



Ministry of
Environment and
Climate Change Strategy

PARK USE PERMIT

LAND USE / OCCUPANCY

<p>This Park Use Permit No. 102340 (the "Permit") is issued under the authority of the <i>Park Act</i></p>	<p>(the "Park") See "Management Plan Schedule, Permit Area Description" for a complete list of Parks and Protected Areas</p>
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FROM:
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister responsible for the *Park Act* (the "Province") at the following address:

**Ministry of Environment and Climate Change Strategy
BC Parks
Kootenay Okanagan Region - Okanagan
102 Industrial Place
Penticton BC V2A 7C8**

TO:
Ministry of Transportation and Infrastructure
(the "Permittee") at the following address:

**310 1500
Woolridge St
Coquitlam BC V3K 0B8**

THE PROVINCE AND THE PERMITTEE AGREE AS FOLLOWS:

ARTICLE I - GRANT OF PERMIT

1.01 The Province, on the terms and conditions of this Permit, grants to the Permittee permission to enter upon and use that part of the Park (the "Permit Area") described, and for the purposes described, in the Management Plan Schedule.

ARTICLE II - TERM

2.01 The duration of this Permit is for a term of **10 years** commencing on **January 1, 2017** (the "Commencement Date") and ending on **December 31, 2026** (the "Expiration Date"), unless cancelled, terminated or renewed in accordance with the terms and conditions of this Permit.

ARTICLE III - FEES

3.01 The Permittee must pay to the Province a minimum fee (the "Permit Fee") of **\$0.00 (plus applicable taxes)** prior to Commencement date and on each anniversary of the commencement date during the term of this Permit.

3.02 The Province may, by notice to the Permittee not less than 30 days prior to each anniversary of the Commencement Date, increase the Permit Fee to an amount solely determined by the Province at its discretion, and the Permittee must pay the increased amount.

- 3.03 The Permittee must pay interest to the Province on money payable by the Permittee and owing to the Province under this Permit, at the rate of interest prescribed by the *Financial Administration Act* in respect of money owing to the Province, which interest will be calculated from the date that the money becomes payable to the Province.

ARTICLE IV - INDEMNITY

- 4.01 The Permittee will indemnify and save harmless the Province, its servants, employees and agents against all losses, claims, damages, actions, costs and expenses that the Province, its servants, employees and agents may sustain, incur, suffer or be put to at any time arising, directly or indirectly, from any act or omission of the Permittee, its employees, agents, contractors and licensees under this Permit, except for any liability arising from any independent, negligent act of the Province.

ARTICLE V – SECURITY AND INSURANCE

- 5.01 On the Commencement Date, you will deliver to us Security in the amount of which will: **Not Required**
- (a) guarantee the performance of your obligations under this Permit;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Permit.
- 5.02 Despite section 5.01, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Permit and all other Dispositions held by you.
- 5.03 We may use the Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Permit that are not performed by you and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.
- 5.04 After we certify, in writing, that you have fully performed your obligations under this Permit, we will return to you the Security maintained under section 5.01, less all amounts drawn down by us under section 5.03.
- 5.05 You acknowledge that we may, from time to time, notify you to
- (a) change the form or amount of the Security; and
 - (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Permit;
- and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.
- 5.06 You must
- (a) without limiting your obligations or liabilities under this Permit, at your expense, effect and keep in force during the Term the following insurance with insurers licensed to do business in Canada:
 - (i) **Commercial General Liability** insurance in an amount of not less than two million dollars **inclusive per occurrence** insuring against liability for personal injury, bodily injury (including death) and property damage, including coverage for all accidents or occurrences on the Permit Area or any improvements. Such policy will include cross liability, liability assumed under contract, provision to provide 30 days advance notice to us of material change or cancellation, and include us as an additional insured; **Not Required**
 - (b) ensure that all insurance required to be maintained by you under this Permit is primary and does not require the sharing of any loss by any of our insurers;

- (c) within 10 working days of the Commencement Date of this Permit, provide to us evidence of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (d) if the required insurance policy or policies expire or are cancelled before the end of the Term of this Permit, provide within 10 working days of the cancellation or expiration, evidence of new or renewal policy or policies of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (e) notwithstanding subsections (c) or (d) above, if requested by us, provide to us certified copies of the required insurance policies to be maintained by you under this Permit.

5.07 We may, acting reasonably, from time to time, require you to

- (a) change the amount of insurance set out in subsection 5.06(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Permit;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Permit.

5.08 You shall provide, maintain, and pay for any additional insurance which you are required by law to carry, or which you consider necessary to insure risks not otherwise covered by the insurance specified in this Permit in your sole discretion.

