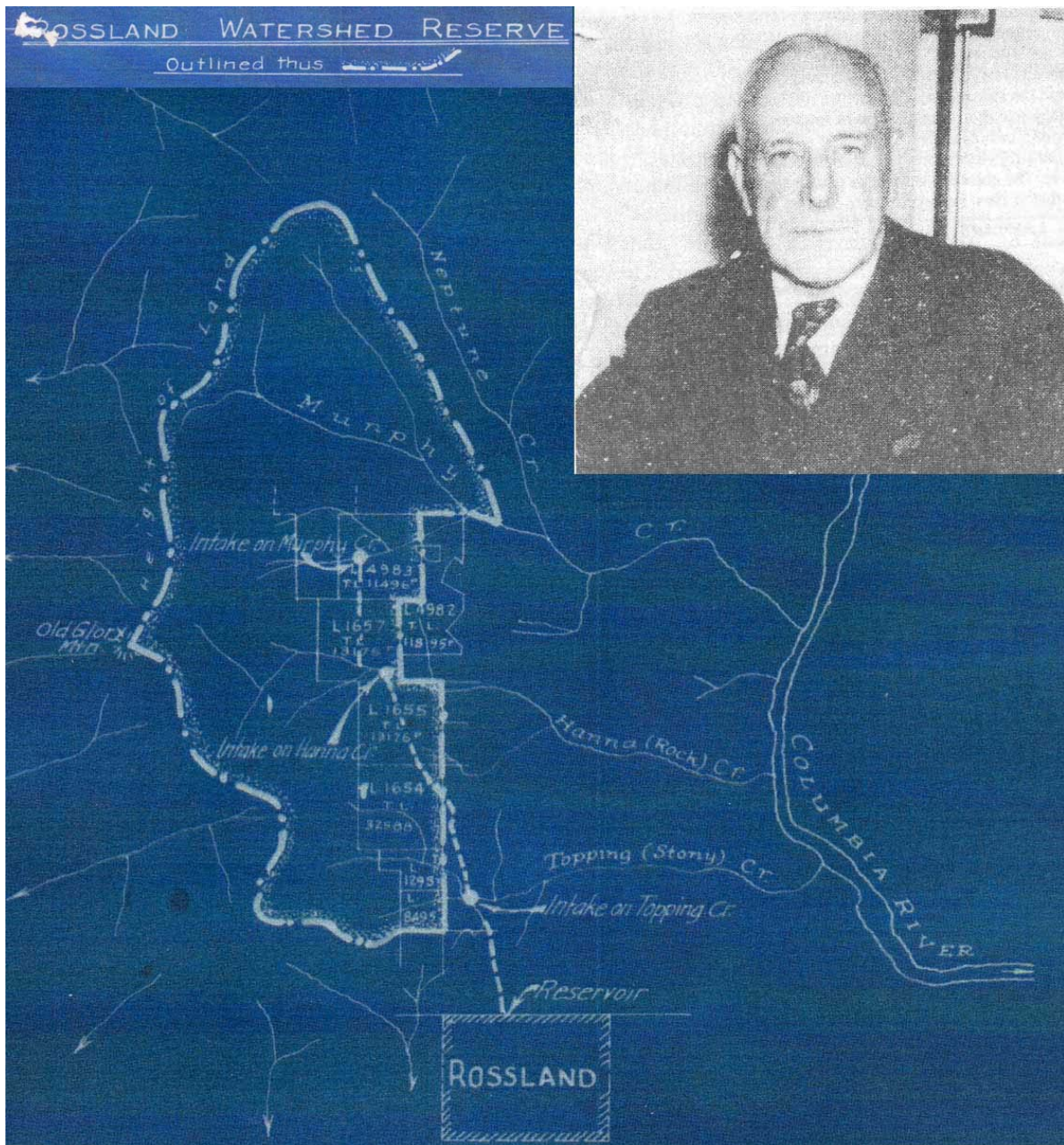


GOOD SERVANTS/ BAD SERVICE:

AN EXAMINATION OF RECORDS AND REPORTS RELATING TO ROSSLAND CITY'S DRINKING WATERSHED RESERVES (1923 – 2002)



By Will Koop,
December 8, 2008

B. C. TAP WATER ALLIANCE

Caring for, Monitoring, and Protecting
British Columbia's Community Water
Supply Sources

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FOREWORD

Following the B.C. Tap Water Alliance's release of the "preliminary" report on Topping Creek in July, 2008, the water source still currently under considerable threat from proposed Ski Hill, golf course, hotel lodge, residential, pavement and recreational developments, two government files¹ and old Rossland City records were obtained and reviewed. As a result, these records, which largely deal with information on the Reserve status and controversies of Rossland's drinking watershed land sources, became decidedly adequate to facilitate a second, updated, and perhaps final report now solely dedicated to the Reserve history.

With this new foundation, the information about the introductory reserve history in Chapter 2 of the preliminary report was reprocessed and re-included in this second report, to help facilitate revised continuity. In addition, the discovery of records concerning Rossland's Reserve(s), and their interpretation through this updated report's narrative, has provided another piece in the greater provincial picture puzzle concerning the history, legislative or otherwise, of drinking watershed protection. Interested readers should also view this report as a progressive discussion and connection to issues raised in the author's 2006 book, *From Wisdom to Tyranny, A History of British Columbia's Drinking Watershed Reserves*.

Since its inception in early 1997, the B.C. Tap Water Alliance strongly advocates drinking watershed protection through research and public education, a position which rests in the spirit of common sense and through the long-held views of "the commons". It is through this protection lens, founded on provincial, national and international historical protection precedents, that the Alliance provides its statements and findings. As a Christmas present, this report is ultimately for the spirit of protection that once pervaded the intent of Rossland City authorities, documented in provincial government and City records.

The research, writing and production of this second report was performed and completed through volunteered time and personal finances of its author. Thanks to: Rossland City councilor Laurie Charlton in retrieving old City records; Bill Micklethwaite for old correspondence and report records; and to the Rossland Stewardship Society (previously, Citizens for Responsible Development) in providing access to related reports and records.

Cover Page: Copy of the May, 1940 Watershed Reserve map over Rossland City's three drinking watersheds, Topping, Hanna and Murphy Creeks. Photo inset of Lands Minister Wells Gray, 1941.

¹ A Ministry of Forests Reserve file on Rossland's Watershed Reserves, and Department of Highways' file related to the early 1960s highway construction north of Rossland City.

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EXECUTIVE SUMMARY

THE TOPPING CREEK WATERSHED RESERVE: A PROVINCIAL CAN OF WORMS

This research report concerning the history of Rossland City's drinking Watershed Reserve tenures has hopefully achieved two important outcomes.

- It provides a refreshed and much needed perspective on critical matters largely forgotten by Rosslanders and the provincial government, due to the misplacement, loss, shuffle and burying of records over a period of decades.
- With their legislative significance, these tenures may assist Rosslanders to re-determine related deliberations with regional and provincial governments over Crown Land Use planning issues and development proposals in Topping Creek and the City's other affected drinking watershed sources. This may also include examining the implications of their apparent omission from critical resource planning documents over time.

The report covers many issues that span over a period of some seventy years. These include commercial forestry, a provincial highway proposal, the Nancy Greene Recreation Area (1969-1995), private land subdivision proposals, commercial ski and development proposals, solicitor advice, the *Nancy Greene Highland Forest Management Plan*, and City reports.

There are at least four important findings or themes which not only concern Rossland City's drinking Watershed Reserves, but also the other many Reserves in British Columbia.

1. Rossland City has Watershed Reserve tenures that were established under the *Land Act*. The first such authenticated Reserve tenure was a collective Reserve over three headwater watershed sources, a contiguous boundary over Hanna, Murphy, and Topping Creeks registered on Legal Survey and Forest Atlas Maps, the government's central planning references. Its registered establishment dates back to at least 1940.

This collective Reserve, the records of which were kept organized in provincial government files, had apparently been forgotten about or accidentally overlooked by a provincial Task Force on B.C.'s community drinking watersheds (1972-1980) in 1973, an oversight that also extended to an unknown number of other provincial Watershed Reserves also previously established.

This Task Force was provided legislative authority under the *Environment and Land Use Act*, directly by way of a Deputy Ministers Committee, to establish Watershed Reserve tenures for provincial water users, Reserves which eventually totaled some three hundred in number by 1980. Each Reserve, which the Task Force later and newly defined as falling under one of three area criteria categories (in square miles), was accounted for and catalogued in an appendix to a final Task Force October, 1980 *Guidelines* document published by the Ministry of Environment.

The Task Force re-established Rossland's three Watershed Reserves with four more newly created Reserves, identified under a new single Lands Department file number: Topping, Hanna, Murphy,

Elgood, West Little Sheep, Little Sheep (and West Fork), and Josie Gulch Creeks.² These seven water sources were later identified in Appendix G of the 1980 Guidelines as Rossland City's Reserves, all grouped as Category One Reserves, designated for "maximum protection".

2. The former Superintendent of Lands (a position superseded as the "Director" of Lands in the late 1960s, and so on) was provided provincial authority to establish Watershed Reserves to protect Crown forested and non-forested lands for provincial licensed water users. In his correspondence records, the Superintendent of Lands clearly and repeatedly stated the definition of and legislative power over such Reserves. He stated to the City of Rossland and to affected parties proposing dispositions in the collective Rossland Reserve that the identified or bounded Reserve Crown land tenures were "withdrawn from all dispositions"³ and "alienation". The Superintendent's interpretation of blanket prohibition to land planning resource development and private ownership is critical for understanding the nature of Watershed Reserves today, the same *Land Act* legislation that also protects the familiar provincial Ecological Reserve tenures initiated since the early 1970s.

3. In addition to his provincial authority to establish Watershed Reserves, the Superintendent of Lands also had an important duty, through his administrative staff, to watch over the Reserves by way of an inter-departmental (later, inter-ministerial) referral system. These mandated, routine administrative mechanics are revealed in the Rossland Reserve file records that transpired over the course of three decades, where various departmental administrators sought approval for Crown land planning proposals with the Superintendent. In each case, when the Superintendent's staff checked the status of affected Crown lands on official maps, on which the Watershed Reserves were referenced by way of a file number and a required blue-lined boundary, the Superintendent would automatically and correctly respond by stating that the lands were "withdrawn from disposition". The records indicate that, with regard to the Rossland Collective Reserve, the Superintendent would usually notify the City of Rossland and affected government agencies of land use proposals submitted to his department, usually logging permits, proposals which were rejected.

Unfortunately, highly political circumstances in the early 1960s forced the City of Rossland to make an exception to its consistent protest against incursions into its sacred watershed lands. This came about in 1961 when the Department of Highways sought to construct a freeway connector through the middle of its collective Reserve, to link the City of Trail with the new highway between Castlegar and Christina Lake. The City would soon and later regret its concessionary decision, which brought about many related problems over time to not only its own drinking water, but also to other affected downstream water users, such as the community of Rivervale. One of these related problems was the new highway access helped facilitate opportunisms by the Forest Service to log the protected forest lands, the results of which not only disturbed water quality but also negatively effected water quantity. While its Reserve lands had logging access roads built through them and were logged in the 1960s, Rossland City continued to complain, to little avail.

According to the records, in 1963 the commander and chief of the Forest Service began to act like an outlaw by breaking both the inter-departmental referral rules and contravening the *Land Act*. Chief Forester F.S. McKinnon openly snubbed the Superintendent of Lands by deceptively stating to his underling staff that the "withdrawal of dispositions" in Rossland's "so-called" Reserve – vis-

² It is not known if any or all of these four additional watershed sources had previous Reserve status histories.

³ As defined, a disposition is any Crown land use license or permit.

à-vis commercial logging permits and licenses, and later transfer of said withdrawn lands to the forest harvesting land base – was a complete “misunderstanding”, and suggested that staff help persuade the City of Rossland otherwise. The Chief Forester not only sidestepped the authority vested in the Superintendent of Lands, but he apparently also broke the law, and enjoined his staff to do the same. According to an originating memo from the Chief Forester’s office in December 1960, this deception was also apparently and successfully applied elsewhere to an unknown number of other provincial Watershed Reserves, intrusions met by a host of bitter public complaints.

4. Beginning in the 1960s, the Watershed Reserves were more uniformly ignored by government administrators, primarily those within the Forest Service. As a direct result of this and other misdirections by the Forest Service to water users, the meaning and legislated directive of these Reserves began to be lost and misunderstood by the public. Soon, even provincial administrators, in charge over or familiar with the Reserves, succumbed to the new directive. As evidenced in City of Rossland correspondence records and reports from the early 1970s following, its Watershed Reserves were sometimes being referred to but left dangling, undefined and misunderstood as to their creation, administrative planning function and legislative significance.

The significance about the active status of a *Land Act* Watershed Map Reserve of Crown lands that bounds the Topping Creek watershed is that any and all development and disposition proposals on, or proposed alienation of, these Crown lands, which a provincial government agency actually accepts as a consideration, must be acknowledged and specifically referred by the provincial government to the City of Rossland and to the development proponent, including a summary to all parties concerned of the Reserve’s legislative purpose.

From a telephone discussion with the Kamloops Regional office of Agriculture and Lands in early July, 2008, such an explanatory referral to the City of Rossland had not as yet transpired with respect to the proponent’s proposal for a golf course and residential/hotel multi developments on Crown lands in Topping Creek, which included the alienation or privatization of Crown lands. This was substantiated by the fact that the Regional Lands agency in Kamloops had no such referrals on file, because, as the agent responsible for the proposed developments stated, the agency was unaware of the Watershed Reserve tenure over Topping Creek at that time. There are two important questions arising from this omission:

- Why had the Reserve tenure status data not been on file with or supplied to the agency in charge of Crown land planning?
- If this agency had the information, would the proper referrals and proper legislative interpretation of the Reserves have been made?

The fact that the provincial government had not yet informed the City of Rossland about development proposals because of the Topping Creek Watershed Reserve status (a concern now under investigation by Agriculture and Lands) is both troubling and consistent with what government administrators have generally failed to do over a period of many decades. As described in the author’s 2006 book, *From Wisdom to Tyranny, A History of British Columbia’s Drinking Watershed Reserves*, this conforms to measures meant to hide or obfuscate these Reserves. In other words, should the government finally acknowledge the Reserve and begin to willingly accept its

fiduciary responsibility to inform and remind the City of Rossland, as the holder of the Watershed Reserve, of the legislative directive to protect the said lands from Crown land dispositions, this proper notification directive would open up an unwanted can of worms, the flood gate for disposition referrals in all the provincial Watershed Reserves, and, perhaps, a public inquiry.

Of the several important matters from documents revealed and discussed within this report is the validation that, at a previous period, the provincial government had largely maintained its mandated trust with the public, cohesively identified in the old guarded public motto, the “obedient servant”. What began to unfold in the 1960s following is that this “servitude” maxim, which many government staff proudly stood by on the protection of the public’s drinking watersheds, particularly the Department of Health, began to dissipate and shift away from the good of the general public into what would become a significant and protracted public deception – hence, the title of this report.

The relationships of integrity which were to be provided to Third Order governments – municipalities, townships, villages, improvement districts, regional districts, etc. – by provincial government administrators were being slowly eradicated, transferred to the commercial domain of the private business sector and its shareholders. As this manufactured shift slowly took on more dominance, coincided with the establishment of regional district governments beginning in the late 1960s, the public became more alarmed and dissatisfied, because, in the case of drinking watersheds, the provincial government was failing to uphold its end of fiduciary responsibility in their overall protection. The primary reason behind the prevailing subversive activities within the Forest Service and the eventual tainted effects within regional and municipal governments is largely due to the fall and demise of the conscientious public servant formula, replaced by underhanded facilitations that endorsed various opportunisms.

It was made quite evident in the 2008 calendar year that Rossland City Council favoured the developer. It not only acted against the concerns of many of its citizenry, as evidenced through a local citizenry petition, but also against the City’s historic position to protect its drinking watersheds, the latter of which went unaccounted for in related planning documents and in the Official Community Plan. The problem of proper public representation, informational accountability, and decision-making on controversial land planning issues, is not only a significant problem for Rosslanders, but for many, or even all, other B.C. communities.

Ultimately, licensed community drinking watersheds should remain protected, no matter what a third order government Council, provincial or federal administration or resource interested lobby group may attempt otherwise. As re-confirmed recently by the global report, *Running Pure: The Importance of Forest Protected Areas to Drinking Water*,⁴ and more recently recommended by December 3, 2008 summary report, *Climate Change Adaptation and Biodiversity*, from Simon Fraser University’s Adaptation to Climate Change Team (ACT), fully land resource protected drinking watershed sources are critical resource commodities, an invaluable asset, particularly during a time of global climate crisis.

As documented, Watershed Reserves were created as instruments for perpetual public good to protect forested and non-forested Crown lands within community drinking watersheds. There is nothing more plain and simple about their proper function and purpose for British Columbians.

⁴ A collaborative report by the World Bank and the World Wild Life Alliance for Forest Conservation and Sustainable Use, August, 2003.

1. 1923-1926: The Rossland City Protest against Logging and the New Departmental Reserve File for "Watershed Purposes"

The formal petition and concern by Rossland City⁵ with the provincial government for Crown land protection of its drinking watershed sources apparently began in late 1923. It came about after City officials learned of a proposed timber sale in the headwaters of Hanna (Rock) and Murphy Creeks.⁶

A protest has been received from the City of Rossland against the disposition of Timber Sale X5509, located at the headwaters of Rock Creek and it is represented that the removal of timber

By January 1924, this concern led the Department and Lands and Forests to create a departmental file, *Rossland City Timber: Reserve for Watershed Purposes*, a combined Reserve file that remained active for the next sixty-eight years.⁷

On November 28, 1923, Rossland City Clerk J.A. McLeod dispatched a telegram to Minister of Lands T.D. Pattullo in Victoria, stating that the:

... removal of timber from this land will seriously effect water supply of this city. Council strongly recommend that this timber be reserved for watershed and in no case to be sold without full investigation.

The City of Rossland

City Clerk's Office

Rossland, B. C. November 29th, 1923.

Hon. T. D. Pattullo,

Minister of Lands,

Victoria, B. C.

Dear Sir:-

⁵ The City was incorporated in 1897. The Rossland Water and Light Company was established in 1895, with its water supply from Topping Creek. By 1898 the population was at 7,000, "making it the third largest city in B.C." (Source: *Columbia Connections Curriculum Project*, Grade 6 Unit)

⁶ Other recorded concerns about the protection of its drinking watershed lands were not discovered, and may possibly exist. Evidence gathered from other early colonial settlements suggest that such protections were routinely requested at, or near, the beginning of settlement, or city/town/village incorporation, closely following the issuance of water licenses.

⁷ There were no updates beyond 1992 in the Topping Creek Reserve file, despite its re-activated status (see the Chapter below on the Community Watersheds Task Force for an explanation). The file includes two separate reserve histories: when Topping Creek was part of a collective Reserve (1940-1973), and when it became an individual Reserve (1973 following).

A year previous in October 1922, Lands Minister Pattullo received a 113-page report from the provincial Water Comptroller, E.A. Cleveland, *The Question of Joint Control of Water Supply to the Cities and Municipalities on Burrard Inlet*. Cleveland, who in three and half years time would become the first Water Commissioner of the newly created Greater Vancouver Water District (February, 1926), and the earnest defender of its watersheds' protection, stated clearly to the Minister in his influential report that the protection of the Greater Vancouver watersheds was paramount, and that the private land logging in the Capilano watershed by the Seattle-based Capilano Timber Company should immediately cease and come under the control of a new metropolitan Water Board:

That the alienated timber in the watershed should be completely controlled by those responsible for the supply of water to the Cities and Districts concerned is beyond question.

The pre-eminent object to be attained is the maintenance of an adequate supply of pure (i.e. unpolluted) water – all other considerations are subordinate: and to that end the watershed should be preserved inviolate.

On February 19, 1924, Cleveland, restated the same in an address to the Engineering Institute of Canada, but more forcefully, as a few industry and government foresters were publicly countering the drinking watersheds protection mandate by promoting logging within the Greater Vancouver watersheds, controversies which Minister Pattullo was well aware of:

To allow anyone to get entrenched on Seymour Creek with logging and shingling operations would be almost criminal The watersheds on the north shore are a heritage for this whole area. This is a golden opportunity for the exercise of that Greater Vancouver spirit which knows no internal bounds and is bound to avail itself of the heritage which nature has supplied for the common good of all.

By the early 1920s, the acknowledgement and application of drinking watershed protection was commonly and well understood, wide-spread within all levels of government (first, second, and third orders). This understanding was summarily expressed in a 1915 federal government engineering report concerning the protection of Salmon Arm City's drinking watershed, Canoe Creek:

It is needless for me to expatiate here upon the now well informed doctrine relating to the protection of municipal water supply. (E.M. Dann, federal Hydrographic Survey engineer, in Report No. 230, *Survey of Watershed of East Canoe Creek*, in connection with Salmon Arm Water Supply, July 17, 1915)

On November 29, 1923, Rossland's City Clerk sent another more descriptive telegram to Minister Pattullo.

I wired you yesterday regarding proposed sale of timber license No. X5509 adjoining Lot 1675 Kootenay District. I understand that this tract of timber is located on Rock and Murphy Creeks and as the same has been a watershed for this City you will readily understand the removal of said timber will seriously deplete our water supply. I cannot too strongly impress the urgent necessity of preserving this timber for watershed and have been instructed by the City Council to ask that this tract of timber be not sold at this time and that the same, if at all possible, be reserved.

After Minister Pattullo received the telegram, he advised his Chief Forester's office of Rossland City's immediate request, sending the concern down the chain of command. On November 30, the Assistant Chief Forester dispatched a brief letter to Rossland City, declaring that the proposed timber sale "is being held in abeyance", with a second letter sent to Nelson District Forester (or, later, the Regional Manager) F.A. MacDonald:

A protest has been received from the City of Rossland against the disposition of timber Sale X5509, located at the headwaters of Rock Creek and it is represented that the removal of timber from this land will seriously affect the water supply of this city and that the area should be reserved for water-shed purposes and in no case be sold without serious investigation. There is no indication on the report that this area is a portion of a watershed on which the Municipality depends for domestic supply, but in view of the representations of the City of Rossland it would appear that possible (sic, "possibly") some adjustment in the conditions of the contract at least should be made before the sale is disposed of.

No tenders were received on this sale. The disposition of the sale, therefore, will be held in abeyance until we receive a further report from you dealing with the protest above mentioned. I would suggest that you call on Mr. J.A. McLeod, City Clerk, Rossland, discuss the matter fully

with him and let us know what portion of the watershed in this stream is covered by the proposed timber sale. It would be advisable to give us a rough sketch map showing the cover on the watershed, the portion burned and logged off and portion covered with standing green timber. This will be only a rough sketch map and it is not expected that any extensive field work will be necessary.

I would also like to have your recommendations as to whether this sale should be disposed of under the present conditions as advertised or whether the conditions should be modified to provide for selective logging with, say, not more than one third or half of the stand removed. Possibly, such a restriction on the contract would make it impossible to dispose of the timber at this time. Would you please let us have your advice on this matter and report on the whole situation at your earliest convenience.

File No. **051906.**

JAN 14 1924, 19

NAME **ROSSLAND CITY Timber**

SUBJECT

Reserve for Watershed purposes.

CROSS REFERENCES **X5509**

F.A. MacDonald reported back to the Chief Forester on December 8, 1923:

On December 3rd I interviewed the City Clerk at Rossland, and find that Timber Sale X5509 covers a large portion of the area in which the water supply for the City of Rossland has its source.... The map accompanying Timber Sale X5509 shows numerous small streams rising within the area embraced in the Timber Sale. There is also a flowline from the South Fork of Murphy Creek which discharges into Rock Creek at a point on Rock Creek where it crosses the West Boundary of Lot 1657. According to the City Clerk the right-of-way for this flowline has never been surveyed or recorded in the same way that the main line from the intake on Rock Creek South has been done.

There is no question but that the logging of the Timber Sale X5509 will seriously affect the flow of water in Rock Creek in addition to which there would be a danger from pollution which would exist if an operation were being carried on in this area.

I was not aware at the time that this Sale was applied for and cruised that there would be any conflict with the Rossland water supply. The City Clerk has informed me that it is the intention of the Rossland City Council to apply for a reserve on all the Crown Land in the vicinity of the headwaters of Rock Creek and the Fork of Murphy Creek.

As soon as it is possible to get the information I will advise you concerning the cover on the watershed at the head of Murphey Creek and Rock Creek.

On January 8, 1924, City of Rossland Clerk McLeod sent another letter to Lands Minister Pattullo.

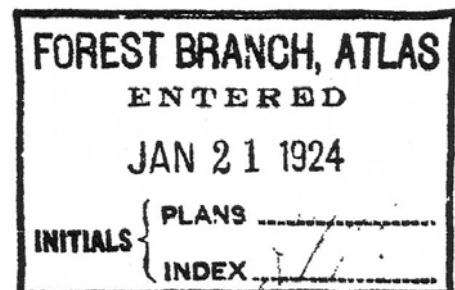
In further reference to my wire and letter to you of November 28th and 29th, 1923 re the above mentioned matter ("Timber License No. X5509"), I have now been instructed by the City Council to write you and request that a reserve be placed on this tract of timber land, as well as on all timber lands lying on the watershed of Rock and Murphy Creeks.

I trust that you will see fit for to grant this request and have a reserve placed as requested.

On January 11, 1924, George P. Melrose, Assistant Forester to the Chief Forester, replied to Rossland City's letter of January 8, regarding the letter of request sent to the Lands Minister:

I would advise that the matter of a reserve covering the watersheds draining into the Columbia River from the West, is under consideration and in the meantime we area not allowing any alienation or cutting of timber on those areas. You will be advised when a definite reserve has been gazetted.

At the bottom of Melrose's letter was a rectangular departmental stamp, entered in the Watershed Reserve file ten days after the letter was sent to Rossland City, indicating that the reserve contemplated for Rossland City had been entered on the Department's Forest Atlas reference map.



Further correspondence in early 1926, regarding the creation of a proposed Rossland Provincial Forest reserve,⁸ and a proposed timber sale below the Murphy Creek water intake, indicates that a watershed reserve requested by Rossland City may, nevertheless, not have been created.

The City of Rossland has asked for a reserve to protect their water supply, over a small part of this area [the proposed Provincial Forest]. This was I think, intended by them to ensure the prohibition of further cutting on the watershed. That is a different question altogether from a forest reserve for the production of timber. Remarks on file in connection with Timber Sale X5509 indicate that logging on this watershed would be detrimental to the water supply, but no reserve has as yet been created.

The matter apparently was dropped some two years ago. If the City still wishes to have this reserve, it would seem to be a question for you to report on from our point of view for action by the Water Branch. (Assistant Forester J.D.M., April 22, 1926)

Through a misunderstanding of the part of this office their application for a water reserve was lost sight of in a discussion about forest reserves.

It is understood that the timber applied for under X8010 is below the intake of the Rossland City Watershed, but before proceeding with this sale it would seem desirable for you to discuss this question with the Rossland City Authorities and if they are still desirous of applying for a water reserve their application will be dealt with by Mr. Cathcart, under whose jurisdiction such a subject comes. Incidentally, as far as our making timber sales on these creeks is concerned, their interests might be properly safe-guarded by special provisions in our timber sale contracts. (E.C. Manning, Forester, April 27, 1926)

At the bottom of the April 22, 1926 memo from the Nelson Assistant Forester were the following written comments made sometime after the memo was sent:

If there is any definite & immediate advantage to be gained by this reserve I wish you would point it out. The Chief, before he left, was not in favour of any additional reserves in the S. [South] Interior at present without very full information & reasons.

These written comments are of great interest, notably because they make reference to the existence of drinking Watershed Reserves. The names and number of these early Reserves were left unidentified.

