fees

37. (1) An applicant for a licence is responsible for paying the applicable application fee and annual licence fee set out at Schedule A.

BUSINESS LICENSING LAW

- (2) The fee to apply for a licence on a seasonal or temporary basis under section 18(3) will be prorated to reflect the applicable term of the licence.
- (3) Annual licence fees are not refundable except:
 - (a) if the licence application is withdrawn prior to the issuance of the licence; or
 - (b) the licence application is refused.

Licence no longer required

38. (1) Every licensee must notify the Lands Manager in writing when the licence is no longer required.
- (2) The licence will be cancelled upon receipt of notification under subsection (1) or on the date indicated in the notification as the end of business operations.
- (3) A licensee is not entitled to a refund or partial refund of the licence fee.

Liability

39. The Lands Manager's or Council's approval or refusal to approve a licence
 - (a) is not evidence that a business, premises or any associated approvals are valid or legal; and
 - (b) does not create any liability on behalf of LNIB.

PART 7 - ENFORCEMENT

Suspending or revoking a licence

40. (1) In addition to any other remedies or penalties under this Law or any other applicable laws, if the Lands Manager has reasonable cause, the Lands Manager may, after giving notice to the holder of the licence
 - (a) suspend the licence for all or part of the year; or
 - (b) revoke the licence.
- (2) Upon suspending or revoking a licence under subsection (1), the Lands Manager may restrict a Person from holding a licence for up to three years for reasonable cause.
- (3) Without limiting the interpretation of "reasonable cause" under subsections (1) or (2), the following may serve as grounds to suspend or revoke a Person's licence or restrict a Person from holding a licence:
 - (a) the Person is convicted of an indictable offence;
 - (b) the Person is convicted of an offence under a Law, an applicable law of another First Nation, or under provincial or federal laws in relation to the activities of the business

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for which the licensee is licensed or with respect to the premises named in the licence;

- (c) the Person has ceased to meet the lawful requirements to carry on the business for which they are licensed or relating to the premises named in the licence;
- (d) the Person has failed to renew their licence within thirty (30) days of the expiry date;
- (e) the Person has failed to pay property tax pursuant to the LNIB Property Taxation Law, or has otherwise failed to comply with the LNIB Property Taxation Law or an order issued under that law; or
- (f) the Person has, in the reasonable opinion of the Lands Manager:
 - (i) engaged in such gross misconduct relating to the business or to the premises named in the licence as to warrant the suspension, revocation or restriction of the licence,
 - (ii) conducted business, performed a service, or displayed, offered for sale, or sold or distributed to a Person actually or apparently under the age of sixteen years anything that may be harmful or dangerous to the health or safety of a Person actually or apparently under the age of sixteen years, or
 - (iii) carried on any business without a licence.

Authority of enforcement officers

41. (1) In addition to any powers set out in a Law addressing the enforcement of Laws and the authority of enforcement officers and without limiting an enforcement officer's powers at law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:

- (a) issue a stop work order to any Person who carries out a business without receiving a licence if required under this Law, which includes for certainty, carrying out a business if the Person's licence is suspended or was revoked under section 40 or has been rendered invalid under section 44;
 - (b) where a business is being carried out without a licence, an enforcement officer may:
 - (i) order that a premises, or a portion of a premises, be closed, shut down, sealed off, or otherwise made unavailable for business use until there is a valid licence in place for that premises, or
 - (ii) order any vehicle entering LNIB Land for what the enforcement officer believes is a prohibited purpose under this Law to turn around or comply with this Law before entering LNIB Land.
- (2) An order under subsection (1)
- (a) may be registered in court and enforced as a court order; and
 - (b) continues in force until

BUSINESS LICENSING LAW

- (i) the condition that led to the order is remedied, or
- (ii) the activity that is the subject of the order receives a valid licence under this Law.

