



REASONS FOR DECISION

FILE NUMBER: 2411899

DECISION DATE: May 17, 2019

APPLICANT: Klaassen Farms

BACKGROUND:

Klaassen Farms Ltd. (Klaassen) has submitted a Crown land application for a permanent bridge which would connect the north end of Halvorson Road to Klaassen's private lands on the north side of the Fraser River Herrling side channel. The bridge would facilitate year round access for to intensive agricultural crops of blueberries, corn, and forage.

Herrling Island is a group of islands approximately 314 ha in size, located in the gravel reach of the Fraser River between Chilliwack and Hope. The footprint is dynamic as it is subject to ongoing erosion and deposition of gravel. Portions of Herrling Island are designated as agricultural land within the Agricultural Land Reserve and some of the agricultural lands, as originally surveyed, have eroded and are now part of the bed of the Fraser River.

DECISION: PROCESSED – APPLICATION NOT APPROVED

REASONS FOR DECISION:

- It is appropriate for me to consider the potential impact of the proposed use of Crown land on habitat for Fraser River White Sturgeon and salmon. The Federal White Sturgeon Recovery Strategy presents several recommended strategies to meet management objectives for White Sturgeon populations. A necessary strategy noted is to protect, maintain and enhance important habitats for major life stages. Recent studies have highlighted the importance of the Herrling Side Channel as the only site that has shown consistent use for spawning which is also used extensively for summer to late fall feeding habitat, and is therefore an important limiting habitat.
- My assessment that it is important to protect the environmental values of this area is reinforced by the fact that the People of the River Referrals Office, on behalf of eleven Stó:lō communities, have given notice that they reject the bridge application based on substantial potential impacts to sensitive aquatic habitats which Stó:lō communities have traditionally depended on to exercise their asserted rights.



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- In assessing the potential impacts, I believe it is in the public interest for me to take a precautionary approach. The applicant has endeavored to address, mitigate and minimize the potential impacts of the proposed works; however, the information provided has not adequately satisfied the concerns raised. Given the available information, I remain unconvinced that the proposed disposition and use of Crown land would not cause adverse impacts to sturgeon spawning habitat, whether directly or as a result of cumulative impacts. In particular:
 - o The introduction of the pier within the stream could potentially have adverse impacts. It is acknowledged that spawning activity is more active upstream in the channel, however, the result of impacts at this location within Herrling Channel remain unknown. There is potential that the in stream pier of the bridge may interfere with the keying in of adult sturgeon to this channel for spawning. Sturgeon experts do not yet clearly understand the key parameters and triggers for White Sturgeon spawning habitat. Moreover sturgeon experts have not been effective to date in restoring or re-creating effective spawning habitats. As such, there is no clear means to offset or address any the loss or negative impacts to these critical habitats should that occur.
 - o Negative impacts may be caused by the more intensive use/development of Herrling island as a result of increased access resulting from the proposed bridge although I also recognize that there may be the possibility of mitigating this risk to some extent.
 - o There may be the need for future instream works to protect the bridge from flood or bank erosion regardless of the way the island is used and negative impacts may result from these instream works.
 - o The approval of the Crown land tenure to allow the construction of the bridge to facilitate the intensive development of the island increases the likelihood that that there may be a future desire to armour the banks of the island to protect that intensive development and those works could potentially have negative impacts.
- In assessing this matter, I have weighed the public interests associated with protecting the particular environmental values of the subject area against the public interest in allowing Crown land to be used to facilitate access to, and use of, privately owned land. My assesment is that on balance it is in the public interest to disallow the application.



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DECISION MAKER:

Name: Craig Sutherland

Title: Assistant Deputy Minister – Coast Area Operations

Delegated authority under *Land Act* s. 11 (*section of the Land Act under which the decision has been made*)

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