

Lauri Feindell

From: HBE <HBE@interiorhealth.ca>
Sent: November 18, 2021 1:52 PM
To: Planning
Subject: RE: Referral Project I2019.023-ZONE

Hello Fiona,

The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal.

If you have any questions, please feel free to contact me at 250-851-7347.

Kind regards,

Misty

Misty Palm, B.Tech. CPHI(C)

Environmental Health Officer – Healthy Communities

Interior Health

p: 250-851-7347

c: 250-320-0495

e: misty.palm@interiorhealth.ca

www.interiorhealth.ca



Interior Health

We recognize and acknowledge that we are collectively gathered on the traditional, ancestral, and unceded territories of the seven Interior Region First Nations, where we live, learn, collaborate and work together. This region is also home to 15 Chartered Métis Communities. It is with humility that we continue to strengthen our relationships with First Nation, Métis, and Inuit peoples across the Interior.

From: Fiona Titley <ftitley@rdos.bc.ca>
Sent: Wednesday, November 17, 2021 1:56 PM
To: HBE <HBE@interiorhealth.ca>; 'referrals@fortisbc.com' <referrals@fortisbc.com>; 'kmg365@live.ca' <kmg365@live.ca>; 'jcvitko@sd53.bc.ca' <jcvitko@sd53.bc.ca>; 'FLNRDOSReferrals@gov.bc.ca' <FLNRDOSReferrals@gov.bc.ca>
Subject: Referral Project I2019.023-ZONE

CAUTION! This email originated from outside of Interior Health. Do not click links or open attachments unless you recognize the sender, their email address, and know the content is safe. If you suspect this is a phishing or fraudulent email please forward it to spam@interiorhealth.ca.

Lauri Feindell

From: Money, Dani ENV:EX <Dani.Money@gov.bc.ca>
Sent: April 13, 2022 8:26 AM
To: Fiona Titley
Cc: Robertson, James ENV:EX
Subject: FW: Referral re: Proposed Land Donation 1609 Green lake Road, Ok Falls
Attachments: Revised land donation plan 1609 Green Lake Road.pdf

Good afternoon Fiona,

Thank you for providing the revised configuration of the potential land donation associated with the subdivision of 1609 Green Lake Road in Ok Falls.

In this configuration BC Parks would receive a land donation equal to 13.0 hectares located at along the south and west areas of the portion of the parent parcel that is west of Green Lake Road.

I have spoken to BC Parks operations and conservation staff and we are supportive of the configuration and size of the land donation, and would be pleased to receive it. That land has the potential to include red and blue listed species and would represent a valuable addition to White Lake Grasslands Protected Area. Please let me know if you would like more information from me.

With respect to the 8.9 hectare "remainder" parcel, despite its odd configuration (as the triangular portion at the south end seems almost orphaned from the remainder), BC Parks would consider that parcel an advantageous acquisition for the protected area as well, though if the land owner were interested in selling it, our decision to negotiate towards possible acquisition would be based on where it ranks regionally and provincially against other available properties. But I did want to let you know we might be interested in it.

Thanks,
Dani

Dani Money (she/her)

Planning Section Head, Cranbrook, BC Parks / P: (250) 420-6310

From: Robertson, James ENV:EX <James.Robertson@gov.bc.ca>
Sent: April 12, 2022 11:34 AM
To: Money, Dani ENV:EX <Dani.Money@gov.bc.ca>
Subject: FW: Referral re: Proposed Land Donation 1609 Green lake Road, Ok Falls

FYI

James Robertson RI
Land Acquisition Negotiator
BC Parks – Ministry Of Environment & Climate Change Strategy
Telephone: 778-698-9087
james.robertson@gov.bc.ca



From: Fiona Titley <ftitley@rdos.bc.ca>
Sent: March 17, 2022 2:54 PM
To: Robertson, James ENV:EX <James.Robertson@gov.bc.ca>
Subject: Referral re: Proposed Land Donation 1609 Green lake Road, Ok Falls

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Re: Project No. I2019.023-ZONE
Official Community Plan and Zoning Bylaw Amendment

Good afternoon James,

You may recall that you previously discussed a land donation as part of a rezoning proposal for the property located at 1609 Green Lake Road with my manager, Christopher Garrish a few months ago.