⁸ Provincial Forest Reserves are not to be confused with more specific Crown land “reserves”. Forest Reserves, as originally mandated through Section 12 of the 1912 *Forest Act*, were legislated areas of large Crown Land parcels dedicated for various uses, under, or within which, more specific reserves could be and were created. In all, 140 such provincial forest reserves were eventually created. In July, 1997, in the controversial Justice Paris Decision, the provincial government argued that specific reserves, such as drinking Watershed Reserves, were never established within such Forest Reserves for purposes that forbade ministerial dispositions under the *Forest Act*. The provincial government was not challenged on this point, and Justice Paris accepted the government’s argument. There are many government records which counter the point argued by the government in Court, which state that Watershed Reserves were knowingly, and allowed to be created in Forest Reserves, and approved by the Forest Service.

On May 31, 1926, after government officials discussed the matter about Rossland City's request for a Crown Watershed Reserve, City Clerk J.A. McLeod sent another letter to the government, by way of Forest Ranger J.T. Price who was headquartered in the town of Ymir south of Nelson City:

In reply to letter from Mr. Parlow Assistant District Forester, Nelson, B.C. (which you left with me some days ago) regarding application of Wm. Kalmakoff, for a Timber Sale over Lot 8494 north of Rossland, to advise that this matter was placed before City Council at its last regular meeting and I was instructed to advise that the Council request that a reserve be placed not only this particular tract of timber, but also on all timber limits in the vicinity of Rock Creek as it is the opinion of the members of Council that the removal of timber adjacent to Rock Creek would seriously affect the water supply of this City.

Will you kindly place this matter before the proper Official of your Department and let me have their decision.

Some two weeks later on June 16, 1926, Assistant Forester E.B. Prowd in the Chief Forester's office sent the following memo to the provincial Superintendent of Lands:

I enclose herewith, a letter received from the City Clerk, Rossland, B.C., with reference to placing a reserve on all the timber-land in the vicinity of Rock Creek, for the purpose of protecting the water supply of the City of Rossland.

On July 10, 1926, the Superintendent of Lands wrote the following to Rossland City Clerk McLeod:

Referring to your letter of the 31st May last addressed to the Forest Ranger, Ymir, regarding a request by the City of Rossland for the placing of a reserve on all timber limits in the vicinity of Rock Creek, as a protection to the water supply of the City. I have to request that you will be good enough to furnish me with a description of the area which the Corporation consider should be reserved and for the purpose referred to.

If possible the area should be indicated upon a sketch plan with the following dimensions.

I have the honour to be, Sir, your obedient servant.

2. 1940: Rossland City Receives a Multiple Watershed Reserve

Some fourteen years elapsed after 1926 when the discussion about the protection of Rossland City's drinking watersheds resurfaced into earnest prominence. During this occasion, nothing was stated in the Minutes of City Council as to what specific concerns prompted City Council to request the reservation of these lands, only the inference that it may have been related to new logging proposals.

His Worship the Mayor informed the Council of conversation had with the local Forest Ranger in regards to the City of Rossland watershed. Recommended that application be made for a reserve on lands in vicinity of Rock and Murphy Creeks, as outlined on map.

Moved by Ald. Nimsick, Secd. by Ald. Cunningham. That application be made to the Provincial Lands department requesting that a reserve be placed on the following lands, for City of Rossland Watershed:

(1) That portion of Murphy Creek watershed, exclusive of the tributary Neptune Creek, lying North and West of the North and West boundaries of Lot 4982.

(2) That portion of Hanna Creek watershed lying West of the East Boundary of Lots 1657 and 1655.

(3) That portion of Topping (Stoney) Creek lying West of the East boundaries of Lots 1654, 1295 & 8495.

Carried. (Rossland City Minutes, March 29, 1940)

On April 4, 1940, the City of Rossland sent a letter to the government requesting a reserve over three of its drinking watershed sources: the headwaters of Murphy, Hanna and Topping Creeks, soon to be collectively referred to by the Department of Lands as "the City of Rossland Watershed."

District Forester,

NELSON, B. C.

ROSSLAND, B.C.

April 17th, 1940.

M. Watershed Reserve City of Rossland.

App. 90% of the area applied for is above 4000'. Some commercial timber is inter-mixed with alpine and sub-alpine types predominating. There have been two applications covering small quantities of live timber since took over the district in 1935, including the current Poochachoff-Nevakshonoff application. Supposing the application for reserve were rejected there would be 14,000 acres of land in the district which would be available for logging.



In response to a written request from Forest Ranger Allen "for further information and plan of the land proposed for reserve" (City Minutes, April 8, 1940), on April 16th, City Clerk J.A. McLeod forwarded Nelson District Forester R.E. Allen a copy of "a map showing the approximate location showing our City Intake on Rock Creek, Pipe and Flume Line from Rock Creek."

On April 17th, Rossland Forest Ranger H.C. Nichols recommended to Nelson District Forester R.E. Allen:

There is no doubt of the need for a reserve in the interests of the maintenance of Rossland as a city and in the interests of property owners therein. I would strongly recommend granting of application.

In turn, R.E. Allen wrote Chief Forester E.C. Manning on April 26, 1940,

"we would recommend that it [the watershed areas defined on the map] be placed under Departmental Reserve in view of its importance to Rossland."

*Mr Taylor.
May reservation be
now made, please?
R.E.*

87
FILE 051966

LANDS DEPARTMENT.

STATUS.

Application of City of Rossland, for (request for reserve within boundaries of watershed)


Lot or Sec. No. See Index of 11/1/40 District Rosby Date Gazetted _____
Dist. Fourth Vancouver Id. 13791
 Situate near Rosland (area required)

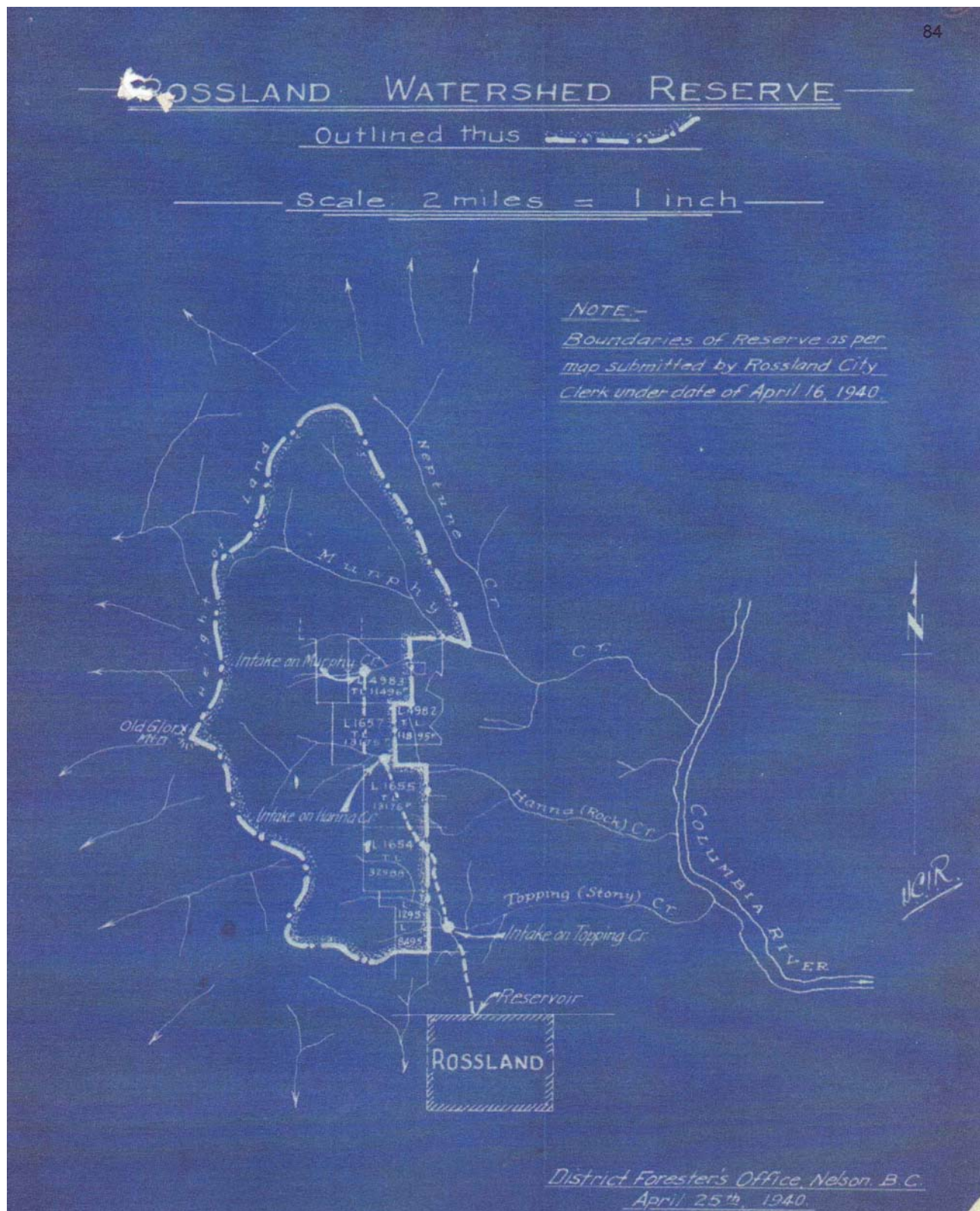
Acreage

1st Class	_____
2nd Class	_____
3rd Class	_____

Total _____ acres.

CLEARANCE. Nelson Ass.

(1.) SURVEYS Received <u>1/5/40</u> Returned _____ Initials _____	Entered on Reference Map No. <u>18-95 B.C. 5, 6.</u> <i>Have noted it on the maps, as per attached print.</i>  (State if clear or note any possible conflict.)
--	--



Copy of the map in the government's Rossland City Reserves file, submitted by the City of Rossland, showing the boundary of the City's proposed Reserve area in bold white and dotted line.

The Chief Forester's office referred the matter to the Superintendent of Lands Norman Taylor, who, on May 14, 1940, wrote back to the Chief Forester:

Referring to the District Forester's report and recommendations under date of April 26th last, I have to advise that we shall be pleased to constitute a map reserve, withdrawing any lands indicated in the designated area from disposition, if same has received your approval. Kindly advise.

On May 16, 1940, Chief Forester Manning wrote back to Superintendent Lands Taylor stating, "Insofar as the Forest Branch is concerned the proposed watershed reserve requested by the City of Rossland has our approval."

On May 21, 1940, Superintendent of Lands Taylor forwarded a letter to the City of Rossland for approval of the reserve area as requested by the City:

Your letters of the 4th and 16th ultimo, addressed to the District Forester at Nelson with regard to reserving certain lands embraced in the watershed of the City of Rossland, have been for some time receiving the attention of this Department.

In view of the reports now to hand, I am pleased to advise that the area indicated in your sketch has been withdrawn from any disposition under the provisions of the Land Act and set aside for the use of your Corporation on the understanding that you are prepared to co-operate with the Forest Branch officials in the salvaging of any dead and down timber that may be considered advisable in regard to the matter of operation hazards.

The Rossland City Minutes of May 27, 1940 confirm that the City received the Superintendent's letter, "advising that a reserve has been placed on lands embracing City of Rossland Water Shed."

It was more than twenty years in the future, in the 1960s, that requests by provincial licensed water users for community Watershed Reserves were beginning to get snubbed by some government officials, primarily by higher ranking administrators in the Forest Service. The spirit of the day, in 1940, seems to have been represented in the Minister of Lands', Wells Gray, as a provincial champion for drinking watershed protection. For instance, his November 20, 1940 response to the Creston Board of Trade's request for protection of the Arrow Creek watershed, licensed to the East Creston Irrigation District since 1929:

This Department is prepared to place a statutory reserve upon the lands in conformity with provision of the Land Act.

Wells Gray was the former Mayor of New Westminster City, in whose name a provincial Park was later dedicated. In March of 1910, New Westminster's drinking watershed source at Coquitlam Lake was reserved by the federal government from commercial logging and human trespass:

Whereas the City of New Westminster obtains its water supply from Coquitlam Lake and has applied for a large area surrounding the lake to protect and reserve its water supply from contamination;

And Whereas the Vancouver Power Company uses Coquitlam Lake for reservoir and storage purposes in connection with its power development on the North Arm of Burrard

Inlet, and has applied for a reservation of all the lands with the timber thereon, draining into Coquitlam Lake, in order that the rainfall may be conserved and the run-off regulated;

Therefore his Excellency in Council ... is pleased to order and it is hereby ordered that the land described above ... shall be reserved from all settlement and occupation and the timber thereon shall be reserved from sale. (Federal Order-In-Council, PC No. 394, March 4, 1910)

Federal records from 1916 unequivocally indicate how Mayor Wells Gray vigilantly fought to protect and uphold the federal Watershed Reserve from commercial logging proposals, despite the fact that the area had already fallen under approved protection six years earlier.

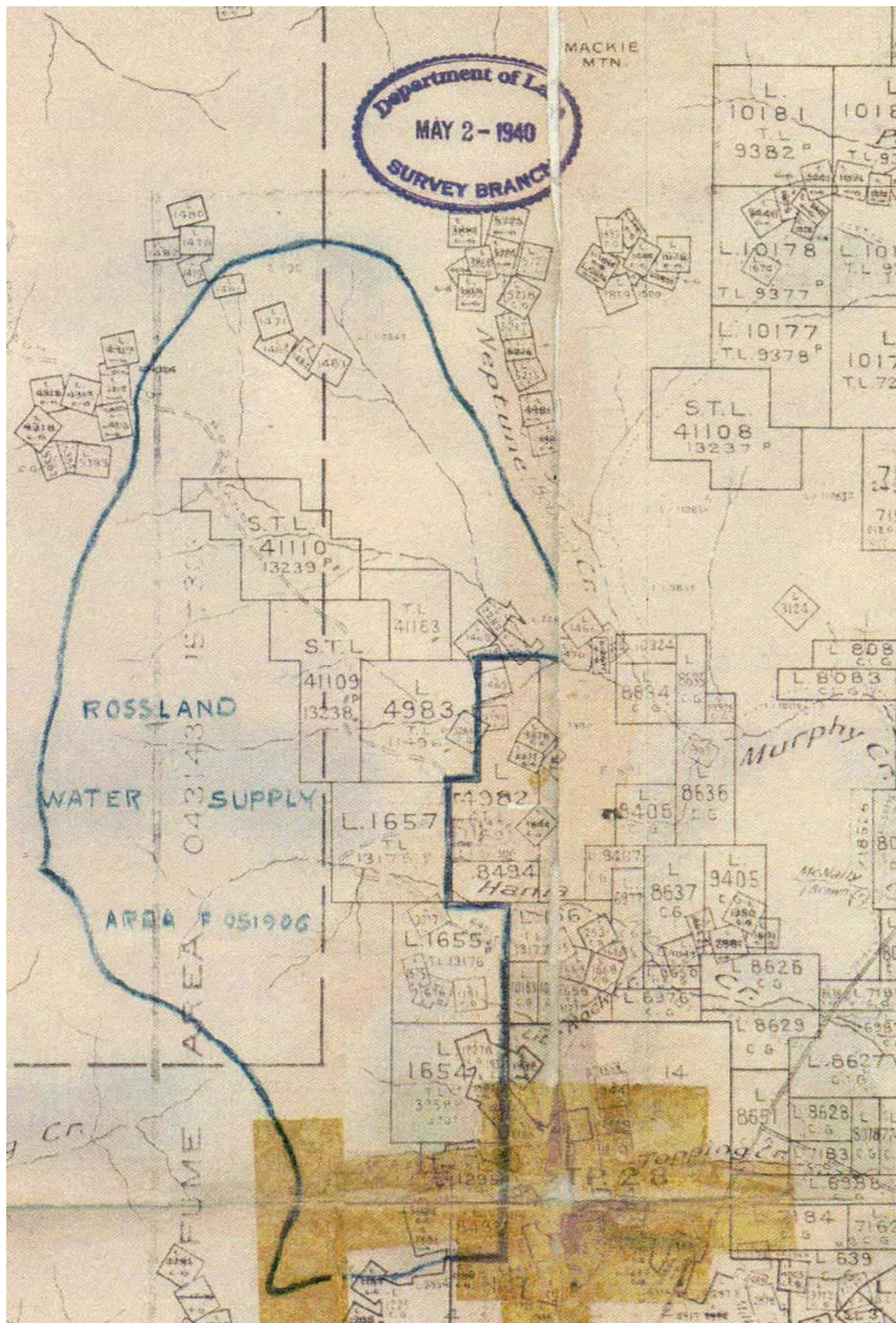
The whole object of constituting the reserve was to prevent the possibility of logging operations on the said lands and also that the timber might be left for the protection of the water shed.

The City considers that it is the duty of the Dominion Government to see that this reserve is protected and will consider it a breach of faith on the part of the Government if any such logging operations are permitted. (McQuarrie, Martin, Cassady & MacGowan, New Westminster City solicitors, to the federal Comptroller of Timber and Grazing, May 22, 1916)



Lands Minister Wells Gray, 1941.

After being elected to the provincial legislature, Wells Gray ensured and extended his, and the public's, stance on the protection of drinking water sources into the working framework and servitude of the provincial government, which had more or less been faithfully carried out by previous administrations and administrators.



Copy of the map in the government's Rossland City Reserves file showing the Department of Lands' Legal Survey map with Watershed Reserve boundary in blue overtop of Topping, Hanna and Murphy Creek headwaters, and the Reserve file number, also in blue, 051906.

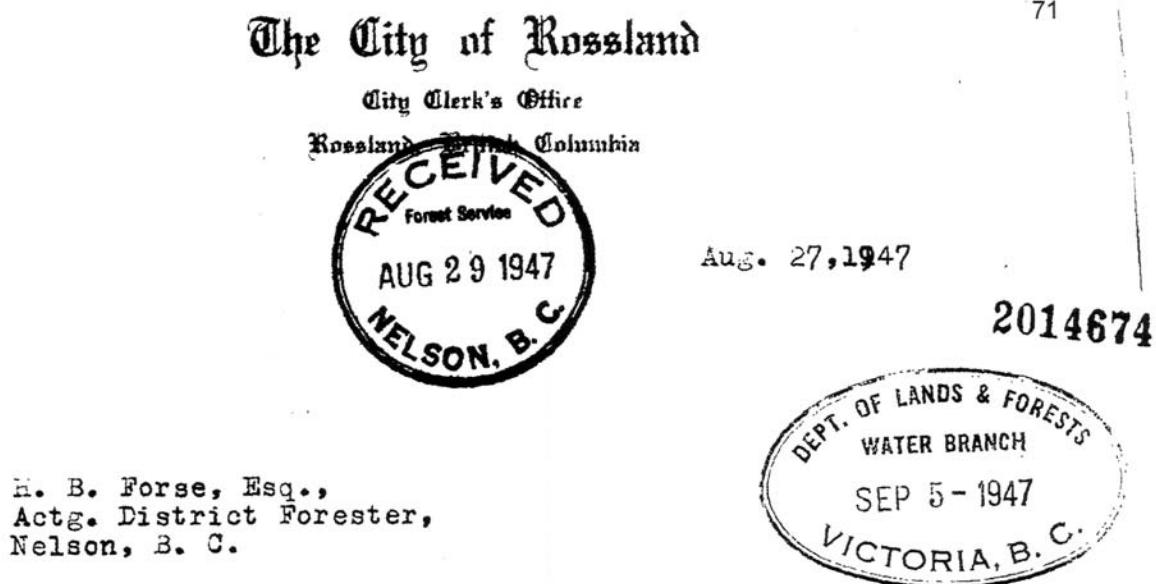
3. The Rejection of the 1947 Timber Sale Application

In 1947, a timber sale application within the collective Rossland watershed Reserve area was rejected by government administrators. Such concerns about the Reserve by administrators were already on the reserve file six years previous in 1941 regarding a timber license adjacent to the Reserve:

Lot 1656, Kootenay District, about which you have received an enquiry for a timber sale, is situated adjacent to the area withdrawn from any disposition under the "Land Act", which has been set aside for the use of the Corporation of Rossland for watershed purposes. (S.E. Marling, Assistant Forester, July 17, 1941)

The June 2, 1947 timber sale application above the intake in Hanna Creek, which was forwarded to the City of Rossland by the forest service, was quickly rejected by Rossland City Council.

In reference to application of the above named for a timber sale for dead material on an area within the Rossland City Watershed, instructed to advise that the City Council at its last regular meeting passed a resolution protesting the sale in question. This decision was arrived at after an investigation showing that there is a possibility that our water supply might be contaminated through this operation. (August 27, 1947, City Clerk J.A. McLeod)



After receiving City Council's objection, the Nelson District (Regional) Forest office forwarded a memo to Victoria headquarters on August 29th.

Attached copy of application and City Council's objection. May we have your authority to notify applicant of disallowance.

For our information. May we turn down or discourage an application under circumstances like these without further reference to your office?

On September 11, 1947, Victoria-based forester E.B. Prowd wrote a hand-written memo to the Chief Forester:

The present applicant for 18 cords of fuel as a cash sale is objected to by the City of Rossland on the grounds of possible contamination. The sale area is above intake on Rock Creek (Hanna Creek).

It is recommended the sale be disallowed in view of location and small volume involved. If below intake and of greater salvage value I would not so recommend.

And in response to the Nelson Regional District office question, Prowd stated in a September 15th memo:

we would much prefer you to submit to this office with your recommendations any applications for timber sale including dead and down material within this watershed reserve. Please be guided accordingly.

The rejection of timber sale applications in B.C.'s drinking watersheds was once common place, routine. In fact, older Forest Service Atlas maps had boldly printed italicized letters stating such overtop these Reserves, captured in the phrase "*No Timber Sales*".

Another example of timber sale application rejections during the same time period is by the Forest Service in 1946 concerning the City of Revelstoke's drinking Watershed Reserve, Greeley Creek, a Reserve established by the federal government in 1910, twenty years before it came into use as Revelstoke's main water supply in 1930.

The Council urgently request you to refuse sale of Sections 22 and 27 which is within two sections of Greeley Water Shed. Such action would impair, if not destroy, Revelstoke's water supply if sold for logging purposes.

Your safeguarding of this utility is essential to the health of the community and the Council would appreciate telegraphic assurance of your refusal to sell or dispose of the rights on this water shed. (B.R. Reynolds, Revelstoke City Clerk, to Kamloops District Forester, July 12, 1946)

The Revelstoke City Council have informed me that an application has been made to purchase certain lands for logging purposes in the Greeley Creek watershed.

Greeley Creek, as you may know, serves as the main source of Revelstoke's water supply.

As City Health Officer and in the interest of the health of this community I would strongly recommend that no action be taken with regard to the sale of these lands for logging purposes. (A.L. Jones, City Health Officer, July 12, 1946)

Your application to purchase cedar poles on portions of Sections twenty two and twenty seven in Township twenty three Range One disallowed as these areas within Revelstoke Watershed Reserve. (A.E. Parlow, Kamloops District Forester, to John Berarducci, Revelstoke, July 13, 1946)

4. The 1960s and the Double Assault on the Rossland Collective Reserve

Over about a ten year period, from 1960 to 1970, a series of unfortunate events occurred marking a sad turn in Rossland City's policy intent on protecting its collective Watershed Reserve. Together, these events represented an assault, erosion, and nibbling away of the Reserve during an intense period of economic "progress" rationale in British Columbia during the Social Credit government's often controversial administration over Crown forest lands.

And, it was near the beginning of this period that Rossland City's Clerk Donald Camozzi wrote the Superintendent of Lands, C.T.W. Hyslop, on February 20, 1959, stating that the City's records on the collective Watershed Reserve were, for some unknown reason, missing, and requested copies of the documents on file with the Superintendent.

4.1. The Provincial Department of Highways

In 1960, the provincial Department of Highways, under the leadership of provincial Highways Minister (alias, "Flying") Phil Gaglardi, proposed the joint-construction of three new highways within the Castlegar, Trail, and Creston City areas:

- Blueberry-Paulson highway (Castlegar to Christina Lake);
- Salmo-Creston highway;
- Rossland-Sheep Lake highway.

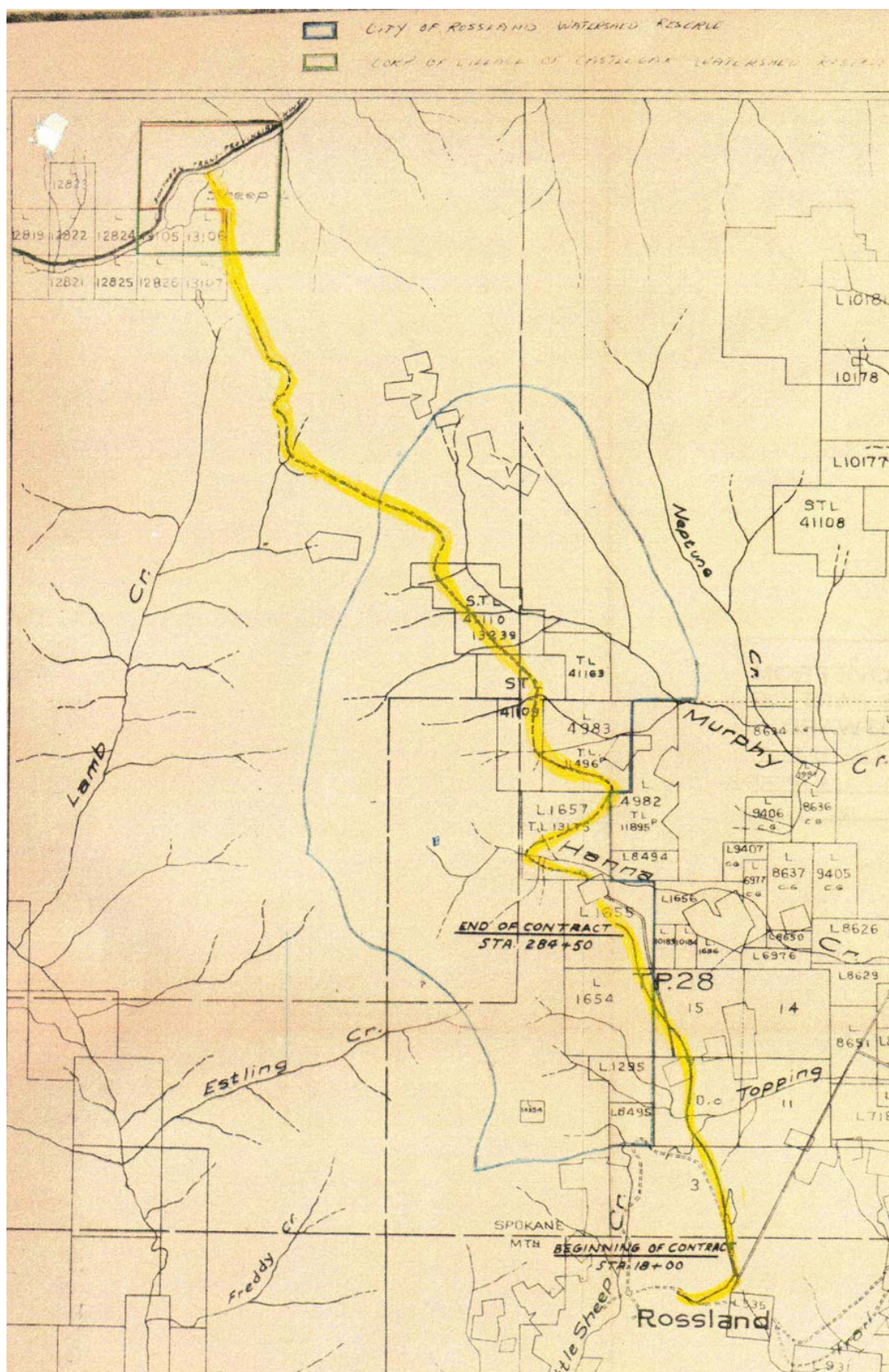
These new highways, as part of the Social Credit vision for provincial economic development expansion, would create new transportation arteries between Creston, Trail, and Castlegar to points westward into the Christina Lake township, to connect these interior settlements with the burgeoning commerce centers in the Okanagan and Lower Fraser Mainland.