5.09 You waive all rights of recourse against us with regard to damage to your own property.

ARTICLE VI - COVENANTS OF THE PERMITTEE

6.01 The Permittee must:

- (a) pay the Permit Fee and other money payable under this Permit when due at the address of the Province first written above or at such place as the Province may specify from time to time;
- (b) pay when due all taxes, levies, charges and assessments that relate to operations of the Permittee under this Permit;
- (c) comply with all laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Permit Area, the Park, its use and occupation or the Permittee's operations under this Permit;
- (d) advise its employees, contractors, licensees, and agents of the laws and regulations respecting provincial parks and recreation areas and the conditions of this Permit respecting conduct in the permit Area;
- (e) keep the Permit Area in a safe, clean and sanitary condition to the satisfaction of the Province and make safe, clean and sanitary any portion of the Permit Area that the Province may direct by notice in writing to the Permittee;
- (f) remove from the Permit Area and the Park all garbage, debris and effluent resulting from its use of the Park and Permit Area under this Permit, except as otherwise permitted in the Management Plan Schedule;
- (g) comply with all orders and directions made, verbally or in writing, by a park officer (as defined in the *Park Act*) relating to the Park, this Permit or the Permit Area;
- (h) not construct, erect, place, repair, maintain or alter any building, fixture, equipment, structure or improvement in the Permit Area except as may be permitted by this Permit or with the prior written consent of the Province;
- (i) take all reasonable precautions to prevent and suppress fires in the Permit Area;

- (j) not interfere with free public access through, across and upon the Permit Area, unless otherwise specified in the Management Plan Schedule;
- (k) not interfere with or disrupt the activities and operations of other Permittee's or users in the Park;
- (l) use and occupy the Permit Area only in accordance with the provisions of this Permit;
- (m) not remove, destroy, damage, disturb or exploit any natural resource (as that term is defined in the *Park Act*) or any archaeological or cultural artefact found in or on the Permit Area except as may be permitted by this Permit, and only then in accordance with the *Park Act* and all other applicable laws;
- (n) not commit or allow any wilful or voluntary waste, damage or destruction in or upon the Permit Area;
- (o) pay for or repair, as determined by the Province, any damage caused to the property of the Province by the Permittee, its employees, agents, contractors, or licensees;
- (p) upon the expiration, cancellation or termination of this Permit:
 - (i) peaceably quit and deliver up possession of the Permit Area to the Province,
 - (ii) remove all chattels and improvements of the Permittee from the Permit Area within 30 days of the expiration, cancellation or sooner termination of this Permit, unless otherwise advised in writing, by the Province,
 - (iii) deliver to the Province possession of all equipment, furnishings, fixtures, chattels and improvements owned by the Province in a state of good repair and working order, and
 - (iv) restore the Permit Area to the satisfaction of the Province;
 - (v) and to the extent necessary, this covenant will survive the expiration, cancellation or termination of this Permit; and
- (q) comply with all provisions of the schedules to this Permit.

ARTICLE VII - RIGHTS OF THE PROVINCE

- 7.01 The Province retains all rights in respect of the Park and Permit Area which are not expressly granted to the Permittee under this permit, including, without limitation:
- (a) the right at all times for the Province, its authorized representatives, employees, and agents to have unimpeded access over and along all portions of the Permit Area and to inspect any portions of the Permit Area;
 - (b) the right at all times to construct, repair, alter and maintain buildings, equipment, structures and improvements upon the Permit Area; and
 - (c) the right to grant further rights in respect of the Park and Permit Area, provided that such rights do not unreasonably impede, obstruct or compete with the rights of the Permittee under this Permit.

ARTICLE VIII - NOTICE

- 8.01 Any notice required to be given by either party to the other will be deemed to be given if it is in writing and is delivered by hand or prepaid registered mail to the address first written above or any other address that may be specified in writing by a party and a notice will be deemed to be delivered, if mailed, eight days after the time of mailing except, in the case of a postal interruption, actual receipt is required.
- 8.02 Notwithstanding section 8.01, any written notice to be given by the Province to the Permittee under this Permit will be effectively given if it is posted in a conspicuous place on the Permit Area.

ARTICLE IX - RENEWAL

- 9.01 Not later than 140 days prior to the Expiration Date, the Permittee may, by notice in writing delivered to the Province, apply to the Province for a renewal of this Permit.

9.02 Provided that the Permittee is not in default under this Permit and subject to the terms of the *Park Act*, the Province may renew this Permit upon the terms and conditions determined by the Province.

9.03 The Permittee acknowledges that nothing in this Permit obligates the Province to renew this Permit and the Province's decision in that respect is entirely within its discretion

ARTICLE X - TRANSFER

10.01 The Permittee must not assign, transfer, sublicense or grant any of the rights or privileges granted by this Permit without the prior written consent of, and on the terms and conditions determined by, the Province.

