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June 17, 2009

LA/16

John Baldwin  
Water Stewardship Officer  
Water Stewardship, Vancouver Island  
Ministry of Environment  
2080A Labieux Road  
Nanaimo, BC V9T 6J9

AND

Angie Allwood  
District Development Technician  
Vancouver Island District  
Ministry of Transportation  
3<sup>rd</sup> Floor – 2100 Labieux Road  
Nanaimo, BC V9T 6E9

Dear John Baldwin and Angie Allwood:

Re: Water License Referral – Sara de Rose and Tim Coertze  
Lots 1, 2, 3 and 4, Plan 32996, Section 9, Nanaimo District, Lasqueti Island

You referred the above water licence application to the Islands Trust for comment. This referral response provides assistance to Ministry staff on how the application relates to community bylaws.

Based on applicant and community input to date, as well as reviewing bylaw objectives and policies, it appears that the fundamental question that requires clarity is whether the proposed drainage area is a wetland, as defined by bylaws and legislation, or not. This information appears to be critical to whether drainage is appropriate. An environmental report from a qualified professional would clarify this matter.

Lacking such a report, I have reviewed the water license referral and have the following comments for your consideration:

### **1. THE APPLICANT'S PROPOSAL**

We have been in contact directly with the applicant to obtain more detail about her proposal, and she informed us as follows:

*“For the past ten years a lowland field that stretches over the northern portions of each of our 4 properties, #1, #2, #3 and #4, has been flooded. The flooding is due to improper drainage under Grant Rd. The culvert that runs under Grant Rd. (the only means of exit for the trapped water) is placed so high that even in the wettest winter conditions only a few inches of water can run through the culvert. At this time of year, the culvert has stopped flowing completely, leaving 2 feet of trapped water.*

*Our proposal entails lowering the existent culvert by 2 feet and, additionally, placing a secondary culvert to allow a greater volume of water to flow under Grant Rd. John Baldwin of the Ministry of the Environment visited the site and stated that he supports our request for lowering the existent culvert and for adding the secondary one.*

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*To summarize, we propose to reclaim an old field by allowing adequate drainage under Grant Rd. (Grant Rd. at present acts to dam the water that collects on the field). The only properties affected by the water drainage will be our 4 properties.”*

Further, the applicant mentioned in telephone conversations that the reason for draining the area is for irrigation for farm use.

## **2. PUBLIC COMMENTS**

The applicant has provided us with their summary of the history of the property along with two letters and a petition supporting her application. We understand that the applicant has also provided these documents to both the Ministry of Environment and the Ministry of Transportation and Infrastructure.

We have also been contacted by a neighbour opposing this proposal. The neighbour states that approximately 60% of the wetland is on her property and that her husband has attempted to preserve this wetland for years. She also stated that she is concerned about how the draining of the property will affect her well.

The Ministry of Environment retains decision-making authority with regard to water licences. Other agencies, including the Islands Trust may be asked to comment on water licence proposals, as is the case here. When a rezoning application or Local Trust Committee project is undertaken, community consultation is fundamental, occurs early, and is ongoing until the completion of the process.

A water licence referral is not a project or an application made to the Local Trust Committee, nor does the Local Trust Committee have decision-making discretion with regard to this referral. This point is raised as there appears to be a public perception that community consultation and discussion will occur with the local elected representatives making the final decision. This is not the case. While the Islands Trust does not have the authority to decide on community consultation processes and notification, it is important for Ministry staff to be aware that there is significant public interest associated with this application and that your Ministry should consider those other viewpoints and comments.

## **3. RELEVANT ISLANDS TRUST BYLAWS**

The following bylaws and policies are relevant to this referral:

### **a. Islands Trust Council Policy Statement Bylaw No. 17**

The Islands Trust Policy Statement was developed in response to the need for preservation and protection of the Trust Area, the need for leadership in achieving this objective, and to meet the Islands Trust legislated requirements under the *Islands Trust Act*. Relevant parts of the Policy Statement include:

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## **POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION**

### Definitions:

*Wetland: land that has the water table at, near or above the land's surface or which is saturated for a long enough period to promote aquatic processes.*

### Commitment Policies:

#### *3.3.1 Trust Council holds that:*

- the freshwater wetlands, bodies of surface water, natural drainage patterns, water courses, fish-bearing streams, watershed and groundwater recharge areas of the Trust Area should be identified, protected and, where possible, restored or rehabilitated, and*
- the natural wetlands of the Trust Area, including those in the Agricultural Land Reserve that have not been altered in the past for agriculture, should not be drained, filled or degraded.*

