

**STATUTORY RIGHT OF WAY – COMPATIBLE USE**

**Properties Division**

**Property Rights Services**

Phone: 250-561-4844

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June 18, 2021

Assignment: 1175236 Rev 1

Circuit/Str.: D/L

**VIA Email:** Allan.Kindrat@wsp.com

WSP

1 3772 Fourth Avenue  
Smithers, BC V0J 2N0

Dear Allan Kindrat:

**Re:** Proposed Cycle Trail – Phase 1 (the “**Proposed Use**”)

**Applicant:** Regional District of Bulkley-Nechako (the “**Applicant**”)

**Legal Description:** Within Road (the “**Property**”)

**Location:** Smithers

**Drawing:** Cycle 16 – Phase 1 Route (the “**Drawing**”)

British Columbia Hydro and Power Authority (“**BC Hydro**”), as the holder of the Right of Way, has no objection to the Proposed Use located in the area shown on the attached Drawing provided the following terms and conditions are observed and met by the Applicant. These terms and conditions are BC Hydro’s requirements for safety, long-term security and operation of the electrical system.

**SPECIAL CONDITIONS:**

- Customer is advised to review the existing anchors in fill slope with BC Hydro’s local designer. Any proposal to anchor relocations will require engineering review to ensure integrity of BC Hydro’s assets
- Customer is advised to engage with BC Hydro’s local designer for any pole relocation’s reviews/works. Any pole relocation and/or ground excavation below the distribution line will be reviewed by engineering to ensure compliance to ES43- B1-03
- All crossings shall adhere to wire-to-ground clearance as laid out in BC Hydro standard ES43 B1-03: bare minimum neutral wire-to-ground clearance is 3.4m for small vehicles and 3.1m for bicycles/pedestrians. Customer is advised to review BC Hydro standard for wire clearance that is applicable in this design
- As specified in BC Hydro’s Safety Practice Regulator (SPR) Table 401, distribution line requires LOA of 3.0m for unqualified works/uninsulated equipment. Please follow 30M33 process for LOA trespass or in-doubt of trespass

- Customer shall arrange a 30M33 for distribution parallel & crossings by calling ESCC at 1-877-520-1355

**GENERAL CONDITIONS:**

1. If the Applicant is not the owner of the Property, the Applicant must also obtain permission for the Proposed Use from the owner of the Property.
2. The Proposed Use must be completed by June 30, 2022. The Applicant (or the Applicant's agent) must receive a prior written extension from BC Hydro if the Proposed Use is not completed by this date.
3. In accordance with the WorkSafe BC Occupational Health and Safety Regulation ("OHSR"), persons and any moving equipment operated by those persons must not come within the WorkSafe BC limits of approach for the specified voltage of the powerline conductor at any time.
  - WorkSafeBC Policy Item R19.25-1 specifies the responsibility of the worker and the employer on working close to energized high voltage equipment and conductors:

Limits of Approach: 3.0 metres.

4. The conductor height changes as the load in the circuit changes (often changing rapidly and significantly); equipment operators must be aware of this and account for it when maintaining Limits of Approach.
5. To ensure the integrity of BC Hydro's works, no part of the Proposed Use may come within 10 metres of any of BC Hydro's works.
6. Vehicles in excess of 4.15 metres in height, including load and reach, will not be permitted on the Right of Way at any time unless the Applicant has first obtained an Extraordinary Load Approval ("ELA") from the Ministry of Transportation and Infrastructure. Vehicles operating on the Right of Way under an ELA must comply with the WorkSafe BC limits of approach for the specified voltage of the powerline conductor on the Right of Way.
7. The Applicant is responsible for all costs of design alteration, modification, relocation and/or protection of BC Hydro's existing works, which may be required as a result of the Proposed Use. The Applicant is also responsible for any damage to BC Hydro's infrastructure, including bridges and roads, caused by or attributable to the Proposed Use, or the activities of the Applicant or those for whom the Applicant is in law responsible.
8. To determine the approximate location of any and all underground services, the Applicant will contact BC 1 Call. If the exact location of any underground service is required, the Applicant will need to engage the services of a private locating company prior to digging.
9. During the construction, maintenance, and operation of the Proposed Use, the workers may receive uncomfortable shocks. Secondary injuries such as trips and falls may occur and the workers must be made aware of this hazard and ensure proper safety measures put in place when working at heights under the conductors.
10. The Applicant must, at its sole cost and expense during the term of the Proposed Use and during such other period of time that the Applicant occupies the Right of Way, take out and maintain in full force and effect, the following insurance policies:

- (a) Commercial General Liability insurance on an occurrence form for an amount not less than \$ 2,000,000 per occurrence applying to the Proposed Use of the Applicant carried on, in and from the Right of Way and which coverage will include without limitation, liability assumed under contract, claims for personal injury, broad form property damage, non-owned automobile liability, and products and completed operations with respect to the occupancy by the Applicant of the Right of Way. Where such further risk exists, the policy will provide coverage for damage to existing structures, voluntary medical payments of at least \$5,000 per injured person.
- (b) Any other form of insurance as BC Hydro may reasonably require from time to time in amounts and for perils against which a prudent applicant would protect itself in similar circumstances.

11. All policies of insurance referred to herein:

- (a) will be considered primary with respect to the Proposed Use, and all deductibles and self-insured retentions will be borne by the Applicant;
- (b) will include an undertaking by the insurers to notify BC Hydro, in writing, not less than 30 days prior to:
  - i.any cancellation or other termination thereof, or
  - ii.any change which restricts or reduces the coverage afforded thereby; and
- (c) will be on policy forms satisfactory to BC Hydro and underwritten by insurers legally permitted to transact business in the province of British Columbia that are acceptable to BC Hydro.

12. The Applicant agrees to provide BC Hydro with certificates of insurance that confirm compliance by the Applicant with the insurance requirements set out herein, including proof of renewal of each policy during the Proposed Use.

The Applicant will also comply with the schedule of terms and conditions attached to this letter. These terms and conditions are incorporated into and form a part of this letter. Please ensure that others involved with the Proposed Use adhere to all terms and conditions.

Please acknowledge that the Applicant understands and agrees to the foregoing terms and conditions by signing this letter in the space provided below and returning it to this office by July 2, 2021. Please keep a copy for the Applicant's records. Please note that BC Hydro's consent to the Proposed Use will not be effective until this office receives a copy of this letter signed by the Applicant. **Accordingly, do not start any work or activities relating to the Proposed Use until we have received a signed copy of this letter.**

We would be pleased to answer any questions you may have about the Proposed Use or any other uses of the Right of Way. Please contact me at 250-561-4844 or [kristi.morin@bchydro.com](mailto:kristi.morin@bchydro.com).

Sincerely,  
British Columbia Hydro and Power Authority  
By:



Kristi Morin  
Property Coordinator  
Property Rights Services

**Regional District of Bulkley-Nechako hereby accepts and agrees to the foregoing terms and conditions:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Date

## BC Hydro Standard Terms and Conditions for All Compatible Uses of Rights of Way

The following additional terms and conditions are incorporated into and form a part of the attached letter. Capitalized terms contained in this schedule not otherwise defined have the respective meanings ascribed to them in the attached letter.

