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BRITISH COLUMBIA

SPECIFIC PERMISSION FOR PRIVATE MOORAGE

Permission No.: 347402

File No.: 3403271
Disposition No.: 907664

THIS PERMISSION is dated for reference February 2, 2015 and is made under the *Land Act.*

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

BARRY DEXTRAZE
39 - 2080 Pacific Way
Kamloops BC V1S 1V3

(the "Owner")

WHEREAS:

A. The Province has responsibility for the management of Crown land, including foreshore land and most submerged land;

B. The Minister has the authority under section 11 of the *Land Act* to authorize the use of Crown land on terms and conditions which the Minister considers appropriate;

C. The Minister wishes to provide a specific permission for the use of Crown land covered by water in British Columbia for Private Moorage Facility (as herein defined) purposes.

ACCORDINGLY, the Minister grants and the Owner accepts a specific permission for the construction and use of a Private Moorage Facility (as herein defined) on the following terms and conditions.

ARTICLE 1 - DEFINITIONS

1.1 In this document,

"Improvements" includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

"Land" means that part or those parts of the following described land shown outlined by bold line on the schedule attached to this Permission entitled "Legal Description Schedule":

District Lot 27 (Crown foreshore) being part of the bed of Shuswap Lake and fronting on Lot 1 of Section 16, Township 22, Range 11, West of the Sixth Meridian, Kamloops Division of Yale District, Plan KAP45883, and containing 0.086 hectares,

except for those parts of the land that consist of highways (as defined in the *Transportation Act*) and subject to any changes to the area or boundaries of the Land that may be made from time to time in accordance with the terms of this Permission;

"Minister" means the minister responsible for the *Land Act*;

"Management Plan" means the most recent management plan prepared by you in a form acceptable to us, signed and dated by the parties, and held on file by us;

"Permission" means the Minister's permission as recorded in this document;

"Private Moorage Facility" means a structure used for the purpose of mooring boats and for providing pedestrian access to and from the moored boats, and can consist of a single dock, wharf, or pier (including walkway ramp) that is permanently affixed to aquatic Crown land, and any ancillary structures such as a boat lift and anchor lines. It is for the personal and private use by one or a number of individuals or a family unit for boat moorage;

"Province" means Her Majesty the Queen in Right of the Province of British Columbia;

"Realty Taxes" means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

"Upland Property" means the parcel of non-aquatic land, being either privately owned or leased Crown land, which has riparian rights to the point at which the Private Moorage Facility is attached to land more particularly described as Lot 1 Section 16 Township 22 Range 11 West of the 6th Meridian Kamloops Division Yale District Plan KAP45883; PID# 017-492-530;

"we", **"us"** or **"our"** refers to the Province alone and never refers to the combination of the Province and the Owner: that combination is referred to as **"the parties"**; and

"you" or **"your"** refers to the Owner.

ARTICLE 2 - CONDITIONS OF THIS PERMISSION

2.1 The rights granted in this Permission apply only under the following circumstances:

(a) The Owner of the Private Moorage Facility is the owner of the Upland Property or is the holder of a Crown land lease for the Upland Property.

(b) This Private Moorage Facility will be the only Private Moorage Facility on the frontage of the Upland Property.

(c) Ownership of and liability for a Private Moorage Facility shall pass to and be binding upon your heirs, executors and assigns of the Owner.

(d) You must not assign, mortgage or transfer this Permission, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.

(e) A Private Moorage Facility shall be and shall remain your property unless you transfer the rights and obligations in a signed agreement with another person approved by us as per subsection 2.1(d).

(f) There are no other laws, bylaws or local government zoning restrictions which prohibit the installation and use of the Private Moorage Facility.

(g) You understand that this Permission does not grant exclusive use and occupancy of the Land.

