



## BOARD REPORT

**TO:** Chair and Directors

**FROM:** Christine LeFloch  
Development Services Assistant

**File No:** BL 900-16

**Date:** March 24, 2016

**SUBJECT:** Lakes Zoning Amendment (Remington) Bylaw 900-16

**RECOMMENDATION #1:** THAT:  
"Lakes Zoning Amendment (Remington) Bylaw No. 900-16" be read a first time this 14<sup>th</sup> day of April, 2016;

AND THAT:  
The Board utilize the simple consultation process for Bylaw No. 900-16 and it be referred to the following agencies and First Nations:

- Department of Fisheries and Oceans;
- Navigation Canada;
- Ministry of Forests, Land and Natural Resources Operations-Lands Branch;
- CSR D Operations Management; and
- All relevant First Nations Bands and Councils.

**APPROVED for Board Consideration:**   
*Meeting Date: April 14, 2016* *Charles Hamilton, CAO*

**SHORT SUMMARY:**

The area proposed to be rezoned is located in the Swansea Point area of Electoral Area 'E'. The applicants have applied to amend the Lakes Zoning Bylaw No. 900 to recognize the existing fixed, oversized dock, associated with 643 Swanbeach Road. The proposed amendment would add a special regulation to the FR1 Foreshore Residential zone, which would apply to the portion of Mara Lake lying adjacent to the property legally described as Lot 1, Section 11, Township 21, Range 8, W6M, KDYD, Plan 20924, which contains the existing fixed dock. Further, the proposal is to allow the existing dock to be relocated in conformance with the required setbacks.

**VOTING:**    Unweighted Corporate        Weighted Corporate        Stakeholder      
(Weighted)

LGA Part 14      
(Unweighted)

**BACKGROUND:**

OWNERS:	Bryce and Kathleen Remington
APPLICANT:	Bryce and Kathleen Remington
ELECTORAL AREA:	'E' (Swansea Point)
CIVIC ADDRESS:	643 Swanbeach Road
LEGAL DESCRIPTION:	Lot 1, Section 11, Township 21, Range 8, West of the 6 <sup>th</sup> Meridian, Kamloops Division Yale District, Plan 20924
SURROUNDING LAND USE PATTERN:	NORTH: Mara Lake SOUTH: Swanbeach Road, Residential EAST: Swanson Road, Recreational Commercial WEST: Waterfront Residential
OCP/ZONING (LAND):	RS – Residential
OCP DESIGNATION (WATER):	FW – Foreshore and Water
CURRENT LAKE ZONING:	Foreshore Residential 1 (FR1)
PROPOSED LAKE ZONING:	Foreshore Residential 1 (FR1) with site specific regulation permitting a fixed dock with a maximum upward facing area of 37 m <sup>2</sup> and a walkway width of 1.55 m.
AQUATIC HABITAT INDEX RATING:	Low
SHORE TYPE & VEGETATION:	Gravel beach

**POLICY:****Rural Sicamous Land Use Bylaw No. 2000**

## Part 1.4 – POLICIES

## 1.4.1 General Form and Character of Development

- (o) Two separate types of OCP designation providing for private and public uses supporting water-based recreation uses. It is intended that these two land use categories will only be applied to the foreshore and water of Shuswap and Mara Lakes. The Foreshore Water OCP designation primarily provides for uses associated with existing residential development that is located on parcels contiguous with the natural boundary and where the uses will be compatible with the uses and character of the land above the natural boundary. The Foreshore Water Commercial OCP designation is intended to be limited to those locations where there is a commercial land use category on a parcel that is contiguous with the area in the Foreshore Water Commercial OCP designation and where the uses will be compatible with the uses and character of the land above the natural boundary.

**Lakes Zoning Bylaw No. 900**

## Definitions:

BERTH is a moorage space for a single vessel at a fixed or floating dock.

FIXED DOCK is a structure used for the purpose of mooring boat(s) which may include multiple berths and may have permanent links to the shore and lakebed, such as piles or fixed decks.

FLOATING DOCK is a structure used for the purpose of mooring boat(s) which may include multiple berths but which does not include permanent physical links to shore or lakebed, except cables.

