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Wednesday July 25, 2012

Via Fax (250) 246-2725
Original Via Mail

Chief Earl Jack
Penelakut Tribe
Box 360 Chemanius, BC
V0R 1K0

Re: Grace Islet – Alteration Permit No. 2011-0343

Dear Chief Earl Jack,

I received a copy of your letter of July 3, 2012, which I received from Ewan Anderson from the Archaeology Branch on July 9th.

While the overall process that we followed to develop a residence on this property has been very challenging, I am truly sorry that our lack of experience resulting in our inadvertently not adhering strictly to the Alteration Permit during our preliminary preparatory activity on Grace Islet, has caused you and the Penelakut Tribe members concern. I certainly meant no disrespect to the Penelakut Tribe.

It has always been my intention to meet with the Penelakut leadership at an early point in our preparations for construction. Accordingly, I would like to arrange a meeting with you as soon as possible at your offices to discuss the recent events and establish a process to proceed. In this regard, I would request that you please contact Paul Pasutto at 403-540-3463 at your earliest convenience. I have also asked him to contact you to confirm a meeting date, time and location.

Immediately after being contacted by the Archaeology Branch in relation to activities on the Islet we arranged a site inspection by Ewan Anderson, in the company of Bjorn Simonsen, Kevin Twohig, Paul Pasutto and myself, which took place on July 9th. I have attached a copy of On Site Inspection Report that was completed by Bjorn as a result of this site examination. Paul Pasutto and Kevin Twohig also met with Ewan Anderson on July 17th to review the report and obtain direction as to how we should proceed. We understand that Ewan provided a letter to you in this regard dated July 10th, 2012. I have also attached a commentary to Justine Batten in response to your July 3rd 2012 letter and as instructed by Ewan Anderson, have provided this commentary to you.

As you will identify, all the rock features on the Islet have been carefully marked out and none have been disturbed or damaged. Furthermore, the two documented locations, which contained human skeletal remains, have not been disturbed and remain intact.

It is my desire to meet with you and other Penelakut Tribe members prior to a possible second meeting with the respective Archaeologists as I believe that our establishing a relationship and open and direct dialog with you and your members is of significant importance. I look forward to our meeting at the earliest possible date available to you.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Barry Slawsky". The signature is fluid and cursive, with a long horizontal line extending from the end.

Barry Slawsky

cc. Paul Pasutto
Kevin Twohig
Bjorn Simonsen
Ewan Anderson, BC Archaeology Branch

**COMMENTARY ON THE LETTER
OF July 3,2012
From the Penelakut Nation to Director BC Archeology Branch**

**On the subject of
HCA 2011-343 Alleged Violations of Permit Conditions – Grace Islet**

Prepared July 10,2012

GENERAL COMMENT

It is noted that upon referral to the Penelakut of the subject application by the BC Archaeology Branch in the course of its consultative obligations, the Penelakut did not respond in any way to the prospect of pending residential development on Grace Islet.

Specific Comments

Paragraph 1

- No land clearance occurred “atop the burial site at Grace Islet, DfRu-009, Salstpring Island”. Nor were any trees felled atop the burial site’ . And no pathways were constructed for shoreline access.
- The effects of activities and actions which in fact took place are summarized below with reference to Paragraph 4.

Paragraph 2

- Site Alteration Permit HCA 2011-343 in no way “proposes to desecrate the burial site and historic cemetery” recorded on Grace Islet. In fact, the property owner, throughout the course of his ownership, and through his preparatory activities has and continues to respect and acknowledge the traditions of the First Nations of the area and has gone to great lengths to protect both known and potential rock features at Grace Islet.

Paragraph 3

- Three key points with respect to protecting the dead from disturbance and respecting the sanctity of ancestral burial places are
 - a) the extent to which the owner has gone to protect the identified rock features during the course of his planning via siting and design measures;
 - b) the conduct of a thorough Archeological Impact Assessment on Grace Islet as a part of this file; and
 - c) the fact that the rock features on Grace Islet are much better safeguarded by the plans of the present owner than they have been at any time in the recent past and/or would be if the Islet remains as it has been.

Paragraph 4

With respect to the possible violation of the terms of the permit, the following is noted based on the site inspection of July 9,2012

- recent pre-construction site alteration work that had been carried out on the island by a local contractor hired by the agent of the Owner exceeded what was expected based on the instructions given to the contractor by the property owner and the agent on site.
- The nature and extent of observed site alteration work, as reported to the B.C. Archaeology Branch and to the Penelakut Tribe was somewhat exaggerated and incorrect;
- It is acknowledged that the pre-construction work conducted was done without any archaeological monitoring, as required under the conditions of the BC Archeological Branch Site Alteration Permit issued in 2011. Arrangements will be made to ensure the presence of an archeological monitor during key construction activities;
- All 15 Rock Features had been located and well marked out by the contractor. None had been disturbed or damaged. As well, the two documented locations containing human skeletal remains had not been disturbed and remain intact.
- The track path inadvertently created by the movement of an excavator is acknowledged while noting that this caused no damage to burial remains or rock features.
- The removal of soil from several areas is also acknowledged while noting that it was piled in manner to avoid all rock features on the site
- It was agreed that no further development related work should occur until authorized by the B.C. Archaeology Branch.
- Possible mitigative measures include screening of all backdirt from the recent soil removal work;
- a pre-construction meeting of the property owner, his representatives will be arranged with the Tsartlip Nation – the only one of 13 First Nations with overlapping interest in the subject area to respond to referral of the subject Permit application with concerns of any sort. This will take place as soon as possible. No further development work will take place on the island until this meeting has occurred

Paragraphs 5&6

- The Archeological Branch investigated this matter on site on July 9,2012 in the company of the Permit Holders. It was confirmed that no human remains or rock features were disturbed by the noted actions, and that the deviations from permit conditions occurred in the course of identifying and flagging the recorded burial features for the purpose of ensuring their protection and avoidance.

