



## BYLAW NO. 231

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### A BYLAW TO AUTHORIZE ENTERING INTO A LICENSING AGREEMENT FOR PART OF THE PORT NEVILLE WHARF FACILITY

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**WHEREAS** the Regional District may, pursuant to Part 5 of the *Local Government Act*, acquire, hold, manage and dispose of land, improvements or other property or any interest in such property;

**AND WHEREAS** the Regional District has acquired a wharf facility at Port Neville from the Government of Canada;

**AND WHEREAS** the Regional District wishes to enter into a licensing agreement for a portion of the aforesaid wharf facility;

**AND WHEREAS** the requirements of the *Local Government Act* with respect to the disposition of Regional District property have been met;

**NOW THEREFORE** the Board of Directors of the Strathcona Regional District, in open meeting assembled, enacts as follows:

#### **Licence Agreement Authorized**

1. The Strathcona Regional District is hereby authorized to enter into a licensing agreement with Port Neville Holdings Ltd. for the operation and maintenance of a fuel transfer line at the Port Neville wharf facility.

#### **Form and Substance**

2. The agreement referenced in section 1 shall substantially comply in form and substance with that shown in Schedule 'A', attached to and forming part of this bylaw.

#### **Authority to Execute**

3. The Chair and Corporate Officer shall have full authority to execute the agreement following adoption of this bylaw.

**Effective Date**

5. This bylaw shall take effect on the date of adoption.

**Citation**

6. This bylaw may be cited for all purposes as Bylaw No. 231, being Port Neville Wharf Facility Licensing Agreement Authorization Bylaw 2015.

**READ A FIRST TIME ON THE 12<sup>TH</sup> DAY OF AUGUST, 2015**

**READ A SECOND TIME ON THE 12<sup>TH</sup> DAY OF AUGUST, 2015**

**READ A THIRD TIME ON THE 12<sup>TH</sup> DAY OF AUGUST, 2015**

**RECONSIDERED, FINALLY PASSED AND ADOPTED ON THE 12<sup>TH</sup> DAY OF AUGUST, 2015**

\_\_\_\_\_  
Chair

  
Corporate Officer



## SCHEDULE 'A'

### LICENCE AGREEMENT

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THIS AGREEMENT DATED FOR REFERENCE THE \_\_\_\_ DAY OF \_\_\_\_\_, 2015

BETWEEN:

**STRATHCONA REGIONAL DISTRICT**  
#301-990 Cedar Street, Campbell River, BC V9W 7Z8  
("the Regional District")

AND:

**PORT NEVILLE HOLDINGS LTD**  
235 South Murphy Street, Campbell River, BC, V9W 1Y8  
("the Licensee")

#### **WHEREAS:**

- A. The Regional District is the owner of the Port Neville wharf ("the facility").
- B. The Regional District has been requested by Port Neville Holdings Ltd. to grant a licence to use part of the facility.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the licence fee and agreements to be paid and performed by the Licensee, the parties hereto covenant and agree with each other as follows:

#### **1. DEFINITIONS**

"Premises" means that part of the facility described in Exhibit 1.

#### **2. GRANT OF LICENCE**

The Regional District grants to the Licensee a right and licence to use and occupy the premises during the term of this licence.

#### **3. TERM**

The term of this licence commences upon execution of this Agreement and terminates on the 31<sup>st</sup> day of December, 2019.

#### **4. USE**

The Licensee shall use the Premises solely for operating and maintaining an existing diesel fuel transfer line on the southern side of the Port Neville approach for the purpose of supplying fuel to the Licensee's upland storage tank.

#### **5. LICENCE FEE**

The Licensee shall pay to the Regional District a licence fee of \$118.04 per annum (plus applicable taxes).

## 6. COVENANTS OF THE LICENSEE

The Licensee covenants with the Regional District as follows:

(a) Payment of Fees

The Licensee will pay the annual licence fee plus applicable taxes at least 15 days prior to beginning of each year of the Term.