Each of the three proposed routes was through undeveloped high mountain pass areas, some of which were held as sensitive areas reserved for drinking water protections. The Forest Service adopted these highways as beneficial and speedy linkages to previously inaccessible forestlands, which were quickly incorporated into planning objectives underway in the Salmo Public Sustained Yield Unit (area number 62), a planning area later renamed and expanded into the Arrow Timber Supply Area (TSA). By 1972, the Crown lands in question near Rossland City were legislated within a new Provincial Forest Reserve, called the Lower Arrow Provincial Forest,⁹ in which Land Use Decisions could be made to remove areas from this Reserve, such as Ski Hills and subdivisions.

On June 15, 1960, the Department of Highways wrote the Superintendent of Lands requesting a right-of-way map reserve, identified on an attached map, be placed for consideration of a new proposed highway directly north of Rossland to Sheep Lake,¹⁰ to connect the City to the mountainous highway newly constructed between Castlegar and Christina Lake. The new road would provide residents and businesses centered in Trail, and other affected travelers from points east and southwards, as a convenient short-cut, avoiding a more lengthy, circuitous route north to Castlegar via Trail.

⁹ Order-in-Council # 956, March 10, 1972, a total area of 109,557 hectares.

¹⁰ Sheep Lake was renamed as Nancy Greene Lake in the late 1960s.



Copy of highway location map from the Rossland City Reserves file. Highway location is the yellow line, boundary of the Rossland collective Reserve is in blue, and Castlegar City Watershed Reserve at the top in green rectangular line.

Before anything else, the Department of Highways, as any other provincial agency or party seeking Crown land disposition, had to formally seek approval for its highway right-of-way proposal with the Superintendent of Lands.

It is noted that the construction of the proposed Rossland-Sheep Lake Highway will affect certain parcels of land which appear to be Crown. It would be appreciated if you could place a reserve of two hundred feet on either side of centre line of the proposed highway in favour of this Department through the following described Lots (D.F. Martin, Regional Engineer, Department of Highways, Nelson, to Superintendent C.T.W. Hyslop, June 15, 1960)

In the Superintendent of Lands rested the authority to grant an interested party an initial reserve of Crown lands for any undertaking. As summarily re-stated in the 1962 annual report for the Lands and Water Resources Service, the Superintendent of Lands had been vested with provincial authorities and oversights, including the reservation of B.C. Crown lands. Following the approval process, the assigned Crown lands would then be gazetted.

The Department of Highways' proposal went through the middle of Rossland's collective Watershed Reserve, primarily affecting Hanna and Murphy Creeks, and narrowly skirting the lower elevation portions of the Topping Creek Reserve boundary. The following reply was sent by Superintendent of Lands C.T.W. Hyslop on February 9, 1961 to G. Fraser, Regional Right-of-Way agent for the Department of Highways:

Reference is made to your letter of November 3, 1960 regarding your request of June 15, 1960 for a map reserve on various lots in connection with the construction of the proposed Rossland-Sheep Lake Highway.

In this regard I would advise that the majority of the area you have requested is situated within a reserve established on May 21, 1940 for the City of Rossland for watershed purposes and also conflicts with a reserve established on November 27, 1953 for the Corporation of the Village of Castlegar for watershed purposes [over and around Sheep Lake].

It is therefore suggested that you contact the city of Rossland and the Corporation of the Village of Castlegar relative to the release of the areas required by your Department and forward this Branch copies of the said release.

Upon receipt of this information, your request for a reserve will be given further consideration.

G. Fraser, the Regional Right-of-Way Agent for the Department of Highways sent a letter of response on February 17, 1961 to the Superintendent of Lands.

Please advise specifically which lots are under Reserve in favour of the City of Rossland and which lots are in Reserve under the Village of Castlegar. With this information in hand we may then proceed to request a release of these Reserves in favour of this Department.

Superintendent Hyslop then dispatched a second letter on March 24, 1961 to the Department of Highways, which included a copy of a map showing the two watershed reserves for the cities of Rossland and Castlegar and the proposed route within the boundaries of both reserves:

This plan shows the lots requested by your Department which are in conflict with the said watershed reserves.

This wasn't the first time the two-term, eight-year long Social Credit administration had contemplated such politically sensitive intrusions. In the early 1950s, Phil Gaglardi and other members of the W.A.C. Bennett provincial Cabinet waged a heated battle over some three years with the Greater Vancouver Water District, when the B.C. government sought to locate a public highway through the sacred and protected Capilano drinking watershed. At that time there was no highway connector north of Horseshoe Bay to Squamish along the steep and rugged eastern mountainous boundary of Howe Sound: only an ocean going ferry connected Squamish with Greater Vancouver. The Capilano seemed the easiest route available at the time, to be connected to the Furry Creek drainage down to its mouth and just south of Britannia Beach, the location of the old copper mining community.

Greater Vancouver Waters District records at the Vancouver Archives reveal the lengthy debates and bitter, heated conflict that generated great emotions from the proponents and the defenders.¹¹ In the end, the Greater Vancouver Water District Chief Commissioners, E.A. Cleveland and Theodore Berry, who vigilantly argued against the highway proposal in two separate position papers (1951, 1954), were unanimously backed by Greater Vancouver municipalities, each of which had passed resolutions against the highway proposal. According to a 1992 interview by this report author with retired Water District engineer and Commissioner Ken Patrick, Highways Minister Gaglardi remained bitterly wounded by the incident. Similar oppositional controversies ensued in the late 1980s, when the provincial government held hearings for a pressurized volatile natural gas pipeline buried route through the protected Coquitlam watershed, Metro Vancouver's eastern most drinking water source.

On April 26, 1961, Nelson-City based Department of Highways Regional Engineer D.F. Martin sent two letters to the City of Rossland and the Village of Castlegar, notifying them of the proposed highway's route through their respective Watershed Reserves.

In order to complete plans for the proposed highway may we please have your authorization to release your Reserve from an area necessary for the construction of the proposed highway. Your confirmation in this regard would be appreciated at your earliest convenience.

We attach hereto a print showing the proposed center line shaded in yellow and your water shed Reserve outlined in blue. (Letter to City of Rossland)

We attach hereto a print showing the proposed center line shaded in yellow and your water shed Reserve outlined in green. (Letter to the Village of Castlegar)

¹¹ There is a chapter dedicated to this subject in Will Koop's April, 1993 report, *Wake Up Vancouver*, available on the B.C. Tap Water Alliance website. A hard copy can be obtained from the City of Vancouver's Main Public Library.

On May 1, 1961, Castlegar Village Clerk J. Logelin responded saying that “the water rights on Sheep Lake are no longer in existence.” This would clear the way for one Watershed Reserve no longer in use. H.G. Williams, the Director of the Provincial Parks Branch, wrote a letter to the Department of Highways in Nelson City saying that his Department had an outstanding interest in the Reserve area, but had no objection to the highway location.

In contrast, the City of Rossland deferred response. In fact, six months had passed, almost to the day, since the Department of Highway’s notification letter to the City of Rossland, when, on October 25, 1961, the Superintendent of Lands sent another letter to the Department of Highways checking the status of its request with the City of Rossland.

Reference is made to our letter of March 24th and previous correspondence regarding your request for a reserve covering various lots affected by the proposed construction of the Roseland-Sheep Lake Highway.

In this connection I would advise that all those unalienated and unencumbered Crown lands, 200 feet on either side of the centre line of the proposed highway, shown coloured in yellow and also the area outlined in red on the enclosed plan have been reserved on our maps and records for the use of your Department for highway right-of-way purposes.

It is pointed out that in view of this reserve conflicting with the Rossland watershed reserve, it will be necessary that you contact officials of the City of Rossland for their approval before proceeding with the construction of the highway.

It will also be necessary for your Department to contact the owners of the privately owned lands which are affected by this highway and also holders of any lands which have been acquired under the provisions of the Land Act or Mineral Act.

On November 6, 1961, the Department of Highways sent a letter of reply to the Superintendent of Lands, stating that,

we have not as yet received their approval for construction through the Water Shed Reserve. We are today writing them in this regard and trust the matter will resolve itself in our favour.

On November 7, 1961, Regional Highways Engineer D.F. Martin wrote the City of Rossland, reminding it of his Department’s earlier letter, requesting the City to expedite the matter.

Before construction may proceed it will be necessary to have your letter authorizing the Department of Lands to release a portion of your Reserve necessary to accommodate the right-of-way of the proposed highway. We trust that after due consideration your Council will see their way clear to grant this proposal.... We thank you for your early consideration to this request and await your letter of confirmation.

It took Rossland City Council about three weeks to send a reply on November 29, 1961 to the Department of Highways, agreeing to release the Watershed Reserve lands in question. According to a follow-up letter of December 12, 1961 by Highways Engineer Martin, he wanted “further clarification as to the area you wish to release for this purpose.”

In our previous submissions we refer to an area shaded in yellow within your water shed reserve outlined in blue. A print was submitted in this regard for your reference. If it is the wish of your Council to release an area on either side of the proposed centerline outlined in yellow we would be pleased to be so advised.

On December 14, 1961, the City of Rossland sent a letter of response to Engineer Martin, agreeing to release those lands in the Reserve as identified by the Department of Highways:

Further to recent correspondence, this City agrees to release an area within their water shed reserve for the purpose of highway construction of the Rossland Sheep Lake Highway.

Referring to the map you have submitted, it is the wish of Council to release an area, on either side of the proposed centerline which you have outlined in yellow on the plan submitted, sufficient for the construction of the highway.

How much serious forethought went into the decision by Rossland City Council on the effects of the highway construction on the City's water supply and water quality is not known. But what is known is that by the late summer of 1963 Council soon began to complain about these impacts, also indicating that the Highway's Department was not being careful enough about its promises to protect the City's water supply.¹²

On September 10, 1963, Rossland City Clerk W.H. Vickers sent a telegram complaining to Highways Minister Phil Gaglardi in Victoria about an "emergency".

At the time of the commencement of the Rossland Sheep Lake Highway the provincial government promised their utmost protection of the City of Rossland. Recently the contractor bulldozed considerable earth into Murphy Creek. This resulted in our filter bed and dam being buried under clay and dirt. Murphy Creek which is the main supply source of water to the City is now completely cut off. Water restrictions have been enforced. This is an extreme emergency. City Council requests immediate relocation of the dam above the highway. Design plans were forwarded to your Department in August. Please expedite and advise.

On the same day, the Highways Department Director of Construction also sent Regional Highways engineer D.F. Martin a telegram:

It will be very difficult to avoid a repetition of this after the embankment has been constructed over Murphy Creek. Would you kindly contact the City officials and assure them of our intention to relocate the dam above the road.

In hindsight, it seems odd that Highways failed to relocate the dam prior to the construction period. Now, matters were getting tense.

I phoned Mayor Elmes and he admitted that several of the Council members were getting over excited about situation and thus requested the telegram be sent to the Minister. I have arranged meeting with Council for Monday. During earlier meeting it was agreed that

¹² The records indicate that specific agreements were made between the City and the Department, but these agreements were not included in the records obtained through Freedom of Information.

nothing could be done during period when water was being used. City was to draw up plans and estimate. Plans received but no estimate. I cannot understand urgent concern when everything was under control. (Telegram from Regional Engineer D.F. Martin, to E.C. Webster, Director of Construction, Victoria, September 12, 1963)

The agreement with the City of Rossland following a meeting with Engineer Martin on September 16, 1963, included “relocating the dam on Murphy Creek from its present location to a point approximately 800 feet above the new highway”, and a “field survey on the Hanna Creek water system ... to establish the relationship of the highway to the present water intake structure and to ascertain the feasibility of relocating the present intake structure” (D.F. Martin, to Mayor Elmes, September 17, 1963).

As E.C. Webster, the Director of Construction, later explained in a December 2, 1963 memo concerning Project #1285, City of Rossland Water Works,

The City of Rossland have small dams on Murphy and Hanna Creeks. Both were located below the Highway now under construction.

Owing to the very wet weather and soil type (silt and clay) and our construction activities, the dams were filled with silt and the water became too dirty for human consumption.

By 1965, it was beginning to dawn on Rossland City that the highway, now located just below the intakes on Topping, Hanna and Murphy Creeks could become a security threat. On February 10, 1965, Rossland City Clerk W.H. Vickers wrote the Minister of Highways P.A. Gaglardi:

I have been instructed by City Council to request on their behalf that a fence be constructed, by the Department of Highways, through the City of Rossland watershed alongside the westerly boundary of the Rossland-Sheep Lake Highway.

Council feels that the opening of this highway has provided access to the city watershed to anyone passing through, however, if a fence were constructed it would be a deterrent.

On February 15, 1965, Minister Gaglardi replied:

Our general policy on fencing is to restore fences which previously existed and were disturbed by highway construction, or through properties which were severed by new highway construction and were previously fenced. Otherwise you can appreciate the responsibility for fencing either privately or publicly owned properties is that of the owner.

I have asked the Department to check into the situation to see what is involved but I would hesitate to go beyond that at present.

Highways engineer D.F. Martin wrote back to Gaglardi on March 2, 1965 with the following assessment and recommendation:

The City of Rossland have a water license on the two forks of Hanna Creek and on the two forks of Murphy Creek which extent a distance of approximately 12 miles along the highway towards Sheep Lake. The water license only gives them the right to take a listed amount of water from these streams and does not give them any control over the land

involved. The legality of having the highway fenced for the purpose of keeping the public out of the water shed area could be questioned.

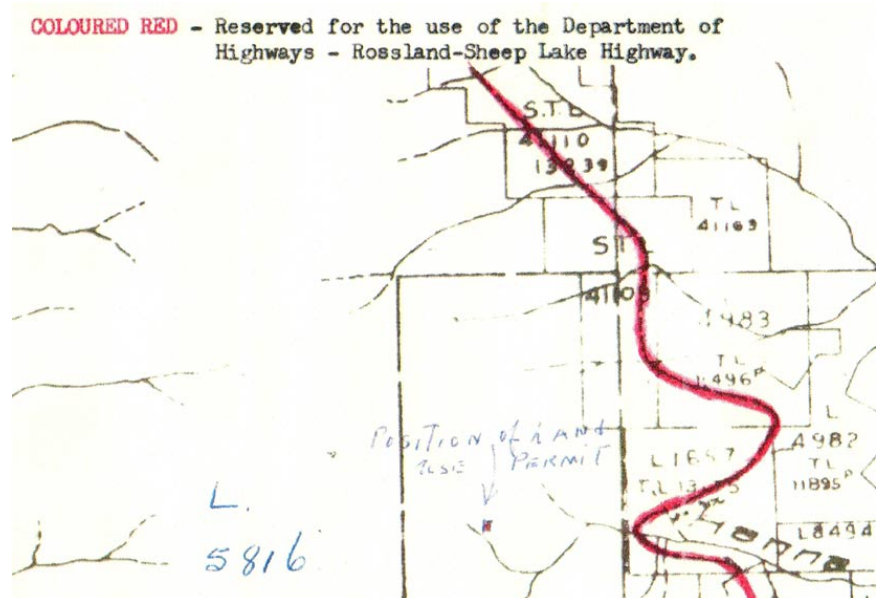
I might also mention that during the time of the highway construction, the city objected to the proximity of the new highway with their water reservoir. As a result of this objection the Highway Department moved the highway location away from the water reservoir.

In view of the above I do not feel that the Department of Highways should be obligated in any way to fence the right-of-way as requested.

Minister Gaglardi then wrote back to the City of Rossland on March 11, 1965, explaining how he had received a staff assessment, confirming "the points I raised in my letter of February 15th":

In addition it points out that the city of Rossland water license authorizes the removal of water from Hanna Creek and Murphy Creek but does not appear to give control over the adjacent land. For this reason, there is the legal question of whether the area could be fenced in any case.

In the case of Rossland City Council versus the Highways Department, it is not known (at this time) what occurred and what ultimately swayed Council to approve the highway project through its precious Watershed Reserve. The Department of Highways was granted its right-of-way reserve through Rossland's watershed reserve, the right-of-way and highway gazetted in 1965. The right-of-way was also identified on a Lands Survey map in March 1963, as part of an information package in response to an application for a (rejected) land use permit for cabin site purposes within the Rossland watershed reserve at the headwaters of Hanna Creek, not too far from the new highway location well within the reserve boundaries.



Above: Land use permit application map for cabin (see red dot in lower middle section of map for location)

Reference is made to your letter of March 5, 1963, enclosing an application for a Land Use Permit for cabin site purposes, covering certain Crown land fronting on Hanna Creek, Kootenay District.

In this regard as the area required lies within a reserve from alienation for watershed purposes in favor of the City of Rossland, the Department is not in a position to undertake an application for a Land Use Permit. (D. Borthwick, Lands Superintendent April 9/63)

In making its ultimate concession sacrifice with the Department of Highways, to allow a right-of-way intrusion into its collective Watershed Reserve, the City of Rossland would now have to live with new, and future, threats on the protection of its water sources.

4.2. The Rivervale Water Company

Other complaints were also being registered. The Rivervale Water Company Limited, with a domestic water license over Hanna Creek below the new highway, sent a letter to the Department of Highways in Victoria on September 12, 1963.

On August 12, 1963, we submitted our bill for expenses brought upon us owing to the fact that our water supply was disturbed badly on account of construction of the Rossland-Sheep highway.

Because of the muddied (“turbulent”) waters, the Rivervale Water Company had to seek other clean sources of water from “spring water” during the construction period, and forwarded all related expense bills to the Department of Highways, which included expenses to flush muddy debris from its water mains.

What becomes evident from the records is that Rossland’s collective Watershed Reserve also fulfilled a second, or complimentary function, by protecting the source of domestic waters licensed to the Rivervale Water Company. With the Department of Highways slicing through this Reserve, it put another source of water also in jeopardy.

On September 25, 1964, P.J. Durkin, the Subdivision and Maintenance Engineer with the Rivervale Water Company, sent a one page letter to the Department of Highways in Victoria asking for assistance on a new threat to its water supply:

Back in 1948, we took out a water license on Hanna Creek. During the past two years, the Department of Highways has been in the process of constructing a highway between Rossland and Sheep Lake, which we believe is to be considered as a portion of No. 3 Highway, and will be heavily travelled.

The Highway in question cuts the small tributaries at the source of Hanna Creek in many places, as well as cutting the main branch of the creek. This, in itself, will present a serious enough problem, unless another source of water supply could be found for the community of Rivervale. In our estimation, there is no alternate source of supply. As you will realize, our license was granted before the road in question had been considered, at least openly.

At the present moment, the road in question is only one factor causing us great concern. In the course of gossip, I learned today that there is a rumour that a timber license to remove timber from our watershed is being considered. This will not only tend to ruin the watershed, but also add further pollution to the water. There are 67 separate establishments, made up of 63 homes and 4 business places, relying on this water. In the summer time, the daily consumption varies between 50,000 and 70,000 gallons per day.

Last year, when the road was first commenced, in the Hanna Creek area, the district superintendent of the Dept. of Highways said that he was recommending that the very high land through which the road is made be designated as a Provincial Park, to prevent logging and other activities in the area. I think something along the line of a park should be given serious consideration.

As well as Hanna Creek, Murphy Creek is involved in a like manner. Murphy Creek now waters a considerable area used as a farm and a golf course at the present time, and supplies at least one water outlet for domestic use – there may be even more than one domestic outlet on Murphy Creek.

Please give this matter your best attention as soon as possible.

The irony in Durkin's letter about a proposal by the Superintendent of Highways to create a provincial park at the headwaters of Hanna Creek is that it was already protected by way of the area being a Watershed Reserve. Why the Superintendent of Highways, and Mr. Durkin, didn't understand this, is a bit of a mystery.

When the Department of Highways staff reviewed Durkin's letter, comments were confined to "slopes and fills becoming more stabilized", and "suitable culverts have been placed in all drainage channels in the Hanna Creek water basin" (memo, October 29, 1964). As D.F. Martin went on to explain in his memo,

According to my interpretation of the Water Act and in view of the fact that the Department has done everything possible to protect this water supply, the Department could not be held responsible for any change in the water supply on Hanna Creek.

Neglected in the discussion were comments about the long term impacts from multiple contamination sources transported down the road surfaces into Hanna Creek, such as motor oils, gasoline, radiator fluids, road saltings, etc.

Senior Highways Maintenance Engineer J.A. Dennison sent a reply to Durkin on November 17, 1964. He stated:

The road is now becoming stable, but next year we intend to seed all of the slopes which might erode and cause any muddying of the creek.

With regard to the logging in the area of your watershed, I would suggest you contact the B.C. Forestry Department concerning this matter and point out to them the dangers involved.

I believe the situations which exist on Hanna Creek and Murphy Creek are similar. We would not affect the supply because we culvert all of the water courses.

4.3. The Chief Forester and the New Bullying Orders

Both the new highway proposal and the high mountain cabin application seem to have been part of a new free-for-all in the Reserve, particularly when the Chief Forester began to get involved in the discussion in April, 1963. In all likelihood, the interest by top forest service management to controversially implement timber sales within the Rossland Reserve came as an opportunity, directly linked to the approved highway right-of-way through the heart of the Watershed Reserve.

April 6, 1965.

① Glen.
② Bruce. J.

**District Forester,
320 Ward Street,
Nelson, B. C.**

Dear Sir:

I have been instructed by City Council to demand that logging operations in the city watershed cease and to request that a meeting be held between Council and Forestry Officials in connection with logging operations in the City of Rossland Watershed.

More specifically, the Chief Forester's involvement also came at a new period of timber industry influence with government foresters, which included shadowy objectives to invade the protected community Watershed Reserves. These new orders were initiated through the Chief Foresters' office in a memo to provincial staff in late 1960, a new directive meant to sidestep and subvert protections over drinking watersheds.

The December 29, 1960 memo stated that "It would appear that the present trend is to reserve watersheds against alienation of the land", and as such, where "the existing practice of consulting the District Water Engineer, Municipal Clerk or Irrigation District Manager regarding such ["Timber"] sales should be maintained", regional government foresters take care not to "imply" to the owners and managers of these watershed reserves "that the party concerned has any timber disposal rights or priorities which do not legally exist." The final sentence concluded to these public managerial servants:

In the case of a timber sale in a municipal watershed reserve, rather than asking if the municipality has any objection to the proposed sale, it is preferable to state that the sale is proposed, and ask if there are any special conditions they wish to consider for insertion in the contract.

In his memo, Assistant Chief Forester L.F. Swannell was openly asking his provincial deputies to commit a public deception, in order to make the reserved timber in community drinking watersheds available to the timber industry, and for related stumpage taxes to be transferred to provincial

The past history of these so-called watershed reserves is quite involved, in that 30 years ago the timber supply situation was much different to what pertains presently and to administrators of the day a few sections of timber land reserved for water supply protection was neither here nor there. In the case of Rossland, the problem of protection has been going on for 40 years and the 1940 letter from the Superintendent of Lands is open to misunderstanding in that he states that the area has been withdrawn from any disposition under the Land Act.

treasury. This memo marks the beginning stages of what would ultimately become an enormous betrayal of the public's trust, responsible for deviating the "obedient servant" maxim.

In early 1963, just before a series of controversial Timber Sales were let by the Forest Service in Hanna and Murphy Creeks, Chief Forester F.S. McKinnon was briefed about specific statements in the Rossland Reserve file kept by the Superintendent of Lands. The Chief Forester read the documents which stated how proposed timber sales were in contravention of the Reserve conditions established by the Superintendent of Lands in 1940. As a result, on April 23, 1963 the Chief Forester wrote a bullish and wily memo addressed to Nelson forest management foresters about the "so-called" reserve, foresters supervising operations in the Salmo Sustained Yield Unit (SYU):

Your memo of March 18th regarding the problem of disposing of Crown timber in the Hannah Creek watershed, from which the village of Rossland draws its domestic water supply.

The past history of these so-called watershed reserves is quite involved, in that 30 years ago the timber supply situation was much different to what pertains presently, and to administrators of the day a few sections of timber land reserved for water supply protection was neither here nor there. In the case of Rossland, the problem of protection has been going on for 40 years and the 1940 letter from the Superintendent of Lands is open to misunderstanding in that he states that the area has been withdrawn from any disposition under the Land Act.

The Rossland authorities even seem to be confused, first as to their measure of control over the timber, and secondly, as to the effects of logging on watersheds. This is understandable and will require education of their officials as to what to expect from well conducted logging operations.

Before we proceed any further, though, in this matter we should consider points which have been raised by people here, as follows:

1. There is no doubt such timber must be included in the capital growing stock of the S.Y.U. [Sustained Yield Unit]
2. When the particular timber on the watershed is needed is a matter for consideration; e.g., is it decadent or bug-infested, etc.

3. Are the established operators in the S.Y.U. having difficulty finding timber in local mature or over mature stands?

4. Do we have enough experience in management of domestic watersheds to make this sale?

5. Are we prepared to supply the required intensive supervision of the special clauses we would write into the timber sale contract?

In other words, our first reaction is that we should face up to the answers to the above questions before we even got to the point of arguing with village officials whether we have the authority to dispose of the Crown timber.

By disingenuously interpreting the status of the *Land Act* Reserve that protected Rossland City's crown forest watershed lands a "misunderstanding", the Chief Forester was adhering to the provincial deception declared and initiated in the December 29, 1960 memo to provincial managerial foresters. The provincial 'confidence scheme' not only focused on 'reeducating' the public about this reserve-protection "misunderstanding", but also on implementing a new methodology by fine tuning the 'language' and science of forest management to adapt to good logging practices. The eventual upshot behind the new conspiratorial orders was to put into check, dispel, obfuscate and help reverse the provisional community watersheds protection process, and by contrarily dedicating these protected lands to the provincial forest harvesting land base.

In other words, our first reaction is that we should face up to the answers to the above questions before we even get to the point of arguing with the village officials whether we have the authority to dispose of the Crown timber.

We will await your comment.

FSM:ch

Handed
24/4/63
J.S.

"J.S. Mack."

**F. S. McKinnon
Chief Forester**

By 1971, eight years after logging contracts were let by the Forest Service in the Rossland reserve in 1963, Nelson Regional forester R.A. Waldie reported the following to Victoria headquarter foresters Wright and Bancroft regarding "Timber harvest on the City of Rossland Watershed". Waldie recommended that headquarters "cool" off on logging in the Rossland Reserve:

We have now logged about 12 per cent of the total area of the watershed. When we commenced to sell timber on this watershed some 8 years ago, we visualized cutting only about 10 per cent of the mature timber, but we have exceeded this.

All of the cutting on existing contracts has been completed. One area has been planted and others are in various stages of site preparation. Natural regeneration will undoubtedly occur on some areas, especially under smaller openings.

We would recommend most heartily that no further sales be made within the Rossland Watershed Reserve until all cut-over areas are fully restocked. We are prepared to plant if necessary, and even if by planting we can gain a few years. Such a statement of policy would be a great relief to the City Council of Rossland, and would no doubt improve the public image of the Forest Service.

Two years into the questionable logging operations in the Rossland Reserve, Rossland City Clerk W.H. Vickers wrote the following on April 6, 1965 to the Nelson District Forester:

I have instructed by City Council to demand that logging operations in the City watershed cease and to request that a meeting be held between Council and Forestry Officials in connection with logging operations in the City of Rossland Watershed.

Following is the motion passed at the Council Meeting of March 29, 1964 [sic, 1965]:

“It was moved by Alderman Skinner and Kent that a letter be written to the District Forester, Nelson, demanding that logging operations in the watershed cease until a thorough investigation of logging operations be made and that a meeting be held immediately between Forestry Officials and City Council on this matter. Carried.”

Kindly advise when it will be convenient for your officials to meet with Council.

No longer was Rossland City Council correctly referring to or properly resting on its Reserve powers, as it once did, but it was now beginning to concede to Forest Service double-talk, such as its “investigations”, playing into the waiting hands of top government foresters poised to convert the masses. Now missing, and critical as a beacon for public accountability, was the strong public voice and role of the Superintendent or Director of Lands, who once stood watch over his reserves amongst Departmental authorities, making appropriate noise against the application of timber license “dispositions”.