ARTICLE 3 - SIZE

3.1 The Private Moorage Facility's size must be as set out in the Management Plan, and the Management Plan must disclose the length and width of the Private Moorage Facility, the height of any proposed structures, the length and width of any connecting walkways which will be placed on Crown land and any ancillary structures or Improvements which will be part of or used with the Private Moorage Facility.

3.2 No increase in any dimension of the Private Moorage Facility from the description in the Management Plan will be permitted unless you first obtain our written consent.

ARTICLE 4 - CONSTRUCTION

4.1 Do not interrupt or divert the movement of water or of beach materials by water along the shoreline.

4.2 No fill may be used in the construction or structure of the Private Moorage Facility.

4.3 Do not use mechanized equipment other than pile-driver during the construction, operation or maintenance of the Private Moorage Facility.

4.4 Do not work in the water during fish spawning and nursery periods.

4.5 Riparian vegetation on Crown land shall not be unduly disturbed.

4.6 Do not use crib foundations or solid core structures made of cement or steel sheeting in Private Moorage Facility construction.

4.7 No dredging may occur on Crown land.

4.8 Do not use construction materials containing toxic substances.

4.9 Do not cut or remove timber on or from the Land without prior written consent and, being granted the right under the *Forest Act* to harvest Crown timber on the Land.

ARTICLE 5 - USE

5.1 The Private Moorage Facility shall be used for private, non-commercial moorage purposes only and the Owner of the Private Moorage Facility must not make the Private Moorage Facility available to others for a fee.

5.2 Do not moor or secure any boat or structure to the Private Moorage Facility for use as a live-aboard facility, whether permanent or temporary.

ARTICLE 6 - OTHER COVENANTS

6.1 You must

(a) pay, when due,

(i) the Realty Taxes, and

(ii) all charges for electricity, gas, water and other utilities supplied to the Land for use by you or on your behalf or with your permission;

(b) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;

(c) provide without compensation temporary accommodation to any vessel that is disabled or that seeks shelter in weather conditions that would render it unseaworthy;

(d) observe, abide by and comply with

(i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any governmental authority having jurisdiction in any way affecting your use or occupation of the Land or the Private Moorage Facility, and with

(ii) the provisions of this Permission;

(e) ensure that the Private Moorage Facility does not interfere with public access over land;

(f) keep the Private Moorage Facility and the Land in a safe, clean and sanitary condition;

(g) not commit any willful or voluntary waste, spoil or destruction on the Land, except for the lawful discharge of wastes and emissions, or do anything on the Land that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Land provided that, for the purposes of your covenant in this subsection, the lawful construction and operation and maintenance of the Private Moorage Facility allowed under this Permission will be deemed not to be a nuisance or annoyance to an owner or occupier of land in the vicinity of the Land;

(h) dispose of raw sewage and refuse only in accordance with the requirements and regulations of appropriate federal and provincial agencies;

(i) store bulk hazardous petroleum products and other toxic substances in accordance with the provisions of the *Environmental Management Act*;

(j) not store logs on the Land;

(k) pay all accounts and expenses as they become due for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, except for money that you are required to hold back under the *Builders Lien Act*; and

(l) if any claim of lien over the Land is made under the *Builders Lien Act* for work

performed on or materials supplied to the Land at your request, on your behalf or with your permission, you will immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land under this Permission to sale or forfeiture.

6.2 You must not alter or add to any Improvements without our prior written consent.

6.3 You must comply with the Private Moorage Guidelines that are in effect at the time Improvements are constructed, repaired or replaced.

6.4 You must construct the Improvements as shown in the Management Plan, signed and dated by the parties, and held on file by us.

6.5 The dock must not interfere with public access over the Land.

ARTICLE 7 - TERMINATION OF PERMISSION

7.1 There is no term or predetermined end date for this Permission, and your responsibilities and duties under this Permission will continue until either we or you revokes or otherwise terminates the Permission.

