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INDIAN AND NON-NATIVE USE OF THE BRIDGE RIVER

AN HISTORICAL PERSPECTIVE

by Brendan O'Donnell

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INTRODUCTION

The following is one of a series of reports on the historical uses of waterways in New Brunswick and British Columbia. These reports are narrative outlines of how Indian and non-native populations have used these rivers, with emphasis on navigability, tidal influence, riparian interests, settlement patterns, commercial use and fishing rights.

These historical reports were requested by the Interdepartmental Reserve Boundary Review Committee, a body comprising representatives from Indian Affairs and Northern Development [DIAND], Justice, Energy, Mines and Resources [EMR], and chaired by Fisheries and Oceans. The committee is tasked with establishing a government position on reserve boundaries that can assist in determining the area of application of Indian Band fishing by-laws.

Although each report in this series is as different as the waterway it describes, there is a common structural approach to each paper. Each report describes the establishment of Indian reserves along the river; what Licences of Occupation were issued; what instructions were given to surveyors laying out these reserves; how each surveyor laid out each reserve based on his field notes and survey plan; what, if any, fishing rights were considered for the Indian Bands; and how the Indian and non-native populations have used the waterway over the past centuries for both commercial and recreational use.

Primary sources for this information are found in the National Archives of Canada, the Provincial Archives of New Brunswick, the Harriet Irving Library of the University of New Brunswick, the British Columbia Provincial Archives, the Hudson's Bay Company Archives, the Indian Land Registry at DIAND, and in the Legal Surveys Division of EMR. Secondary sources are found in the National Library of Canada, DFO's departmental library, DIAND's departmental library, or are brought in from other libraries throughout Canada on inter-library loan.

Each report in the series is being distributed to the Reserve Boundary Review Committee members. It is hoped each will make this research available to other members of their department by depositing the reports in their departmental library.

Indian and Non-Native Use of Bridge River
An Historical Perspective

BY BRENDAN O'DONNELL

Bridge River, British Columbia, originates on Bridge glacier in the Coast Mountains of the Pacific Ranges, flowing generally eastward through very rugged, mountainous country, until it empties into the Fraser River about five miles north of Lillooet. Bridge River is roughly 200 miles above the mouth of the Fraser. As is characteristic of this area, the high altitudes receives a very heavy precipitation, largely in the form of winter snow, while the lower altitudes are semi-arid. The maximum flow at Bridge River occurs in the summer, during the period of minimum or no rain fall, and originates from the melting of the glacier and snow fields during hot weather.¹

Prior to white contact, an Indian village existed at the mouth of Bridge River. One legend describes as follows how the Indians settled at Bridge River:²

Formerly there were no people who lived at the Bridge River and the Fountains, but a number of people lived at a spring close to where the present Indian village of Lillooet is situated. They were Lillooet, and lived principally on deer meat.

Lower down between them and the Fraser River lived others who were called Frog-mouths, because they ate frogs. They lived all together in an underground house. In those day the frogs and toads were as large as buffaloes, and the frog people called them "The Animal." These people made all their clothes and

¹ James D. Hayworth, "Preliminary Report on the Water Power of Bridge River, British Columbia." 24 October 1919. Copy on file at the National Archives Canada, RG 89, Volume 558, File 463.

² Quoted in Irene Edwards, Short Portage to Lillooet and Other Trails and Tales. Lillooet: Published by the author, 1978, p. 33.

blankets of frog and toad skins. Their dress consisted of shoes, breech-cloth, and robe. They hunted the frogs with spears, and carried the meat home at night.

Later, these people amalgamated, some of the people settling at the mouth of the Bridge River. Therefore, the Bridge River, and Setl or Lillooet people are the same. They used to impersonate their ancestors at feasts and potlatches, and wore masks resembling frogs.