The applicants originally submitted a proposal to donate 4.0 ha of the land from the south end of the property to the White Lakes Grasslands Area.

Based on feedback from staff and the local Advisory Planning Commission that both parties were unsupportive of this proposal, the applicants have now come forward with a revised proposal that has increased the land donation from 4.0 ha to 13.0 ha.

We would be interesting in hearing your feedback on this latest proposal.

I have attached the revised land donation proposal.

More information and previous iterations of the draft amendment bylaws can be found on our webpage:

<https://www.rdos.bc.ca/development-services/planning/current-applications-decisions/electoral-area-i/i2019023-zone/>

If you have any questions or require clarification please let me know.

Kind Regards,



Fiona Titley • Planner I
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250.486.0182 • tf. 1.877.610.3737 • f. 250.486.0182
www.rdos.bc.ca • ftitley@rdos.bc.ca
[FACEBOOK](#) • [YOUTUBE](#) • Sign up for [REGIONAL CONNECTIONS](#)

Proposed Amended Development Plan

1. To legally separate the 3.1 ha farmland from the rest of the non-farm areas within the subject property and create a Small Holdings Two (SH2) parcel to meet the minimum parcel area requirements in the Zoning Bylaw.
2. To allow an additional single-family dwelling in a developable area that is adjacent to the north side of the four single-family residential lots with a minimum of two hectares in area.
3. The owner is committed to donating thirteen (13) hectares, approximately 46.43% of their lands, to provide for inclusion into the provincial grassland protected area. The land donation would occur as part of the subdivision process to create the additional parcels.

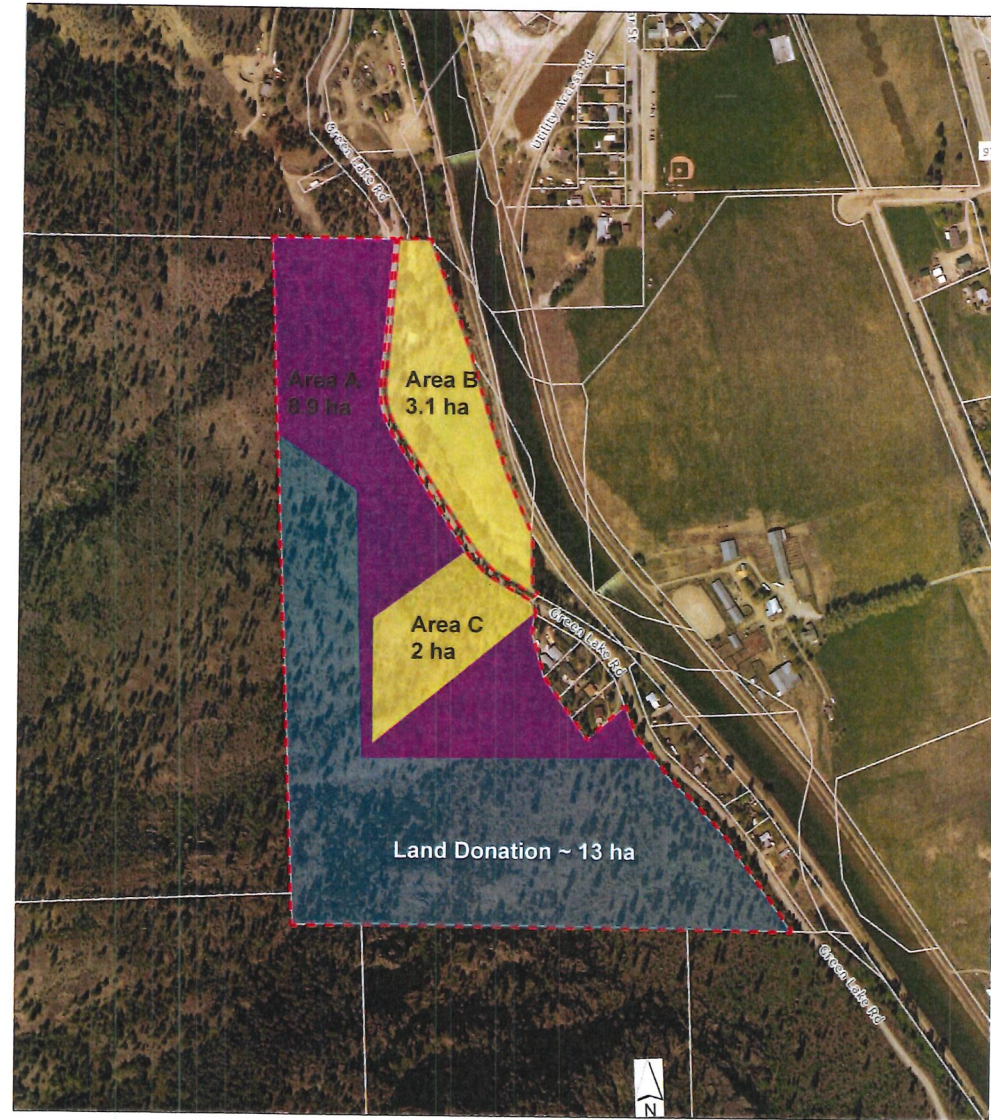
Total	28 ha
Farm Parcel	3.1 ha
Road Dedication	1.0 ha
New Parcel	2.0 ha
Land Donation	13 ha
Remainder Parcel	8.9 ha