(b) Taxes, Rates and Utility Charges

The Licensee shall pay all fees, charges, taxes, rates, duties or royalties of any type whatsoever resulting from the Licensee's use or occupation of the premises.

(c) Construction

The Licensee will not make any alterations in the structure, plan or partitioning of the facility nor install any equipment, plumbing, piping, wiring or apparatus without the prior written consent of the Regional District.

(d) Repair

(i) The Licensee will repair at its sole cost and expense, reasonable wear and tear excepted, all damage to the facility and any equipment or other property of the Regional District resulting from the Licensee's use of the facility.

(ii) The Licensee will keep and leave whole and in good repair all fixtures on the premises.

(iii) The Regional District may enter and view the state of repair at any time and the Licensee shall repair according to any notice given by the Regional District and, if the Licensee fails to do so, the Regional District may effect such repairs as it considers appropriate, in which case the Licensee shall reimburse the Regional District for all costs and expenses of repair and a reasonable amount for administration and overhead immediately upon the Licensee's receipt of an invoice for the work.

(e) Maintenance

The Licensee will be responsible for maintaining any equipment, plumbing, pipes, valves, meters, pumps and appurtenances installed under this or a previous licence.

(f) Pollution Abatement

The Licensee will be responsible for abatement of pollution in connection with the fuel transfer system including maintenance of a spill response kit and development of detailed emergency response plan.

(g) Right of Entry

The Regional District, its officers, employees, and agents shall at all times and for all purposes have full and free access to any and every part of the premises.

(h) Assignment and Sublicensing

The Licensee will not assign or grant a sub-licence to any party without first receiving written permission from the Regional District.

(i) Regulations

The Licensee will comply promptly at its own expense with the legal requirements of all authorities and all notices issued under them that are served upon the Regional District or the Licensee.

(j) Insurance

(i) The Licensee shall maintain during the term a policy of general liability insurance with a minimum amount of \$2,000,000 per occurrence, in respect of personal injury, bodily injury or property damage arising from or connected with the Licensee's use of the premises. The Regional District shall be named as an additional insured to such policy of insurance. The

Licensee shall provide the Regional District with a certificate of insurance, or other proof of insurance that is satisfactory to the Regional District, prior to making use of the Premises.

(ii) All policies of insurance taken out by the Licensee shall contain a waiver of subrogation clause in favour of the Regional District and shall also contain a clause preventing the insurer from cancelling or changing the insurance without providing at least thirty (30) days prior notice in writing to the Regional District.

(iii) If the Licensee fails to provide or maintain in force the insurance required by this Agreement, the Regional District may procure the required insurance on behalf of the Licensee and the Licensee shall pay to the Regional District the amount of the premium immediately on demand.

(k) Indemnification

The Licensee agrees that it will indemnify the Regional District against all claims, losses, damages, suits, actions and causes of action arising from or connected with the Licensee's use of the premises provided that nothing in this Agreement shall make the Licensee responsible to indemnify the Regional District to the extent that such claims are caused, in whole or in part, by the negligence of the Regional District.

(l) Possession

(i) At the expiration or sooner termination of this licence, the Licensee will peaceably surrender and give up possession of the premises without notice from the Regional District, and hereby waives any right to notice to quit or vacate despite any law or custom to the contrary.

(ii) The Licensee will be responsible to insure its own equipment and other personal property.

(iii) The Licensee will properly supervise all persons accessing or using the premises in accordance with this licence.

## 7. MISCELLANEOUS COVENANTS

The parties further agree that:

(a) Effect of Waiver

The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this licence is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

(b) Cancellation

(i) The Licensee may terminate this Agreement if, for any reason, the Regional District is unable to provide the premises during the term, in which case the Licensee shall not be liable for payment of the licence fee for the remainder of the term, provided that the Regional District shall not be liable to the Licensee for damages suffered, whether consequential or direct, as a result of its inability to provide the premises.

(ii) If the Licensee does not cancel the licence as provided herein, and if the Licensee fails to make use of the premises for any cause other than as a result of neglect or default on the part of the Regional District, a strike or lockout of Regional District employees, or an act of God or insurrection, then the Licensee shall remain liable to pay the Regional District the full amount of the licence fee.