PRIVATE MOORING BUOY is a small floating structure used for the purpose of boat moorage, typically composed of rigid plastic foam or rigid molded plastic, and specifically manufactured for the intended use of boat moorage, but does not include a fixed or floating dock or swimming platform.

SWIMMING PLATFORM is a floating structure used for non-motorized recreational activities, such as swimming, diving and sun-bathing, but not boat mooring.

### General Regulations

Swimming platform is permitted in each zone, unless expressly prohibited in the zone.

Swimming platforms:

- a) must be accessory to a permitted use on the adjacent waterfront parcel, semi-waterfront parcel or waterfront unit;
- b) must only be used for passive recreation;
- c) must not be used for boat mooring;
- d) must not be greater than 10 m<sup>2</sup> in surface area;
- e) must have a minimum setback of:
  - 5 m from the side parcel boundaries of the adjacent waterfront parcel or semi-waterfront parcel, projected onto the foreshore and water;
  - 6 m from the Foreshore Park zone or park side parcel boundaries projected onto the foreshore and water.

### FR1 – Foreshore Residential 1 Zone

Permitted uses:

- 1 floating dock, including removable walkway, that is accessory to a permitted use on an adjacent waterfront parcel. The floating dock surface must not exceed 24 m<sup>2</sup> in total upward facing surface area (not including the removable walkway), and 3 m in width for any portion of the dock. Removable walkway surface must not exceed 1.5 m in width.

The minimum setback of a floating dock, private mooring buoy or boat lift accessory to an adjacent waterfront parcel (and adjacent semi-waterfront parcel in the case of private mooring buoys) is as follows:

- 5 m from the side parcel boundaries of that waterfront parcel (and semi-waterfront parcel in the case of private mooring buoys), projected onto the foreshore and water.
- 6 m from a Foreshore Park (FP) zone or park side parcel boundaries projected onto the foreshore and water.

Additional setbacks for private mooring buoys:

- 20 m from any existing structures on the foreshore or water.
- 50 m from any boat launch ramp or marina.
- Private mooring buoy(s) that is accessory to a permitted use on an adjacent waterfront parcel or an adjacent semi-waterfront parcel. (1 per adjacent semi-waterfront parcel, 1 per adjacent waterfront parcel having a lake boundary length of less than 30 m, and 2 per adjacent waterfront parcel having a lake boundary length of 30 m or more).
- Boat lift(s) that is accessory to a permitted use on an adjacent waterfront parcel.

The surface of the lake adjacent to the subject property is currently zoned FR1. The FR1 zone currently permits one floating dock with a maximum upward facing surface area of 24 m<sup>2</sup>, and 1 private mooring buoy for the subject property as it has less than 30 m of lake frontage.

The proposal is to add a site specific regulation to the FR1 Zone to permit the existing oversized fixed dock in association with the subject property only, and to allow it to be relocated to comply with the required setbacks.

**FINANCIAL:**

The rezoning is the result of a bylaw enforcement action. If the Board does not adopt the proposed amending bylaw, and the owner does not bring the property into compliance by replacing the fixed dock with a floating dock of the required size, the Board may then wish to direct staff to seek a legal opinion regarding possible court action. Costs for the legal opinion and possible court action, although partially recoverable through Court, could nonetheless be substantial. Staff involvement in legal action is not recoverable.

**KEY ISSUES/CONCEPTS:**

The owners installed the original fixed wooden dock and walkway in 1992 and obtained a license from the Province for this use of the foreshore. They have continued to update the provincial license as required. The dock is currently licensed under Specific Permission #3406316. Historic photographs provided by the owner indicate that the original dock was anchored using one piling and post. It was later upgraded and additional pilings were added. 2013 orthophotos indicate that there were 5 pilings at that time. The dock sustained damage during a storm in the spring of 2015 which rendered the walkway portion unusable. The owners hired Riverside Docks to replace the walkway and install new pilings. The original wooden "dock" portion of the structure was not replaced or repaired, but a 6<sup>th</sup> piling was added to stabilize this part of the dock.