Concerns within the Forest Service about Rossland City Council’s resolution concerning a logging moratorium quickly led to an inspection of the logging operations in August, 1965, with another related inspection in early October 1965 by a team of four foresters. These four foresters had recently visited the 10-year old and highly controversial sustained yield logging operations in Greater Victoria City’s drinking watersheds. The Greater Victoria watersheds, which were formerly protected, with un-logged drainages of primarily giant and ancient Douglas Fir, had recently taken on a new role by professional foresters and the forest industry in order to promote logging in protected provincial community watersheds. Soon, the legislatively protected Greater Vancouver watersheds would also fall to the axe in early 1967, creating the second critical provincial precedent.

051906.

October 7th. 1965.

R. A. UPWARD, ESQR.,
VICTORIA WATER BOARD,
OLD ISLAND HIGHWAY,
VICTORIA, B. C.

Dear Ron,

Just a short note to thank you and Don Homer-Dixon for the interesting day spent on the Board's operation; we were able to gain quite a lot of very useful information which will help in our work in the interior.

The origins of this promotional public relations tool to log in B.C.'s protected community watersheds initiated in logging programs in Seattle City's drinking watershed, Cedar Creek. Reports about the 'beneficial' logging were sent throughout North America, and coordinated tours to the logging sites in Cedar Creek were promoted in the 1950s, wherein B.C. City administrators were lured, such as those in charge of Greater Vancouver's protected drinking watersheds, in order to convince them that logging was beneficial and a public good.

On August 23, 1965, Victoria headquarters foresters R.F. Bryant and R.D. Thomas, accompanied by Castlegar Ranger Station Rangers Wood and Hogan, made an inspection of the logging operations in Hanna and Murphy Creeks. In a three-page report filed two days later, Bryant noted:

Logging within the watershed reserve has been a very controversial issue, hence the inspection to determine what could be done to solve some of the problems experienced by the operator and the City.

Ranger Wood has been constantly bombarded with complaints from various officials from the City of Rossland, and the City Engineer, Mr. Evans, appears to be ready to jump at the least sign of muddying of the streams caused by road construction or logging. Mr. Hebert, the District Health Inspector, has also apparently stated that he will shut the operation down if there is the least muddying of the water systems. There would appear to be a definite lack of communication between all parties concerned, and therefore it is suggested that every effort be made to bring both parties, especially the licensee and the City Engineer, together to discuss and agree on mutual problems.

The purpose of the visit from the Victoria foresters was quite specific:

The intent of our inspection was to observe the conditions on these timber sales in the watershed areas so that information can be gathered to provide clauses in future timber sale

contracts to govern road and logging conditions in [community/domestic] watersheds. Since there are no definite restrictive road construction clauses in either timber sale contracts in Murphy or Hannah creeks, the situation of the Ranger in administering the sales might become somewhat difficult, especially in view of the negative attitude of the City of Rossland. The licensee will no doubt balk at any suggestion to install a large number of culverts and cross drains to ensure effective drainage on both roads – haul road and skid roads.

We discussed watershed control generally, trying to emphasize the fact that water was going to be a more important commodity than previously, and this would explain the protective leave-strips both along the highway and along the main streams in watershed areas. These leave strips will act as filter blankets, preventing any eroded soils from getting into the main water supply. The road problem in this and other watershed sales amounts basically to education of the operators to taking effective action in controlling drainage.

We also suggested that the primary tool in effecting control of the logging and the road systems would be a proper logging plan set up according to topog[rphy] and in relation to the whole ground area affected by the timber sale.

**File: 051906.
X87313.
X94132.
X94210.**

**Visit to Victoria Water Board Logging
Operation and Watershed.**

The following members of the Staff paid a visit to the above operation on the 5th. instant: John Bruce, 2.1/c Management., R. L. MacDonald, R. F. Bryant and H. Miles-Pickup., Engineering Division. The Staff were conducted over the area by the Water Board Forester, Mr. D. F. Homer-Dixon.

The object of the visit was to make a brief survey of the watershed and the methods of logging undertaken by the Water Board.

By late September, 1965, the concerns about logging in Rossland's watershed reserve mentioned in Bryant's memo enlisted the interests of the Forest Service's Engineering Branch in Victoria. In a memo from Project Engineer H. Miles-Pickup on September 23rd:

Discussed with John Bruce the problems relating to watersheds and the assistance which the Engineering Division can give.

The Engineering Division would be in a position to give technical advice, layout roads and make surveys of drainage structures; would also be prepared to check logging operators layout and advise as to whether they would be suitable for a watershed area. Also if required, supervise road construction and insist upon standards and grades which would

avoid, as far as possible, debris and mud being carried into streams and rivers flowing into reservoirs and catchment areas.

It was decided to arrange a visit to Victoria Water Board's logging operation in their watershed near Sooke between October 4th and 6th. This will give us some idea as to how the problem is overcome in a much more difficult area of the province than such places as Rossland.

It is recommended that in the case of the Rossland watershed, the Engineering Division make a study of the drainage structure, carry out a survey of the area, and make recommendations for the construction of roads considered suitable to the size of the operation; after which it may be possible to formulate a policy for the future development and protection of timber sales in watersheds.

Mr. G. M. Gibson,
Director,
Red Mountain Ski Club Society,
Box 442,
ROSSLAND, B.C.

Dear Sir:

This Department has been furnished with a copy of your letter dated December 2nd, 1964 to the Honourable W. K. Kierman, Minister of Recreation and Conservation, and also a copy of the Honourable the Minister's reply of December 8, 1964 in connection with the proposed expansion of your Society's ski resort development.

Perusal of Departmental records indicates, as you are aware, that the ski lift is situated within a reserve established in connection with the water supply of the City of Rossland.

When this reserve was established on May 21st, 1940 Officials of the City of Rossland were advised that the area had been withdrawn from any disposition under the provisions of the Land Act and set aside for the use of their Corporation

5. The Nancy Greene Recreation Area: 1969 – 1995

On August 8, 1969, the Social Credit administration established the Nancy Greene Recreation Area (NGRA) by way of Order-in-Council No. 2641. Its establishment quickly followed *Park Act* legislation passed by the government in February 1969, the creation of provincial Recreation Areas.

A supervisory inter-agency advisory committee was formed to oversee the Recreation Areas, and to oversee specific local area advisory committees, such as the NGRA advisory committee. The five minister Committee was chaired by the Minister of Lands, Forests and Water Resources, who at that time was Ray Williston. The other Ministers were those of Mines and Petroleum Resources, Agriculture, Municipal Affairs, and Recreation and Conservation.

The February 14, 1969 three-page document that governed the Recreation Areas, signed by W.K. Kiernan, Minister of Recreation and Conservation, states that “multiple use will be practical” in the Recreation Areas, and “will require close co-ordination between various Departments of Government”.

4. Multiple Resource Use. The use of R.A.’s by other resource users is recognized as being a proper and legitimate use and no prohibitions shall apply that needlessly restrict the use of other resources.

Where key sections within an R.A. warrant full and total preservation, such as beaches and lakes, water courses, etc., these areas may be spot zoned as Class A Parks within a Recreational Area and shall henceforth be dealt with as such.

7. Forestry Practice. All forestry activities within a R.A. shall be subject to the normal application of the Forest Act and any general or special regulations approved by the Minister’s Committee from time to time.

8. Mining Practice. All mining activities within a R.A. shall be subject to the Mineral Act and its application and any general or special regulations that may be approved by the Minister’s Committee from time to time.

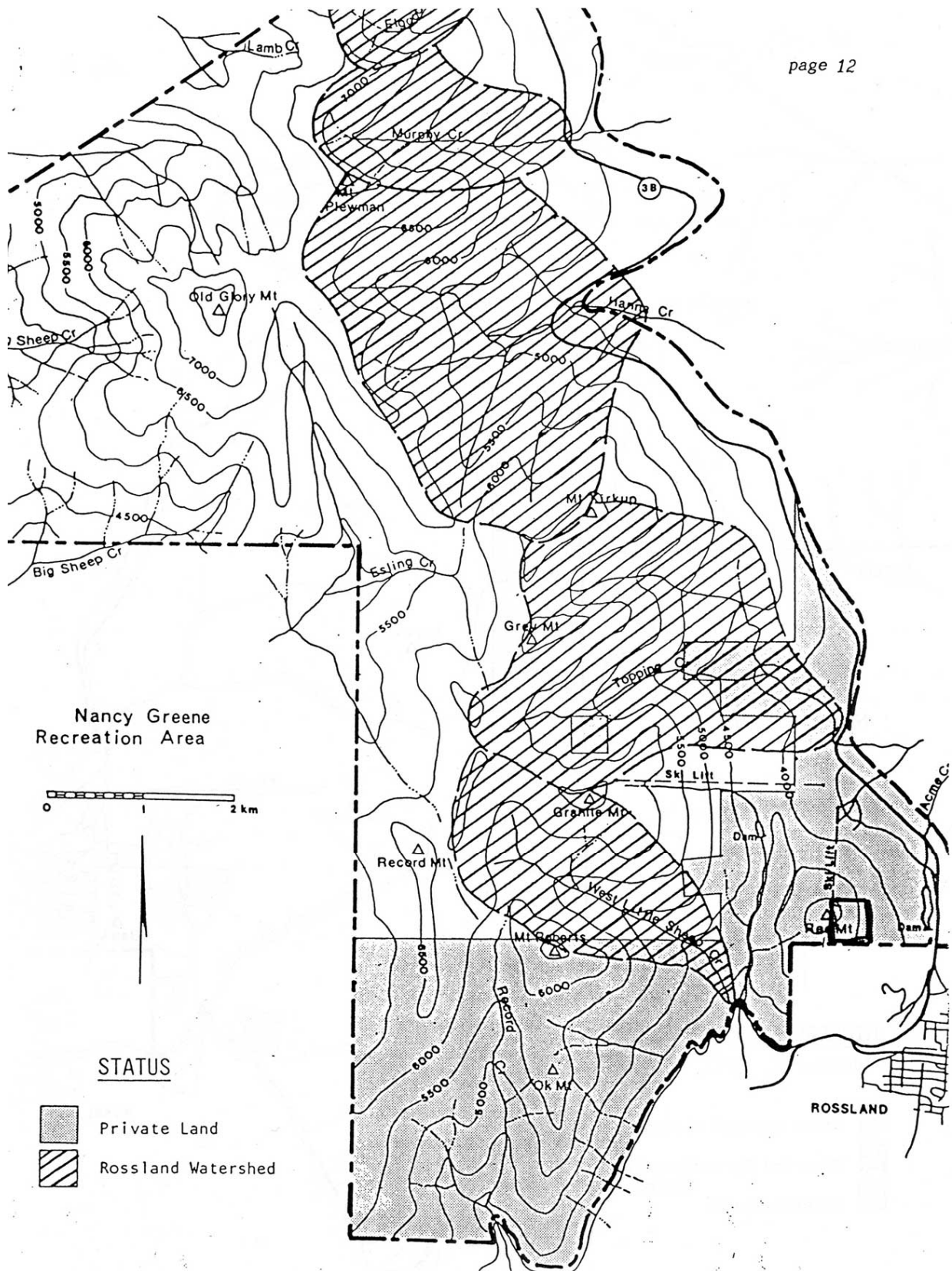
9. No Land Tillage. Except for the grazing of cattle no commercial agricultural pursuits shall be carried on within any R.A.

Planning guidance in the NGRA incurred many refinements. In June 1986, came the release of the final *Nancy Greene Recreation Area Master Plan* document. As stated here, the drinking watersheds of Rossland’s Watershed Reserves were located within the boundaries of the Recreation Area:

(d) Water

There are no lakes or significant water features in the Recreation Area. Murphy, Hanna, Topping, West Little Sheep, and Record Creeks drain the east and south slopes of the Recreation Area. Lamb Creek, Esling Creek and tributaries of Big Sheep Creek drain the north and west sides. (Page 6)

The NGRA Master Plan included many descriptive references to “commercial extractive resource activities” within the NGRA “Division”, in addition to a vision for “a mountain playground for the



Land status map from the 1986 NGRA Master Plan, showing the City of Rosslands' drinking watersheds (diagonal lines) without their references as Watershed Reserves.

West Kootenays providing for the integrated management and operation of the downhill facility at Red Mountain.” For instance, under forestry planning issues, the statements:

Crown forests within the Recreation Area are uncommitted and excluded from the Annual Allowable Cut of the Arrow Provincial Forest. (Page 22)

Timber harvesting under close supervision and tightly controlled specifications for cut block size and layout is compatible with the purposes and intent of the Recreation Area. (Page 22)

The Division recognizes the general compatibility of forestry within the Recreation Area (i.e., snowmobile, cross-country ski routes, ski runs, etc.). (Page 30)

The 1997 *Nancy Green Highland Forest Management Plan* document clearly described the intended philosophy of multiple or “integrated” use in the NGRA:

When introduced into the Park Act in the late 1960’s, “recreation area” designation was intended to provide for integrated resource management with a priority for recreational values, as distinct from Class ‘A’ park designation which provides for full protection of all resources. Consistent with these definitions, Nancy Greene Recreation Area was established in 1969 to secure the land base for the local community ski hill and to manage the traditional resource uses – forestry, mineral and watershed – in a manner that would emphasize summer and winter recreational opportunities in adjacent areas. (Page 29, under History)

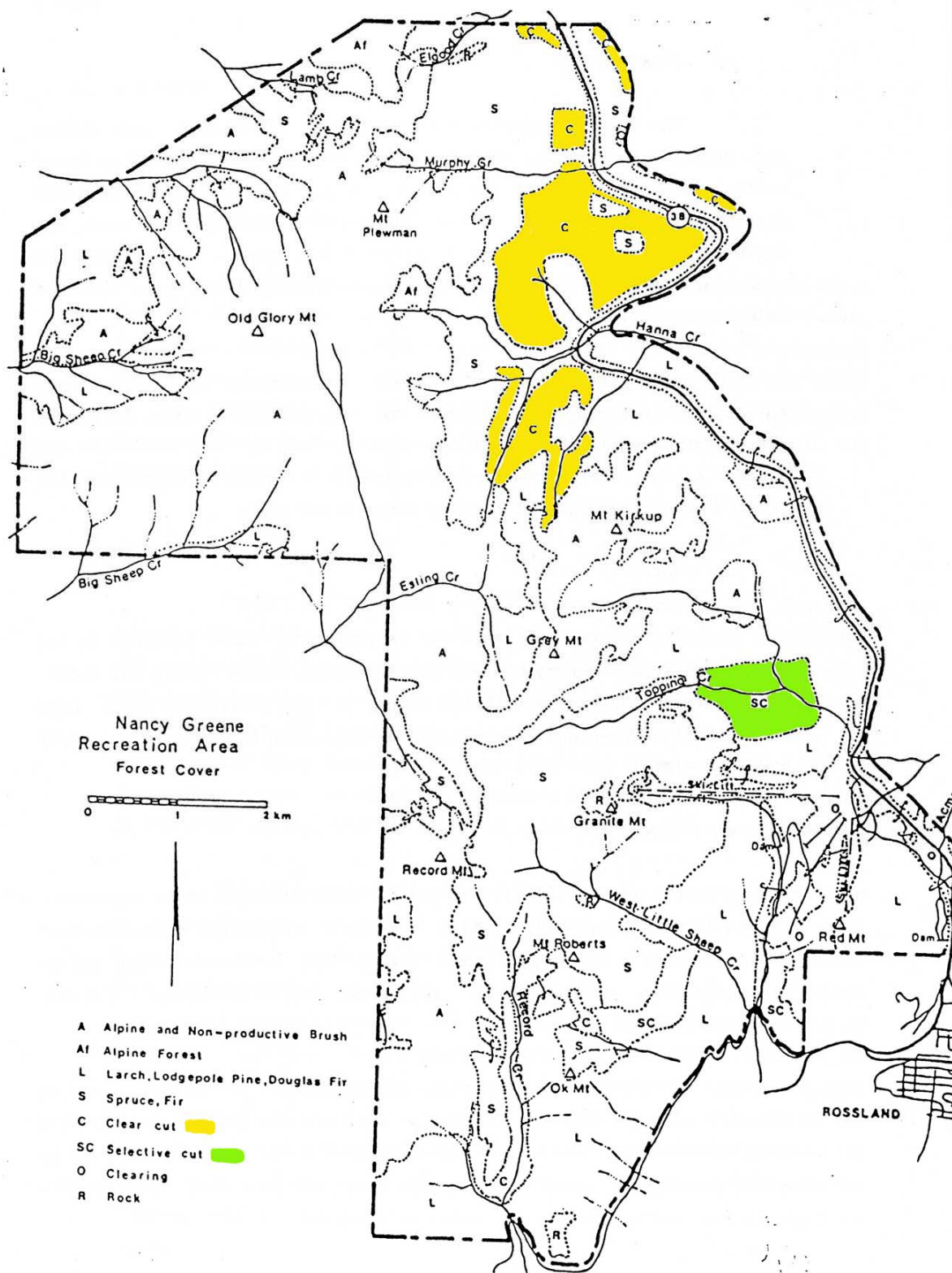
Overall, the NGRA was responsible for setting up a new planning modus operandi between the provincial government, the Regional District of Kootenay Boundary, and the City of Rossland regarding the lands in question, lands being slowly dedicated for diverse recreational purposes. This included provisions for commercial skiing interests in the southern portion of the area, even within the Watershed Reserves.

As a related aside, in the late 1950s onwards, new organized public relations formulas were being mischievously hatched by United States government and industry foresters alike in order to foster public support of proposed logging in protected drinking watershed sources. A classic example of this came to a head in 1971, when the United States Forest Service advertised proposed diverse recreational activities in Portland’s federally protected Bull Run Watershed Reserve.

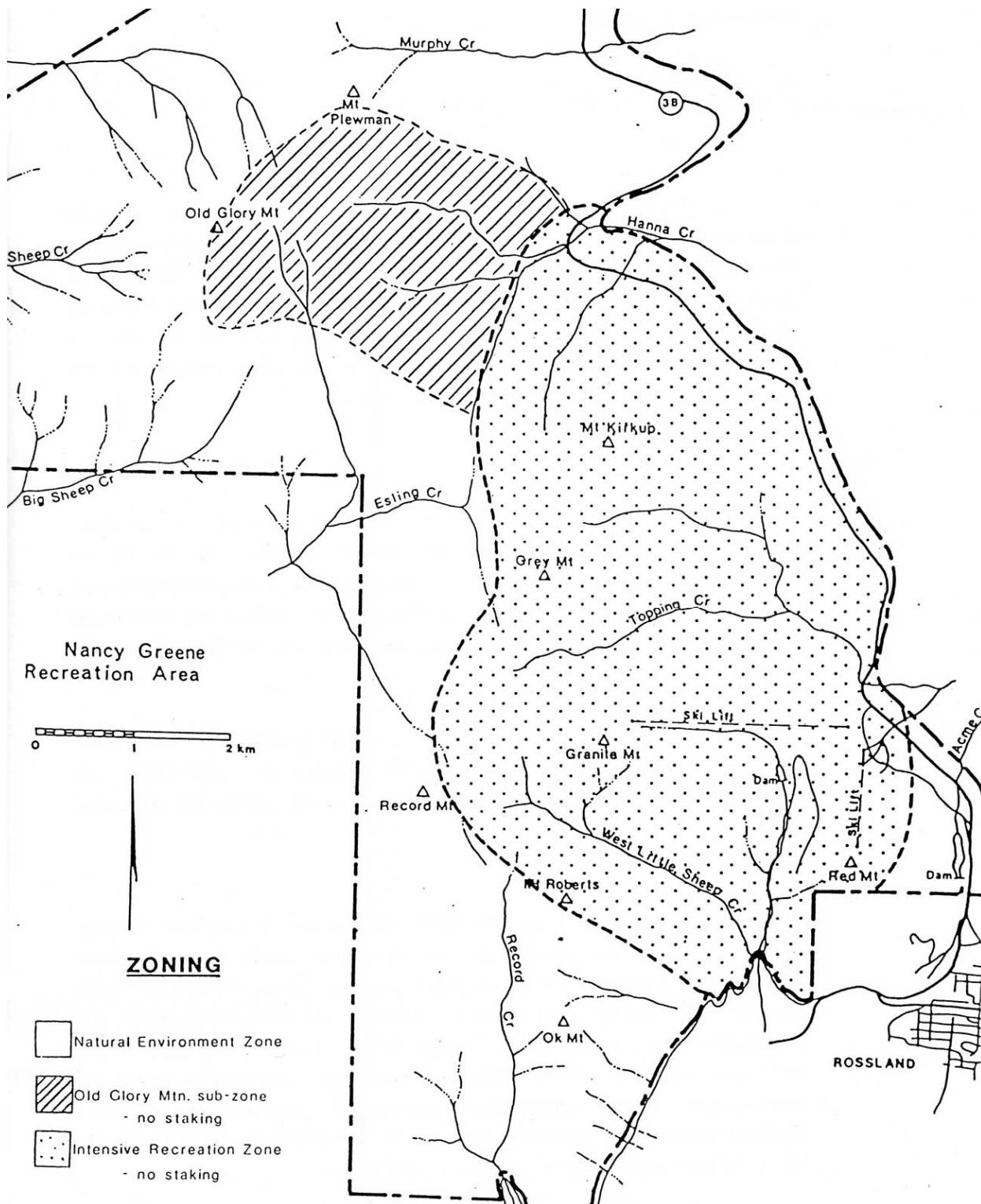
The various alternative plans in the [Larch Mountain Bull Run Management Plan] report proposed that there be such recreational uses as boating, fishing and swimming on the lakes behind Bull Run dams 1 and 2; hiking, camping, picnicking, hunting, nature study, snowshoeing, snowmobiling and visitor information service facilities.¹³

The advertisement awoke the wrath and indignation of a family physician, Dr. Joseph Miller Junior, who understood the importance of drinking watershed protection. Miller soon became responsible for taking the United States Forest Service to court in 1973 over the illegal logging of and proposed public recreational access to these dedicated federal forest lands. In March 1976, Oregon Judge Burns ruled that the Forest Service was in violation of the old federal Watershed Reserve law. As a result of the public attention created during the court proceedings, the proposed recreational activities were all dropped.

¹³ *Recreation use sought in Bull Run watershed*, Oregon Journal, May 15, 1971, page 3.



A simplified Forest Cover Map from the 1986 NGRA Master Plan, without forest age classifications. The area colored by the author in yellow (clearcutting) and green ("selection" logging) highlights recent forestry. Without forest age classification zoning, it is difficult to provide a more accurate rendering of logging and fire histories.



Zoning map from the 1986 NGRA Master Plan. Note the “intensive” recreational zone extending north into the Hanna Creek Watershed Reserve.

Near the beginning of the NGRA's twenty-five year life, the City of Rossland presented a July 14, 1971 report to the NGRA advisory committee, *Effects of Proposed Skiing Development in Squaw Basin on the Topping Creek Watershed of the City of Rossland*. It began with the City's "Policy":

The City's primary concern is the protection of its water supply.

After consulting with City engineering consultant T.D. Lee, Dr. N. Schmitt (Medical Health Officer and Director of the West Kootenay Health Unit), Dr. Kaye Saunders (Assistant Medical Health Officer, West Kootenay Health Unit), Dennis Roberts (Assistant District Engineer, Water Rights Branch, Nelson), C.A. Howe (City Works Foreman), H.D. DeBeck (Comptroller of Water Rights, Victoria), and City Clerk W.H. Vickers, Rossland City Council stated that it had little "tangible engineering or medical objections to the development of ski-lifts or ski-runs within Squaw¹⁴ Basin, from a point of view of contamination of the Topping Creek watershed." However, the City was concerned about related "parking areas or lodge facilities or sewage-discharging facilities". It was also concerned about "the usage of water from this watershed by consumers other than the City of Rossland" because of water scarcity "during the winter months".

A key concern in the City's discourse was the private lands situated in the Topping Watershed Reserve, which neither the City nor the provincial government had little control over. The City recommended:

1. That the land in question (Lot 1295) now owned by Sander Brothers be purchased by the Provincial Government and be made Crown land. This we feel provides protection in that Crown land within the properly licensed water reserve area cannot be developed without the express consent of the City of Rossland.
2. If recommendation number one is not possible – that the area be zoned to prevent construction or access without the permission of the City of Rossland.
3. If necessary, the City is willing to purchase the parcel of land in question to protect their watershed.
4. We recommend that a water feasibility study be done within the area.

As described in the author's preliminary report, subdivision proposals on the private lands within Topping Creek became a highly controversial topic by 1975. In hindsight, had the private lands been purchased, as the City correctly argued, the many future controversies that arose from the private lands in question would have been prevented.

The above proposed subdivision has been referred to our attention for comment on several occasions since 1975.... We are extremely concerned with the subdivision proposal as well as future land use of the whole Nancy Greene Recreational Area (Rossland to Nancy Greene Lake) for the following reasons:

¹⁴ The NGRA Master Plan, page 9: "The Colville Indians from Washington State made regular trips into the upper slopes of the Nancy Greene Recreation Area to pick huckleberries. Local place names – Squaw Basin, Indian Flats and Papoose Basin – reflect the Indian history."

1. The City of Rossland is dependent on various creek and spring sources in this area for it's domestic water supply.
2. The community of Rivervale is dependent on the surface drainage from this area for it's domestic water supply.
3. The community of Blueberry Creek is dependent on the Nancy Greene Lake/Blueberry Creek drainage area for it's domestic water supply.
4. At present, surface waters in Nancy Greene Recreational Area are not subject to contamination from known human sources.
5. Our Public Health Inspectors, Regional Environmental Engineer and the Task Force on Multiple Use of Watersheds of Community Water Supplies (Mr. J.D. Watts, Chairman) Water Resources Service have all recommended against approval of past subdivision proposals in the same area. (past correspondence attached)
6. The City of Rossland is not in favour of this subdivision. The Regional District of Kootenay Boundary Planning Department has expressed concern about the same (past correspondence attached).

We are asking that your office approach Mr. G. Simmons, Associate Deputy, Ministry of Environment with the view of involving the Resource Analysis Branch in doing a comprehensive study in land use suitability in the Nancy Greene Recreational Area as a whole, and more particularly in the general area of the aforementioned proposed subdivision. Amongst other things we wish to know what land use should not take place in this area.

We have had an opportunity to read the 1975 survey that this Resource Analysis Branch did in the town of Golden and we were impressed with their efforts. (N. Schmitt, Director, West Kootenay Health Unit, to K.I.B. Benson, the Associate Deputy Minister of Public Health Programs, Ministry of Health, July 5, 1977)

In response, on July 27, 1977 Associate Deputy Environment Minister G.E. Simmons wrote that the issue had already been examined earlier by both the West Kootenay Health Unit and by the Task Force on Multiple Use of Watersheds for Community Water Supplies:

... the area cannot be developed without extreme effects upon water quality and seasonal quantity It would appear that the proposed development could adversely affect water quality in Rossland's supply system.

Pressures placed on the City Rossland related to recreational objectives in the NGRA would continue. For instance, on July 15, 1975, the provincial government's Ski Development Co-ordinator, Al E. Raine, sent a two page letter to E.R. Levesque, the Regional District's Planning Director, concerning the implementation of a development land use plan for commercial skiing in the Topping Creek Watershed Reserve. Al Raine, who ironically, married Nancy Greene, the downhill gold medalist whose name the Recreational Area was dedicated to, was the provincial architect behind the planning development of the Whistler ski resort, located north of the Greater Vancouver Regional District.

Al Raine's land use scoping plan letter was preceded by a July 4, 1975 six point "Tentative Terms of Reference" for the NGRA, which included:

4. To study methods of protecting Rossland's Watershed above the intake station on Topping Creek; this would of necessity involve a detailed study of the watershed's ability to handle septic tank effluent, specifically depth to bed rock, soil profile, and surface/subsurface runoff pattern.