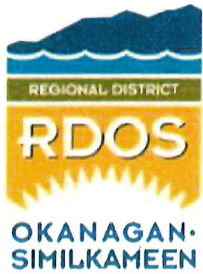


Proposed OCP and Zoning Bylaw Amendments

To achieve the development intent, the following amendments to the OCP and the Zoning Bylaw are required:

1. **Amendment to the OCP Land Use Designation:** to change the yellow shaded areas (Area B and Area C) within the subject property from Resource Area (RA) to Small Holdings (SH).
2. **Amendment to the Zoning Bylaw:**
 - a) to rezone the yellow shaded areas (Area B and Area C) within the subject property from Resource Area (RA) to Small Holdings Two (SH2).
 - b) to rezone the purple shaded area (Area A) from Resource Area (RA) to Site Specific Resource Area (RA-Site Specific) to allow smaller RA parcel size due to the land donation.





Feedback Form

Regional District of Okanagan Similkameen

101 Martin Street, Penticton, BC, V2A-5J9

Tel: 250-492-0237 / Email: planning@rdos.bc.ca

TO: Regional District of Okanagan Similkameen **FILE NO.:** I2019.023-ZONE

FROM: Name: Cathy Lacey
(please print)

Street Address: _____

RE: Electoral Area "I" Official Community Plan Amendment Bylaw No. 2683.05 and Zoning Amendment Bylaw No. 2457.32
1609 Green Lake Road — District Lot 30S, SDYD, Except (1) Plans B4130, 21048, 27512 and KAP75356 (2) Parcels D, 15 and 17 on Plan A1266

My comments / concerns are:

- I do support the proposed rezoning of the subject parcel.
- I do support the proposed rezoning of the subject parcel, subject to the comments listed below.
- I do not support the proposed rezoning of the subject parcel.

Written submissions received prior to the close of the public hearing will be considered by the Regional District Board.

I am not opposed to the zoning amendment as Green Lake Road runs through the property but do have concerns about what can happen after the rezoning.

This is within RDOS's Environmentally Sensitive Permit Area, and I would expect that an Environmental Assessment (EA) would be done before rezoning and subdivision to make sure there are appropriate sites for small holdings designation. There are many species at risk and endangered species on this land as I have physically seen them--provincial and federal records confirm this, and there is federal critical habitat for several species on this parcel. I'm not in favor of a subdivision for a building site, especially the south parcel, and the entire area is rated Very High Conservation ranking under the Biodiversity Conservation Strategy.