(c) Termination

The Regional District may at any time terminate this licence for breach of any covenant or condition of this licence by the Licensee.

(d) Holding Over

If the Licensee holds over following the term and the Regional District accepts the licence fee, this Agreement becomes a licence-at-will subject to those conditions in this Agreement applicable to a licence-at-will.

(e) Execution

The parties warrant and represent that the execution of this Agreement is a warranty and representation to each other that the person executing the Agreement on their behalf has sufficient authority and capacity to bind their organization with his or her signature.

(f) Fitness of Premises

(i) The Regional District has made no representations or warranties as to the condition, fitness or suitability of the facility, premises, equipment or other personal property located on the premises and by executing this Agreement the Licensee forever releases the Regional District from any and all claims, losses or damages which the Licensee now has or may in future have due to any deficiency, unsuitability or lack of fitness for the Licensee's use.

(ii) The Licensee has inspected the premises and any equipment or other personal property in their present state and confirms that they are suitable for the Licensee's purposes.

(iii) The Licensee agrees that before commencing use of the premises the Licensee shall, on each occasion before use and occupation, inspect the premises and equipment and shall forthwith notify the Regional District in writing of any condition that may render the premises or equipment unsafe for use.

(g) No Interest

This Agreement shall not be interpreted as granting any interest in the facility to the Licensee.

(h) Interpretation

(i) When the singular or neuter are used in this Agreement they include the plural or the feminine or the masculine or the body politic or corporate where the context or the parties require.

(ii) The headings to the clauses in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

(i) Binding Effect

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.

(j) Applicable Law

This Agreement shall be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

**IN WITNESS WHEREOF** the parties hereto have executed this agreement as follows:

**STRATHCONA REGIONAL DISTRICT:**

**PORT NEVILLE HOLDINGS LTD:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

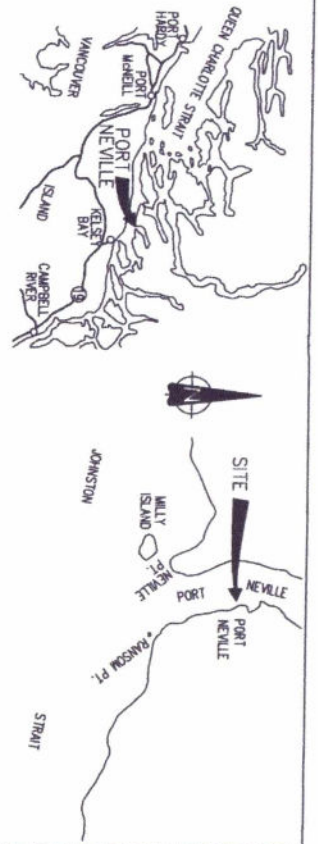
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Title

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Date

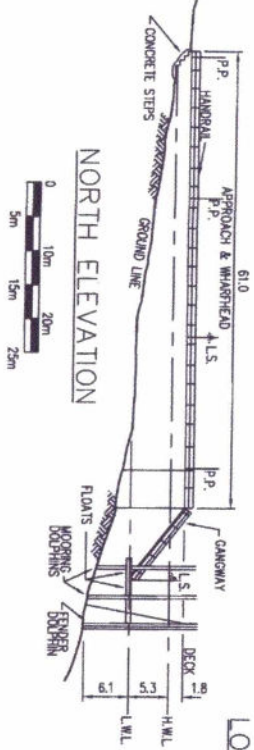
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# EXHIBIT 1

