

July 28th, 2014

Justine Batten, Director  
Archaeology Branch  
Ministry of Forests, Lands and Natural Resource Operations  
PO Box 9816 Stn Prov Govt  
Victoria BC, V8W 9W3  
FAX: 250-953-3340

**RE: Desecration of Grace Islet Burial Islet [HCA 2011-343]**

Dear Ms. Batten,

*1) Lack of Notification and Participation in Site Alteration Permit implementation*

Our Penelakut Tribe were made aware from reports by local residents and media that house construction began at the Grace Islet cemetery on Salt Spring Island in early June 2014.

To date, there has been no First Nation notification, involvement or participation in this issued alteration permit amendment concerning the protection and management of this ancient Coast Salish cemetery. This is despite language included in the May 2013 permit application that clearly states, "personnel will be assisted by members of local First Nations who have shown an interest in the proposed Grace Islet development" (pp.4). To our knowledge, the property owner and permit holder, Mr. Barry Slawsky, has denied any role for Coast Salish First Nations in the decision-making or implementation of this issued alteration permit amendment.

Our Penelakut Tribe has not been provided with any current information concerning this active development atop of this recorded burial islet over the past two months. We are not aware at what stage of house development is occurring on the burial islet if the burial cairns are being protected or managed, if any ancient human remains, artifacts or features have been recovered to date, or consulted about how the recorded burial cairns may be impacted by the design and construction of the house footprint and related residential developments.

*2) Denial of First Nations Elders to Visit Cemetery and Interference with Practice of Traditional Coast Salish Funeral Prayer and Ceremony at Grace Islet*

Given this lack of notification, consultation and direct involvement, on June 27<sup>th</sup>, 2014, our Penelakut Tribe wrote to the Archaeology Branch to formally request that British Columbia help coordinate a site visit with the permission of the property owner, Mr. Barry Slawsky, Edmonton, AB, on behalf of our Penelakut Tribe Elders and staff.

Our Elders and hereditary grave workers expressed interest in visiting the burial cairns to examine their condition and conduct a traditional funeral prayer and ceremony in honour of the Ancestors. In communication with the Archaeology Branch, our staff suggested that Wednesday, July 16<sup>th</sup>, would be an acceptable date in advance to arrange a visit by boat. Other local Coast

Salish Elders and communities were also invited to join the traditional funeral ceremony at Grace Islet. We believe this formal written request for a site visit was a reasonable request, made in good faith, and given with enough advanced notice and flexibility for the Archaeology Branch and property owner to mutually arrange permissions in respect of our First Nations' rights and ongoing concerns for the protection and management of this ancient Coast Salish cemetery on Salt Spring Island.

On July 15<sup>th</sup> the day before the proposed visit, our Penelakut Tribe office was notified that our First Nations had been denied permission to access Grace Islet by the property owner, as communicated by email from project officer, Steven Acheson at the Archaeology Branch. No explanation was offered. A copy of Mr. Slawsky's letter to the Archaeology Branch, dated June 14<sup>th</sup>, 2014, has not been provided to our Penelakut Tribe upon request from the Archaeology Branch.

On Wednesday, July 15<sup>th</sup>, our Penelakut Elders proceeded to visit Grace Islet by boat departing from Penelakut Island. Our Penelakut Elders and staff did not land at Grace Islet. Our Elders were confronted by a tall wire security fence installed around the entire burial islet, a locked gate, posted no trespassing signs, and a security guard on-site. Our Penelakut Elders returned home with dismay at what they had witnessed in viewing the development of this burial site.

We take great offence by the permit holder for demonstrating such disrespect toward our Elders, our Coast Salish First Nations, our culture, and such contempt for our aboriginal rights, beliefs and practices to care for our deceased Ancestors and their resting places.

Our Penelakut Tribe Elders must ask the Minister, "Who is the one trespassing at this ancient Coast Salish cemetery?"