10.02 If the Permittee is a corporation then a change in the control (as that term is defined in subsection 2(3) of the *Business Corporations Act*) of the Permittee without the prior written consent of the Province is deemed to be a breach of section 10.01.

ARTICLE XI - CANCELLATION

11.01 In the event that

- (a) the Permittee defaults in the payment of the Permit Fee or other money payable under this Permit, and the default continues for 7 days after the giving of written notice of the default by the Province to the Permittee;
- (b) the Permittee fails to perform or observe any of the terms or conditions of this Permit, other than the payment of money, and the failure is not remedied within a period specified by the Province;
- (c) the Permittee has wilfully misrepresented information:
 - (i) on the application form which led to the granting of this Permit, or
 - (ii) required to be provided under the terms and conditions of this Permit;
- (d) the Permit Area is damaged or destroyed by any cause whatsoever;
- (e) the Park is closed by the Province;
- (f) the Permittee files a petition in bankruptcy, is adjudged bankrupt, is petitioned into bankruptcy, makes an assignment for the benefit of its creditors, becomes insolvent or takes the benefit or protection of any statute for bankrupt or insolvent debtors;
- (g) any of the Permittee's assets is seized in execution from the Permit Area;
- (h) the Permittee, its employees, agents, contractors or licensees performs any act which in the opinion of the Province, affects the good standing or reputation of the Park, or adversely affects any other permit holder or park user within the Park;

the Province may cancel this Permit immediately by written notice to the Permittee.

11.02 In the event that the Permittee and the Province mutually agree in writing to terminate this Permit, the parties will be released and discharged from their obligations under this Permit, except as otherwise provided in this Permit.

11.03 The obligation of the Permittee

- (a) to pay the Permit Fee and other money payable under this Permit; and
- (b) to comply with Sections 4.01, 6.01(e), 6.01(o) and 6.01(p);

will survive the expiration, cancellation or termination of this Permit.

11.04 The Permittee will not be entitled to any compensation from the Province, in damages or otherwise, in respect of a cancellation or termination of this Permit.

ARTICLE XII - MISCELLANEOUS

- 12.01 This Permit may be inspected by the public at such times and at such places as the Province may determine.
- 12.02 Time is of the essence in this Permit.
- 12.03 Nothing in this Permit will be considered to have been waived by the Province unless such waiver is in writing.
- 12.04 During the term of this Permit, the Permittee will be an independent contractor and not the agent, employee or partner of the Province.
- 12.05 The Province will not be liable for any loss, damage, cost or expense resulting from the destruction of or damage to the Permittee's property or a disruption of the Permittee's operations under this Permit which result from strikes, flooding or other acts of God, vandalism, or any other interference to the Permittee's operation or property.

ARTICLE XIII- INTERPRETATION

- 13.01 In this Permit, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine, a corporation and body politic.
- 13.02 The captions and headings contained in the Permit are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions of this Permit.
- 13.03 In this Permit, a reference to an enactment of the Province of British Columbia or of Canada includes a reference to any subsequent enactment of like effect, and unless the context otherwise requires, all statutes referred to in this Permit are enactments of the Province of British Columbia.
- 13.04 If any part of this Permit is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will be enforceable to the fullest extent permitted by law.
- 13.05 If all or part of the Permit Area is in a recreation area established or continued under the *Park Act*, this Permit is deemed to be a resource use permit as that term is defined in the *Park Act*.
- 13.06 All schedules to this Permit form an integral part of this Permit.

IN WITNESS WHEREOF the parties have duly executed this Permit.

SIGNED and DELIVERED on behalf of the **Province** by a duly authorized representative of the Province.



Duly Authorized Representative

Print Name

Regional Director
Print Title

August 8, 2018

Date

MANAGEMENT PLAN SCHEDULE

PERMIT AREA DESCRIPTION

The Permittee is authorized to enter the Permit Area described below and outlined on the attached map.

- **E. C. Manning Park**

1. Forestry Pit and salt and equipment storage sheds

From the NW corner of District Lot DL621, YDYD (UTM 10:661014E/5437004N) bearing NE 16.7 degrees 470.4m to the point of commencement, then bearing NE 20.9 degrees 147.5m, then bearing NW 306.9 degrees 548.8m, then bearing N 358.6 degrees 181.0m, then bearing W 281.8 degrees 213.3m, then bearing SW 212.0 degrees 271.6m, then bearing SE 147.2 degrees 163.8m, then bearing SE 121.8 degrees 182.9m, then bearing S 180.6 degrees 169.9m, then bearing SE 117.9 degrees 123.1m, then bearing S 66.6 degrees 182.9m, then bearing S 108.1 degrees 235.9m back to the point of commencement for a total of 25.9 hectares.