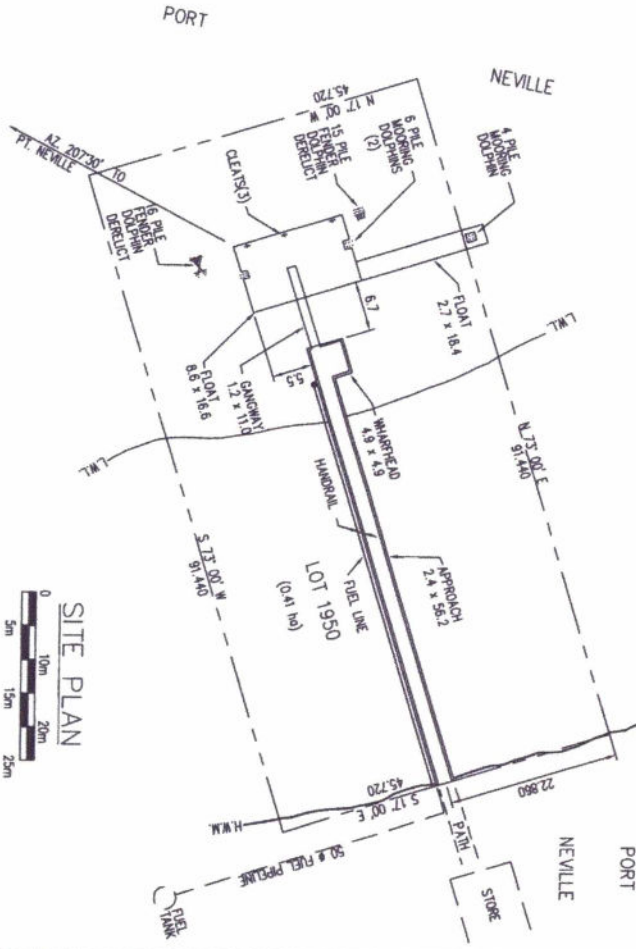


SCALE: 1:2,000,000

SCALE: 1:50,000



NORTH ELEVATION



SITE PLAN



ENR # 57835

## DESCRIPTION

- A. THE STRUCTURES ARE LOCATED ON THE EAST SHORE OF PORT NEVILLE ON THE B.C. MAINLAND ABOUT 260 KM NORTHWEST OF VANCOUVER, B.C.  
 LATITUDE : 50° 29' 37" N  
 LONGITUDE : 126° 05' 07" W  
 LOT 1950, COAST DISTRICT, RANGE 1, PORT NEVILLE, B.C.
- B. THE STRUCTURES CONSIST OF A PILE APPROACH AND WHARFTOP, A GANGWAY AND TWO FLOATS MOORED BY DOLPHIN PILES.
- C. THE STRUCTURES ARE APPROACHED BY A PATH OVER PRIVATE LAND.
- D. THERE IS ELECTRIC POWER, LIGHTING, A METAL FREIGHT SHED AND A PRIVATE FUEL LINE ON THE FACILITY.
- E. THE STRUCTURES ARE IN ORDER FOR PUBLIC TRAFFIC.
- F. LIMITING LOADS:  
 APPROACH AND WHARF: ( 2010 RATING )  
 GW = 12,500 kg, CL2 - W  
 GW = 6,800 kg, CL3 - W  
 FLOATS: 120 kg/m<sup>2</sup>
- G. COMPLETION DATE: APPROACH: 1974, 2007  
 MAJOR REPAIRS: 1954, 1988  
 FLOATS: 1982, 1985
- H. O.I.C. No. 1379, OCT. 21, 1938  
 LETTER OF ACKNOWLEDGEMENT, DEC. 10, 1938

REVISION	DATE	REV. BY	DATE	REV. BY
F	DEC. 01, 2010	REV. BY JG		
E	SEP. 18, 2003	REV. BY HT		
D	OCT. 11, 1995	REV. BY GH		
C	SEP. 30, 1992	REV. BY GH & SMH		
B	DEC. 31, 1986	REV. BY		
A	FEB. 23, 1986	REV. BY		
SCALE AS NOTED DATE APR. 30, 1984 DRAWN BY DPN				
COST CODE 8594 FILE NO. 9864-1418				

TRANSPORT CANADA  
 HARBOURS AND PORTS  
 WESTERN REGION

PORT NEVILLE, B.C.  
 APPROACH & FLOATS  
 PLAN & DESCRIPTION

VANCOUVER, B.C. DATE