By late 1988 to mid 1989, the concepts of "multi-use" that governed "extractive tenures", such as commercial timber removal and mineral exploration, were removed from the NGRA. In a two-page Ministry of Parks June 6, 1989 letter from P.R. Whitfield, Manager of Planning to Regional District of Kootenay Boundary Planning Director Bruce Bourdon, are the details behind a "parks in waiting" shift in the NGRA.

Implicitly, though the Nancy Greene Recreation Area has been entirely opened to claim staking, the original multi-use philosophy no longer applies and we do not foresee any commercial timber extraction occurring under present policies.

More recently as the Red Mountain Ski Area matures and expands, we have recognized that the Recreation Area designation is more administratively cumbersome than supportive. Therefore, our current boundary review is considering both deletion of the private land and transfer of Red Mountain's overall master plan area to Crown lands, who already manage most of the Province's ski area activities on public land under the Commercial Alpine Ski Area Policy.

From its inception in 1969 to July 1995 when it was decommissioned and replaced in July 1997 by *The Nancy Greene Highland Forest Management Plan*,¹⁵ the status of the *Land Act* Watershed Reserves was apparently never disclosed to the public in NGRA report documents, neither referring to the collective Rossland Reserve created in 1940, nor those created and recreated as separate Reserves by the provincial Task Force on Community Watersheds for the City of Rossland in 1973 (see below). In the NGRA Master Plan section, *D. Land Tenures, Occupancy Rights, and Jurisdictions*, no mention was made of the Watershed Reserves, legitimate provincial tenures.¹⁶ Why this critical Reserve information was left undisclosed in related documents between the provincial government, the City of Rossland, and the Regional District of Kootenay Boundary, is not known at this time.¹⁷

One possible consideration of this omission is the NGRA included and emphasized provisos for multiple use, which begs the question about why the Reserves may have been ignored. This was in keeping with the earlier deception strategy through the Chief Forester's office.

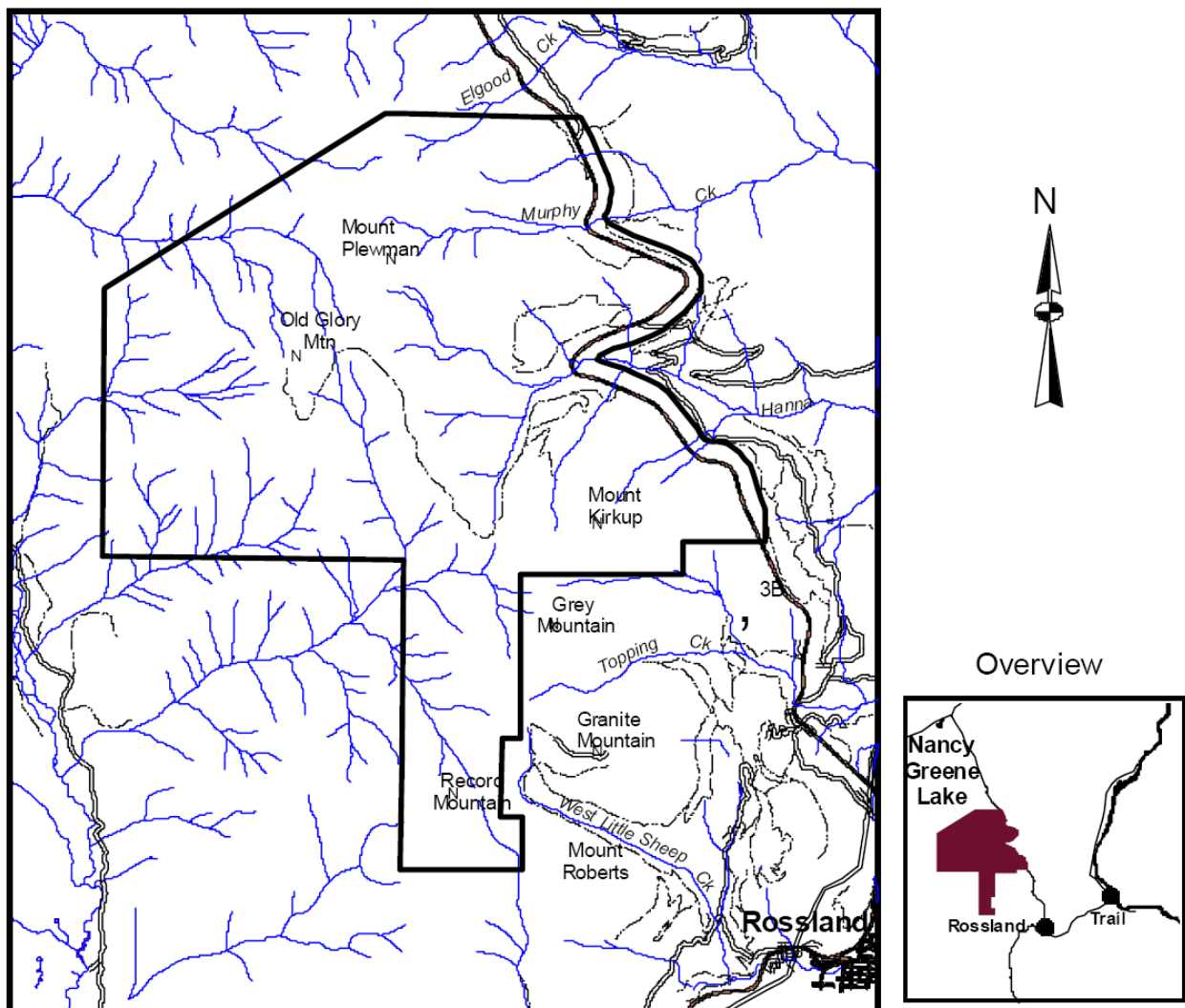
Another casualty from this lack of disclosure is that over the long term the City of Rossland and the Regional District were beginning to think that there were no such Reserves, or, that if some administrators or politicians did know of their existence it became a point of confusion, because it

¹⁵ Described in the five page document by The Friends of the Rossland Range Society, *The Rossland Range, Old Glory Area*.

¹⁶ Government documents refer to these Reserves as "tenures".

¹⁷ There is a possibility of some disclosure of the Reserves in the government's Nancy Greene Recreation Area files which were not examined by this report's author.

seemed as though they had little meaning. And it all began in 1969 under the watch and chairmanship of the Minister of Lands, Forests and Water Resources, the Minister directly in charge of the Watershed Reserves.



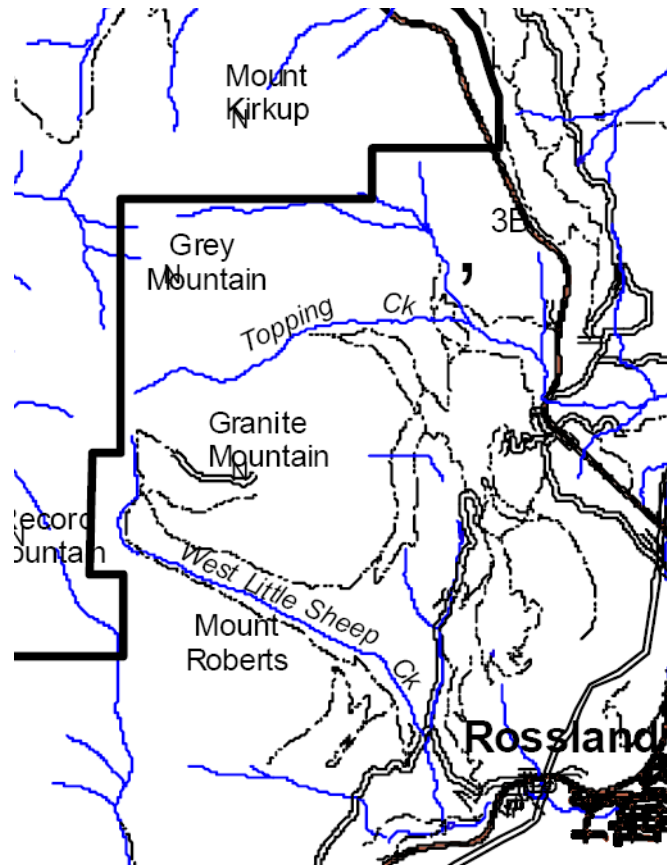
Boundary map of/from the Nancy Greene Highland Forest Management Plan.
Rossland's Watershed Reserves are not designated on the map.

Three years before its disintegration, on December 2, 1992, through Order-in-Council, the NGRA underwent a serious boundary amendment, whereby almost 3,100 hectares of both private and Crown lands were removed and transferred to the “jurisdiction of B.C. Lands”,¹⁸ lands now dedicated for a new ski hill resort consideration. These Crown lands included the majority of the Topping Creek Watershed Reserve. It is not known at this time whether or not B.C. Lands was aware of the Topping Reserve as tenure during the transfer of lands, but if it did, it was later overlooked.

¹⁸ Source, *Nancy Greene Highland Forest Management Plan*, page 29. In contrast, the provincial December 16, 1992 news release about the transfer, *Red Mountain Ski Hill Removed from Park*, stated that the amount of lands transferred were 1,400 hectares.

Closely following this transfer of lands, the Commission on the Resources and Environment (CORE) established new land use planning objectives guided by a “public negotiating table”.¹⁹ The remaining 4,795 hectares of lands in the NGRA would fall under new “integrated management zone” objectives:

Although the table did not record a consensus on the question of Nancy Greene Recreation Area, the focus of the table was heavily toward other protected area candidates in the general area. Consequently, CORE’s published October 1994 report recommended that Nancy Greene Recreation Area be included in an integrated management zone. Although the table did not record a consensus on the question of Nancy Greene Recreation Area, most input favored Special status. However, in subsequent government negotiations (which did not involve any representation from Rossland), the government determined that the area would be classified as Integrated. This was indicated in CORE’s published October 1994 West Kootenay Boundary Land Use Plan (which inaccurately identified the reclassified area as “East of Nancy Greene Recreation Area”).²⁰



Consistent with the absence of information in the lands transferred to B.C. Lands in 1992, and in the planning table information and reports from CORE and the West Kootenay Boundary Land Use Plan and planning process, was the status and tenure of Rossland City’s Watershed Reserves. Once again, vital information was being withheld from the public by provincial administrators. According to the government’s Rossland City Reserves file, the last confirmation status date of the Reserves was on June 24, 1992, six months before the Topping Reserve was transferred to B.C. Lands: “Keep on maps”.

¹⁹ Ibid.

²⁰ Ibid.

6. The City's letter of 1971

On October 26, 1971, Rossland City Clerk, W.H. Vickers, forwarded the following in a letter to the Comptroller of Water Rights, referring to the City's Reserve:

Further to previous correspondence in connection with the application of Granite Mountain Developments Limited to draw water from the City watershed and watershed reserve, enclosed herewith please find a copy of a letter from Granite Mountain Developments Limited along with the City reply which are self-explanatory. City Council continues to object to the application and also requests Granite Mountain Developments Limited be restrained from carrying out any work in and also from drawing any water from the City watershed.

At this point, there is an incomplete record of correspondence regarding the issue of Granite Mountain Developments. For instance, it is not known if the Water Comptroller had forwarded the matter to the Director (formerly, Superintendent) of Lands, for his comment. What is important from this letter is that Rossland City was aware of the Reserve tenure and correctly requested the Comptroller of Water Rights to uphold the powers of the Reserve.



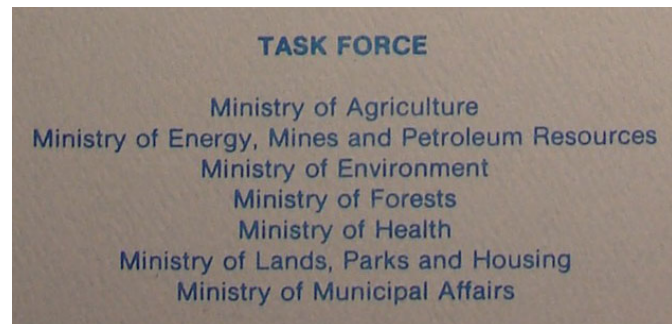
Topping Creek intake area, with "Watershed Area, No Trespassing" Notice (author's photo, June 26, 2008)

7. Rossland City's Watershed Reserve Re-Reserved: The Provincial Task Force on Community Watersheds (1972 – 1980)

From the mid to late 1960s, public complaints primarily about logging in, or proposed logging of, protected public drinking watersheds began to flood into the provincial government. The wanton watershed intrusions dictated by the provincial Chief Forester began to take hold and seriously taint the Social Credit administration. It so persistently and overwhelmingly blemished the administration that a Committee of Deputy Ministers, called the Environment and Land Use Technical Committee (ELUTC), eventually established a special inter-Departmental (inter-agency) Task Force in February, 1972 to address and help resolve widespread public concerns about the province's community watersheds. It was the first task force of its kind in North America, official duties of which ended in late 1980.

After identifying in a long list the names of over three hundred primary licensed provincial water users, i.e., villages, towns, cities, etc., the Task Force sent out questionnaires to each identified water user at the end of 1972. When these questionnaires were returned by the licensed water users to the Task Force in early 1973,

statistics were carefully compiled clearly identifying that logging was by far the leading concern by provincial water users. In response, Chief Forester I.T. Cameron wrote a special March 16, 1973 memo disputing the concerns "that logging results in damage", suggesting that these concerns were from a "current wave of protectionism bent on the abolishment of resource industries." Previously, there were over three thousand drinking watershed sources under various protections in the United States and Canada, bringing into question the Chief Forester's latter comment.



Another chief concern by provincial Interior water users was animal husbandry, or cattle farming, in community watersheds. The concerns were best exemplified in the bitter arguments in the early to mid 1970s between the Minister of Health and Minister of Agriculture, and the many investigative reports written by agencies, about cattle spoiling the waters of the Naramata watershed in the south-east Okanagan that became a Watershed Reserve.²¹ In addition to forest management licensing and oversight, cattle range use permit and licensing authority was another function of the Forest Service, as it remains today.

The *Environment Land Use Act* legislated by the Socreds on April 2, 1971, an Act nicknamed by the administration as the "Magna Carta of the ecology",²² established authority over the operations of the ELUTC and provided this government committee of top bureaucrats with special powers. During the Community Watershed Task Force's second year of meetings, it recommended to ELUTC that the Task Force be granted authority to establish *Land Act* Watershed Reserves over some three hundred community watersheds identified in its water users audit and questionnaire. The reservation of Crown lands to protect community watersheds had been an ongoing practice begun some seventy years previous, and the Task Force merely continued to do so. The authority was

²¹ The Naramata Creek Integrated Watershed Management Plan began in 1989. A draft report for this planning process for the Watershed Reserve was rejected by local water users.

²² Provincial Hansard, March 23, 1971.

granted to the Task Force by ELUTC and by 1975 some three hundred Watershed Reserves were registered and established.

This Task Force and its role to establish and re-establish Watershed Reserves were not well publicized and went largely unexplained to the public. In fact, nothing was written about the Task Force – its critical role, duties and powers – in a provincial review of forest resources published under Commissioner Peter Pearse in 1976, *Timber Rights and Forest Policy in British Columbia: Report of the Royal Commission on Forest Resources*. Nor was anything mentioned or explained in the 1976 report about the existence and historic role of the Watershed Reserves. Given the instructions by the Chief Forester some sixteen years previous for staff to sidestep administrative fiduciary duties and ignore the legislative powers of the Reserves, the blatant omissions in the provincial commission report sadly fall in line with that counter-directive.

One of the later chronological entries in the government's Rossland City Reserves file includes three pages of correspondence from Task Force Chairman Ben Marr to the Director of Lands (formerly, Superintendent of Lands), dated June 26, 1973. As the first of more similar requests, the Task Force requested the Director to officially place Watershed Reserves on sixty-three creeks (including one river) in the Nelson, Kaslo and Revelstoke provincial Water Districts.²³ At the end of the three page letter, Marr states:

It should be noted that the following users have had reserves placed on their watershed areas that may cover the reserve areas requested herein: Genelle Improvement District, East Creston Improvement District, City of Nelson, Blueberry Creek Improvement District.

Marr, however, was only partially correct in this statement, because, as is known through ongoing research by the B.C. Tap Water Alliance, an unknown number of the other community watershed creeks identified in the list as unreserved had already been reserved. This included, for instance:

- City of Revelstoke's Greeley Creek, reserved since 1910;
- Big Eddy's Dolan Creek reserved in 1951;
- Town of Wyndell's Duck Creek reserved in the 1940s;
- and the Village of Silverton's Bartlett Creek Reserve established in the early 1940s.

On a related theme, a confidential government employee source revealed that the provincial government shredded critical tenure and related historical documents in the Bartlett Creek and Mountain Chief Reserve files just prior to a court case in June 1997. This was the action by the Valhalla Wilderness Society against the Ministry of Forests in the Nelson Supreme Court to prevent Slocan Forest Products from logging in the two pristine watersheds located above and between the towns of New Denver and Silverton. With the removal of critical tenure status documentation, the government argued before Justice Paris that the two Reserves in question were never established, and then argued that, had these Reserves existed, there were no legal grounds against the Ministry from freely issuing dispositions in these Reserves located within a Provincial Forest Reserve.²⁴

²³ Water Districts were first established in 1909 as provincial management areas, under the management of the Water Rights Branch which was also established in 1909. In 1919, came the establishment of Forest Districts as management areas under the former *Land Act*. In the 1980s, the mandates of Water Districts were replaced or overridden by the mandates of Forest Districts, and little is said anymore about them.

²⁴ Despite the government's questionable evidence and statements to the contrary, there are numerous references on government maps and files to Bartlett Creek as an established Reserve tenure, well before the court case, and contrary

Surveyor General A.F. Ralfs, a Task Force member, identified at an October 2, 1972 Task Force meeting that many of the provincial Watershed Reserve tenures were unaccounted for, or unidentified, on his Department's Legal Survey reference maps. And, it seems that these oversights identified by Ralfs may not have been carefully researched for identification and re-confirmation by either the Task Force or by his Department, such as Rossland City's collective Watershed Reserve which flew by undetected under the Task Force's radar. For instance, the Rossland City Reserves file has Forest Service correspondence dated July 19, 1971, two years prior to its re-issuance by the Task Force, which makes specific reference to the "Rossland Watershed Reserve" as a valid tenure.

As a result, what the Task Force apparently did in the case of the Rossland City collective Reserve, by not carefully researching its thirty-two year old history, was to re-assign the three Reserves, and four additionally created Reserves, under a new single Lands file number. The four additional watersheds reserved for the City of Rossland were Elgood, West Little Sheep, Little Sheep (and West Fork), and Josie Gulch Creeks.²⁵ The seven Reserves were then separately and alphabetically identified on a map with sub-categories, 19a to 19g, and then registered on Legal Survey and Forest Atlas reference maps.

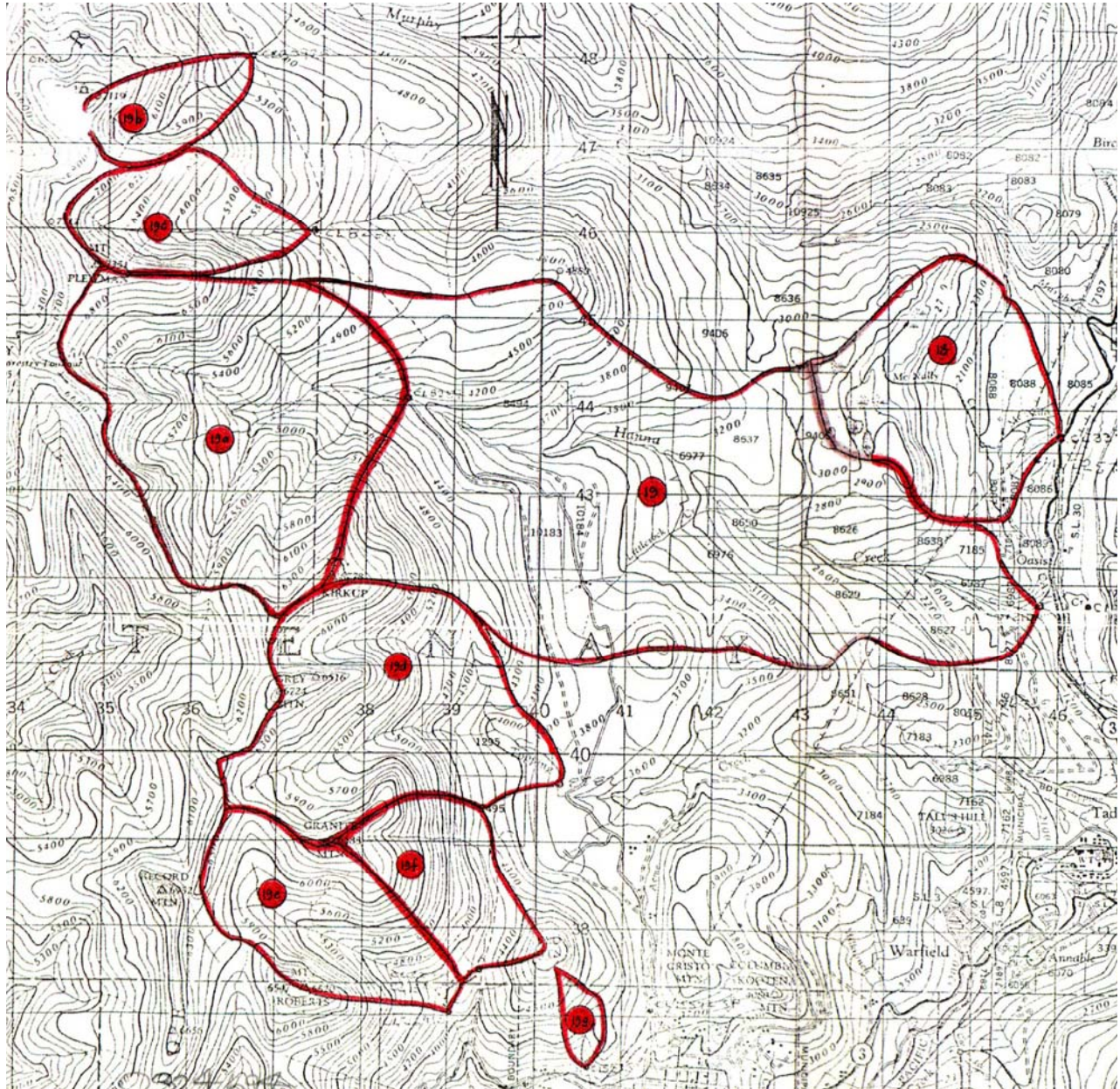
<p>CLEARANCE (STATUS INQUIRY)</p>		<p>D. December 21, 1973</p> <p>File 0324694 4</p> <p>Sale No., Etc.</p> <p>Map Ref. 82F/4, E & W</p>
<p>Forest District <u>Shon</u></p> <p>Applicant's name <u>Water Investigations Branch</u></p> <p>Lands to be cleared shown in bold black or red line on the map marked "Exhibit A," dated _____ and attached hereto.</p>	<p>Ranger District _____</p> <p>Address _____</p>	<p>Land District <u>Kootenay</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p style="text-align: right;">P.S.Y.U.</p> <p>Abeyance until review _____</p> <p>Approved _____</p> <p>Disallowed _____</p> </div>
<p>Proposed Watershed Reserve</p>		
<p>Amended <input type="checkbox"/> Restricted <input type="checkbox"/></p>		<p>_____, District Forester</p>
<p>ATLAS AND LEGAL SURVEYS REPORT:</p> <p>Noted on Atlas</p> <p>4-1-74</p> <p><i>Q.B.</i></p>		

Other adjacent community watershed sources were also reserved: those for the lower area of Hanna Creek for the Rivervale Water Utility (located north of the City of Trail), and McNally Creek watershed for the Oasis Improvement District. In all, as identified on a map in the Rossland Reserve

information in this report disclosing the fact that the Ministry of Forests did not have overriding authority to grant dispositions in the Watershed Reserve tenures.

²⁵ It is possible that some, or all, of the other four Creeks may have previous histories as Watershed Reserves.

file, there were nine Reserves created, or re-created, in the vicinity of the City of Rossland. On October 26, 1973, the Department of Lands issued a Legal Survey Clearance form for these Reserves located within the Kootenay Boundary Regional District, signed by the Nelson Recording, Assessment and Registration Districts.



Map from the Rossland City Watershed Reserves file, showing the City's seven Reserves and the two Reserves, for the Rivervale Water Company over the lower Hanna Creek (#19), and McNally Creek (top right, #18).

The City's seven Reserves: Hanna Creek (#19.1, or #19a); Elgood Creek (19b); Murphy Creek (#19c); Topping Creek (#19d); Little Sheep Creek areas (#19e, and #19f); Josie Gulch (#19g).

File:

0324694

Attention: PR 3

Date:

12.10.73

Please prepare a clearance sheet, particulars of which are as follows:

Reserve

MAP



Order-in-Council

DEPARTMENT OR BRANCH

PURPOSE

Lands Branch

Alienation



U.R.E.P.



U.R.E.P. and Grazing



On December 20, 1973, Lands Director C.W. House sent a memo to Task Force Chairman Ben Marr "in connection with your request for various Watershed Reserves":

As these areas lie within a Provincial Forest, we are forwarding them to the Forester-in-Charge, B.C. Forest Service for his attention. They have been added on our reference maps.

Watershed Reserve, U.C.L. on Duck Cr., Wynndel Cr., Arrow Cr., & Glasser Cr., Kty.
" U.C.L. on Sullivan Cr., Camp Run Cr., & Lister Cr., Kty.
" U.C.L. on Bath Cr., & Kelly Cr., Kty.
" U.C.L. on McQuarrie Cr., Randall Cr., Tiger Cr., Casino Cr., Kty.
" U.C.L. on McNally Cr., Hanna Cr., Upper Elgord Cr., Murphy Cr., Topping Cr., W. Little Sheep Cr., Little Sheep Cr., W. Fork Cr., Kty.
" U.C.L. on Merry Cr., Blueberry Cr., & China Cr., Kty.
" U.C.L. on Norris Cr., Kty.
" U.C.L. on Quartz Cr., Kty.
" U.C.L. on Smoky Cr., & Watts Cr., Kty.
" U.C.L. on Langill Cr., & McDermid Cr., Kty.

Above. An image excerpt from the Lands Department file ledger, showing the registration of just over thirty Watershed Reserves from the Creston City area on lower Kootenay Lake, and west to Rossland City. These entries, dated October 11, 1973, under "Watershed Reserves", also include the entry for the single lands file for Rossland City's Reserves, the fifth entry from the top. Note: the U.C.L. abbreviation stands for Unsurveyed Crown Lands, and Kty. means Kootenay.

On January 8, 1974, C. Shergold, with the Forest Service's Management Division, notified his foresters in the Nelson Region, for inclusion in the general planning file under the "Salmo Public Sustained Yield Unit", that the file registering the seven Watershed Reserves for the City of Rossland,

has been noted on our Atlas as a Watershed Reserve in favour of Water Investigations Branch. This area should be noted on your working plan and Atlas reference maps.

NELSON

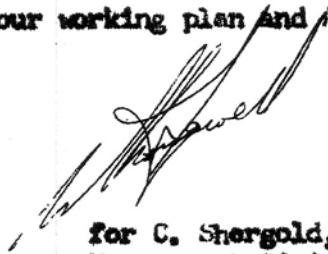
JANUARY 8, 1974

0324694

ATTENTION: MANAGEMENT

The attached area has been noted on our Atlas as a Watershed Reserve in favour of Water Investigations Branch.