### *3) Lack of Consultation on Protection of Burial Features by New House Design and Site Plan*

Our Penelakut Tribe have received aerial photos that show in great detail the level of disrespect and mistreatment shown this First Nation burial site by the permit holder, Mr. Barry Slawsky, for his proposed luxury residential development Grace Islet.

From the aerial photos, it is apparent that the house design and construction site plan and pathways have been amended since 2010. Both the faxed copy and emailed pdf. File of this site plan and house design provided our First Nation office by the Archaeology Branch in the site alteration permit amendment application, dated May 6<sup>th</sup>, 2013, is a blurry schematic sketch providing no readable details. There is little descriptive text concerning the house design or site plan in the issued site alteration permit. Further, there is no map provided in the alteration permit that illustrates the relation of the proposed house footprint to the location of the recorded burial features. The Archaeology Branch has not offered to explain any amendments of the proposed house footprint in relation to the burial cairns, or clarify any misinformation among First Nations, such as the concept of the house being built on "stilts".

We have seen that the architect for the project, Mr. Terry Frost, Edmonton, AB, has published what appear to be new house design and site plan for Grace Islet on his website: [www.terryfrostdesign.com](http://www.terryfrostdesign.com). However, we understand that according to Steven Acheson at the Archaeology Branch, the property owner's agent, Paul Pasutto, has stated that the house design "footprint" has not changed since May 2013, except for the raising of a foundation wall this month to avoid one of the cairns. There is no explanation if the site plan or other house construction details have changed that may negatively affect the protection of burial features.

Overall, there has been no consultation by the Archaeology Branch concerning the details of the protection and preservation of the burial cairns in respect of their placement with the foundation, house design, site plan and related residential developments, or discussion of a long-term management plan on the islet, despite our repeated concerns and requests for information concerning the protection of this ancient Coast Salish cemetery.

*4) Alleged Violation of Permit Conditions – Cairn Locations, House Footprint and Construction*

In reference to the aerial photographs from Friday, July 18<sup>th</sup>, we interpret that Cairn/Rock Feature (RF) 14 is situated in the centre of the house foundations - the plywood octagonal box enclosed in the middle of the building footprint. We identify this as one of the larger cairns "pedestalled" within the proposed house footprint by large-scale, non-permitted land clearance at Grace Islet in 2012. Looking closely, we note that someone has spray painted a smiley face" on the side of this burial feature. Spray painting graves is considered an act of vandalism in most cemeteries elsewhere.

Two other cairns (RF3, RF10) appear to be situated immediately physically abutting, if not actually encased within the perimeter foundations. The foundation walls appear to be deliberately built to straddle the house foundation walls. There is no development buffer zone surrounding these burial cairn features. Other boxed up cairns can be seen on the immediate edge of the house foundations (RF 1, 2).

Other cairn locations on the islet can't be clearly identified from the aerial photos (RF 4-9, 11-13, 15), which appear to be located either outside of the house footprint, covered by scrap wood, or don't appear to be boxed up. From the 2010 report and old maps, RF 9, 11-12 and 13 should be visible in the northwest corner abutting the house footprint. RF 15 is known to be boxed up underneath a large Douglas-fir tree in the woods near the dock.

In the amended HCA 2011-343 site alteration permit, dated May 6<sup>th</sup>, 2013, the following description is provided describing the location of the burial cairns to the proposed house footprint, as denoted under 2.2 *Planned Protective Measures* (pp.3):

- A. Rock Features 3, 11 and 12 will be in an open area that will be minimally landscaped without any impact to the cultural features
- B. Rock Features 9 and 14 will be spanned by floating decks and remain untouched.
- C. Rock Features 10 and 13 will be on undisturbed grades with deck areas built around them, but leaving the features undisturbed.

From our observations of the aerial photographs, there appear to be several discrepancies in the siting description that we highlight our concern to the BC Archaeology Branch.