2. Mule Deer East Pit

The area known district lot DL1723





FEE(s)

Protected Land: E. C. Manning Park

Base Facility:
Activities: Privately Owned Structures, Provincially Owned Structures, Mining, Sand and Gravel Quarry sites
Purpose: General purpose for Government permits
Fee Description: No Fee
Schedule K Ref:

Fees:

Item	Number	Rate	Total
Sub Total (based on Fee Description above):			\$0.00

Sub Total: \$0.00

**Minimum Fee Required: \$0.00
(plus applicable taxes)**

SPECIAL PROVISIONS

1. Purpose

This Permit is issued to the Permittee for the purpose of using park natural resources to produce sand and gravel materials and remove them from the permit area for the sole purpose of constructing and maintaining public roads

2. Permittee Designated Representative

The Permittee appoints the following representative to be responsible for liaison between BC Parks and the Permittee:

Name: Terence Lai, M.Sc., Senior Aggregate Resource Specialist
Address: 310 – 1500 Woolridge Street | Coquitlam BC V3K 0B8
Telephone: Cell: (604) 802-6515 Office: (604) 527-2262
Fax:
Email: Terence.Lai@gov.bc.ca

3. BC Parks Contact Information

The Designated Representative must contact the Area Supervisor with any requirements or questions regarding this Park Use Permit. To determine the Area Supervisor responsible for the protected land(s) listed below, contact the associated regional office for this information.

Park, Protected Area or Conservancy Name	Contact Information
E. C. Manning Park	Ministry of Environment and Climate Change Strategy, BC Parks Kootenay Okanagan Region - Okanagan 102 Industrial Place Penticton BC V2A 7C8 <i>Regional Office:</i> (250) 490-8200 <i>Fax:</i> (250) 490-2231

4. Pit Operations

- a. The Permittee must keep BC Parks up-to-date with the most current copy of the pit operating plan for each Pit Site.
- b. In addition to ARTICLE VI, Section 6.1 (c). The pits will be managed and operated following mining best practices. BC Parks may also direct the Permittee to provide increased public safety measures.
- c. In Addition to ARTICLE VI, Subsection 6.1(k) the Permittee must limit the hours of operation at the Mule Deer East Pit and Forestry Pit to 7am to 6pm during the operating season at the Mule Deer campground and Cold Spring campground respectively.
- d. The Permittee must not establish crushing or Paving Plant operations without first notifying BC Parks.
- e. Gates must be well maintained, painted yellow, good operational condition with closed signage and reflective markings.
- f. Access roads not controlled by a gate must be ditched or adequately blocked off to prevent vehicle access when not in use.
- g. No work shall be initiated, material spilled or equipment operated outside of the Permit Area

5. First Nations Consideration

- a. The Permittee must have a mitigation response plan for each site in the event a cultural site or artefacts are unearthed, as per the Heritage Conservation Act.

6. Pit Material use

- a. The permittee must ensure that the sand and gravel materials removed from the permit area are used for the sole purpose of constructing and maintaining public roads; any other use must be approved by BC Parks

7. Land Clearing

- a. The Permittee must not trim, cut alter or remove any tree or forest vegetation without approval by BC Parks.
- b. Debris resulting from clearing activities within the permit area shall be disposed of in a manner agreed to with BC Parks and in compliance to the Waste Management Act

8. Stumpage

- a. Trees removed from the site will be :
 - i. Assessed,
 - ii. disposed of through the small scale forestry process,
 - iii. And stumpage paid at fair market value.

9. Storage and Stockpiling

- a. In Addition to ARTICLE VI, Subsection 6.1(e)(f). Pits are not to be used for general storage and must be kept organised, free of construction waste debris, maintenance debris and any materials listed in the Environmental Management Act.
- b. The Permittee must report all spills or illegal dumping to the Ministry of Environment and Climate Change Strategy.
- c. In Addition to ARTICLE VI, Subsection 6.1(h). The Permittee may use the Forestry Pit to maintain a salt / equipment storage shed as outlined in the Management Plan

10. Sub-Contractors

- a. In Addition to ARTICLE VI, Subsection 6.1(d). The Permittee will notify BC Parks in writing of all sub-contractors working in the permit area..

11. Public Access

- a. The permittee may limit Public access to the permit area for safety reasons.

12. Water Management

- a. The Permittee shall take all precautions to prevent sedimentation or debris from damming or altering the stream bed downstream that will cause a blockage of flow or alteration of the water course
- b. Damage to structures (water crossing roads, campsites or facilities) or alteration of the stream bed downstream will be the responsibility of the Permittee
- c. The permittee shall install replace or upgrade drainage structures as required to reduce sedimentation downstream and maintain free flow of water
- d. The Permittee shall maintain all water containment ditches, bridges, and culverts downstream to insure free water flow