The dock is currently sited adjacent to the west property boundary and not in compliance with the required Provincial and CSRD setbacks. The Province has informed the owners that they must relocate the dock to the required setback of 5 m from the west parcel boundary. It is noted that the area to the east of the subject property is the Swanson Road beach access. The portion of Mara Lake located adjacent to Swanson Road is zoned Foreshore Park. The required setback from areas zoned Foreshore Park is 6 m. This will place the dock near the centre of the subject parcel.

Since the original dock was installed prior to adoption of Lakes Zoning Bylaw No. 900 it was considered to be legally non-conforming. The Local Government Act (LGA) permits structures that existed prior to the adoption of a bylaw to remain legally non-conforming until such time as they are altered or reconstructed.

Part 14: Division 14 – Non-Conforming Use and Other Continuations, Section 528(1) of the LGA states: *"If at the time a land use regulation bylaw is adopted, (a) land, or a building or other structure, to which that bylaw applies is lawfully used, and (b) the use does not conform to the bylaw, the use may be continued as a non-conforming use."*

Section 531 of the LGA – Restrictions on Alteration or Addition to a Building or Other Structure, subsection (1) states: *"Subject to this section, a structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it."* As the structural alterations that were made to the dock are prohibited by Section 531(1) of the LGA, the fixed dock has lost its legal non-conforming status. Therefore, in order to bring the structure into compliance with current bylaws an amendment to the Lakes Zoning Bylaw No. 900 is required.

The proposed amendment would add a special regulation to the Foreshore Residential (FR1) zone to allow a fixed dock up to 37 m<sup>2</sup> in upward facing area to be sited on the foreshore area adjacent to the subject property only. The owners would like to keep the existing dock at this size as it has been this size since 1992, and they have a large family who visit in summer and spend a lot of time using the dock. It is recognized that there are other fixed docks located on neighbouring properties in the general area, and that some of these may also be oversized. As these are replaced or substantially repaired we may receive further bylaw amendment applications requesting recognition of these structures.

#### IMPLEMENTATION:

##### Consultation Process

CSR Policy No. P-18 regarding Consultation Processes-Bylaws, indicates that a simple consultation process can be followed. Neighbouring property owners will become aware of the application following first reading when a Notice of Development sign is posted on the property.

#### LIST NAME OF REPORTS / DOCUMENTS:

1. Lakes Zoning Amendment (Remington) Bylaw No. 900-16 2. Maps: Location, Site Plan, OCP, Zoning 3. Orthophotos 4. Specific Permission No. 3436316 & Management Plan 5. Ministry of Forests, Lands and Natural Resources Operations letter dated November 3, 2015	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
6. Application	Attached to Board Report: <input type="checkbox"/>	Available from Staff: <input checked="" type="checkbox"/>

#### DESIRED OUTCOMES:

That the Board endorse staff recommendation.

#### BOARD'S OPTIONS:

1. *Endorse recommendations. Bylaw No. 900-16 will be given first reading, and will be sent out for referrals.*
2. *Decline first reading. Bylaw No. 900-16 will be defeated.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

#### COMMUNICATIONS:

If the Board gives Bylaw No. 900-16 first reading, the Bylaw will be sent out to referral agencies. Referral responses will be provided to the Board with a future Board report, prior to delegation of a public hearing.

<b>REVIEWED BY:</b>	Date Signed Off (MO/DD/YR)	Approval Signature of Reviewing Manager or Team Leader
Team Leader, Development Services	Mar. 30, 2016	S. Boon
Manager, Development Services	04/04/16	<i>[Handwritten Signature]</i>

**COLUMBIA SHUSWAP REGIONAL DISTRICT**

**LAKES ZONING AMENDMENT**

**(Remington) BYLAW NO. 900-16**

A bylaw to amend the "Lakes Zoning Bylaw No. 900"

WHEREAS the Board of the Columbia Shuswap Regional District adopted Bylaw No.900;

AND WHEREAS the Board deems it appropriate to amend Bylaw No. 900;

NOW THEREFORE the Board of the Columbia Shuswap Regional District, in open meeting assembled, HEREBY ENACTS as follows:

1. Bylaw No. 900 cited as "Lakes Zoning Bylaw No. 900" is hereby amended as follows:

A. TEXT AMENDMENT

1. Schedule A, Zoning Bylaw Text, Part 4 Zones, Section 4.4, Foreshore Residential 1 Zone is hereby amended by:

i) Adding the following after subsection (c) Location and Siting:

"(d) Site Specific Permitted Uses

For the surface of the *lake* adjacent to Lot 1, Section 11, Township 21, Range 8, W6M, KDYD, Plan 20924, a *fixed dock* with a maximum upward facing surface area of 37 m<sup>2</sup> and a maximum walkway width of 1.55 m is a permitted use. {Swanbeach Road}

2. This bylaw may be cited as "Lakes Zoning Amendment (Remington) Bylaw No. 900-16."

READ a first time this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

READ a second time this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

PUBLIC HEARING held this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

READ a third time this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
CORPORATE OFFICER

\_\_\_\_\_  
CHAIR

CERTIFIED a true copy of Bylaw No. 900-16  
as read a third time.

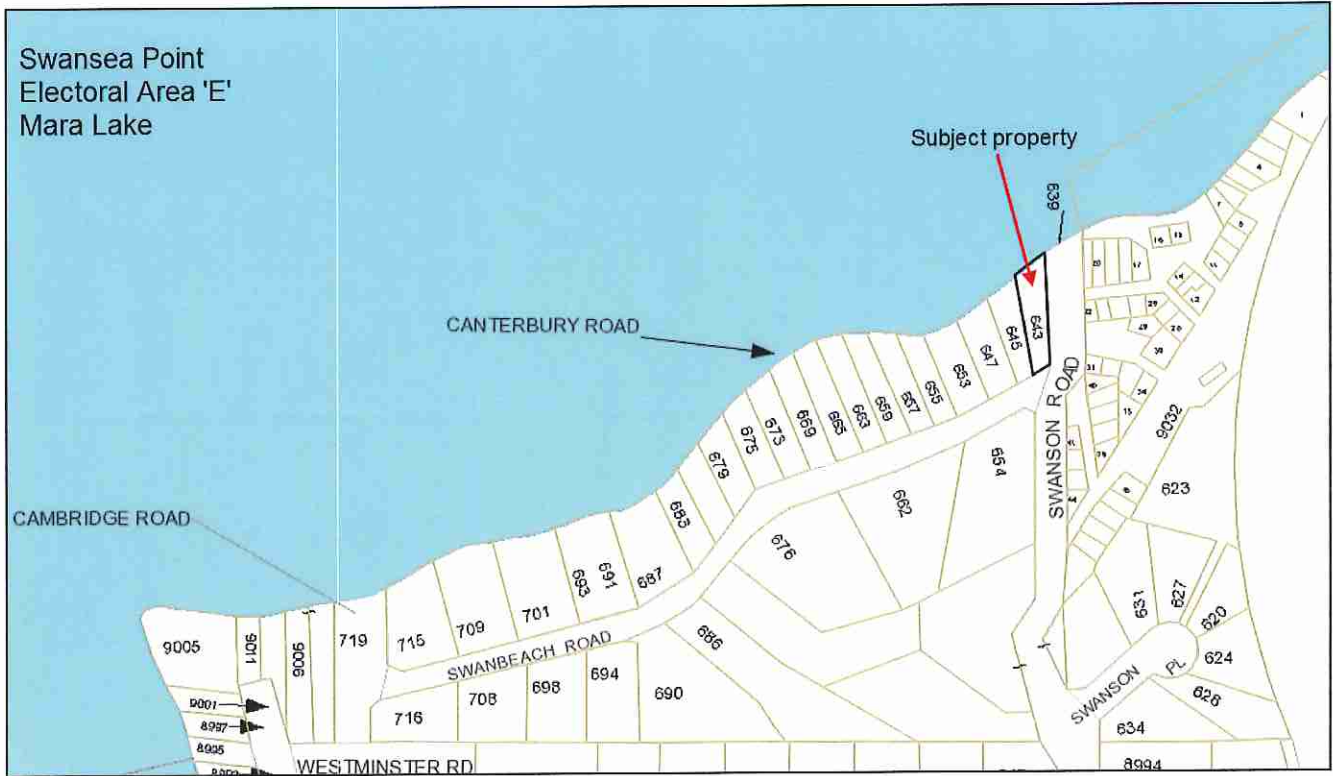
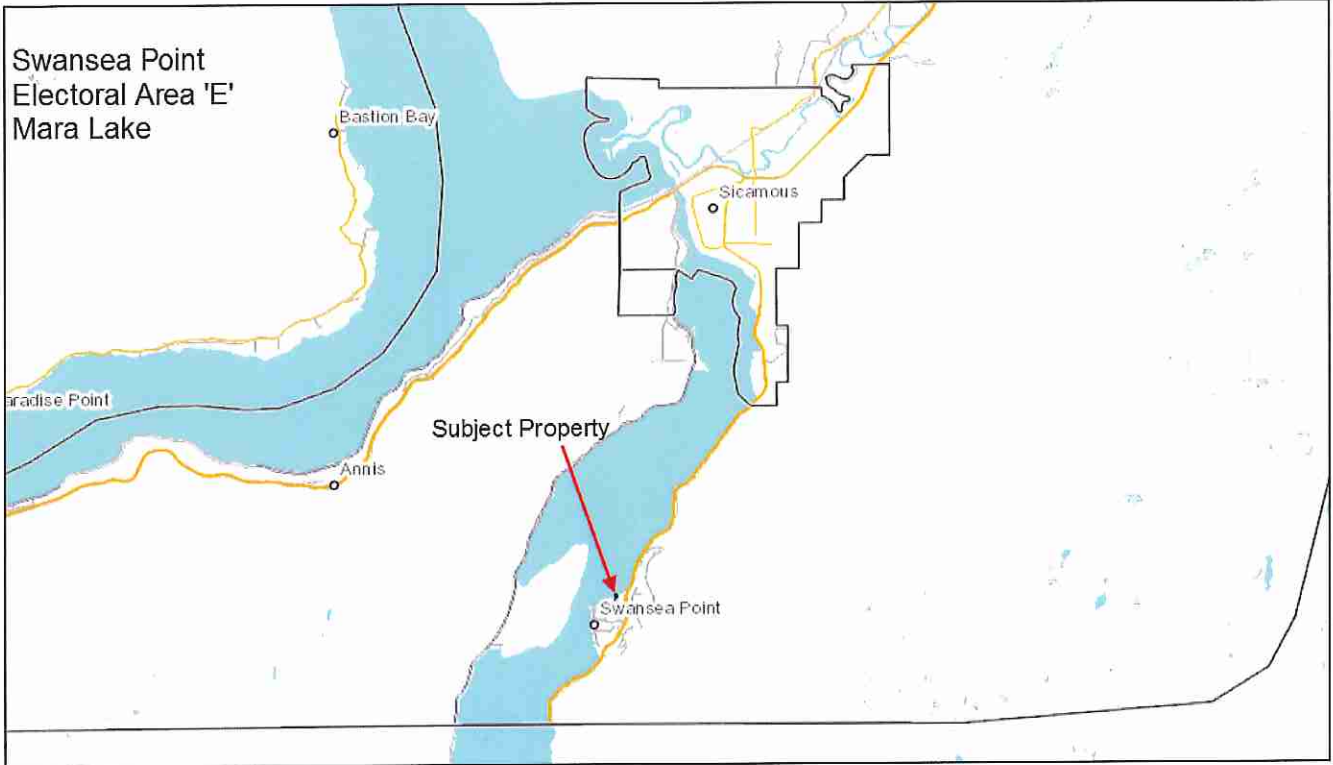
CERTIFIED a true copy of Bylaw No. 900-16  
as adopted.