PART 8- RIGHT OF RECONSIDERATION

Right of Reconsideration by Council

- 42.** (1) An applicant or licensee who wishes reconsideration of a decision of the Lands Manager made under this Law must, within thirty (30) business days of receipt of notice of the decision, deliver to Council a written request stating the grounds upon which the request for reconsideration is based, together with any relevant supporting information or evidence and the applicable fee as set out in Schedule A.
- (2) Council must consider the request within thirty (30) days of receipt of the notice.
- (3) Council may concur with, modify, or reverse the decision of the Lands Manager, and must provide written notification to the applicant or licensee and to the Lands Manager of the decision.
- (4) For certainty, there is no right of reconsideration of Council's decision to refuse to approve an application for a retail cannabis business licence or an application to change the premises of a licensed retail cannabis business.

PART 9 - OFFENCES AND PENALTIES

Offences

- 43.** (1) A Person who does any of the following commits an offence:
- (a) provides false or misleading information in order to obtain a licence;
 - (b) carries out an activity prohibited under this Law without having first received a valid authorization;
 - (c) neglects or refrains from doing anything required to be done pursuant to the provisions of this Law;
 - (d) otherwise contravenes this Law; or
 - (e) obstructs, interferes with or denies access to an enforcement officer or other individual who is designated to enforce this Law.
- (2) A Person who commits an offence or who contravenes an order made by a court in relation to this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.

BUSINESS LICENSING LAW

- (3) A fine payable under subsection (2) must be remitted to LNIB by the court, after reasonable court costs have been deducted.
- (4) Despite subsection (2), LNIB may also authorize the Lands Manager or enforcement officer to issue a ticket or violation notice to impose a sanction or fine for contraventions of this Law.

Contravention renders licence invalid

- 44.** In addition to any other remedies or penalties under this Law, or any other applicable laws, any Person who contravenes, violates or permits any act or thing to be done in contravention of, or neglects or refrains from doing anything required to be done pursuant to the provisions of this Law renders their licence invalid.

PART 10 – Regulations

Regulations

- 45.** (1) Council may make any regulations it considers necessary or advisable for purposes under this Law.
- (2) For certainty, the powers of the Council under subsection (1) include the power to make regulations:
- (a) respecting the form and content of applications, notices, reports, licences and other documents that are required or permitted under this Law;
 - (b) prescribing consultation and public input requirements in respect of applications provided for in this Law;
 - (c) defining words and expressions that are used but not defined in this Law; and
 - (d) generally for the purpose of giving effect to this Law.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

PART 11- AMENDMENT

Substantive amendments to this law

- 46.** With the exception of a minor amendment described at section 47, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Management Advisory Committee in accordance with the Land Code.

Minor amendments

- 47.** (1) Council may approve a minor amendment to this Law by Resolution.
- (2) For the purposes of subsection (1), minor amendments mean:

BUSINESS LICENSING LAW

- (a) amendments to correct typographical errors;
- (b) amendments required to reference any relevant new or amended Law;
- (c) amendments ordered by any court of competent jurisdiction; and
- (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

PART 12 – Coming Into Force

Coming Into Force

48. This Law comes into force on the date it is passed by Resolution.

THIS LAW IS HEREBY DULY ENACTED by Council on the ___ day of _____, 20___, at _____, in the Province of British Columbia.

BUSINESS LICENSING LAW

SCHEDULE "A"

ADMINISTRATIVE FEES

| | |
|---|--------|
| Application fee for a standard business licence s. 37(1) | \$200 |
| Annual fee for a standard business licence s. 37(1) | \$100 |
| Application fee for a retail cannabis business licence s. 37(1) | \$1000 |
| Annual fee for a retail cannabis business licence s. 37(1) | \$500 |
| Application to reconsider a decision of the Lands Manager (refusal to approve an application for a standard business licence; suspension or suspension of standard business licence or retail cannabis business licence) s. 42 | \$50 |
| | |
| | |
| | |



ASPEN PLANERS LTD.