The Bridge River Indians are part of the Interior Salish cultural grouping. According to one account, the Indians referred to Bridge River as "Hoystien."³ Another claims that the Indian word for Bridge River is "Nxo-isten."⁴ The Bridge River Valley, according to a third account, was referred to by the Indians as "Skumakum" or "Land of Plenty."⁵ R.C. Mayne, a member of the Royal Engineers who surveyed the Cariboo Road in the mid-nineteenth century, reported that:⁶

This river takes its English name from the fact of the Indians having made a bridge across its mouth, which was afterwards pulled down by two enterprising citizens, who constructed another one, for crossing which they charge the miners twenty-five cents.

The Fraser River at the mouth of Bridge River has always been a traditional fishing spot for Indians. Sam Mitchell, a local native, recounts the following history of this fishing site⁷:

³ R.C. Mayne, Four Years in British Columbia and Vancouver Island. London: John Murray, 1862, p. 131.

⁴ Irene Edwards, p. 30.

⁵ Murphy Shewchuk, "Bridge River's New Gold," Beautiful British Columbia Volume 22, No. 3 (Winter 1980): 28.

⁶ R.C. Mayne, p. 131.

⁷ "Lillooet Stories," Sound Heritage, Volume VI, No. 1 (1977): 64-66.

When the salmon arrive here at Lillooet, the people come and camp overnight. This is during the summer and early fall. At the Bridge River rapids [north of Lillooet: where the Bridge River meets the Fraser River], called Sh-HIT-tl, there is a drop in the river; the water is very swift. All summer the people stay here and fish. There are enough fish-drying racks for everyone.

Nowadays there are only four or five days of fishing allowed each week. Everyone gets anxious as the fish are not as plentiful as they once were. Now the fishing grounds at Sh-HIT-tl belong to all of our people; no one has special privileges here.

The racks on which the fish are dried face the river, so that they catch the wind at the correct angle. In about two or three days, depending on the weather conditions, the fish are dried by the wind; after about six or seven days they are dried completely and are ready to be put away for the winter. It is very windy here in the summer.

Long before the white people came to this area, our ancestors made the twine used for fish nets. It [the Indian hemp plant] was picked during the fall and was hung up in bundles to dry. In the winter, when it was dry, they took it down, pounded the stalks to remove the outer covering, and wove the fibres into threads. It was then ready to make into fish nets. The large dip-nets [used at Sh-HIT-tl] hold about a dozen salmon, depending on the size and shape of the fish. The net was fastened onto a hoop by means of mountain goat horn rings and was able to be closed when the fish got into it. Nowadays metal rings are used.

Where the Bridge River meets the Fraser, there are names for the fishing spots. One of these fishing rocks, on the east shore of the Fraser River here, is called Tlik-O-la-wh, "a brace or prop in the land". Sometimes the water is so swift here that rocks get into the net. Another fishing place is Min-MAN-alch, "shady rock", and there is a spot called Ho-shi-SHOOSH, "foamy place", and another called Shi-HAH, the name of a person who owned that fishing rock. Another place named after a person is where the fish are found when the water is very low. As the water level at Sh-HIT-tl raises and lowers, different fishing rocks are used.

Some dip-net fishing places at Sh-HIT-tl were owned by individuals, and the use of such spots was limited to the immediate members of that person's family.

However, after that particular family had obtained enough salmon, then anybody could use that fishing rock. Nowadays, everyone is like a brother or sister; therefore it doesn't matter who uses any particular fishing rock.

Our ancestors constructed storage caches, raised on stilts, in which to store the dried salmon after it was taken from the drying racks. There was not stealing in those days, for everyone had everything they needed.

Some of the salmon was boiled right there at Sh-HIT-tl. The hollow-topped rocks on the beach are large and smooth, so that our people were able to dam up one end of a rock depression and use it to boil the fish in. A fire was built to heat small rocks which were added to water placed in these natural "kettles" in the rocks. Oily fish heads were added to the boiling water and this mixture cooked for several hours. When it was cooled down, the oil was skimmed off the top and placed in special containers made from salmon skin. I have seen containers made from a large spring salmon. These were watertight. In the old days, there weren't any bottles, so these salmon skin containers were also used to hold water.