Thank you for the opportunity to comment

Cathy Lacey

RECEIVED
Regional District

FEB - 4 2022

101 Martin Street
Penticton BC V2A 5J9

Lauri Feindell

From: Referrals <Referrals@fortisbc.com>
Sent: November 22, 2021 10:58 AM
To: Planning
Subject: Referral Project I2019.023-ZONE
Attachments: Bylaw Referral Sheet Template (2021-11-15).pdf

Good morning,

With respect to the above noted file, FortisBC Energy Inc. (Gas) has reviewed the subject proposal and has no objections or concerns.

There are no FortisBC Energy Inc. (Gas) ("FBC(G)") distribution facilities along this portion of Green Lake Road. Please note that existing gas facilities in the area may, depending on development's load requirements, not have sufficient capacity and upgrading related facilities may be required.

For more information, please refer to FBC(G)'s design requirements:
FortisBC Standards and Guidelines for getting connected

<https://www.fortisbc.com/build-renovate/builder-services/connect-your-project-to-natural-gas/standards-and-guidelines-for-getting-connected>

Otherwise, FBC(G) has no concerns with this circulation.

It should be noted that additional land rights issues may arise from the planning process but can be dealt with at that time, prior to construction.

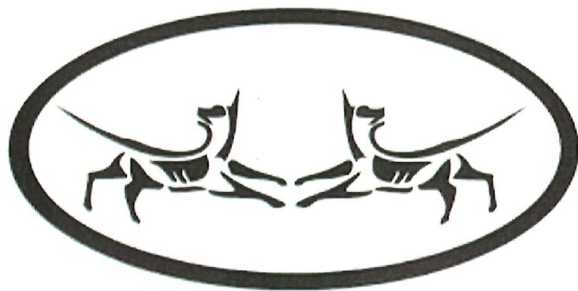
If you have any questions or concerns, please do not hesitate to contact us.

Best regards,

Mai Farmer
Property Services Assistant
Property Services



From: Fiona Titley <ftitley@rdos.bc.ca>
Sent: Wednesday, November 17, 2021 1:56 PM
To: 'HBE@interiorhealth.ca' <HBE@interiorhealth.ca>; Referrals <Referrals@fortisbc.com>; 'kmg365@live.ca' <kmg365@live.ca>; 'jcvitko@sd53.bc.ca' <jcvitko@sd53.bc.ca>; 'FLNRDOSReferrals@gov.bc.ca' <FLNRDOSReferrals@gov.bc.ca>
Subject: [External Email] - Referral Project I2019.023-ZONE



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

1609 Green Lake Road

FN Consultation ID:

L-220222-I2019-023-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 23, 2022

File number:

I2019.023-ZONE

March 15, 2022

Attention: Fiona Titley

We are in receipt of the above referral. This proposed activity is within the PIB Area of Interest within the Okanagan Nation's Territory, and the lands and resources are subject to our unextinguished Aboriginal Title and Rights.

The Supreme Court of Canada in the *Tsilhqot'in* case has confirmed that the province and Canada have been applying an incorrect and impoverished view of Aboriginal Title, and that Aboriginal Title includes the exclusive right of Indigenous People to manage the land and resources as well as the right to benefit economically from the land and resources. The Court therefore concluded that when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify.

PIB has specific referral processing requirements for both government and proponents which are integral to the exercise of our management right and to ensuring that the Crown can meet its duty to consult and accommodate our rights, including our Aboriginal title and management rights. According to this process, proponents are required to pay a \$500 processing fee for each referral. This fee must be paid within 30 days. Proper consultation and consideration of potential impacts cannot occur without the appropriate resources therefore it is only with payment that proper consultation can begin and the proposed activity/development can be reviewed.

1. Invoice Number: L-220222-I2019-023-ZONE

Referrals Processing Fee

Sub Total \$ 500.00

Tax \$ 0.00

Total \$ \$500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

Please make cheque or cash payable to Penticton Indian Band. re: P.C.132. Mail payment to ATTN: Heather McDougall, Penticton Indian Band Natural Resources Department 841 Westhills Drive, Penticton, British Columbia, Canada V2A 0E8. Please include this letter when sending.

Upon receipt of the processing fee, we will commence our review. You may then expect to receive a letter from us notifying you of the results of our review of potential impacts of the project within 30 to 90 days.