Road Use Agreement

Between: Aspen Planers Ltd. (“**Aspen**”)
Box 160
Merritt BC
V1K 1B8

And

Lower Nicola Indian Band (“**LNIB**”)
181 Nawishaskin Lane
Merritt BC
V1K 0A7

Dated: September 2, 2020

BACKGROUND

- A. Aspen wishes to use a road located on LNIB reserve lands (“**LNIB Lands**”) known as “Coutlee Mountain Road” (the “**Road**”) to transport approximately 3,000 cubic metres of timber harvested under Timber Mark EU4607, cutblocks (the “**Permitted Use**”).
- B. LNIB has agreed to permit Aspen to use the Road on the terms and conditions set out in this Agreement.

THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

1. Term

The term of this Agreement commences on the date first written above and unless otherwise agreed by the parties ends on March 31, 2021 (the “**Term**”).

2. Licence

LNIB hereby grants to Aspen and its employees, contractors and agents a non-exclusive licence to use the Road during the Term for the Permitted Use and for no other purpose without the prior written consent of LNIB. Aspen anticipates using the Road from approximately September 15, 2020 to March 31, 2021. Aspen will promptly notify LNIB in writing when it begins using the Road and when it has finished using the Road.

3. Licence Fee

Aspen Planers Ltd.
Box 160
Merritt, BC V1K 1B8
35604154.2

Office (250) 378-9266
Fax (250) 315-4239

Within 15 days of the date on which Aspen notifies LNIB that it has finished using the Road, Aspen will pay LNIB \$1.00 per cubic meter of all timber transported by means of the Road. Final volumes will be based on the Ministry of Forests scale returns (HBS).

4. Road Upgrades

Prior to using the Road, where required Aspen will at its cost upgrade the Road to industrial haul road standards and maintain the Road to such standards until it has finished using the Road. Aspen will at its cost maintain any portions of the Road that do not need to be upgraded to the same or better standards. Aspen will at its cost repair any damage to the Road or any other property caused by Aspen or any Aspen's Representatives. Aspen will not otherwise modify the Road or any other property on LNIB Lands without LNIB's prior written consent.

5. Cattle Guard

Prior to using the Road, Aspen will at its cost clean and maintain the cattle guard as directed by LNIB until it has finished using the Road. Aspen will at its cost repair any damage to the cattle guard or any other property caused by Aspen or any Aspen's Representatives.

6. Noxious Weeds

Aspen is responsible for preventing further introduction and spread of noxious weeds on to the Road right-of-way and LNIB Range Land.

7. Insurance

At all times during the Term Aspen will maintain general liability insurance acceptable to LNIB, acting reasonably, including owned and non-owned automobile liability insurance, in the amount of not less than \$5,000,000 per occurrence and on an aggregate basis, against liability for personal injury, bodily injury, death and broad form property damage or loss, arising from accidents or occurrences on or in the vicinity of the Road or the Lands or otherwise due to the use of the Road by Aspen or any of its directors, officers, employees, contractors, agents or any other person for whom Aspen is responsible at law (collectively, "**Aspen's Representatives**"). LNIB will be named as an additional insured on such policy of insurance, which will be primary and not require the sharing of any loss by an insurer that insures LNIB and other than the automobile insurance such policy will contain a provision for cross liability and a severability of interest. Prior to using the Road, Aspen will provide LNIB with evidence satisfactory to LNIB, acting reasonably, that Aspen has obtained the required insurance.

8. Compliance with Laws

Aspen will at all times use, upgrade and maintain the Road and cattle guard in a safe manner and in compliance with all applicable laws, including any laws of LNIB and the *Workers Compensation Act* (British Columbia) (Part 3) and the WCB Occupational Health & Safety Regulation.