Some salmon oil and sakatoon berries mixed in with sockeye salmon flesh that has been roasted, dried, and pounded makes a delicious meal. The people also preserved salmon roe. A container, made from birch bark, was filled with roe and sealed tightly. Then it was buried in the ground until the eggs became tainted and were ready to be eaten.

The first whitemen to view what was to be called Bridge River were Simon Fraser and his entourage, members of the North West Company, who descended the Fraser River in 1808. In his journal of the voyage, Simon Fraser wrote:⁸

[Monday], June 13 - This morning lost some time in mending our shoes. Fired several shots to show the Natives the effect of our guns. We set out at 5, accompanied by all the Indians and two Horses. Soon after three more horsemen joined our party. I asked

⁸ [Simon Fraser], The Letters and Journals of Simon Fraser, 1806-1808. [Edited and introduced by W. Kaye Lamb]. Toronto: The MacMillan Company of Canada, 1960. p. 79.

[for] one of the horses in order to carry part of our baggage. This the owners declined, and left us. Yesterday our Guides carried our bundles, but today they excused themselves, Saying they were too tired.

Encampt at a considerable river [Bridge River], which flows from the right and which we called "Shaw's River." Here we expected to find a band of natives but we were disappointed; alarmed at our approach, They took to their heels. Some of the others went in search of them

The country through which we passed this day was the most savage that can be imagined, yet we were always in a beaten path and always in Sight of the river, which, however, we could not approach, its Iron-bound banks having a very forbidden [forbidding] appearance.

Fraser met the Bridge River Indians the following day. They told him they had run away because the Indians who were accompanying Fraser were their enemies.

With the exception of the occasional fur trader and missionary, few non-natives passed near the mouth of the Bridge River until the mid-nineteenth century. Then, in the late 1850s, gold was discovered on the banks of Fraser River and white and oriental placer miners swarmed into the area.⁹ According to one account:¹⁰

Miners first became interested in the Bridge River Valley in 1858, as Fraser River gold seekers swept ever northward. During the winter of 1859-60 an estimated 10,000 paused at Lillooet to pan and sluice the rich gravels of the region. Near the mouth of Bridge River, just beyond Lillooet, they found gold that was much coarser than that recovered from the Fraser.

⁹ Placer mining is the process of extracting minerals from sand and gravel by washing, dredging or hydraulic mining.

¹⁰ Garnet Basque, Fraser Canyon and Bridge River Valley. Langly: Sunfire Publications Limited, 1985, p. 47. See also Emma de Hullu, Bridge River Gold. Bralorne : Pioneer Community Club, Bridge River Valley Centennial Committee, (1986).

Before year's end up to 200 miners were working a 35-mile stretch of the Bridge River with rockers. The gold, although coarser, was very difficult to extract as it wedged in cracks and crevices. By February, 1859, the number of frustrated prospectors had dwindled to 100, although new arrivals were on the way. One miner found a two-ounce nugget, and by March a shipment of gold worth \$2,400 was shipped to Victoria. In May an Indian prospector found a six-ounce specimen.

A shanty town called Bridgeport (more commonly known as Bridge River) soon appeared at the mouth of the river about 300 yards above the Fraser. It consisted of four stores, one restaurant and a bakery, a blacksmith shop and several tents. It was here that most of the miners who worked the lower reaches of the Bridge River, and the adjacent banks of the Fraser, congregated on Saturday and Sunday to relax. It was near here that two enterprising partners named Fraser and Davis constructed a 100-foot toll-bridge across the Fraser, at a cost of \$1,500. In 1859, two prospectors, John Millar and his partner, not being able to pay the toll, quoted variously at 25 cents or 50 cents, were not permitted to cross. While putting in time they turned to placer mining in the middle of the Bridge River and recovered \$30,000 in gold.