Notably, RF 14 is supposed to be "spanned by floating decks built around them"; however, it appears RF 14 is enclosed in the centre of the house footprint perimeter walls in the middle of the basement area. The location of RF9 is presently unknown in relation to the house footprint.

Further, RF 3 is supposed to be located in an "open area"; yet, it is physically abutting the southern foundation wall, if not encased within the foundation walls itself. Similarly, RF10 is supposed to be located on an "undisturbed grades with deck areas built around them, but leaving the features undisturbed; however, the location of RF10 is again abutting or encased within the southeastern corner of the foundation perimeter wall.

In summary, the description of the cairn locations included in the site alteration permit do not appear to correspond to our recent observations of the built house foundation walls. Either false or misleading information has been provided in the site alteration permit amendment, the permit holder has violated his permit conditions, or the Archaeology Branch has withheld information describing proposed changes and amendments to protect the cairn locations within the house footprint from our Penelakut Tribe and other Coast Salish First Nations.

We make several other reported violations of permit conditions from the aerial photographs. The relevant text to assess if the property owner is adhering to permit conditions in the amended HCA 2011-343 site alteration permit, dated May 6<sup>th</sup>, 2013, are specified under 3.0 *Description of concurrent archaeological studies* (pp.4):

A. All such locations [ie. identified rock features and the location of human remains] will be treated as no-work zones. Any excavation or other ground preparation work that might be required in the immediate vicinity of a rock feature will be closely monitored by the Archaeological Monitoring Team on site to insure [sic] that no damage to cultural features.

B. Access paths and walkways (such as access between the house construction site and the wharf area) will be routed around rock features and a non-disturbance buffer of two meters will be imposed.

C. Any construction equipment, tools or construction material that might require storage on the island during the project development, will be placed in areas having no rock features or identified human remains.

One of the permit conditions is to avoid the cairns and leave them clear of any construction tools and equipment and treated as “no-work zones”. From the aerial photographs, we observe there is a generator or other tools and equipment lying atop of the RF 14’s plywood box. Other cairns are seen on the immediate edge of the house foundations (RF 1, 2, 3, 10), most have big piles of scrap wood or lumber thrown atop them. Other cairns (RF 9, 11-13) cannot be viewed in the aerial photographs, several likely due to scrap lumber lying atop of their location.

Overall, these aerial photographs raise serious questions about the location of the cairns and the relation to the house design and foundation wall footprint that deserve further consultation with Penelakut Tribe and other Coast Salish First Nations.

The aerial photographs clearly demonstrate an obvious lack of respect , if not contempt, demonstrated by the permit holder toward this ancient cemetery site, its burial features and our Coast Salish First Nations peoples and culture. This lack of respect in treatment includes graves being spray painted, scrap wood, lumber and other construction materials thrown on top of burial features, tools and equipment lying on top of no-work zones, and cairns being built into and underneath the house foundations. Meanwhile, First Nations are locked out from entering the property.

To date, it is clear that there appears to be no quality control or supervision of construction work on the ground by the Archaeology Branch.

We request the Archaeology Branch to immediately suspend the alteration permit and investigate these reported permit violations.

Prior to any further approvals to the permit holder by the Archaeology Branch that will allow house construction to proceed, the Penelakut Tribe demand an on-site meeting and further consultation from the Archaeology to examine the reported violations of permit conditions, and explain in details the burial cairn locations in relation to the built foundation walls and proposed house footprint, pathways and other residential developments at Grace Islet.

Huy ch qa (Thank You)

  
Respectfully, *Council*

Chief Earl Jack  
Penelakut Tribe

cc. Honorable Minister Steve Thomson, MFLNRO (fax 250 387-1040)  
Steven Acheson, Permitting Section, Archaeology Branch, MFLNRO  
Robert Morales, Chief Negotiator, Hul'qumi'num Treaty Group (250-245-4668)  
Gary Holman, MLA, Saanich North and the Islands (Fax 250 387-4680)  
Alistair Bryson, Chair, Capital Regional District (250- 360-3130)