This area should be noted on your working plan and Atlas reference maps.


for C. Shergold,
Management Division

FD/cm

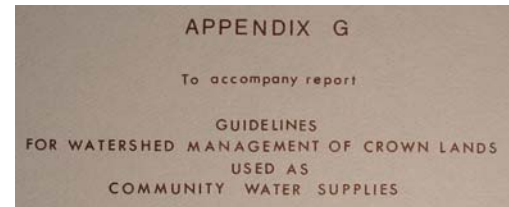
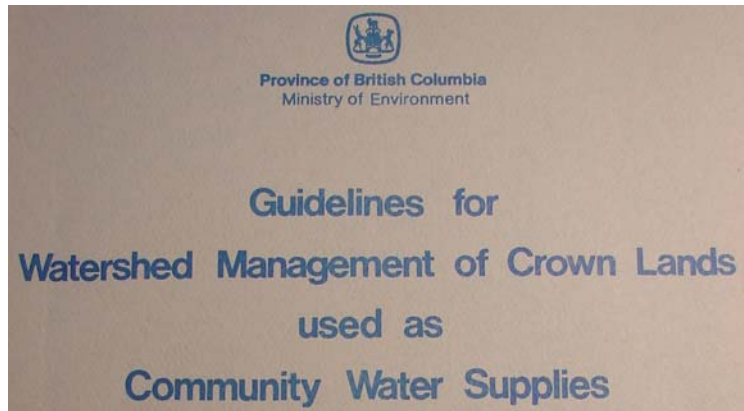
cc Planning File: Salmo PSYU 0272566

cm
mailed
8/1/74

RETAIN on MAPS
LHM. 90.12.20

On the bottom of this page is a signature for December 20, 1990, "Retain on Maps", followed by another page, with another signature for June 24, 1992, "Retain on Maps." That's how the Rossland Reserves file ends. By including the Reserves on the Forest Atlas Maps, designated in blue ink to denote Watershed Reserve boundaries, a regulated practice, government foresters were mandated to

acknowledge the reserves in their administrative planning duties. Acceptance of disposition proposals within these Reserves by Forest Service staff was then hopefully and automatically forwarded to the Lands Director or Lands staff for approval. According to Forest Service records, Forest Service staff were nevertheless inconsistent in making these mandated referrals.



In October, 1980, after some eight years of meetings, the Task Force, at its dissolution, published the *Guidelines for Watershed Management of Crown Lands Used As Community Water*

Supplies, otherwise commonly referred to by provincial staff as “the Blue Book” because of its blue cover. Attached to the document meant to ‘guide’ provincial planners over the provincial watershed reserves, was Appendix G, the list of the provincial Watershed Reserves. It included Topping Creek, and the other six Reserves associated with Rossland City, those already mentioned above.

Below, pages 57 – 58, are two pages copied from Appendix G, showing the list of Category One Reserves which include the seven Rossland City Reserves.