**REPORT
ON
AN ON-SITE INSPECTION OF SITE ALTERATION ACTIVITY
AT GRACE ISLET, GANGES HARBOUR;
ARCHAEOLOGICAL SITE DfRu-09**

Date of Inspection: July 9, 2012

Date of Report: July 10, 2012

Report Author: Bjorn Simonsen
The Bastion Group
Heritage Consultants

Report Prepared For: Mr. Barry Slawsky (Property Owner)
Edmonton, Alberta and;

Mr. Paul Pasutto, Innocept Real Estate Outsourcing
Calgary, Alberta

Background

Grace Islet is situated at the entrance to Ganges Harbour, Saltspring Island, B.C., directly offshore of Grace Point, which forms part of the village of Ganges. The islet is owned by Mr. Barry Slawsky of Edmonton, Alberta, who is in the process of arranging to construct a residence on the islet. Mr. Slawsky recently retained Mr. Paul Pasutto of Innocept Real Estate Outsourcing Ltd. of Calgary Alberta, as his development project manager with a view to commencing construction of the proposed residence and associated infrastructure, access and landscaping features by late July/early August of 2012.

In 1966, Grace Islet was included within the boundaries of an archaeological site that covers much of Ganges village. This was included in a preliminary archaeological site record of Site DfRu-09 (the "Ganges Harbour Site") and became part of the Archaeological Site Registry system for the Province of British Columbia. The DfRu-09 site record was updated in 1974 by a three-person field crew working for the (then) B.C. Provincial Archaeologist's Office. Although neither of the earlier site documentation forms provide any information about archaeological features or deposits being present at Grace Islet, this small island was nevertheless included in the general site record for the Ganges Harbour Archaeological Site, being Site DfRu-09.

No further archaeological investigations within Grace Islet were carried out until the early part of 2010 when an archaeological team under the direction of the author of this report (Bjorn Simonsen) carried out an Archaeological Overview Assessment (AOA), followed by an Archaeological Impact Assessment (AIA) study at Grace Islet. These

studies were carried out at the request of the property owner, Mr. Barry Slawsky, and resulted in the discovery and documentation of two areas containing partial human remains in the form of disarticulated skeletal bones, as well as 15 “rock features” that were thought to be of cultural origin. However, it must be noted here that no firm evidence has been found to date to confirm that these features were intentionally constructed by humans, much less by local First Nations individuals, as has been suggested by others. Nevertheless the 2011 Bastion Group final report for the 2010 AIA study argues that since it is possible that these features do have a cultural origin, they should be protected from future disturbance that might occur in the course of the planned construction activity on Grace Islet.

Since construction activity was initially planned at Grace Islet for the latter part of 2011, and continuing into the year 2012, the property owner, along with Archaeologist, Kevin Twohig of Terra Archaeology Ltd of Victoria, B.C., applied to the B.C. Archaeology Branch for a “Site Alteration Permit” that would authorize ground altering work at Grace Islet to be carried out under certain conditions oriented to the avoidance and protection of archeological features present. Subsequent to this, Alteration Permit 2011-0343 was issued on October 24, 2011, to the two “Co-Applicants”.

Recent Activities at Grace Islet

In about mid-June of 2012, the report author received a phone call from Kevin Twohig of Terra Archaeology, informing him that the B.C. Archaeology Branch had received a verbal report from Archaeologist, Eric McLay of Gabriola Island, indicating that site alteration work had recently been carried out at Grace Islet. It appears that Mr. McLay was aware that an Alteration Permit had been issued for the Grace islet work but to his knowledge, no archaeological monitoring had accompanied the work done. Following this, various attempts were made by the author to obtain clarification about the reported allegations of clearing vegetation, excavating soil and the commencement of building foundation work at Grace Islet.

At the urging of the property owner, Terra Archaeology and the report author, a site inspection was conducted on Monday, July the 9th, of 2012, by a team of five individuals. This included the property owner (Barry Slawsky), Paul Pasutto, Ewan Anderson (representing the B.C. Archaeology Branch), Kevin Twohig (Terra Archaeology) and Bjorn Simonsen of The Bastion Group. A thorough examination was carried out of the recent pre-construction work that had been carried out on the islet by a local contractor hired by Paul Pasutto of Innocept. After a thorough examination, the five examiners concluded the following:

- The nature and scope of the pre-construction site alteration work exceeded what was expected based on the instructions given to the contractor by the property owner and Paul Pasutto.
- It was also agreed that the nature, scope and extent of site alteration work, as reported to the B.C. Archaeology Branch, was exaggerated and incorrect.

- There was agreement that the alteration work was done without any archaeological monitoring, as required under the conditions of the Site Alteration Permit issued in 2011, by the B.C. Archaeology Branch.
- It was agreed that all 15 Rock Features had been located and well marked out by the contractor and that none had been disturbed or damaged. It was also confirmed that the two previously documented locations containing human skeletal remains had not been disturbed and remain intact.
- A number of options for how to manage future construction work on site were discussed, as were possible mitigative measures.
- It was also agreed that a meeting must be arranged between the Tsartlip First Nation and the property owner and his representatives and that this meeting should take place as soon as possible. No further development work is to take place on the island until this meeting has taken place.
- It was agreed that no further development related work should occur until authorized by the B.C. Archaeology Branch.
