

23/3/16011.

November 16, 1929.

Your File No. 23152-20.

Re Mill Bay Ferry.

Dear Sir:-

I beg to acknowledge receipt of your letter of the 2nd instant referring further to the valuation made for the land acquired by the Government of British Columbia on Malahat Indian Reserve No. 11, of the Saanich Indians, Cowichan Agency, for road purposes, from the new Mill Bay Ferry to the Island Highway, in which you ask to be informed if, when this valuation was made, consideration was given to the forfeiture of the foreshore rights fronting on the right-of-way as well as 40 feet extra alleged to be affected.

In reply I beg to say that, when the valuation for this land was set, consideration was given to what rights the Indians had in the land itself which was surveyed from mean high tide. This was in view of the fact that under the terms of Dominion Order-in-Council 941 of 7th June, 1924, and Provincial Order-in-Council 507 of 6th May, 1924, the Government of British Columbia is deemed to be the possessors of all foreshore except in certain public harbours. The Department of Justice has ruled that Indians have only riparian rights over the foreshore, that is, the right of access and ingress. The building of this ferry slip will in no way disturb the Indians in that right; as a matter of fact, the selling of the 50 foot right-of-way takes with it whatever rights the Indians have over this particular portion of the Reserve.

The statement in your letter that the slip takes in 40 feet of the foreshore South of the road is not correct, as the slip will not be of any greater width than the road itself. Even if it were, it would not affect the situation so far as the Indians are concerned, as the slip is to be built out into deep water where there are at least nine feet at extreme low tide. I am attaching hereto a blue-print showing the location of this slip. Apparently you are confusing the water lot shown dotted on the blue-print for foreshore, but even this is only 80 feet in width. This water lot is below mean high tide and extends nine feet at extreme low tide, and the Provincial Public Works Department have applied to the Dominion Government to lease this area under the Navigable Waters Act.

Enclosure:-

In conclusion, I would again beg to recommend that the cheques referred to in my letter of the 26th of September be forwarded to Mr. Indian Agent Lomas for distribution among the Indians without delay, as they are desirous of obtaining their money and are blaming the Indian Agent for the delay.

WED/HM.

Your obedient servant,

The Secretary,
Department of Indian Affairs,
Ottawa.

W.B. Ditchburn,
Indian Commissioner for B.C.