NELSON

WATER DISTRICT

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*****
* W A T E R S H E D * U S E R * DRAINAGE * LAND *
* * * * * AREA * *
* NO. * S O U R C E * N A M E * POPULATION * SQ. MILES * STATUS *
*****

```

10A	ANDERSON & FELL	CR	NELSON (CITY)	2380	5.2	CR	85%
3B	AYLARD	CR	NEW DENVER (VILLAGE)	90	0.1	CR	83%
4	BARTLETT	CR	SILVERTON (VILLAGE)	246	2.2	CR	100%
22	BATH	CR	BEAVER FALLS (IMP DIST)	500	1.1	CR	61%
1C	BROUSE	CR	NAKUSP (IMP DIST)	1200	1.6	CR	92%
20D	CAMBRIDGE	CR	TRAIL (CITY)	5240	5.2	CR	4%
27	CAMP RUN	CR	NORTH CANYON (IMP DIST)	400	2.2	CR	100%
21	CASINO	CR	CASINO (IMP DIST)	53	0.7	CR	6%
31	EAGLE	CR	EAGLE CREEK (WATER USERS COMM)	75	2.6	CA	99%
19B	ELGOOD	CR	ROSSLAND (CITY)	220	0.7	CR	100%
8	FOUR MILE	CR	NASOOKIN (IMP DIST)	120	1.3	CR	100%
20C	GEORGE	CR	TRAIL (CITY)	1600	1.6	CR	6%
35	GLASER	CR	CRESTON (TOWN)	3204	0.6	CA	52%
19.A	HANNA (ROCK)	CR	ROSSLAND (CITY)	1235	4.0	CR	100%
34A	HENRYX	CR	RIONDEL (CENTRAL KOOTENAY REG DIST)	250	1.9	CA	99%
34B	INDIAN	CR	RIONDEL (CENTRAL KOOTENAY REG DIST)	300	2.0	CA	99%
9A	ISAAC	CR ETC	N SHORE NELSON LTD (REG WATER UTILITY)	500	0.5	CR	75%
19G	JOSIE GULCH		ROSSLAND (CITY)	30	0.1	CR	70%
13A	LANGILL	CR	KRESTOVA (IMP DIST)	190	1.3	CR	100%
28	LISTER	CR	LISTER (IMP DIST)	300	1.0	CR	100%
19E	LITTLE SHEEP	CR	ROSSLAND (CITY)	465	1.5	CR	99%

NELSON

WATER DISTRICT

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*** *****
* W A T E R S H E D * U S E R * DRAINAGE * LAND *
* * * * * * * * * * * * * * * * * * * * * * * * * * * *
* * * * * * * * * * * * * * * * * * * * * * * * * * * *
* N O . * S O U R C E * N A M E * POPULATION * SQ. MILES *
* * * * * * * * * * * * * * * * * * * * * * * * * * * *

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19F	LITTLE SHEEP CR	ROSSLAND (CITY)	771	2.5	CR	55%
13B	MC DERMID CR	KRESTOVA (IMP DIST)	130	0.9	CR	100%
18	MC NALLY CR	OASIS (IMP DIST)	100	2.3	CR	73%
20A	MC GUARRIE CR	TRAIL (CITY)	530	0.5	CR	80%
15	MERRY CR	KINNAIRD (TOWN)	2846	2.1	CR	86%
3D	MOUNTAIN CHIEF CR	NEW DENVER (VILLAGE)	279	0.3	CR	100%
19C	MURPHY CR	ROSSLAND (CITY)	340	1.1	CR	100%
33	PROCTOR CR	PROCTOR CREEK (WATER USERS COMM)	100	3.4	CA	99%
11	QUARTZ CR	YMIR (REG WATER UTILITY)	325	2.6	CR	98%
20B	RANDALL CR	TRAIL (CITY)	400	0.4	CR	83%
3A	RASHDELL & ANGEL	NEW DENVER (VILLAGE)	90	0.1	CR	80%
32	SANDY CR	SANDY CREEK (WATER USERS COMM)	300	4.6	CA	99%
3C	SIMPSON CR	NEW DENVER (VILLAGE)	185	0.2	CR	100%
12A	SMOKY CR	SOUTH SLOCAN (IMP DIST)	130	1.9	CR	82%
7	SOUTH BLUNT CR	RIDGEWOOD (IMP DIST)	105	0.3	CR	100%
26	SULLIVAN CR	ERICKSON (IMP DIST)	400	2.5	CR	100%
9B	SUTHERLAND CR	N SHORE NELSON LTD (REG WATER UTILITY)	100	0.1	CR	85%
20E	TIGER CR	TRAIL (CITY)	3430	3.4	CR	10%
19D	TOPPING CR	ROSSLAND (CITY)	835	2.7	CR	71%
12B	WATTS CR	SOUTH SLOCAN (IMP DIST)	20	0.3	CR	100%
1B	WENSLEY CR	NAKUSP (IMP DIST)	1200	1.1	CR	100%

8. The Report and Pivotal Letter of 1977

In June, 2008, Rossland resident and former City Councillor Bill Micklethwaite presented a report to Rossland City Council, *Rossland's Water Resources – A 'White Paper' for Rossland's Council and Citizens Summarizing Our Water Supply Situation*. When Micklethwaite wrote his report he, as many other concerned residents in Rossland, knew or remembered little about the interesting history of the City's Watershed Reserves. However, Micklethwaite, a former Rossland City councillor (1976-1984) and defacto City Planner and overseer of the City's water supply, possessed a few important early records which either referred to "watershed" or "water" Reserves, both terms interchangeably used to identify the watershed lands reserved under the *Land Act*.²⁶

In a section of his draft report called *Watershed Map Reserves*, Micklethwaite included an interesting excerpt from an April 19, 1977 letter from the Deputy Comptroller of Water Rights, Earle Anthony, about Rossland's Crown Watershed Reserves. Anthony's letter was written in response to a March 11, 1977 letter from Rossland City Clerk Vickers, concerning a two page report from the City's Engineering Consultant T.D. Lee. Here's the full version of Anthony's comments about the Reserves in his letter:

In addition, the watersheds of Hanna and Rock Creek, Elgood Creek, Murhpy Creek, Topping Creek, West Little Sheep Creek, Little Sheep Creek, West Fork and Josie Gulch are within Watershed Map Reserves established to ensure referral from all Crown Agencies of any activity which may affect your (Rossland's) water supply.

Our experience has been that the provisions of the Water Act and the aforementioned Map Reserves adequately protect the water supplies of communities such as Rossland. It is not our policy to place water reserves on such reserves.

Anthony's understanding about the simple and protective function of the Reserves in his brief commentary was correct, and was commonly understood at that time by conscientious and knowledgeable government staff. Anthony's reference to "referrals" regarding the Watershed Reserve tenures is key, or crucial, to the practiced process identified earlier in this report by the former Superintendent of Lands, whereby proposed Crown land use "dispositions" by government or to government that were for some reason not automatically rejected by government administrators could not be authorized without the formal consent of the Reserve holder. Because of the Forest Service's ongoing meddling in the proper conduct of Watershed Reserve referrals, government records indicate that these referrals were being uniformly sidelined, misinterpreted, and redirected in the 1970s and 1980s. This resulted in widespread public confusion about the nature and function of the Watershed Reserves granted to provincial water users.

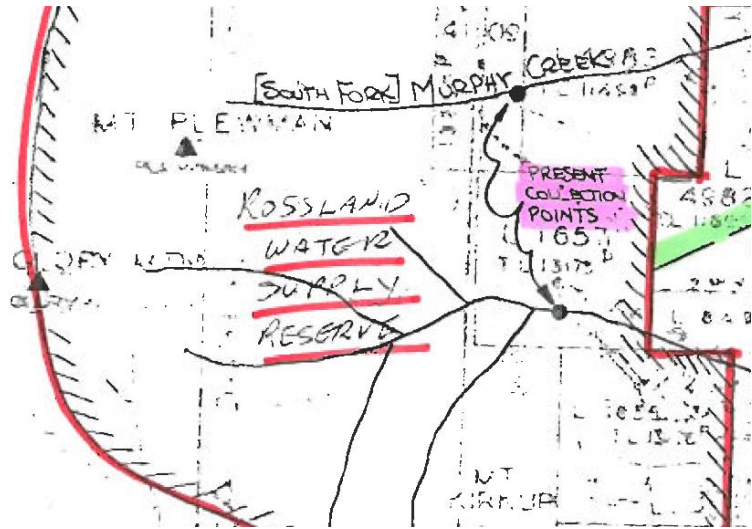
In the two-page February 6, 1977 report by Rossland City consulting engineer, *Watershed Rights Et Al – City of Rossland*, Lee included the following comments which triggered Vicker's March 11, 1977 letter of inquiry to the Water Comptroller:

²⁶ The term "Watershed" or "Water" Reserves, when used to describe the forested and non-forested Crown lands reserved under the *Land Act* have sometimes been a point of confusion, by both the public and government administrators alike, with water licenses issued under the *Water Act*, also called "water reserves". The legislations are distinctly different, the latter only referring to bodies of water reserved for various uses, in this case for the City of Rossland's domestic, industrial and general supply use.

I have attached a copy of a map which you gave me several years ago, and which had apparently been provided originally to the City by the Department of Lands and Forests in 1961 from their file 153461/12. This map supposedly defines the approximate boundaries of the City's Water Reserve Area.

I do not know what rights or privileges are defined by this "Water Reserve Area", if any.

(b) The north east limit of the Reserve presently includes the point of confluence of the north and south forks of Murphy Creek. It is recommended that this boundary be extended eastward and southward to a location about 300 feet below the point of confluence of Neptune and Murphy Creeks, and that the Neptune Creek watershed be entirely included in the City's Water Reserve Area.



Copies of Lee's report were forwarded to Alderman Micklethwaite and City Foreman A. Albo.

At the beginning of Chapter 4 of this report, it was mentioned how the City of Rossland had either lost or misplaced its own file on the City's collective Watershed Reserve, and that the City Clerk had requested a copy of the file from the government. Therefore, the map from this copied file sent to the City of Rossland is undoubtedly what Lee is referring to in his report (shown above, but later color highlighted by City of Rossland staff). Apparently, Lee was not given the early 1940 correspondence files from the Superintendent of Lands, or subsequent correspondence, which stated that the Crown Watershed Reserve lands were "withdrawn from disposition". Had Lee received that information, he would have referred to this in his report, and would have re-stated, or omitted, "I do not know what rights or privileges are defined by this "Water Reserve Area", if any."

In addition, Lee apparently did not have access to the recent, updated, and expanded Watershed Reserves information from the provincial Task Force on community watersheds. Why Lee was not provided this updated information is not known at this time. But Earle Anthony's letter of April 19, 1977 helps to set the record straight on this matter, despite the obvious lack of City records about this critical information.

9. The 1980 Rossland/Red Mountain Resort Area Master Plan

The December, 1980 ski hill master plan for Red Mountain, prepared by Ecosign Mountain Recreation Planners Ltd, Thompson, Berwick Pratt & Partners, and Sigma Engineering,²⁷ is both an interesting and foreboding document, for many reasons.

The document contains some interesting summary insights into the history of Rossland, and provides a rationale for proposed future developments related to recreational skiing in and around Red Mountain.

However, the document, as a development vision for proposed economic initiatives related to a declining job force at the Cominco Smelter in Trail, became a problem for the City of Rossland, because its expansion would amount to a

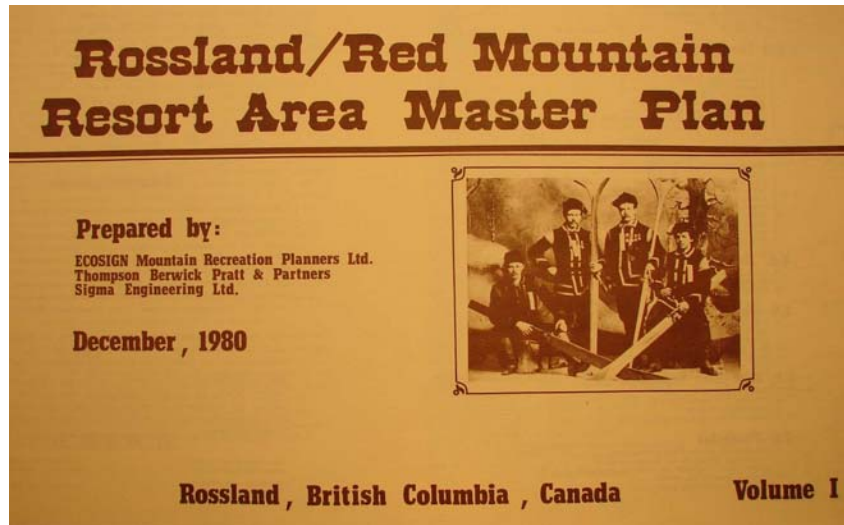
continued threat over the integrity of the adjacent Topping Creek Watershed Reserve. This shadow would inevitably lead to the present day politics by Red Mountain Ventures and the former Rossland City Council (November 2005 – November 2008). Had those problems been sorted out by the City at the time, vis-à-vis the acquirement of private lands leading to more control over community watershed lands, which the City also tried to negotiate earlier with the provincial government, the present controversies could have been largely overcome.

In this respect, the 1980 Master Plan correctly identified the problem and obstacles related to its proposed development expansion proposals because of its immediate proximity to the Topping Reserve and the location of the City's domestic water intake. However, as the following excerpt suggests, the vision for the ski hill expansion stages was unashamedly aggressive, in that, despite the existence of the Crown Reserve over the Topping watershed, the presumption was that development would occur, nonetheless:

It is noteworthy that the study area's drainage basins north of Granite Mountain lie with the map reserve [underline emphasis] for the City of Rossland Watershed, and hence skiing and/or residential development within these areas will require special construction procedures. The watershed map reserve [underline emphasis] allows the City of Rossland to participate in the approval of applications affecting the use and/or dispensation of these lands as set forth in the Land Act.

This excerpt from the Master Plan raises two important matters:

- The proposed developments failed to occur after the Master Plan was submitted to Rossland City Council. The reasons for their failure ultimately suggest the disapproval of such by City



²⁷ The plan was funded by the Canada-British Columbia Travel Industry Development Subsidiary Agreement.

Council, that is, until some twenty years later under the present controversial considerations for Red Mountain Venture's development schemes, with passage of related bylaws and amendments and rewriting of the Official Community Plan.

- The 1980 Master Plan actually and correctly makes reference to the existence of the Topping Creek Crown Watershed Map Reserve. The reason why the consultants presumably did so is that they were provided with all the land status data and details from the provincial government, via the Lands Ministry, and therefore had to account for it in some way.

Oddly, the Topping Creek Watershed Reserve is not mentioned in the land status section of the Master Plan report, but only mentioned once in the above quote. However, the interpretation by the 1980 Master Plan editors regarding the powers attributed to the City of Rossland as the holder of the Crown Reserve was limited and incorrect, insomuch as the interpretation of the planning oversight appears to have been slanted solely to the benefit of future development. For instance, in the map exhibits in the Master Plan document, there is no escaping the fact that the Topping Watershed Map Reserve boundaries were envisioned within the new developmental playground.

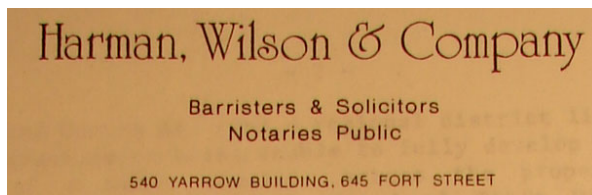
The correct interpretation of the Map Reserve status, as it relates to the community of Rossland's interests, is that protection is preferential and paramount in all and any planning proposals: the Map Reserve status is there to protect the Crown lands in all referrals. That finding supports the legal interpretation provided by the government's Superintendent of Lands in 1940, following, and by the City's solicitors in February 1984 (see next chapter).

10. Letters from Rossland City Solicitors

The government's Rossland Watershed Reserves file examined earlier in this report helps to shed critical light on some interesting correspondence from the City of Rossland's solicitors, Harmon, Wilson & Company, in late 1983 and early 1984 concerning the protection of the City's drinking watersheds. In 1983, the City of Rossland was continuing to encounter difficulties about conflicting land use issues within Topping Creek. The City then requested its solicitors to seek legal avenues and advice on the protection of its drinking watersheds.

On December 21, 1983, the solicitors forwarded an initial letter, with the following advice:

One of the three steps that can be taken to protect your community watershed is to apply for a Crown reserve over the Crown land in which your community water supply watershed is located.



I will be making inquiries regarding a Crown reserve for your watershed, but unfortunately the people I need to contact are away from Victoria at this time. I shall be in touch with you as soon as I have completed my investigation with the Ministry of Lands regarding Crown reserves for community water supplies.

By way of a preliminary report I enclose herewith a photocopy of Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies and a copy of Appendix G to accompany the report.

The third step towards the protection of your community water supply is to approach the Regional District for an appropriate zoning regulation of the privately owned lands that are located within the watershed. A few years ago I gave some assistance to the City of Cranbrook in a similar problem. I shall forward to you any material in that regard that I think would be helpful. In the meantime, you should approach the Planning Director of your Regional District in this regard. Again, let me know if I may be of assistance in framing the required zoning legislation.

What the City of Rossland's solicitors were apparently unaware of at the time of their inquiries, and apparently the City of Rossland itself, was that Rossland's drinking watershed sources had already been re-established as Crown Map Reserves by the provincial community watersheds Task Force ten years previous in 1973. Nothing was apparently on file with the City of Rossland's Clerk, or perhaps readily available, about both its earliest collective Reserve of 1940, or about the Reserve's most recent conversion by the Task Force in 1973.

When the City's solicitors were examining the list of community watersheds in Appendix G of the October 1980 "Blue Book", apparently no one from the government explained to the Solicitors that these community watersheds were already, in fact, all "Crown Reserves". Furthermore, the Blue Book failed to state that the watersheds in Appendix G were all properly registered Watershed Reserve tenures. Had the solicitors, or for that matter, Ministry of Lands' administrators, properly checked the status of these watersheds with the Director of Lands (Lands Programs Branch Director Frank Edgell, 1982, followed by Lands Programs Branch Director Robert Mitton), these matters

would have easily been confirmed, as had the Deputy Comptroller of Water Rights previously so confirmed in Chapter 8 of this report.²⁸ The confusion by the Solicitors over this point was not isolated, but commonplace, and extended to provincial water users themselves, who, over the ensuing years since the Blue Book's distribution in late 1980, failed to comprehend this important distinction. The confusion abounded.

All of Rossland's drinking watersheds were identified in Appendix G as Category One Reserves, and were also identified on an accompanying map attached to the Blue Book. The 1980 Guidelines document stated that Category One Reserves were to be provided with "maximum protection". Prior to the document's release, inter-agency community watershed task force representatives agreed on this "maximum protection" designation, even in isolation of consultation input from provincial water users.

Information from government records about these Category One Reserves in the author's book, *From Wisdom to Tyranny: A History of British Columbia's Drinking Watersheds Reserves*, is that they were destined to become baptized as Order-in-Council, Section 11, Reserves in 1981. Reference to this promotion to Order-in-Council was also stated in the 1980 Guidelines document. Disturbingly, government records in 1982 indicate that the Ministry of Forests prevented the Category One Reserves from reaching Cabinet for their collective conversion from the status of Watershed Map Reserves to Order-in-Council Reserves.

In 1970, the Social Credit government revised the *Land Act*.²⁹ Revisions were also made to the Crown Reserve section, which now elaborated on the provision and definition of Order-in-Council (Section 11) and Map (Section 12) Reserves. Both had the same function – to prevent dispositions on and alienations of Crown lands – except that Section 11 Reserves were more permanent³⁰ and exempt from the referral process that Map Reserves underwent.

In their misunderstanding, the City's solicitors identified in their first letter that Rossland's drinking watersheds were all properly indexed and accounted for in Appendix G, which would provide the City with a quick identification reference point in its pursuits with the Ministry of Lands Regional office in Nelson to establish the watersheds as Crown Reserves:

In applying for the watershed reserve you already have recognition from the Crown Provincial that in fact there is a watershed attributable to the use of the City of Rossland in connection with Hanna (Rock) Creek, Elgood Creek, Murphy Creek, Topping Creek, Little Sheep Creek and Josie Gulch. You will note on the south-eastern British Columbia location of community watershed area map and in Appendix G to accompany Guidelines for Watershed Management of Crown Lands used as community water supplies, recognition of Rossland's use of these watersheds.

Still ignorant of the existing Crown Reserve status of Rossland's drinking watersheds, the City's solicitors nevertheless sent a second letter on February 6, 1984, after conferring with a top

²⁸ In the early 1980s, the Land Programs Branch had three Sections, one of which was the Land Dispositions & Reserves Section.

²⁹ Refer to Hansard, 1970, internet on-line, for discussions in the Legislature about the *Land Act* changes.

³⁰ The Map Reserves had an expiry date for the year 9,999, some eight thousand years into the future, making them "almost" permanent. According to a rumour, the B.C. Liberals may have recently tampered with this expiry date.

administrator in the provincial Lands' Ministry about the correct legal interpretation and disclaimer of Crown Reserves.

Crown Reserve for Watershed for Community Water Supply

The only positive step that you can take to protect your City watershed in Crown land is to apply for a Crown reserve for watershed for community water supply. If a Crown reserve is granted (,) that would prevent forestry and development activities as well as alienation of the Crown land all within the reserve without the Crown conferring with the City of Rossland.

The solicitors' legal interpretations about Crown (community watershed) Reserves, information which was imparted to them by a government administrator, is consistent with the statement made by the former Superintendent of Lands in 1940, following, "withdrawn from disposition".

This rendering also contradicts more recent, disingenuous legal interpretations provided by the provincial government in the 1997 Justice Paris Supreme Court case, which allowed Slocan Forest Products to legally log within the Bartlett and Mountain Chief Watershed Reserves, critical documents in the Lands files which the government apparently shredded to cover up the facts and implications. Following the Justice Paris Decision of July 1997, government underhandedly used the controversial decision to establish quasi-legal precedence against the concerns of water users primarily about permitting logging in the provincial community Watershed Reserves, something the government had been in the habit of doing previously under public radar. Despite its highly disturbing outcome, the action by the Valhalla Wilderness Society against the provincial government was the first court case of its kind in British Columbia concerning the drinking Watershed Reserves established under the *Land Act*.³¹

As the author of this report stated in his 2006 book, *From Wisdom To Tyranny*, by way of a correspondence quote from a high ranking government administrator in 1990, the function of the *Land Act* Map Reserves, before becoming more permanent Reserves, provided all necessary "interim protection", which prevent "inadvertent violations or land dispositions" on Crown lands (page 204, Section 11.2.2).

It is not known what actions the City of Rossland took following its solicitors' advice. Perhaps, after making the necessary enquiries with the Regional Lands office, the City discovered that the Reserve tenures were active, or that the City had simply forgotten about the Reserves and failed to check its records which would have validated the same. Whatever the case, it appears as though the City, even though perhaps recognizing the Crown Reserve status over its watersheds, failed to properly interpret its legislative significance.

The inference to allow unchecked, or non-referred, forest management activities in Rossland's Crown Reserves, the Reserve status of which was left unidentified in reports, were later continually upheld by consultants and provincial staff in watershed management plans required under the *Forest Practices Code Act* and by way of Best Management Practices. The intrusion into and blanket management criteria over the Crown Reserves were part of a disturbing pattern that was erupting, evermore, throughout the province.

³¹ The Sunshine Coast Regional District made a similar application to the Court in November, 1992. However, it never went to trial, and matters were unfortunately settled out of court.

11. The Urban Systems Report of 1993

In February, 1993, Urban Systems Limited, a reputable and long-established consulting firm, presented its 78-page *Rossland Water Supply Master Plan* report to City Council. A cover letter by Senior Environmental Engineer Peter Gigliotti to City Administrator Andre Carrel stated that City Council had “thoroughly reviewed” the report on March 4, 1993, and provided amendments for Urban System’s final report.

Stated in section 1.2:

In September, 1991, the City commissioned Urban Systems Ltd. to undertake the study. The stated purpose of the work was “to develop and assess options for water supply sources and their protection, treatment, storage, and conservation to meet the City of Rossland’s requirements for the next 25 years.”

At the time of the study, Rossland City had no filtration or water treatment facilities for its fresh water surface-fed sources, other than simple chlorination. Urban Systems identified that, in light of this, and in comparison with the other watershed sources,

The initial investigations show Topping Creed and the “Blue Eye” spring to be most susceptible areas for surface water contamination. The Topping Creek watershed has several residential developments within it with minimal control over sewage disposal. Logging, skiing and snowmobiling are practices in the watershed.

The activities taking place in Topping Creek were mostly responsible for the City’s initiative to implement treatment plans, its decision for slow sand filtration technology. The report also recommended the City practice water conservation measures.

In *Watershed Management* section 11 of the report, under a subsection called *Watershed Status*, Urban Systems identified all the land tenures, which included a reference to the Crown Watershed Reserves over the hydrological boundaries of the drinking watersheds to their intakes:

The City has recently incorporated the watershed areas within the City boundary. Much of the area is Crown Land. There are various forms of tenures, permits, reserves and other designations with exist on the Crown Land. Some of these are:

1. Map Reserves: to City of Rossland in the Murphy, Hanna, Topping and West Little Sheep Creek watersheds.

It is not know whether Urban Systems had the Reserve tenure information supplied by the provincial government or by the City of Rossland, or even by both. If the tenure information had been supplied by the City, then it was certainly later not identified as such on zoning, report and Official Community Plan maps.

12. THE NANCY GREENE HIGHLAND FOREST MANAGEMENT PLAN

Following the rescinding of the revised Nancy Greene Recreation Area (NGRA) in July 1995, a planning committee was formed and met during much of 1996 to help direct new management criteria for what would become the Nancy Greene Highland Forest Management Plan (NGHFMP) in July 1997. The directives for this planning process had been arranged earlier during the provincial regional Kootenay-Boundary Land Use planning process. Except for some lands surrounding the Nancy Greene Lake (formerly Sheep Lake) area that were transferred into provincial parks status, the remaining NGRA lands were transferred “back to Provincial Forest”,³² the Arrow Timber Supply Area lands within the Lower Arrow Provincial Forest Reserve.

New arrangements, harmonized under both the recent *Forest Code Practices Act* and the Kootenay-Boundary Land Use Plan, were made for Rossland City’s Watershed Reserves, most of which were now transferred to the “net harvestable land base” or the “working forest” and allocated under “special resource management” criteria.

There are five community watersheds that account for 20% of the NGHF gross area and 71% (734 hectares) of the net harvestable land base. The Forest Practices Code Community Watershed guidelines impose significant land management obligations on forest licensees and mining operations. Additionally, there are domestic watersheds that must be considered as well.

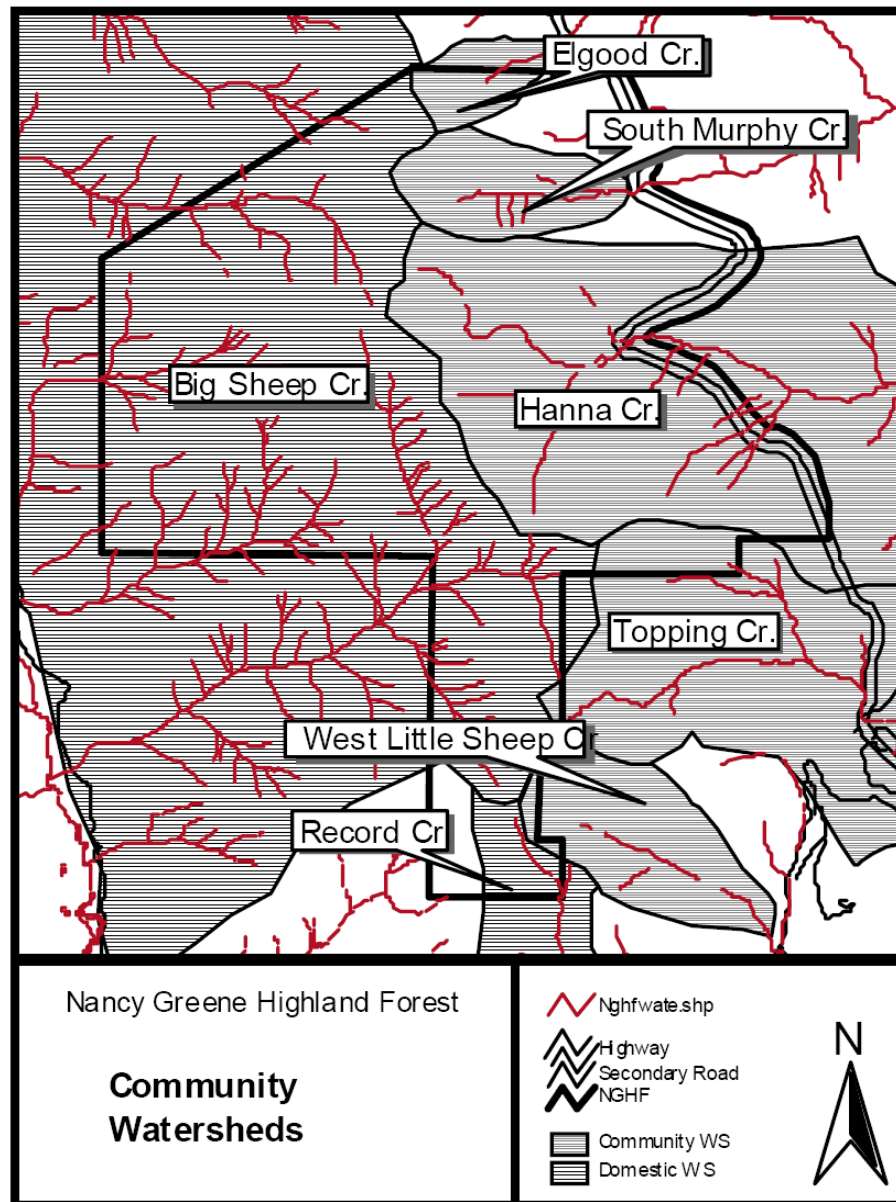
The NGHF forest contributes to the Allowable Annual Cut within the Arrow Timber Supply Area (TSA). On average, the landbase should contribute about 1800 - 2300 cubic meters of the 619,000 cubic meters harvested in the TSA annually. Due to the concerns for community watersheds, visuals and recreation, this harvesting will be undertaken with considerable planning and care. It is anticipated that silvicultural systems will include group selection or small clearcuts due to the challenges of reforesting areas at this elevation and aspect. Glading to provide more ski-able terrain shall be considered. (Executive Summary, NGHFMP)

The NGHF falls within an integrated resource management zone within the Kootenay-Boundary Land-Use Plan (KBLUP). This means that no one resource use of the zone will dominate activities within this zone. All the resources, such as watersheds, recreation, forestry and mining should be kept in balance to avoid comprising another resource. (Page One)

On the other hand, the majority of the Topping Creek Reserve boundary lands had been transferred to the Ministry of Crown Lands for ski hill development considerations and was possibly awaiting a separate fate.

Despite their protected tenure status as areas “withdrawn from dispositions and alienations”, Rossland City’s Reserves now all seemingly fell under new forest licensing and commercial threats, a fate also seemingly extended to all the provincial Watershed Reserves. According to interviews with provincial government staff published in Chapter eleven of the author’s book, *From Wisdom to Tyranny*, in the internal government community watershed committee meetings (1993-1995) for the proposed *Forest Practices Act* the Watershed Reserves were seen as unpopular (to use a polite term)

³² NGHFMP, Executive Summary.



Map 2 Community Watersheds

with Ministry of Forests administrators, primarily. Subversive efforts were made to cripple and help make the provincial Reserves disappear. The opportunity came about to do so in 1994 when a long list of almost seven hundred community watersheds were included in a series of at least four draft *Community Watershed Guidelines* documents. In the fourth draft of August 4, 1994:

These guidelines replace an older document titled *Guidelines for Watershed Management of Crown Lands Used as Community Water Supplies* (1980). In addition, the guidelines and associated watershed management planning procedures described in this document are intended to form a template for, and in some cases to replace the need for, *Integrated Watershed Management Planning (IWMP)* in many community watersheds. (Page 1-2)

In total, approximately 12,000 watersheds in British Columbia are licensed for drinking water use. The majority of these are the water supply of individual households living along a stream or lake, and are called *rural domestic water supplies*. However, almost 680 watersheds are classified as *community watersheds* in that they are used as water supply for municipalities and other organized community groups. Excluding [greater] Vancouver and Victoria, community watersheds provide domestic water to approximately 50 percent of the remainder of the population (approximately 700,000 people) and so have a special importance. It is this group of watersheds to which these guidelines apply. (Page 1-1)

Two important matters failed to be mentioned by the internal community watersheds committee within the draft *Forest Practices Code Act Community Watershed* documents:

- The 1980 Guidelines document was created because of and for the Watershed Reserves which were listed, by category, in Appendix G of that document.
- The provincial Watershed Reserve tenures were not distinguished from unreserved community watersheds, and were now shuffled in a long list of about 680 community watersheds.

Table 1 Planning Overview (1997)

Plan Product	Planning Management Level	Duration
Forest Practices Code (Act, Regulations)	Provincial	N/A
Kootenay-Boundary Land-Use Plan	Regional to Sub Regional	N/A
Timber Supply Review	Sub Regional (Timber Supply Area)	5 years
Landscape Unit Plan	Sub District I	N/A
Local Resource Unit Management Plan (Nancy Greene Highland Forest Plan)	Sub District II	N/A
Forest Development Plan	Licensee	5 years
Silviculture Prescription	Cutting / Road Permit	Green Up
Logging Plan	Block	

What government staff mischievously did in the Watershed Reserve tenures cover up is that the Reserves, which all had identified Ministry of Lands file numbers, were given new and separate reference numbers now assigned to Ministry of Forests and Ministry of Environment portfolio resource management planning under the *Forest Practices Code Act* (see a selected page list below, showing many of Rossland's watersheds). These Ministry of Lands Reserve tenured file numbers had previously been placed on Forest Atlas maps, the central tools for forest and range management planning, which identified the Reserves as separate and protected entities.

Following Page: Copy of a page from Appendix 1, *List of Community Watersheds in British Columbia*, in *Community Watershed Guidelines, 4th Draft*, August 2, 1994. On the page is a continued list of 60 water sources, with table information related to the name of Forest District, the new *Forest Practices Code* number, the name of the watershed, the area of watershed, new map number identification, and Water Licensee name. The implanted red arrows in the second column indicate the following watersheds and new numbers replacing Rossland City's and neighbouring Watershed Reserves: Elgood (300.020), Hanna (300.027), Little Sheep (300.039), McNally (300.059), South Murphy (300.050), Topping (300.056), and West Little Sheep (300.059) Creeks.

F. S. REGION	F. S. DISTRICT	Number	Watershed Name		Sq. Km	NTS20	Water Licensee	Lic. Date	EcoRegion
NELSON	ARROW	300.082	Canbou	Creek	237.3	082F.091	BC HYDRO AND POWER AUTHORI	19660421	Columbia Mountains and Highland
NELSON	ARROW	300.011	Casino	Creek	1.8	082F.002	CASINO WATERWORKS DISTRICT	19870720	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.012	China	Creek	30.5	082F.022	GENELLE IMPROVEMENT DISTRI	19410712	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.025	Climax	Creek	2.5	082F.073	BRANDON WATERWORKS DISTRIC	19740411	Columbia Mountains and Highland
NELSON	ARROW	300.018	Dean	Spring	0.0	082F.012	RIVERVALE IMPROVEMENT DIST	19700615	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.068	Deer	Creek	83.4	082E.050	Deer Park WUC	19210520	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.017	Durkin	Spring	0.0	082F.012	RIVERVALE IMPROVEMENT DIST	19471229	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.038	East McDermid	Creek	0.1	082F.042	KRESTOVA IMPROVEMENT DISTR	19860501	Columbia Mountains and Highland
NELSON	ARROW	300.019	Edgren	Creek	4.0	082F.002	TRAIL CITY OF	19690623	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.020	Elgood	Creek	1.6	082F.011	ROSSLAND CITY OF	19641208	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.041	Esthwaite	Spring	0.0	082K.004	NEW DENVER VILLAGE OF	19700205	Columbia Mountains and Highland
NELSON	ARROW	340.045	Fitzstubbs	Creek	13.0	082K.022	CENTRAL KOOTENAY REGIONAL	19720320	Columbia Mountains and Highland
NELSON	ARROW	300.022	Fruitvale	Creek	6.0	082F.013	KOOTENAY BOUNDARY REGIONAL	19720508	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.054	Gander	Creek	9.9	082F.042	Gander Creek WUC	19751104	Columbia Mountains and Highland
NELSON	ARROW	300.023	George	Creek	0.5	082F.002	TRAIL CITY OF	19290916	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.058	Glade	Creek	30.0	082F.033	GLADE IRRIGATION DISTRICT	19080901	Columbia Mountains and Highland
NELSON	ARROW	300.025	Gorge	Creek	4.2	082F.002	TRAIL CITY OF	18971201	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.062	Gwillim	Creek	79.8	082F.073	SLOCAN VILLAGE OF	19230531	Columbia Mountains and Highland
NELSON	ARROW	300.066	Hadikin	Brook	0.4	082F.032	Spud Hill WUC	19600510	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.026	Halfway	Creek	4.3	082K.022	CENTRAL KOOTENAY REGIONAL	19200828	Columbia Mountains and Highland
NELSON	ARROW	300.027	Hanna	Creek	33.9	082F.012	RIVERVALE IMPROVEMENT DIST	18980912	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.063	Heart	Creek	26.5	082E.090	BC HYDRO AND POWER AUTHORI	19660421	Columbia Mountains and Highland
NELSON	ARROW	340.067	Humphries	Creek	7.9	082K.063	TROUT LAKE IMPROVEMENT DIS	19890531	Columbia Mountains and Highland
NELSON	ARROW	300.028	Judge	Spring	0.0	082F.022	GENELLE IMPROVEMENT DISTRI	19490701	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.029	Kelly	Creek	25.9	082F.013	KOOTENAY BOUNDARY REGIONAL	19461217	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.030	Kuskanax	Creek	323.6	082K.032	CENTRAL KOOTENAY REGIONAL	19580919	Columbia Mountains and Highland
NELSON	ARROW	340.079	Langill	Creek	5.9	082F.043	KRESTOVA IMPROVEMENT DISTR	19680917	Columbia Mountains and Highland
NELSON	ARROW	300.032	Lawley	Creek	6.1	082F.012	TRAIL CITY OF	19160922	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.080	Lavar	Spring	0.0	082F.084	SILVERTON VILLAGE OF	19770927	Columbia Mountains and Highland
NELSON	ARROW	300.033	Little Sheep	Creek	2.6	082F.001	ROSSLAND CITY OF	19430324	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.082	Lloyd	Spring	0.0	082F.084	NEW DENVER VILLAGE OF	19700205	Columbia Mountains and Highland
NELSON	ARROW	300.036	MacLeod	Creek	7.3	082K.022	CENTRAL KOOTENAY REGIONAL	19721208	Columbia Mountains and Highland
NELSON	ARROW	300.038	Mads	Brook	2.0	082F.022	POUPORE IMPROVEMENT DISTRI	19690501	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.080	McDermid	Creek	1.9	082F.042	KRESTOVA IMPROVEMENT DISTR	19680917	Columbia Mountains and Highland
NELSON	ARROW	340.083	McFayden	Creek	5.7	082F.052	McFayden Creek WUC	19161001	Columbia Mountains and Highland
NELSON	ARROW	300.040	McNally	Spring	0.0	082F.012	RIVERVALE IMPROVEMENT DIST	19471229	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.039	McNally	Creek	4.8	082F.012	OASIS WATERWORKS DISTRICT	19660906	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.041	McQuarrie	Creek	0.8	082F.012	TRAIL CITY OF	19260330	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.067	Michael	Creek	1.0	082F.032	Spud Hill WUC	19621218	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.042	Noms	Creek	208.2	082F.032	ROBSON-RASPBERRY IMPROVEME	19221129	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.044	Petersen	Brook	1.3	082F.022	POUPORE IMPROVEMENT DISTRI	19661006	Selkirk-Bitterroot Foothills
NELSON	ARROW	330.003	Quartz	Creek	6.4	082F.024	CENTRAL KOOTENAY REGIONAL	19790718	Columbia Mountains and Highland
NELSON	ARROW	340.108	Rashdell	Creek	0.1	082K.004	NEW DENVER VILLAGE OF	19050410	Columbia Mountains and Highland
NELSON	ARROW	300.047	Ryan	Creek	0.8	082F.002	CASINO WATERWORKS DISTRICT	19870720	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.123	Silverton	Creek	118.4	082F.084	SILVERTON VILLAGE OF	19710618	Columbia Mountains and Highland
NELSON	ARROW	300.050	South Murphy	Creek	3.1	082F.011	ROSSLAND CITY OF	18990724	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.131	Springer	Creek	50.7	082F.073	BRANDON WATERWORKS DISTRIC	19621211	Columbia Mountains and Highland
NELSON	ARROW	300.052	Stussi	Creek	1.5	082F.002	TRAIL CITY OF	19690623	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.138	The Rivulet	Creek	0.3	082F.043	CENTRAL KOOTENAY REGIONAL	19560612	Columbia Mountains and Highland
NELSON	ARROW	300.055	Tiger	Creek	9.4	082F.002	TRAIL CITY OF	19440726	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.056	Topping	Creek	7.5	082F.012	ROSSLAND CITY OF	18990923	Selkirk-Bitterroot Foothills
NELSON	ARROW	300.058	Violin	Lake	2.7	082F.002	TRAIL CITY OF	19161227	Selkirk-Bitterroot Foothills
NELSON	ARROW	340.147	Watts	Brook	0.3	082F.043	CENTRAL KOOTENAY REGIONAL	19560612	Columbia Mountains and Highland
NELSON	ARROW	300.059	West Little Sheep	Creek	4.0	082F.001	ROSSLAND CITY OF	19430324	Selkirk-Bitterroot Foothills
NELSON	BOUNDARY	320.003	Boundary	Creek	561.3	082E.007	City of Greenwood	19560801	Thompson-Okanagan Plateau
NELSON	BOUNDARY	320.004	Brides	Creek	2.8	082E.005	BRIDESVILLE WATERWORKS DIS	19610316	Thompson-Okanagan Plateau
NELSON	BOUNDARY	320.008	Hull	Creek	1.3	082E.008	GRAND FORKS CITY OF	19220503	Selkirk-Bitterroot Foothills
NELSON	BOUNDARY	320.011	Lind	Creek	19.6	082E.007	GREENWOOD CITY OF	19050318	Thompson-Okanagan Plateau
NELSON	BOUNDARY	320.012	McKinney	Creek	96.0	082E.005	MT BALDY WATERWORKS INC	19791002	Thompson-Okanagan Plateau
NELSON	BOUNDARY	320.013	Moody	Creek	20.9	082E.009	CHRISTINA WATERWORKS DISTR	19380210	Selkirk-Bitterroot Foothills