7.2 We may revoke this Permission for the Private Moorage Facility at any time in our sole discretion without incurring any liability to you whatsoever and you must remove all parts of the Private Moorage Facility from the Land within a specified number of days as determined by us, leaving the Land in a safe, clean and sanitary condition.

7.3 If we revoke or terminate this Permission for any reason whatsoever, you shall have no right of compensation.

7.4 When you remove the Private Moorage Facility you must leave the Land in a safe, clean and sanitary condition acceptable by us. If you do not do so, we may clean and remediate the Land (including, if necessary, the removal of the Private Moorage Facility) and you will be responsible for the full cost of such cleaning and remediation.

7.5 If this Permission is terminated, all existing duties and responsibilities of yourself, your heirs, successors or assigns under this Permission will continue beyond the date of its termination.

ARTICLE 8 - OTHER DISPOSITIONS

8.1 You agree with us that

(a) in addition to the other reservations and exceptions expressly provided in this Permission, this Permission is subject to the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;

(b) other persons may hold or acquire rights to use the Land in accordance with enactments other than the *Land Act* or the *Ministry of Lands, Parks and Housing Act,* including rights held or acquired, under the *Coal Act, Forest Act, Geothermal Resources Act, Mineral Tenure Act, Petroleum and Natural Gas Act, Range Act* and *Water Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect); such rights may exist when this Permission takes effect and may be granted or acquired after this Permission takes effect and may affect your use of the Land;

(c) other persons may hold or acquire interests in or over the Land granted under the *Land Act* or the *Ministry of Lands, Parks and Housing Act;* such interests may exist when this Permission takes effect; after this Permission takes effect we may grant such interests (including fee simple interests, leases, statutory rights of way and licences) however we will not grant any such interest that would result in the need to amend the Management Plan unless we have first complied with the requirements of this Permission with regard to the amendment of the Management Plan; subject to this you acknowledge your use of the Land may be affected by such interests and the area or boundaries of the Land may change as a result of the granting of such interests;

(d) you have no right to compensation from us and you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us arising out of any conflict between your use of the Land under this Permission and the exercise or operation of the interests, rights, privileges and titles described in subsections (a), (b), and (c);

(e) this Permission does not limit any right to notice, compensation or any other benefit that you may be entitled to from time to time under the enactments described in subsection (b);

(f) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any interference with your use of the Land as permitted under this Permission as a result of the lawful exercise or operation of the interests, rights, privileges and titles described in subsections (a), (b) and (c).

ARTICLE 9 - LIABILITY AND INDEMNITY

9.1 You assume all responsibility and liability associated with the Private Moorage Facility and agree to indemnify us for any loss or expense incurred by us as a result of the existence or use of the Land or Private Moorage Facility by any person, including, without limitation,

(a) any conflict between the existence or use of the Private Moorage Facility and the land use or riparian rights of any person;

(b) any breach or non-performance of any part of this Permission; and

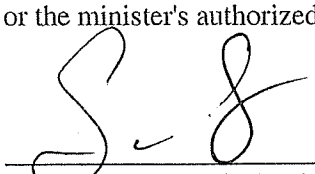
(c) any personal injury (including death) or property damage caused in any way, wholly or partly, by the Private Moorage Facility or by your use of the Land.

9.2 Without limiting your obligations or liabilities under this Permission at your expense, effect and keep in force during the Term, a Homeowner's Insurance Policy or other personal lines residential insurance policy, including Comprehensive Personal Liability in an amount of not less than $2,000,000 per occurrence.

9.3 You must make your insurer aware of this Permission within 30 days of signing this Permission.

The parties have executed this Permission as of the date of reference of this Permission.