9. Risk, Release, Indemnity

Aspen acknowledges and agrees that:

- a) LNIB has made no representations or warranties whatsoever in respect of the Road;
- b) Aspen's use of the Road or any part thereof is strictly on an "as-is / where is" basis;
- c) Aspen will use the Road at its own risk and LNIB will not be liable for, and Aspen hereby waives, any claim, action, damage, liability, cost or expense which Aspen or any Aspen's Representative may suffer, incur or be put to in connection with any occurrence on the Road or with the use of the Road by Aspen pursuant to this Agreement, except and to the extent of any loss and damage caused by the negligence or wilful misconduct of LNIB or any person for whom LNIB is responsible at law ("**LNIB's Representatives**");
- d) neither LNIB nor any LNIB's Representative will be liable to Aspen in connection with this Agreement, whether based on contract, tort (including negligence and strict liability), under warranty or otherwise, for any special, indirect, incidental or consequential loss or damage whatsoever, including, without limitation, loss of use of equipment or facilities and loss of profits or revenues; and
- e) Aspen will indemnify and hold harmless LNIB and LNIB's Representatives from and against any and all losses, costs, expenses (including, without limitation, all legal fees on a solicitor and own client basis, experts fees and disbursements), claims, actions, liabilities and damages including, without limitation, damages to any real or personal property or any injury to or death of any persons suffered or incurred due to or arising out of any use of the Road by Aspen or any of Aspen's Representatives.

10. Miscellaneous

- a) Aspen will not directly or indirectly assign, transfer, convey or otherwise dispose of this Agreement or any interest herein or any right of Aspen under this Agreement or permit any person other than Aspen's Representatives to exercise any right of Aspen under this Agreement.
- b) This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.
- c) This Agreement may be executed and delivered electronically (by email, fax or otherwise) and in counterparts, with the same force and effect as if all of the parties had signed the same original Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

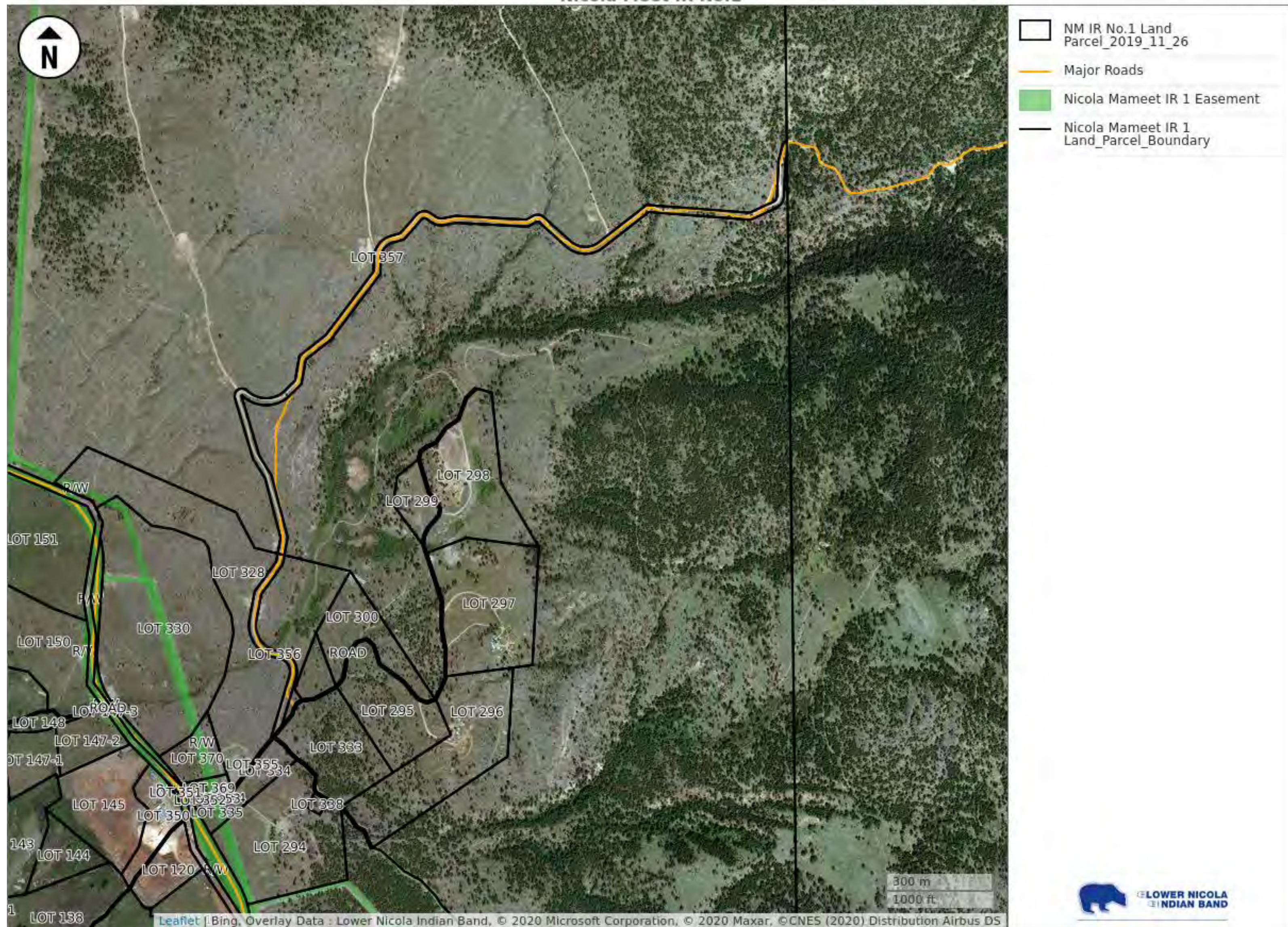
Aspen Planers Ltd.