So, when the updated list of community watersheds for the Forest Practices Code Act was attached to the 1994 *Community Watershed Guidelines* draft documents they all had new reference numbers, which failed to include the Reserve tenured reference numbers. Under this new disguise, the Watershed Reserves were being re-classified and re-grouped throughout the late 1990s and 2000s by government planners under “special resource management” guidelines specifically tailored for logging in community drinking watersheds in regional and sub-regional Land Use Plans. The old Lands file numbers over the Watershed Reserve tenures were replaced with the new community watershed reference numbers on updated Forest Atlas Maps to help bring about uniform government misdirection and distortion.

Table 2 Community Watersheds within NGHF

Watershed	Area of Community Watershed (CW) within NGHF (ha)	% CW area within NGHF	Net Productive Forest for NGHF (ha)	% Net Productive Forest within CW for NGHF
Elgood	92.4	57.7	24.5	26.5
Hanna	1372.9	40.9	600.0	43.7
S. Murphy	308.6	100.0	99.4	32.2
Topping	120.8	16.3	10.1	8.4
W. Little Sheep	27.2	6.8	0.0	0.0

Accordingly, this is how the NGHFMP, as it related to the undisclosed Watershed Reserves, was designed to follow the provincial disguise enunciated through the Kootenay Boundary Land Use Plan.

2. Water Resources

The management plan strives to ensure resource use and development activities do not pose an unacceptable risk to water quality, quantity and timing of flows at the point of intake. The Forest Practices Code will be interpreted as a minimum benchmark from which the planning committee will review development proposals. The objectives of the management plan will also be achieved by conducting watershed assessments to better understand the extent of water-related problems that exist in consumptive watersheds. The results of the assessments will also be used to indicate the potential impacts of forest development on the water resources and suggest restoration opportunities.

2.1 Inventory

Murphy, Hanna, Topping, West Little Sheep and Record creeks are the main watercourses that drain the east and south slopes of the Nancy Greene Highland Forest (NGHF). Lamb, Esling and the other tributaries of Big Sheep Creek drain the north and west sides (Map 2). Lakes and wetlands are scarce and small in the planning area. There are five Community Watersheds as defined by the Forest Practices Code within the NGHF area. They are: Elgood Creek, South Murphy Creek, Hanna Creek, Topping Creek, and West Little Sheep Creek. Table 2 shows the area and net productive forest of the community watersheds within the NGHF. These five sources supply domestic water for the City of Rossland, Rivervale Improvement District, and Cominco Ltd. The community water intake on South Murphy Creek is the only water intake located within the planning area. It is licensed for storage (non-power) in addition to waterworks purposes.

Activities within the NGHF area have the potential to affect a number of water users outside the planning area (Map 2). 17 licensed water intakes collectively hold 27 water licenses downstream from NGHF. Of the 27 licenses, 9 are allocated for waterworks; 6 domestic; 5 irrigation; 2 processing; 3 storage; 1 enterprise and 1 watering. It should be noted that the community water intakes on Hanna and Elgood creeks are located immediately east of the planning area boundary below Highway 3B.

Under Section 2.7 of the NGHFMP, *Strategies for Water Resource Management*:

Community Watershed Guidelines

The spirit and intent of the Community Watershed guidelines will be followed in the designated community watershed portions of the planning area (South Murphy, Elgood, Hanna, Topping, and West Little Sheep). This means that the Community Watershed Guidelines will be used as a reference when evaluating development proposals.

Under Section 3.1, Forest Practices Code References:

- Applicable regulations and references are:
- FPC Act, Section 17(2)(a)(iii)
- Operational Planning Regulation
- The FPC provides for the establishment of Scenic Areas by the District Manager to ensure the full consideration of visual resources in any development proposals.
- A Visual Impact Assessment (VIA) must be completed and submitted as part of Forest Development Plan when operations are proposed in a scenic area with Visual Quality Objectives.
- Visual Landscape Design Manual, MOF 1994.

The timber objectives were descriptively set out in Section 6, Timber & Silviculture:

The NGHF will contribute to the Annual Allowable Cut of Arrow Timber Supply Area. The AAC for the TSA is set by the Chief Forester based on social objectives determined by the provincial government, public input and a variety of technical and socio-economic studies. Ultimately though, the rate and method of harvest will reflect the regional land use plans, the Forest Practices Code and the many resource objectives recorded throughout the district.

Harvesting within the provincial forest is licensed and monitored by the MoF through a number of different tenures including Woodlot License, Timber Sale License under the SBFEP, Forest License, or Tree Farm Licenses. The form of tenure to be applied in the NGHF will be decided by the Arrow Forest District Manager considering input from the public and advice from within the provincial government.

Regardless of the form of tenure or the licensee, the location and details of each harvest unit must be recorded on a Forest Development Plan as governed by the FPC Act (Sec. 18) and the Operational Planning Regulation (Part 3). Forest Development Plans are usually prepared annually and cover 5 years of proposed harvesting activities. These are available for public review prior to approval. The NGHF planning committee would be given the opportunity to comment on the treatment units and consider recommendations to prevent or mitigate problems.

In the case of a Forest Licensee managed area, the planners with the licensee identify candidate stands and options to access them. Depending on the location and the sensitivity of resources being managed in the area, a number of studies may be undertaken such as terrain hazard assessment, archaeological impact assessments and so on. A Silviculture Prescription (SP) is prepared by the planners to account for local site conditions and landscape unit objectives. The purpose of the SP is to clearly specify the location of the cutblock, when it will be harvested, and what harvest system will be used. One of the more important purposes of the SP is to state what measures will be required to successfully re-establish another crop of trees. (See Silviculture Systems for more information.)

The SP is reviewed by technicians and foresters in the district office to determine whether all legal and forest management objectives have been met before it is approved.

13. The Interior Watershed Assessment Procedure Report of 1996

Because of the *Forest Practices Code Act* legislation enacted in June 1995 with its overarching Preamble,³³ there followed a long list of procedures, manuals and guidelines over the management of Crown forest lands and provincial water resources.

As explained in Chapter 12, the management over community watersheds was also affected and redesigned under this new legislation. Crown Community Watershed Reserves were being purposely and surreptitiously lumped in with community watersheds that had no *Land Act* Reserve or other protective status over them, all of them now falling under a new category of forest management.

All of the community watersheds were then issued with new requirements under *The Code* for Watershed hydrology Assessments, in order to interpret the cause and effect relationships of water run off quality and quantity from former and future forest management (logging).

In August, 1996, Kelowna-based Dobson Engineering produced an Interior Watershed Assessment report on Rossland's unidentified Watershed Reserves, Elgood, South Murphy, Hanna, Topping, and West Little Sheep Creeks, the watersheds that were about to be included in the new Nancy Greene Highland Forest and Timber Management Plan.

The objective of the Level 1 [One] IWAP is to assess the potential for cumulative hydrologic impacts in the five watersheds associated with previous forest development and road construction. There were four primary impact categories assessed including: peak flows, surface erosion, riparian buffers, mass wasting (landslides).

The results of this assessment should be considered in the review of restoration work that might be recommended for the watersheds as well as in the evaluation of future harvesting proposals in these watersheds.

Aside from the findings in the report, which were produced without field inspections, there was no reference to the watersheds' status as Crown Watershed Map Reserves, a common oversight in reports by consultants and provincial agency staff in watershed assessments under the new *Forest Practices Code*. In other words, future forest management recommendations and prescriptions by consultants and provincial staff were being incorrectly applied to Crown lands in Crown Watershed Reserve tenures.

³³ See the B.C. Tap Water Alliance November 26, 2002 press release (see website), *B.C. Liberals Strip Key Principles from Forest Laws*.

14. The 2002 City of Rossland Watershed Management Plan

In March, 2002, Dobson Engineering Ltd., Urban Systems Ltd., and Grainger Environmental Consulting combined their professional forest, environmental and engineering planning talents to produce a draft *City of Rossland Watershed Management Plan*. Their report was guided by a Terms of Reference from Rossland City, under a mandate for Official Community Plan Bylaw number 1854, section 16.7.

The City of Rossland, in co-operation with other agencies, will undertake a number of studies to obtain more information to implement the policies set out in this Plan. Key studies include: 4. Watershed Management Plan – preparation of a Plan which outlines how the integrity of the watersheds can be protected to ensure water quality.

Legislative References: Forest Practices Code of British Columbia, R.S. Chap. 159; Land Act, R.S. Chap. 245; Local Government Act, R.S. Chap. 323; Water Act, R.S. Chap. 483; Water Protection Act, R.S. Chap. 484.

3. Existing Conditions.

(a) Watersheds. (i) The Plan must identify the watersheds for the following creeks: Elgood, Neptune, Hanna, North and South Forks of Murphy, Topping, Record, Billings, West Little Sheep, Ophir and Trail.

(c) Land Ownership. (i) The Plan must identify all privately held lands and their registered owners. (ii) The Plan must also identify the ministry having jurisdiction for all crown lands, along with all leases, licenses, permits and other land use or occupation instruments attached to the identified crown lands.

5. Process.

(a) Field Reconnaissance. Not enough is known and documented about the City's watersheds. The work plan must therefore include a field reconnaissance component to help with the preparation of the inventory of natural features.

(b) Community/Stakeholder Involvement. Scheduled public information and participation sessions (e.g., open house, questionnaires) must be incorporated in the planning process.

6. Objectives. The Plan's objectives must be structured to define the City's ambition for the long-term preservation of the natural flow quantities and characteristics and the current (natural) water quality standards and characteristics in all streams and creeks covered by the Plan.

(a) Future Permitted Uses. Future permitted uses include conservation areas, development areas for forestry, mining and recreation. The Plan must also identify all potential land uses that are uses that may be possible or feasible, whether or not such uses are presently known to be pursued by the public, private or voluntary sectors.

(b) Watershed Protection Measures. Identification of enforcement, legislation, education, restoration, rehabilitation and other suitable tools and programs.

7. Policies.

(a) Regulatory Measures. The Plan's policies must identify the regulatory steps required to achieve the Plan's objectives.

(b) Authority. The Plan must identify separately those policies that fall within the jurisdiction of the City of Rossland, and those that fall under the jurisdiction of other governments or their agencies.

The report stated in its introduction:

The City of Rossland has recognized the importance of protecting and maintaining the quality and quantity of its water supplies for the short and long term. This watershed management plan was commissioned by the City to establish watershed objectives and policies.

One piece of information absent in the 2002 draft Watershed Management report was a reference to the status of Rossland's watersheds as Crown Map Reserves, identified by Urban Systems nine years previous in its 1993 report to Rossland City.

2.4. Current Land Ownership and Watershed Activities

In 1992 and again in 2001, the boundaries of the City were extended to include the water supply areas within West Little Sheep Creek, Topping Creek, Hanna Creek, South Murphy Creek and Elgood Creek.

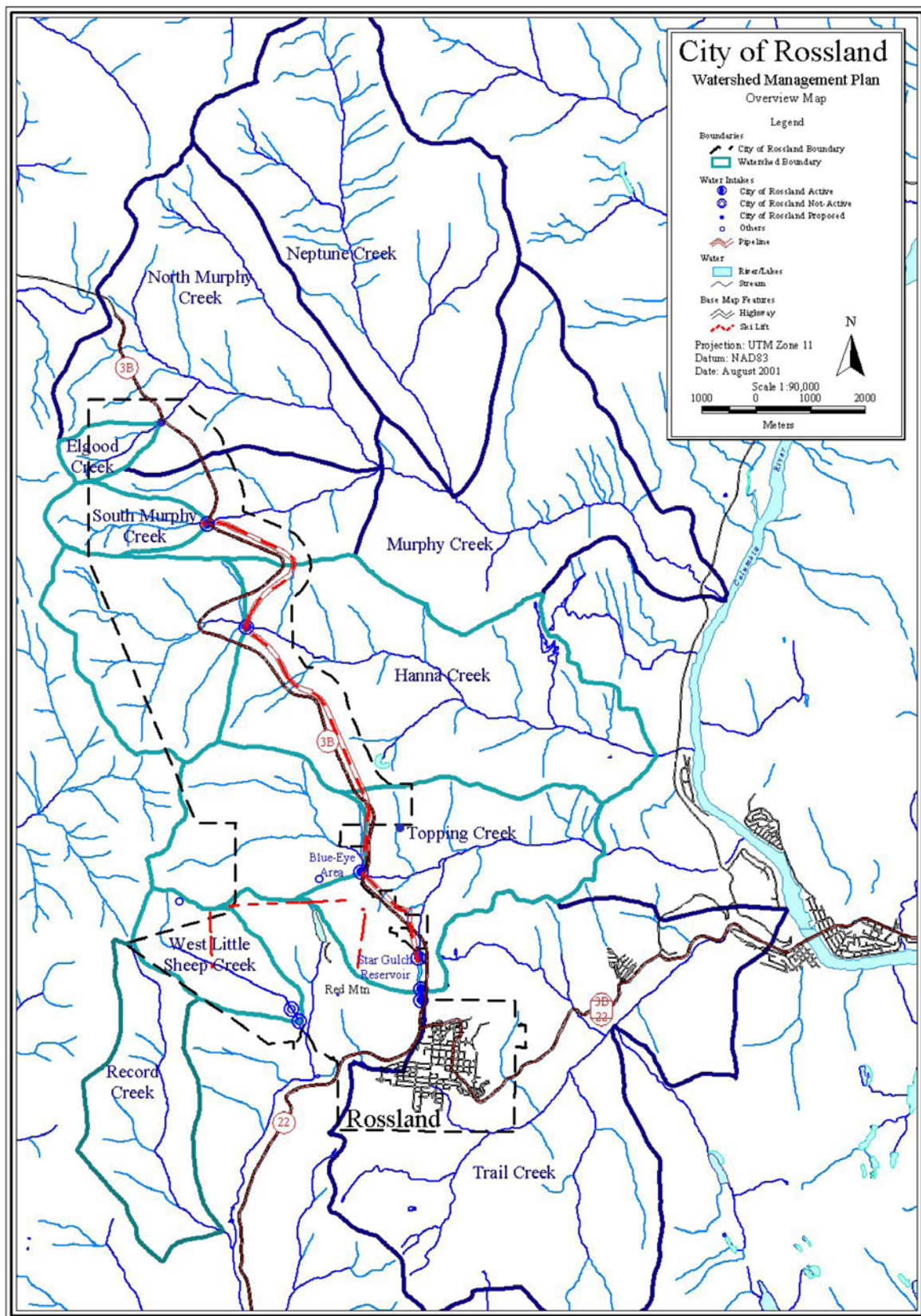
The remaining portions of the watersheds are within the boundaries of the Regional District of Kootenay-Boundary and are privately owned or are Crown land. The purpose of this boundary expansion was to allow the City a measure of control in the upland watershed areas that it previously did not have. Although Crown land is still administered by the Province, the incorporation of the water supply areas within the boundaries of the City provided the City with the opportunity to address land management issues through zoning.

The Watershed Reserve tenures went unaccounted for in this most latest and important document for the City of Rossland concerning Crown land use planning issues related to forest management and proposed resort developments.

However, there was something new being introduced about Rossland's long-held policy to protect Topping Creek from development. Under Section 2.0, *Current Conditions*, "With the potential for increased development in the watersheds and associated population growth, City Council has recognized the importance of an assured long-term high-quality water supply to meet future demands." This was further elaborated in Section 2.6.2, *Recreation*:

The 1999 Red Mountain Resort Master Plan describes Red Mountain's intended expansion and development plans. Currently offering 260 ha of developed ski terrain, the Master Plan expansion proposes a ski area of 797 ha serviced by 11 ski lifts. The proposed expansion area encompasses Record Ridge, Grey Mountain, Mt. Kirkup and Mt. Roberts, as well as improvements and expansions of ski facilities at Red Mountain and Granite Mountain. All of these developments are located in the City's community watersheds above its intakes.

In Table 2.7.3, *Long Term Importance of Watersheds*, were comments about each drinking watershed. Alongside Topping Creek came the following controversial recommendation:



Community watersheds map from City of Rossland *Watershed Management Plan*, March 2002.

Even though significant recreational and residential development is planned within this basin, it represents a supply, which would be very expensive to replace. With adequate measures to safeguard water quality, combined with existing treatment, development should be able to occur without reducing water quality.

This rationale was later embedded in Section 3.2, *Long-Term Objectives*, and in Section 4.1:

Over the long term the watershed management objectives should be to: Achieve healthy, properly functioning watersheds; Meet the economic needs of the community; ... Develop partnerships with all licensed stakeholders in the watersheds and the public for the protection of the water resource.

4.1. Plan Framework

The purpose of the watershed management plan is to protect the source quality and quantity of water in the City's watersheds in order to meet the needs of the residents of Rossland now and into the future. The goal is to develop a plan that results in watersheds that are environmentally healthy and also meet the economic needs of the community. The plan is not intended to be a "cookbook" but rather a flexible framework designed to achieve the desired watershed conditions through cooperation not confrontation. The only way that the plan will work is if all the stakeholders and the public see themselves as partners with a common goal – the protection of the water.

The new economic development objective was later described in Section 4.3, *The Action and Implementation Plan*, under *Local Government Authority*, concerning "Regulation of land use and development within the municipal boundaries of the City of Rossland." In the section was a discussion on a number of points that elaborated on changes to City bylaws and OCP amendments, with a consideration to "designating the entire watershed a Developmental Approval Information area."

Under Table 3.3.1, *Desired Future Conditions*, were comments about "forest development" and "other land uses", with comments that it would be an "ideal future condition" for no forest development above the City intakes:

Other Land Uses

- Red Mountain future development may result in leases on Crown land that may be subject to City OCP/bylaws.

Forest Development

- Watersheds are mapped to determine the timber harvesting landbase and the non-timber harvesting landbase.
- For the timber harvesting landbase total chance plans are prepared identifying all roads (permanent and temporary) and all potential cutblocks.
- Forest development is planned to promote forest health and to have minimal effect on water quality.

The draft report stated under Action #3, *Protection of Water Quality, Strategies: Forest Development*, "Forest development should be consistent with the strategies presented in the Kootenay-Boundary Land Use Plan... Current development is planned and carried out consistent with the Forest Practices Code."

APPENDIX A: Recommendations for a Provincial Inquiry into B.C.'s Watershed Reserves

[The following is an excerpt from the Executive Summary in the June 2006 book by Will Koop, *From Wisdom to Tyranny: A History of British Columbia's Drinking Watershed Reserves*. Since the release of the book two and half years ago, the provincial government has not yet indicated its willingness to conduct a necessary legal, public inquiry into its administration over the provincial Watershed Reserves.]

Despite the gloomy, tragic history of BC's Watershed Reserves, it remains the Tap Water Alliance's sincerest hope that British Columbians will benefit from the information presented in this book. Aside from what the government and the courts have tried to tell the public, there is overwhelming evidence that citizens do in fact have a legislative right to the full protection of their drinking water sources, as demonstrated by early provincial legislation and a long legacy of "single use." This fact is not apparent, however, because the issue has been purposely clouded by a government in bed far too long with "vested interests." Instead of being accountable to its own citizens and protecting their drinking water, BC's government has indoctrinated and misled local administrators and the public for decades about the (unsuitable) benefits of "multiple use" and "integrated resource management." Government has acted in bad faith to its electorate and has abused the public's trust.

The following are our primary recommendations (restated verbatim from the report's conclusion):

- That the contents of this report are a primary and sufficient catalyst for a provincial investigation into the actions of BC's government regarding the *Land Act* Watershed Reserves, and those drinking watersheds not reserved;
- That an independent body of examiners conduct a forensic audit of all Crown land provincial planning initiatives and government records concerning the public's Watershed Reserves and watersheds not reserved;
- That all licensed and tenured activities approved by the provincial government within Watershed Reserves be halted, pending a formal investigation;
- That this report serve as substantive grounds for water users to seek protection of their water sources through stronger legislation;
- That this report aid those BC water users with existing Watershed Reserves by helping them understand that they already have legal rights and avenues of protection over their water sources (despite what some government representatives have knowingly and mistakenly informed them over the years);
- That there are sufficient legal grounds to revisit, appeal and revoke BC Supreme Court Justice Paris's July 8, 1997, *Reasons for Judgment*, and to investigate the corresponding government information and memos related to the court decision.

APPENDIX B: WATERSHED RESERVES TIME-LINE

	1871 →	Formation of BC Department of Lands and Works
Incorporation of Victoria Water Works Act ←	1873	
	1884 →	Federal government controls BC Railway Belt lands
Incorporation of the Vancouver Water Works Company ←	1886	
	1889 →	Incorporation of Coquitlam Water Works Company
United States federal government creates Bull Run Watershed Reserve for City of Portland, Oregon ←	1892	
Assent of the <i>Game Protection Act</i> , legislation that leads to creation of Games Reserves in BC ←	1897 →	BC <i>Land Act</i> powers to create Watershed Reserves
	1898 →	U.S. federal study released, <i>Report Upon Forest Investigations (1877-1898)</i>
August 5 – federal government (Department of Interior) establishes Reserve for the Coquitlam watershed ←	1900 →	City of New Westminster requests Reserve to protect the forests in the Coquitlam watershed
March 30 – OIC Reserve for Capilano watershed ←	1904	
August 22 – OIC Reserve for Seymour watershed ←	1905 →	August – City of Vancouver requests 999-year Crown land lease in Capilano watershed – gets 50 year lease
	1906 →	July – federal legislation, <i>An Act respecting Forest Reserves</i> , with protection of drinking watersheds
December – provincial OIC to prevent privatization of BC's Crown (Public) lands ←	1907	
First Royal Commission on BC's forests and call for protection of public drinking water ←	1908 →	<i>Land Act</i> provision (section 47) for 999-year lease of Crown lands to protect public drinking watersheds
	1909 →	BC first divided into Water Districts
Establishment of <i>Forest Act</i> and creation of Forest Service as branch of Lands Department ←	1910 →	March 4 – final federal OIC Reserve for Coquitlam watershed
	1912	
Public opposition mounts against proposed logging in Vancouver's water supply, Capilano watershed ←	1916 →	Federal Health Regulations in drinking watersheds
	1917 →	Federal legislation to protect Salmon Arm's Canoe Creek watershed
Creation of Forest Districts/Regions, 2 nd divisions system ←	1918 →	Capilano Timber Company begins railway logging operations in Capilano watershed. As a result, provincial legislation on Health regulations passed, <i>Sanitary Regulations Governing Watersheds</i>
February – E.A. Cleveland appointed as provincial Water Comptroller ←	1919	
October – Water Comptroller Cleveland presents report on Greater Vancouver's two watersheds to Lands Minister Pattullo recommending creation of a Water District and protection for two watersheds from logging ←	1922 →	December 16 – passage of <i>Greater Victoria Water District Act</i> ("first form of regional government created"). Water District began its operations 26 years later on September 24, 1948
	1924 →	December – <i>Greater Vancouver Water District Act</i>
Summer – 3,200 acre fire started by Capilano Timber Company in Capilano watershed is final straw, igniting public wrath against future logging ←	1925 →	City of Victoria purchases and protects lands and timber in its drinking watersheds from Esquimalt Water Works Company
	1926 →	February – Greater Vancouver Water District begins operations with E.A. Cleveland as its Commissioner. Process begins by Cleveland to control private and Crown lands in watersheds
August – legislation passed for Greater Vancouver Water District to protect Capilano and Seymour watersheds in 999-year lease agreement ←	1927	
	1929 →	New Westminster City requests federal government solicitors to include a provision in Railway Belt transfer Agreement for Province of BC to continue Protecting Coquitlam watershed
Transfer covenant of Railway Belt lands to Province of BC ←	1930	
BC government passes legislation to protect Greater Vancouver watersheds from mining/mineral exploration ←	1931 →	Agreement with New Westminster City transfers Coquitlam watershed to Gr. Van. Water District
October 22 – Town of Lillooet's Town Creek protected as a Reserve ←	1936 →	Citizens, politicians, and Victoria Lumbermen Association oppose logging proposals in Victoria City's watersheds
March 14, 1939 – Nelson City's Five Mile Creek watershed protected as a Reserve ←	1939	
May 28 – United States Congress passes repressive Public Law No. 532 to alter drinking watershed protection policies ←	1940 →	Gr. Van. Water District Commissioner Cleveland exposes illegal logging in Coquitlam watershed
	→	Creston Board of Trade requests Minister of Lands to protect Arrow Creek watershed
Mounting public pressure and Seattle City Councillors to protect its Cedar River drinking watershed from logging ←	1942 →	Greater Vancouver Water District includes Coquitlam Watershed into its 999-year lease Indenture
	1943	

February – report by three man commission to continue logging Seattle City’s drinking watershed, Cedar Creek. Report widely distributed throughout US and Canada.	← 1944 →	Second Royal Commission on BC’s forest resources, chaired by Gordon Sloan. Submissions by BC water users to protect their drinking water. Attempts by forest industry representatives to subvert protection of drinking water sources
United States Forest Service announces intentions to begin logging in thousands of protected US watersheds	← 1945 →	
BC <i>Forest Act</i> amended to institute sustained yield logging and Tree Farms	← 1947 →	→ BC Department of Lands changed to Lands and Forests
Greater Victoria Water District hires first forester, H.G. Hodgins, responsible for developing sustained yield logging plans in the protected watersheds	← 1948 →	→ Seattle City forester A.E. Thompson begins intensive US propaganda campaign for “multiple use” in watersheds
Intensive forest inventory begins for BC’s forest resources by new Forest Surveys and Inventory Division. Subsequent related reports (1957, 1969, 1972, 1975) state restrictions about logging in watersheds. Reserve placed on New Denver’s Bartlett Creek	← 1950 →	→ Big Eddy Water Works District requests Dolan Creek protected as a Watershed Reserve
	← 1951 →	→ Public opposition mounts against logging proposals in Victoria City’s watersheds
	← 1952 →	→ January 8 – Greater Vancouver Water District Commissioner Cleveland passes away after 26 years of service
Commercial sustained-yield logging underway in Victoria City’s watersheds	← 1955 →	→ February – BC Natural Resources Conference Foresters pass infamous resolution to invade BC’s protected watersheds
Report on third provincial review of forest resources, chaired by Gordon Sloan	← 1956 →	→ December – C.D. Schultz Company releases controversial two-volume report for sustained yield logging in Greater Vancouver’s protected watersheds
Minister of Lands and Forests Bob Sommers convicted in BC Supreme Court for conspiracy & bribery	← 1958 →	→ US Forest Service begins illegal logging operations in Portland City’s Bull Run Watershed Reserve
Social Credit government alters <i>Forest Act</i> to exclude protection of drinking watersheds in Tree Farm License agreements	← 1960 →	→ December – Chief Forester’s office issues memo to provincial foresters to encourage logging in protected drinking watersheds
March – Department of Lands and Forests changed to Lands, Forests and Water Resources	← 1962 →	
March – <i>Amending Indenture</i> legislation alters Greater Vancouver Water District’s 40 year old 999-year lease <i>Indenture</i> to allow sustained yield logging in its three protected watersheds	← 1964 →	→ July – BC Nelson Regional Forester J.R. Johnston sends memo to his foresters to invade protected regional drinking watersheds
	← 1967 →	→ Forest Service Planning forester W.G. Hughes interferes with Lands Service to weaken its mandate that protected Watershed Reserves from logging
August – provisions passed to form federal/provincial Task Force on Okanagan water sources (1969-1974)	← 1969 →	
BC Social Credit government revamps <i>Land Act</i> and introduces new sections (11-13) on Reserves	← 1970 →	→ First year of Hansard: the public finally provided access via transcripts of BC Legislature proceedings
February – after years of complaints, Environment and Land Use Technical Committee of Deputy Ministers creates provincial Community Watersheds Task Force (1972-1980)	← 1971 →	→ Assent of <i>Environment and Land Use Act</i> legislation, the “Magna Carta” over the ecology
	← 1972 →	
Governmental controversy rages over domestic cattle grazing in Okanagan’s Naramata Creek watershed. Naramata is made a Watershed Reserve.	← 1973 →	→ Dr. Joseph Miller Jr. begins court case on logging in Portland City’s Bull Run Watershed Reserve
	← 1974 →	→ August – provincial Community Watersheds Task Force re-establishes and creates Watershed Reserves
	← 1975 →	→ Forest Service Regional offices openly resist orders to register Watershed Reserves on Forest Atlas Maps
Fourth provincial commission on forest resources, chaired by Peter Pearse. Commission not provided information about Community Watersheds Task Force and Watershed Reserves	← 1976 →	→ June – Deputy Forests Minister Stokes orders his rebel foresters to acknowledge Watershed Reserves
After December 1975 provincial election, Department of Lands, Forests and Water Resources is split up, creating separate Departments of Forests and Environment	← 1977 →	→ September – Associated Boards of Health pass provincial resolution for veto powers over all resource use in drinking watersheds. Those veto powers are denied by new Social Credit government one year later
September – BC Water Comptroller Hearing in Revelstoke concerning Big Eddy Water District and Dolan Creek Watershed Reserve	← 1978 →	
Ministry of Lands, Parks and Housing is formed	← 1979 →	→ After the Forest Service becomes a separate Department in 1976, the BC Social Credit government creates the Ministry of Forests (an autonomous agency)
	← 1980 →	→ March – Ministry of Forests releases its first <i>Forest And Range Resource Analysis Report</i>

September 1 – New Ministry of Lands policy for the Watershed Reserves, called Watershed Used for Community Water Supplies, in the Lands Manual	← 1980 →	October – end of Watersheds Task Force. Ministry of Environment publishes <i>Guidelines for Watershed Management of Crown Lands Used As Community Water Supplies</i> for provincial Watershed Reserves
March 5 – Deputy Forests Minister Mike Apsey initiates assault against “single use” in BC’s drinking watersheds	← 1981 →	November – Ministry of Forests asserts itself to be new Lead Agency over community watersheds and proposes new policy for “integrated use” through second draft report, <i>A Policy for Integration of Forest Planning and Operations in Community Watersheds Lying on Crown Land Within Provincial Forests</i>
July – Ministry of Forests’ draft Discussion Paper, <i>Multiple Resource Use Management in Community Watersheds</i>	←	
Watershed Reserves secretly begin to be included in Allowable Annual Cuts	←	
Slocan Valley Watershed Alliance is formed	←	
Greater Vancouver Water District becomes a corporate member of the Council of Forest Industries	← 1982 →	
June 1 – Protocol agreement between Ministries of Lands and Forests regarding Watershed Reserves	← 1983 →	February – Ministry of Forests staff consider amending <i>Water Act</i> for control of logging agenda
March – Slocan Valley Watershed Alliance announces moratorium on all logging in community watersheds	← 1984 →	July – Environmental Appeal Board ruling on Dolan Creek Reserve angers Ministries of Forests and Environment
April 6 – Environment and Land Use Technical Committee presented with Ministry of Forests’ <i>Policy for the Integration of Forest and Water Management Planning on Crown Land Within Community Watersheds</i>	←	→ Draft Integrated Watershed Management Plans introduced for Arrow and Dolan Creek Reserves
		→ Second Ministry of Forests <i>Forest, Range and Recreation Resource Analysis Report</i>
		→ (First) For Love of Water (FLOW) conference and creation of BC Watershed Alliance
February – Environment and Land Use Technical Committee approve Integrated Watershed Management Plans	← 1985 →	→ September – Ministries of Forests and Lands sign second revised Protocol Agreement over Watershed Reserves
October – first meeting (unauthorized by Greater Vancouver Water District Board) of Seymour Advisory Committee. Former Deputy Forest Minister Mike Apsey and Chief Forester Bill Young attend (Young made chair)	← 1986 →	→ August 14 – Ministry of Forests becomes Ministry of Forests and Lands (until July 6, 1988)
August – Seymour Demonstration Forest begins its operations to promote logging in drinking watersheds	← 1987 →	→ November – public angered about “roll-over” of Tree Farm Licenses with Fletcher Challenge’s proposal for six million hectare License near Town of Mackenzie
Summer – New Democratic Party MLAs promise to protect BC’s drinking watersheds through legislation	← 1989 →	→ Union of BC Municipalities resolutions to protect drinking watersheds force Social Credit government to create provincial Interagency Community Watershed Management Committee
Forest Resources Commission (fifth provincial review) begins	←	→ Ministries of Environment/Forests quietly begin demoting Watershed Reserves to “Notations of Interest”
Federal government introduces <i>Canadian Drinking Water Guidelines</i> , failing to advocate protection of drinking water sources	← 1990 →	→ Integrated Watershed Management Plan begins for Sunshine Coast Regional District’s two Watershed Reserves
November 21 – Lillooet & Town Creek Watershed Reserves are demoted to “Notations of Interest” during beginning phase of Kamloops LRMP	←	→ BC Medical Association Resolution for BC Gov’t. to initiate independent study on drinking watersheds
February – BC Branch of Canadian Institute of Public Health Inspectors submission to Royal Commission on Health Care & Costs – crisis in BC drinking watersheds	← 1991 →	→ April 15 – Ministry of Lands and Parks is formed, changed to Environment, Lands and Parks later the same year
May – responding to public criticisms, Greater Vancouver Water District holds public meetings about logging in its watersheds	←	→ July – Canadian Institute of Public Health Inspectors submission to BC Round Table on Environment & the Economy
October – BC Committee for Safe Drinking Water report, <i>Safe Drinking Water for British Columbia</i>	← 1991 →	
May – release of Resource Inventory Committee’s Watershed Task Force report	← 1992 →	→ New Democratic Party forms second community watershed committee, the Technical Advisory Committee, which later conducts public meetings throughout BC
July 3 – passage of BC’s <i>Safe Drinking Water Regulation</i> . It omits protecting watersheds from commercial and agricultural activities, and introduces first mandatory treatment of BC’s drinking water	← 1992 →	→ November – Sunshine Coast Regional District files complaint in BC Supreme Court against the BC Ministry of Forests (out of Court agreement by May 1993)
June – 3rd protocol agreement revised between Ministries of Lands and Forests concerning Watershed Reserves	← 1993 →	→ December – large public meeting held in Revelstoke with intense public opposition against chlorination and logging

March 1 – Land Management Manual is amended and reestablishes the Policy for Watershed Reserves	←	1994	→	March 21 – BC Supreme Court rules logging in Victoria City’s watersheds (1955-1994) is illegal, contravening the <i>Greater Victoria Water District Act</i>
Third and final Ministry of Forests <i>Forest, Range, and Recreation Resource Analysis Report</i> is released	←		→	East and West Kootenay/Boundary Land Use Plans Finalized, ignoring Watershed Reserves. Creation of Special Resource Management Zones in protected watersheds. Nelson City’s Five Mile Creek Watershed Reserve is made into a provincial Park
August – Technical Advisory Committee releases (fourth) 220-page draft, <i>Community Watershed Guidelines</i> , with no reference to Watershed Reserves	←			
October 25, 1994 – Tetrahedron Land and Resource Use Plan Committee releases its final report with information about the Chapman and Gray Watershed Reserves	←			
July – Kamloops Land and Resource Management Plan finalized, 1st of many to come, ignores Watershed Reserves	←	1995	→	June – <i>Forest Practices Code Act</i> becomes law, failing to acknowledge Watershed Reserves
October – Ministry of Forests releases 120-page <i>Community Watershed Guidelines Guidebook</i>	←	1996	→	September – US President Clinton signs <i>Opal Bill</i> that re-protects Portland City’s Bull Run watershed
February - BC Tap Water Alliance is formed	←	1997	→	June – Valhalla Wilderness Society takes Ministry of Forests to Supreme Court in Nelson City concerning two Category One Watershed Reserves. First such Court case in BC legal history.
January - the Surveyor General’s office removes Bartlett and Mountain Watershed Reserve boundaries from its Legal Survey Maps	←	1998	→	May – Sunshine Coast Regional District referendum. 88 percent of voters reject future logging and proposed mining in its drinking watersheds
February - Greater Vancouver Water District abolishes Seymour Demonstration Forest and its Seymour Advisory Committee	←	1999	→	March – Auditor General releases report, <i>Protecting Drinking Water Sources</i> , catalyst for drinking water legislation in 2001
November 10 – Greater Vancouver Water District re-protects its three watersheds through a five point resolution	←	2000	→	Seattle City’s Cedar Creek watershed is protected
February – public meetings held throughout BC on Drinking Water legislation	←	2001	→	April – provincial Select Standing Committee on Public Accounts report, its review of the March 1999 Auditor General’s report on drinking water
February – public pressure forces NDP government to remove controversial “Working Forest” legislation	←		→	April – NDP government passes Bill 20, <i>Drinking Water Protection Act</i> , failing to protect drinking watersheds
November – special report released, <i>Drinking Water Quality in British Columbia: the Public Health Perspective</i> , by the Provincial Health Officer	←	2002	→	May – BC Liberals pass <i>Bill 35</i> removing community watersheds Protocol Agreement (the “designated environment official”) between Ministries of Environment and Forests
June 21 – Greater Vancouver Water District notifies provincial government, officially invoking an escape clause in its 1967 logging agreement to get out of the commercial logging business	←		→	October 10 – after committee review of NDP legislation of April 2001, Bill 20, <i>Drinking Water Protection Act</i> , BC Liberals pass Bill 61, <i>Drinking Water Protection Amendment Act</i> . It again fails to protect drinking watersheds
November - BC Liberals pass Bill 74, <i>Forest and Range Practices Act</i> , legally and substantially weakening the <i>Forest Practices Code Act</i>	←	2003	→	June – Greater Vancouver Water District’s logging license is officially cancelled, reverting back to its original 1927 <i>Land Act</i> lease <i>Indenture</i>
April – strong public rejection of BC Liberal’s “Working Forest” legislation. It included drinking watersheds	←	2004	→	
August – BC Liberals overhaul Land Management Manual and plan to alter Watershed Reserves section without public involvement	←			
April 29 – community organization representatives and residents of the Town of Sechelt meet to oppose a Community Forest proposal in its two Watershed Reserves	←	2005	→	September – ceremony in Longhouse and raising of a Totem Pole, a formal accord between the Sechelt First Nation and Sunshine Coast Regional District to protect drinking Watershed Reserves, Chapman and Gray Creeks
		2006	→	To be continued ...