1. These requirements are to be read together with the rights and obligations of the parties set out in the Right of Way registered against title to the Property. Nothing in the attached letter or this schedule shall be interpreted as limiting BC Hydro's rights pursuant to the Right of Way.
2. This letter applies to the interest of BC Hydro only. The Applicant must also obtain permits or consents from all other applicable parties with an interest in or jurisdiction over the Proposed Use and/or the Property (including landowners, other charge holders and regulators).
3. The Applicant must comply and ensure compliance with all applicable legislation, regulations, guidelines, orders and standards, including all environmental laws and Part 19 Electrical Safety of the OHSR (a copy of this regulation is available at [www.WorkSafeBC.com](http://www.WorkSafeBC.com)).
4. BC Hydro will not be responsible for any damage to or interference with the Applicant's activities, equipment or the Proposed Use arising out of BC Hydro's activities or works pursuant to the Right of Way. The Applicant hereby releases each of BC Hydro and its officers, directors, employees, agents and contractors (collectively, the "**BC Hydro Parties**") from any and all claims, demands, actions and causes of action, proceedings, losses, damages, costs (including legal, consulting or other professional fees), fines, orders or expenses arising from any injuries (including injuries causing death), property damage or any other matter of whatsoever nature or kind (collectively, "**Losses**"), whether direct or indirect, whenever and howsoever arising which the Applicant or any of the Applicant's directors, officers, employees, contractors, agents, invitees, permittees or licensees, as the case may be, may suffer, incur or sustain on the Right of Way or in relation to the Proposed Use, except to the extent caused by the negligence of BC Hydro.
5. The Applicant assumes any and all risks and liabilities whatsoever, whether known or unknown, in relation to the Proposed Use and indemnifies BC Hydro from and against any and all Losses, whether direct or indirect, suffered or incurred by any of the BC Hydro Parties to the extent caused by or attributable to the Proposed Use, or any activity within the Right of Way by the Applicant or those for whom the Applicant is responsible at law. This indemnity will survive the expiry or termination of the agreement formed by the Applicant's acceptance of this letter, the Right of Way, and any other agreement entered into pursuant to this letter.
6. No part of the Proposed Use within the Right of Way may be enlarged, moved, or added to without the prior written agreement of BC Hydro. Uses or installations other than those contemplated in the attached letter require additional written agreement from BC Hydro.
7. BC Hydro may revoke its consent and terminate the agreement formed by the Applicant's acceptance of this letter if the Applicant or any of the Applicant's employees, agents or contractors fail to comply with the terms and conditions contained herein.
8. During the construction, existence, operation, maintenance or repair of the Proposed Use, as the case may be, the Applicant will take all steps necessary to protect BC Hydro's equipment and works within the Right of Way and will be responsible and will compensate BC Hydro for any damage to BC Hydro's equipment or works. If the Proposed Use impacts or interferes with any present or future BC Hydro works, the Applicant will, at the Applicant's expense, make any adjustments to the Proposed Use reasonably required by BC Hydro, or, upon receiving not less than 90 days' prior written notice from Hydro, relocate the Proposed Use to an alternate location approved by BC Hydro.
9. The Proposed Use must comply with all *Fire Services Act* (British Columbia) requirements, and the British Columbia Fire Code, including Section 3.3, Outdoor Storage. Section 3.3 prohibits the storage of specified wood products, flammable substances, and other potentially hazardous materials beneath electrical powerlines.

10. The following are not permitted within the Right of Way unless expressly authorized in writing by BC Hydro:

- log decking
- blasting
- burning
- deposit of any fill material
- buildings or portions of buildings, including foundations and eaves
- stock piling of excavated, building or other material
- storage or handling of flammable or explosive material
- fueling of vehicles and equipment
- regular or organized parking of vehicles

11. The Applicant acknowledges that minor levels of electrical induction may be experienced due to the proximity of electrical lines and agrees that BC Hydro shall not be liable or responsible for any effect or occurrence caused or contributed to by any such electrical induction.

12. BC Hydro's personnel must be able to access the Right of Way at all times. Interruption of the Applicant's activities and operations relating to the Proposed Use may be necessary for electrical line repair, maintenance, replacement or construction.

13. Landscaping within the Right of Way is restricted to low-growing trees, shrubs and plants not exceeding 3.0 meters in height at maturity. For vegetation immediately outside of the Right of Way, BC Hydro recommends that the Applicant not plant any vegetation that grows tall at maturity or grows with weak root systems that have a high probability of falling on BC Hydro's electrical works. BC Hydro (including its agents and contractors) shall have the right to remove any tall-growing trees, shrubs and plants from underneath and adjacent to BC Hydro's powerlines for line security and safety purposes from time to time.

14. All fencing must be reviewed and approved by BC Hydro prior to installation.

15. The Applicant must not make any changes in ground elevations of more than 0.5 metres from the original grade of the Right of Way without the prior written consent of BC Hydro. The Proposed Use must not cause any deterioration of drainage patterns or soil stability within the Right of Way.

16. Upon the completion or removal of the Proposed Use, the Right of Way must be restored as closely as is practically possible to its original condition (or better) at the Applicant's expense.

17. Prior to assigning BC Hydro's consent to the Proposed Use contained in the attached letter, the Applicant must provide BC Hydro with the written agreement of any such assignee to be bound by these terms and conditions. Any purported assignment without such written agreement of the assignee will revoke BC Hydro's consent contained in this letter.

18. No obligation in this letter will be considered to have been waived by BC Hydro unless the waiver is in writing and signed by BC Hydro, regardless of BC Hydro's knowledge of any breach of such obligation or the passage of time.

19. If more than one person comprises the Applicant, then each such person is jointly and severally bound by the terms and conditions contained in the attached letter and this schedule of terms and conditions.

Cycle 16 – Phase 1 Route