In 1862, a journalist for the Victoria Times wrote an article for his newspaper on the gold rush along the Fraser River and its tributaries. The article, which appeared on 25 March 1862, contained the following on Bridge River:¹¹

A few miles beyond Lillooet, and on the same (the west) side, Bridge River falls into the Fraser. Bridge River is very rich in gold. The Indians of the neighbourhood make considerable earnings in it, working in the rudest manner with the most inefficient implements. It was here the Bishop of Columbia found them making an ounce a-day to the hand ... Nodules of pure copper have been found in the bed of the river, indicating the existence of copper veins in the neighbouring banks.

¹¹ Quoted in William Carew Hazlitt, The Great Gold Fields of Cariboo ... London: 1862; reprinted Victoria: Klanak Press, 1974, p. 102.

The Bridge River diggings, especially on the lower reaches frequented by placer miners, never produced sustaining amounts of gold in the nineteenth century. Miners began to drift away to more lucrative areas and the miners' settlement at the mouth of the river suffered a further setback with the loss of its toll-bridge. The shanty-town eventually shutdown. The placer miners were replaced by hard-rock miners who followed the gold-quartz veins deep into the earth. Such famous mines as Bralorne and Pioneer, whose combined operations produced over four million troy ounces of gold, existed on the upper reaches of the river until the early 1970s. However, interest in gold, jade, jasper, and other semi-precious gemstones continues in the lower reaches and led to a debate in the 1960s over who owned the river bed at the mouth of Bridge River.

This twentieth century debate, as will be discussed in more detail below, revolved around the laying out of the Indian reserve the century prior, and whether the bed of the river was included in the reserve. Sanction for laying out the reserve was made on 1 September 1881 by Peter O'Reilly, who had months earlier succeeded Gilbert Sproat as Indian Reserve Commissioner in British Columbia. On 23 February 1882, O'Reilly made the following report to the Superintendent General of Indian Affairs on his trip to Bridge River:¹²

Having finished laying out the reserves for the Lillooet tribe, I proceeded to Bridge river, which flows into the Fraser about four miles north of Lillooet. At the mouth of this river, on the north bank, stands the village of the Bridge river Indians, a neat little hamlet comprising 17 houses, besides stabling, church, and burial ground. As regards the

¹² Copy on file at the Indian Land Registry, DIAND, Ottawa. Another copy is included in the Indian Reserve Commission Letterbook, National Archives Canada, RG 10, Volume 1275. Microfilm C-13900.

soil, a more barren, worthless spot it is difficult to conceive, its only advantage being as a fishing station.

The population consists of 37 men, 34 women, and 21 children, total 92, of whom A-as-ket (Gustave) is chief; they own 114 horses, and 13 cattle.

I cannot ascertain that a reserve has ever been made for this tribe, and I found it altogether impossible to provide them with arable land sufficient for their requirements. The Fraser river, immediately above, and below the village, and Bridge river for a distance of 15 to 17 miles, may be described as rocky barren [canyons], but every available nook, if only half an acre in extent, has been seized upon, and cultivated with care by the Indians.

Finding it impossible within the limited time at my disposal to define separately [sic] the numerous small patches under cultivation, I considered it necessary to reserve for the use of these Indians, the entire width of the Bridge river valley, from base to base of the mountains, an average of 3/4 mile, for a distance of 13 1/2 miles (see Plan No. 1) making a total of about 6500 acres, and this includes all their cultivated patches. I have roughly estimated that 160 acres were under cultivation, and I do not believe that by any possibility a dozen more can be added. Thin poor feed is found at intervals from the mouth of the river to 7-mile creek, from this point a steep side hill on the right bank (containing some 700 acres) affords good bunch grass, the principle range possessed by this tribe.

Upon this reserve there is an ample supply of timber for all purposes of building, fencing, fuel [etc.] and water is also abundant.

I have assigned 300 inches from Bridge river, as also the water of the various streams emptying into Bridge river throughout the entire length of the reserve.