If the proposed activity requires a more in-depth review, PIB will notify the proponent and all parties will negotiate a memorandum of agreement regarding a process for review of the proposed activity.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

If you require further information or clarification, please do not hesitate to contact me.

limləmt,

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
Referrals.clerk@pib.ca

Lauri Feindell

From: Money, Dani ENV:EX <Dani.Money@gov.bc.ca>
Sent: April 13, 2022 8:26 AM
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Land Acquisition Negotiator
BC Parks – Ministry Of Environment & Climate Change Strategy
Telephone: 778-698-9087
james.robertson@gov.bc.ca



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If you have any questions or require clarification please let me know.

Kind Regards,



Fiona Titley • Planner I
Regional District of Okanagan-Similkameen
101 Martin Street, Penticton, BC V2A 5J9
p. 250.486.0182 • tf. 1.877.610.3737 • f. 250.486.0182
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[FACEBOOK](#) • [YOUTUBE](#) • Sign up for [REGIONAL CONNECTIONS](#)

Lauri Feindell

From: Penticton Indian Band Natural Resources Department <no-reply-snpinktn@knowledgekeeper.ca>
Sent: April 19, 2022 1:11 PM
To: Planning
Subject: 1609 Green Lake Road
Attachments: consultation-response-35469-l-220222-i2019-023-zone-20220419-1311.pdf

Hello Planning RDOS,

The proposed project falls within the Okanagan/syilx territory and the Penticton Indian Band's area of responsibility. All lands and resources within the vicinity of this referral are subject to unextinguished Okanagan/syilx Nation Aboriginal Title and Rights.

Please review attached letter.

Please do not reply to this email message. Replies to this message will not be received as this is a no-reply email address. Please contact me at:

Maryssa Bonneau
Referrals Coordinator
Penticton Indian Band
Natural Resources
email: referrals@pib.ca
work: (250) 492-0411
cell: (250)486-3241
address: 841 Westhills Drive S 80 C 19
Penticton, British Columbia
Canada V2A 0E8

This email does not constitute consultation and must not be construed by the Crown or Third Parties as fulfillment of its duty to consult with the Penticton Indian Band. Confidentiality Warning: This e-mail contains information intended only for the use of the addressee(s). You must not copy, disseminate or publish this e-mail.



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

1609 Green Lake Road

FN Consultation ID:

L-220222-I2019-023-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 23, 2022

File number:

I2019.023-ZONE

April 19, 2022

Attention: Planning RDOS,

Re: 1609 Green Lake Road Invoice # -L-220222-I2019-023-ZONE

We write regarding your failure to pay invoice L-220222-I2019-023-ZONE to conduct a review to obtain additional information in the area of the above referral. To date, no payment has been received and we have therefore been unable to conduct a review of this referral; we must therefore put you on notice that we do not consent, agree or otherwise approve of the activity / development referred to by you in your letter to us dated February 23, 2022.

Invoice Number: L-220222-I2019-023-ZONE

Subtotal Tax Total

Referral Processing \$ 500.00 \$ 0.00 \$ 500.00

Total \$ 500.00 \$ 0.00 \$ 500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

The syilx/Okanagan Nation holds unextinguished aboriginal title to the land and resources within our traditional territory. The above-noted activity / development is within PIB's Area of Responsibility within syilx/Okanagan territory and as such, is subject to syilx/Okanagan title, jurisdiction, rights and interests, and PIB decision making and responsibility.

Over the last two decades, the Supreme Court of Canada has clarified the law respecting the rights of aboriginal people in British Columbia, which includes the Penticton Indian Band, syilx/Okanagan Nation. The Court has clarified that Aboriginal title continues to exist in British Columbia, and is protected by s. 35 of the Constitution Act, 1982.

In June 2014, the Supreme Court of Canada in the Tsilhqot'in case set out the following characteristics and implications of Aboriginal title:

- Aboriginal title is not limited to intensively used sites; it extends to lands physically occupied and lands over which

Indigenous peoples exercised control. Regular use of territories for hunting, fishing, trapping and foraging, with an intention and capacity to control the lands, grounds Aboriginal title.