\_\_\_\_\_  
Corporate Officer

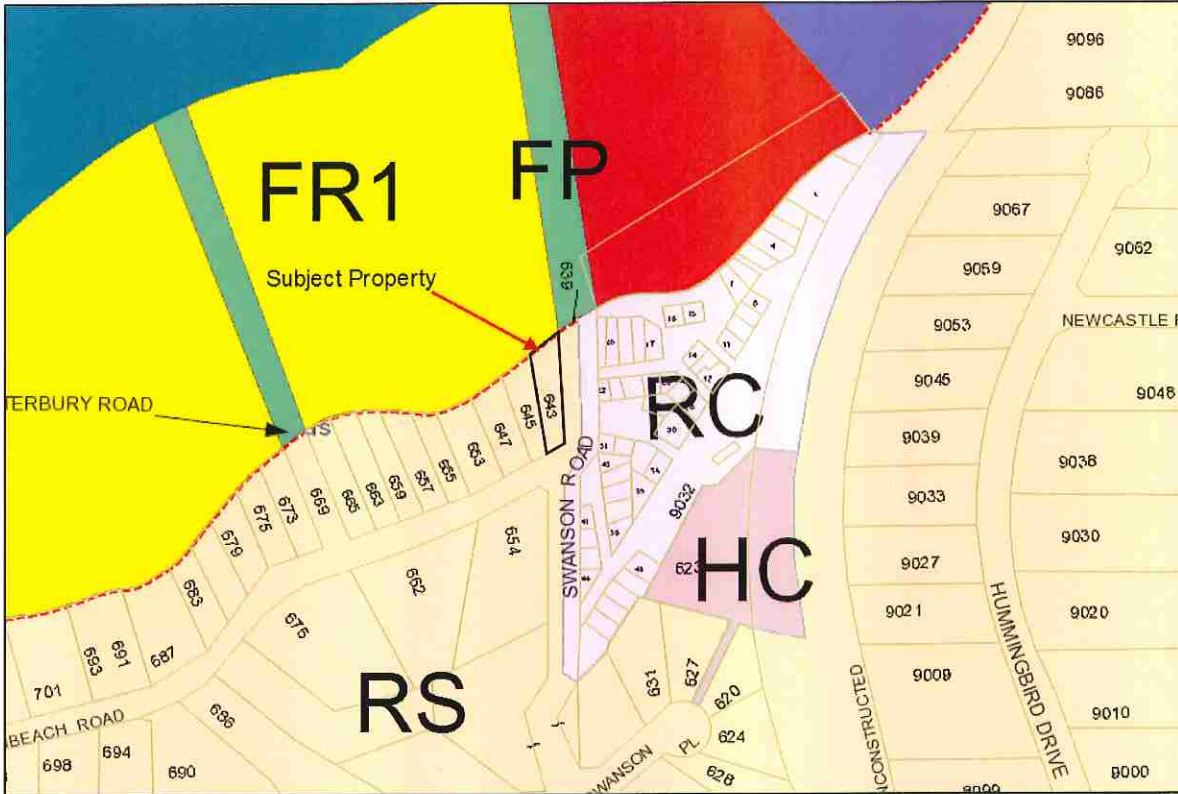
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Corporate Officer



Location



OCP/Zoning



Orthophotograph



Specific Permission No. 3436316



Our File: 3406316

August 6, 2015

Donald Bryce Remington  
Kathleen Anna Remington  
1036 Longacre Place  
Vernon BC V1H 1H7

Dear Donald and Kathleen:

Enclosed is an originally executed copy of Specific Permission Number 347620 covering all that unsurveyed Crown foreshore being part of the bed of Mara Lake and fronting on Lot 1, Section 11, Township 21, Range 8, West of the Sixth Meridian, Kamloops Division of Yale District, Plan 20924, containing 0.0645 hectares, more or less.


The Specific Permission is issued in your name with no term or predetermined end date commencing July 3, 2012 for private moorage purposes. This Specific Permission replaces Licence No.338806 which has been recorded as expired.

Attached is a copy of your Management Plan for your convenience.

Please ensure that this document is kept in a safe location, as it must be presented to this office for assignment if the upland property is sold.

Should you have any questions regarding this matter, please contact Heather Gervan at the telephone number or e-mail address listed below.