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Lower Nicola Indian Band

Per: _____
Authorized Signatory



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LOWER NICOLA INDIAN BAND
LANDS MANAGEMENT ADVISORY COMMITTEE
181 NAWISHASKIN LANE, MERRITT, BRITISH COLUMBIA V1K 0A7
TEL.: 250-378-5157 FAX: 250-378-6188

RESOLUTION NO. 2020-06

WHEREAS:

- A. The Lower Nicola Indian Band Land Code (the “Land Code”) came into force on December 1, 2016;
- B. The relevant subsections of the Land Code state the following:
 - 14.5 *The written consent of Council must be obtained for any grant, encumbrance or disposition of an Interest or Licence in LNIB Land to a Person who is not a Member.*
 - 32.1 *The Lands Management Advisory Committee is hereby established to assist with:*
 - ...
 - (b) *advise Council and its staff on matters respecting LNIB Land;*
 - ...
- C. Aspen has requested use of Coutlee Mountain Road (the “Road”) on Nicola Mameet IR No.1 to transport approximately 3,000 cubic meters of timber harvested under Timber Mark EU4607.
- D. The proposed Road Use Agreement terms commence on September 02, 2020 and, unless otherwise agreed upon by the parties, ends on March 31, 2020.
- E. Prior to using the Road, where required and at its cost, Aspen will:
 - upgrade the Road to industrial haul road standards and maintain the Road to such standards until it has finished using the Road; and
 - clean and maintain the cattle guard as directed by LNIB until it has finished using the road.
- F. Within 15 days of the date on which Aspen notifies LNIB that it has finished using the Road, Aspen will pay LNIB \$1.00 per cubic meter of all timber transported by means of the Road. Final volumes will be based on the Ministry of Forests scale returns (HBS).

NOW THEREFORE BE IT RESOLVED THAT the Lands Management Advisory Committee supports and recommends that Chief and Council enter into the Road Use Agreement with Aspen Planers LTD.

This resolution is supported by the undersigned and passed this August 24, 2020.

Quorum of Committee: 4

William Bose, Chair

Madeline Lanaro

Gene Moses

Louise Moses

Hrolfe Joe

Robert Sterling

Sondra Tom