### Recommendation

*3.3.3 Trust Council encourages government agencies, non-government organizations, property owners and occupiers to protect freshwater bodies, watercourses, wetlands, riparian zones and aquatic wildlife habitats through voluntary donation, acquisition, conservation covenants and careful management.*

### Directive Policy

*4.4.3 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses (instream uses – include water uses such as fish and habitat uses, aesthetic uses, recreational opportunities and maintenance of water quality in lakes and streams and wetlands).*

## **POLICIES FOR STEWARDSHIP OF RESOURCES – (As they apply to Agriculture)**

### **4.1 Agricultural Land**

#### **Commitments of Trust Council**

*4.1.1 Trust Council recognizes that agriculture is a traditional and valuable activity in the Trust Area.*

*4.1.3 It is Trust Council's policy to encourage agricultural management practices that are compatible with sustaining wildlife habitat.*

#### **Directive Policies**

*4.1.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.*

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*4.1.7 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture.*

b) Lasqueti Official Community Plan (OCP) No. 77

Relevant policies in the OCP include:

## **POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION**

### Environmental Management

- *To assist, where possible, in the establishment and maintenance of Ecological Reserves;*
- *To promote the preservation of fresh and water purity*
- *To promote the retention of native flora and fauna and areas of both typical and unique ecosystems*

*The natural environment of Lasqueti is being altered and under constant pressure to be developed further. The community of Lasqueti resides on a finite island where resources must be used in a sustainable manner.*

- *The Local Trust Committee will assist, when possible, the responsible Ministry in their efforts to establish and protect sites of ecological significance or value*
- *The inherent capability of the island's eco-systems should be maintained to sustain varied resources used in the long term*
- *Native flora and fauna should be retained to protect natural habitats of local significance.*

### Water Source Area Policies

*Water source areas are those areas drained by lakes and streams, which provide or potentially could provide fresh water for human consumption and use.*

*Although no adequate studies have been made of the capacity of the Island to store fresh water, it is apparent that in the natural state the potential is limited; most streams and many wells dry up in the summer. It is doubtful that the existing lakes could supply much more than they do now without impairing the present ecological balance. Until the necessary studies have been completed the following policies should apply:*

- *Fresh and salt water purity and quality should be protected from contamination and degradation*
- *Suitable surface water creeks should be identified with the encouragement of establishing salmon enhancement programs on Lasqueti Island*

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- *Development should be conducted with surface water and catchment systems considered as alternative to drilled wells, provided that such systems do not degrade the environment.*

## **POLICIES FOR STEWARDSHIP OF RESOURCES – (As they apply to Agriculture)**

### **Objectives**

*Objective 1 To minimize the negative impacts of economic activities and encourage agriculture, forestry, mariculture and local industry are practiced in a sustainable manner.*

*Policy 13 The Local Trust Committee supports small-scale, organic and natural or low-input farming agriculture that contributes to the Island by developing local sources of farm products, maintaining the rural landscape and providing opportunity for development of individual initiative and self-reliance for the betterment of the community as a whole.*

### c) Lasqueti Land Use Bylaw No. 78

The subject property is in the Land Based (LB) Zone. Agriculture is a permitted use in this zone. This regulatory bylaw does not address the issue of draining wetlands like the Policy Statement and OCP does.

## **4. SUMMARY**

The applicant has not provided details on how she intends to farm the property once the draining has occurred. We also note that the subject property is not in the Agricultural Land Reserve. Although the Islands Trust Policy Statement and OCP support agriculture on farm land on Lasqueti Island, these two documents also support the preservation and protection of the environment, the protection of natural habitats, and the maintenance of the Island's eco-systems for the long term.

It appears that the central question is with regard to the status of the area to be drained. The overall position and recommendation for this proposal is dependent on whether the subject area is a wetland, as defined above, and elsewhere in legislation, or not. We do not have reports from independent, qualified experts that properly classify the area. Lacking such information, we are unable to determine if this proposal is support by community bylaws or not.

We hope the policies and objectives noted above assist in your review of this Water License application. I would be pleased to comment further if the Ministry forwards an environmental report to this office.

We also encourage your Ministry to take the public and direct neighbours' comments into consideration when making your decision.

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Thank you for the opportunity to comment. If you have any questions, please contact me at 259-247-2200.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'LP' or 'L.P.' written in a cursive style.

Linda Prowse  
Acting Planner 2  
Local Planning Services

Cc: Lasqueti Island Local Trust Committee  
Sara de Rose and Tim Coertze  
Cameron Bezanson, Ministry of Environment