Yours truly,

  
Jill Hay  
Licensing Clerk

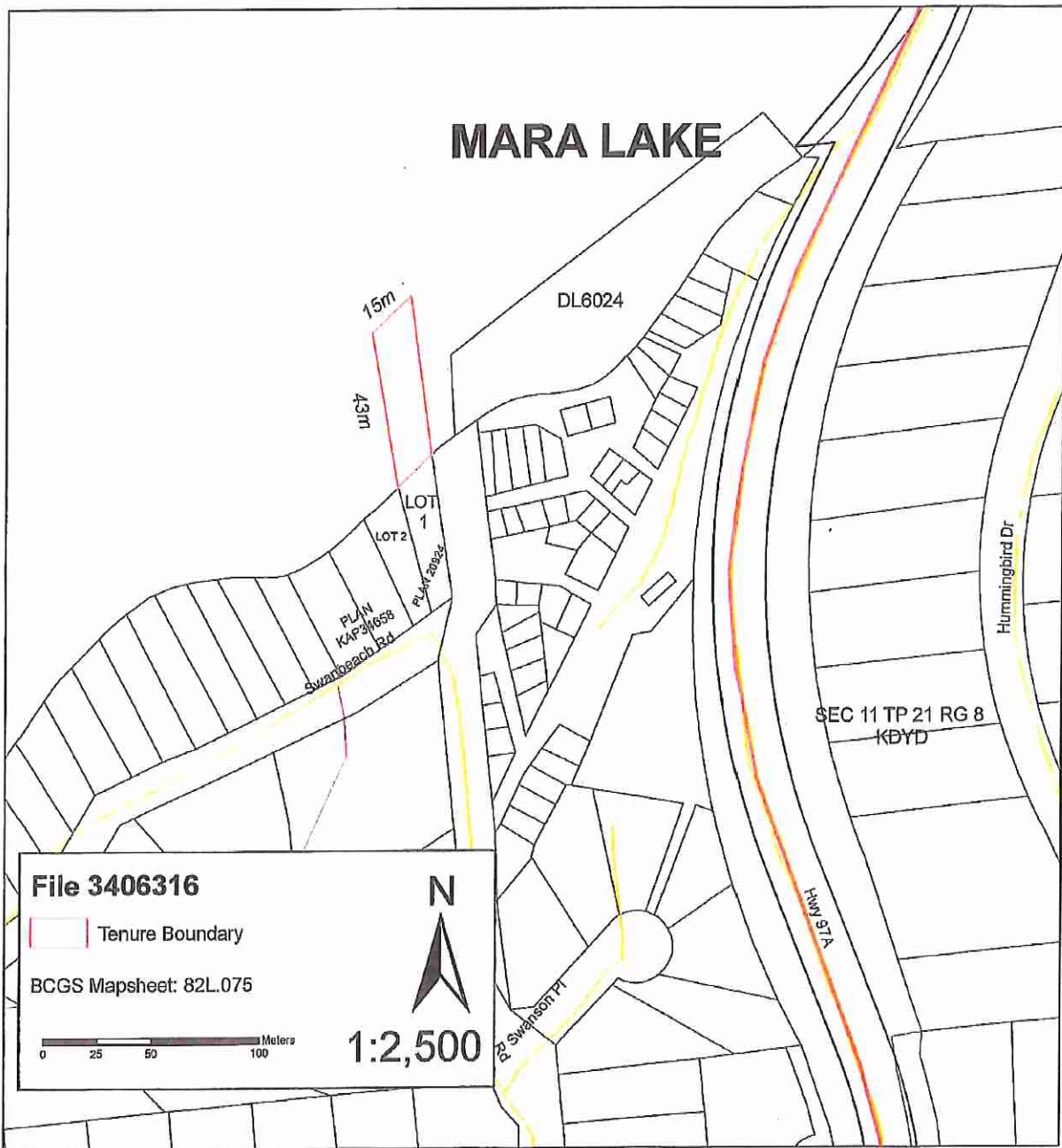
Attachment

pc: B.C. Assessment Authority, Kelowna  
Columbia-Shuswap Regional District  
Forest District, Vernon  
Canadian Coast Guard, Attn John Mackie



