

Reply to: Noah J. Ross  
Email: ross@huntsmanlaw.ca

July 16, 2019

VIA FAX: 604-532-3555

Township of Langley  
Civic Facility  
20338 – 65 Avenue  
Langley, V2Y 3J1

To: Mayor and Council of the Township of Langley

**Re:      *Development in the Gloucester Industrial Estates & Compliance with DFO  
Stream-Side Regulation***

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I am writing to inform you that I have been retained as legal counsel for the West Creek Awareness Group ("WCAG"). WCAG is a group of concerned Township of Langley citizens. Please contact my office directly regarding any further matters arising regarding this matter.

WCAG has retained me to ensure that development in the Gloucester Industrial Estates area of the Township of Langley complies with all applicable Provincial and Federal legislation in regards to stream and riparian area protection. Specifically, WCAG requests that all future development permits in the Gloucester Industrial Estates area comply with the requirements set by Fisheries and Oceans Canada ("DFO") and the Ministry of Forests, Lands, Natural Resource Operations and Rural Development ("FLNRO").

Our concern immediately applies to two development permits currently before the Township of Langley. The first is Development Permit # 101016 in the 5600 Block of 272<sup>nd</sup> Street which has been proposed by Interface Architecture Inc.. The second is Development Permit # 101041 at 5350 – 272<sup>nd</sup> St. which has been proposed by Langcorp Developments Ltd. (collectively the "Development Permit Lands"). Both of these permits were brought forward at the June 10, 2019 Township of Langley council meeting and were passed at third reading and are now being evaluated for permit approval by the Township of Langley. The Development Permit Lands are within the West Creek drainage and in the Gloucester Industrial Estates area of the Township of Langley.

I understand from speaking with my clients that West Creek is a fish-bearing stream, and that the proposed development permits may damage West Creek's capacity for fish bearing and the health of the adjacent riparian areas. Section 12 of the *Riparian Areas Protection Act* requires that the Langley Council provide legal protection that is comparable to or exceeds the requirements set out in the Riparian Areas Regulation (the "Regulation").

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I understand that in the past legal counsel for the Township of Langley has alleged that the Gloucester Industrial Estates area, including the Development Permit Lands, are exempt from the *Fisheries Act* regulations and DFO oversight on account of a DFO authorization from 2000, DFO Authorization #99-HPAC-PA2-000-000217 ("DFO Authorization") and by extension were exempt from the Regulation pursuant to Section 4(3) of the Regulation. The DFO Authorization was extended up until 2015 but has since expired and no longer applies to the Development Permit Lands or any other of the Gloucester Industrial Estate area.

The Regulation defines lands within 30 meters of a stream bank as the riparian assessment area. The Development Permit Lands both include riparian assessment areas. Section 4(2) of the Regulation states that development can only be approved for riparian assessment areas when a municipality has been notified that DFO and FLNRO have received an assessment report prepared by a qualified environmental professional stating that the development in question will not harmfully alter or disrupt the natural conditions that support fish life processes.

DFO also sets requirements in the *Fisheries Act* including a prohibition at Section 35 against any project that would cause serious harm to fish such as the salmon found in West Creek by altering or destroying fisheries habitat.

Please take this letter as notice that my clients expect that Development Permit # 101016 and Development Permit # 101041 will comply with the regulations set out by FLNRO and the DFO as stated in this letter and the Restrictive Covenant in place in respect to Development Permit # 101016. My clients will consider all legal and regulatory action if the development permits are approved without such compliance.

Regards,

Noah J. Ross

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