- The Crown has no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in Aboriginal title lands and resources; the beneficial interest is held by the Aboriginal title holding group. Allocations of Aboriginal title lands or resources to third parties are serious infringements of Aboriginal title.
- Aboriginal title includes the right to proactively use and manage the resources.
- Once Aboriginal title is “established”, the constitution prohibits incursions without the consent of the Aboriginal title holders unless the Crown can justify the infringement, which in turn requires a compelling and substantial public purpose as well as consistency with the Crown’s fiduciary duty to the Aboriginal title holders, requiring the involvement of the Aboriginal title holding group in decisions.
- Before Aboriginal title is “established”, the only way to ensure certainty is to obtain consent; in the absence of consent, the Crown must consult and accommodate. If consultation or accommodation is inadequate, the Crown decision can be suspended or quashed. Moreover, fulfilling the duty to consult and accommodate does not provide the certainty that consent provides; once Aboriginal title is established, the Crown may be required to cancel projects where there was no consent and the justification test noted above cannot be met.

Most recently, in November 2019, the province of British Columbia implemented the United Nations Declaration on the Rights of Indigenous Peoples which aims to emphasize the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations. The United Nations Declaration on the Rights of Indigenous Peoples (“the Declaration”) recognizes and affirms:

- Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- Article 8(2): States shall provide effective mechanisms for prevention of, and redress for: (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 26(2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
- Article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources particularly in connection with the development, utilization or exploitation of minerals, water or other resources.

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co- existence or accommodation of our jurisdiction and title. The Province continues to act as though we have no beneficial interest or authority, and it takes for itself the revenues derived from our lands and resources. The payment of the referral fee is necessary in order for us to assess your proposal, assess potential impacts and determine whether it should be approved and if so, on what conditions. Because we are unable to undertake such an assessment, we must at this time advise you that we are opposed to your proposed development/activity.

lilmlmt,

Maryssa Bonneau
Referrals Coordinator
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
C: 250-486-3241
Referrals@pib.ca

Lauri Feindell

From: Penticton Indian Band Natural Resources Department <no-reply-snpinktn@knowledgekeeper.ca>
Sent: March 15, 2022 4:02 PM
To: Planning Group
Subject: 1609 Green Lake Road
Attachments: consultation-response-35469-l-220222-i2019-023-zone-20220315-1601.pdf
Categories: Fiona

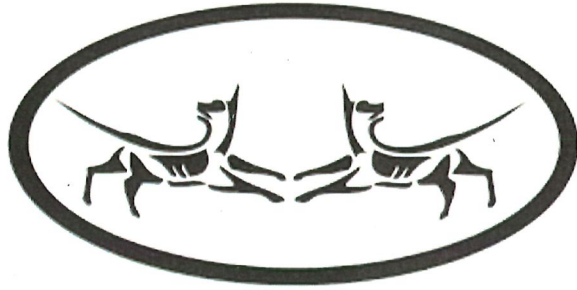
Hello Fiona Titley,

The proposed project falls within the Okanagan/syilx territory and the Penticton Indian Band's area of responsibility. All lands and resources within the vicinity of this referral are subject to unextinguished Okanagan/syilx Nation Aboriginal Title and Rights.

Please review attached letter.

Please do not reply to this email message. Replies to this message will not be received as this is a no-reply email address. Please contact me at:

Heather McDougall
Referrals Clerk
Natural Resources Department
Penticton Indian Band
P: 250-492-0411
Referrals.clerk@pib.ca



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

1609 Green Lake Road

FN Consultation ID:

L-220222-I2019-023-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Wednesday, February 23, 2022

March 15, 2022

Attention: Fiona Titley

File number: I2019.023-ZONE

RE: 40 (forty) day extension

Thank you for the above application that was received on 2022-02-23T00:00:00.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the Penticton Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 40 days from the existing timeline.

Most recently, the Supreme Court of Canada in the Tsilquot'in case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title, and that Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economically from those uses.

Please note that not receiving a response regarding a referral from Penticton Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

I appreciate your co-operation.

liml̓əmt,

Heather McDougall

Referrals Clerk

Natural Resources Department

Penticton Indian Band

P: 250-492-0411

Referrals.clerk@pib.ca