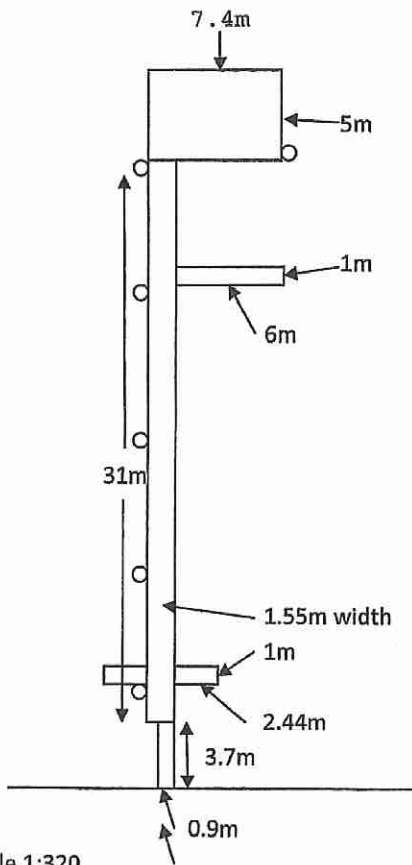
LEGAL DESCRIPTION SCHEDULE

All that unsurveyed Crown foreshore being part of the bed of Mara Lake and fronting on Lot 1, Section 11, Township 21, Range 8, West of the Sixth Meridian, Kamloops Division Yale District, Plan 20924, containing 0.0645 hectares, more or less



**File: 3406316**  
**November 1, 2012**

**Management Plan**



Signed by:  
Donald Bryce Remington and Kathleen Anna Remington  
*[Handwritten signatures]*

Dated: July 24/15

HER MAJESTY THE QUEEN IN THE Right of the PROVINCE OF BRITISH COLUMBIA  
By its authorized representative

*[Handwritten signature]*

Dated: July 9, 2015



Lands File: 3406316

November 3, 2015

Donald Bryce Remington  
Kathleen Remington  
Sent by e-mail to: [bryce@remington.org](mailto:bryce@remington.org)

Dear Mr. and Mrs. Remington:

Thank you for your letter of October 19, 2015 requesting written clarification and direction regarding the requested relocation of your dock.

As per our conversations, for the placement of a private dock, the minimum setback from neighboring properties has always been a minimum of three metres. This setback is to respect the adjoining property owner's rights.

You indicate that the dock has always been located on the property line, but the location of the dock along the property boundary was never approved by this agency. The original approval in 2002, includes a Legal Description Schedule, that shows the tenure boundary offset from the property line. The license document, from 2002, also includes the Private Moorage Guidelines that clearly indicate that docks must be located at least three metres from the property line.

The dock appears to have been constructed this spring, after the old tenure had expired, and before you accepted the offer to renew the expired tenure. You had no authority to construct a dock, and I understand that a ticket was issued by our Compliance and Enforcement staff for unauthorized works. At the time of reconstruction, we require that new structures meet current guidelines; the setback is now five metres from the property line. The dock builder knew the setback requirements, but indicated that you told him to rebuild on the property line, as you had

Page 2

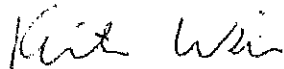
consent from the neighbor. It is clear that you did not have consent from your neighbor as he has contacted this office to have the dock moved to in front of your own property.

In your letter you indicate that the dock has been approved by Department of Fisheries and Oceans. It is not their mandate to approve the location of docks, only to review impacts to fish and fish habit.

Also in your letter you indicate that the dock is not new. Based on photos, the entire structure has been rebuilt, including the placement of new steel piles. At the time of placement of these new piles, the structure should have been moved away from the property line.

Based on the above information, I am requiring that the dock is moved to in front of your property so that it is located at least 5 metres from adjoining private property and least 6 metres from the adjoining public road. Please advise me by November 30, of this year to indicate the schedule of when you plan to move the dock, keeping in mind that the relocation must occur prior to the next boating season, in May of 2016. Failure to relocate the dock will result in further compliance and enforcement action.

If you have any questions or require further information, please contact me at [keith.weir@gov.bc.ca](mailto:keith.weir@gov.bc.ca), or by phone at 250-828-4419.



Keith Weir  
Senior Land Officer  
Ministry of Forests, Lands and Natural Resource Operations