SIGNED on behalf of **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Land Act*
or the minister's authorized representative



Minister responsible for the *Land Act*
or the minister's authorized representative

SIGNED BY
BARRY DEXTRAZE

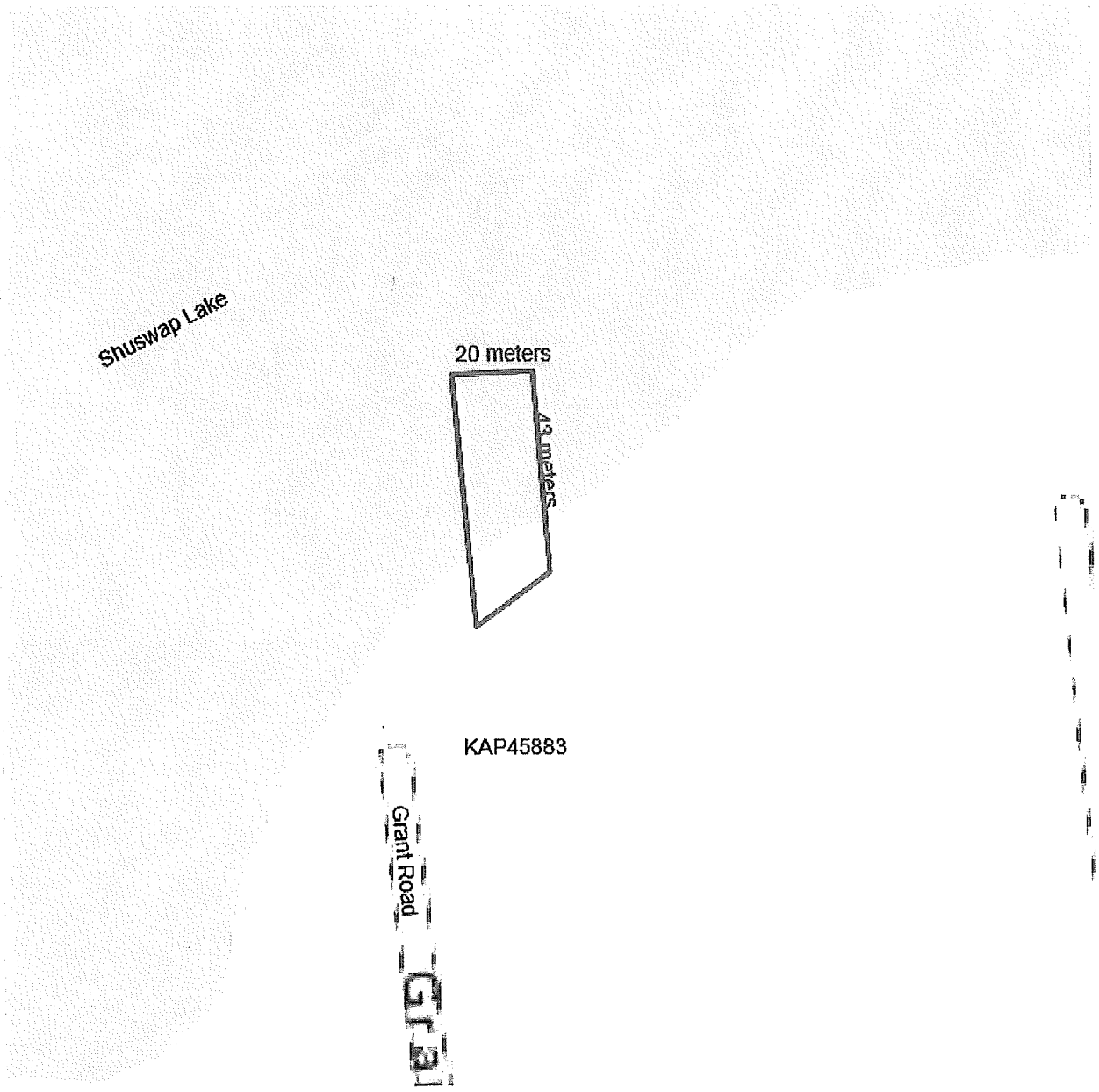


Specific Permission

Legal Description Schedule

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Scale: 1: 1,500

BCGS Mapsheet(s): 82L083

Residential - Private Moorage