O'Reilly also assigned a second reserve to the Bridge River Indians on the opposite side of the Fraser River north of Bridge River. His report to the Superintendent General continued:

No. 2. A small reserve containing about 90 acres, situated on the right bank of the Fraser river, about 15 miles above Lillooet, and nearly opposite to what is

known as the "Tinker farm." It comprises a small bench much broken by ravines, lying 100 feet above the level of the Fraser; about 20 acres may be cultivated with profit for which a sufficient supply of water can be obtained from a small creek flowing into the Fraser half a mile north of the northern boundary of the reserve. The Indians have already constructed a flume for the purpose of conveying this water to their reserve.

O'Reilly then describes the fishing area that was used by the Bridge River Indians:

The fisheries of the Bridge River Indians comprise both sides of the Fraser River, commencing half a mile south of Bridge River, and extending northward to the fishery of the Fountain Indians, a distance of about 3 miles.

O'Reilly concluded his report to the Superintendent General as follows:

Notwithstanding the inhospitable nature of the locality in which they reside, these Indians are well off, their fishery is a valuable one, they trap, and trade in horses, and mine extensively with great profit, as I am informed by the traders with whom they deal.

Formerly Bridge river afforded employment to a large number of white men and more recently to a still larger number of Chinese, but owing to the expense of carrying on operations in so rough a country it had gradually died out as a mining camp, and there is not at present a white man of any nationality employed upon it.

When Indian Reserve Commissioner O'Reilly visited Bridge River on 1 September 1881, he issued the following Minute of Decision for Bridge River Indian Reserve No. 1:¹³

A Reserve of 6500 acres, approximately, situated on both banks of Bridge river, from its mouth upstream for 13 1/2 miles, extending in width from base to base of the mountains, an average distance of 3/4 mile; including the cultivated land on the right bank of the

¹³ A copy of the Minute of Decision is on file at the Indian Land Registry, DIAND, Ottawa.

Fraser, from a fir tree marked Indian Reserve about 2 miles North of Bridge river to another fir tree about 1 mile south of that river.

The water of the various tributary streams flowing through this Reserve, as also 300 inches of water from Bridge river, are assigned to the use of the Indians.

A map is included with the Minute of Decision showing Bridge River Indian Reserve No. 1 extending along Bridge River and fronting on Fraser River. The location of the Indian village is indicated. No mention is made in the Minute of Decision concerning any fishing rights for this reserve.

O'Reilly also issued a Minute of Decision for Bridge River Indian Reserve No. 2 on 1 September 1881. This Minute reads:¹⁴

A Reserve of 90 acres approximately, situated on the right bank of Fraser river, about 15 miles above Lillooet, and nearly opposite to the "Tinker" farm.

Commencing on the right bank of the Fraser river, at the Southern end of the flat, at the foot of a Rocky bluff, and running West 30 chains; thence North 20 chains; thence West 10 chains; thence North 20 chains; thence East to the Fraser river, and thence down the right bank of the said river to the place of commencement.

The water of a creek situated 1/2 mile above this land is reserved for the use of the Indians.

The exclusive right of salmon fishing on both sides of the Fraser river, from 1/2 mile south of Bridge river, upstream to the Fountain Indians fishery.

A map is also included with this Minute of Decision.

A surveyor's field book, described by the Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources as "Field notes. Rough notes of IRS," outlines, among several other reserves in the district, Bridge River Indian Reserve No. 1.

¹⁴ Copy on file at the Indian Land Registry, DIAND, Ottawa.

There is no indication who the author of this field book is. However, the notes on some of the reserves in the field book are dated August and September 1881. This would indicate that the field book was written by Indian Reserve Commissioner Peter O'Reilly or someone in his entourage.¹⁵ There are no notes in the book on Bridge River Indian Reserve No.2.

On 2 August 1884, Captain William S. Jemmett carried out the official survey of Bridge River Indian Reserve No.2.¹⁶ He completed the survey that same day. On 27 August 1884, Captain Jemmett began the survey of Bridge River Indian Reserve No.1. He completed the assignment on 23 September 1884.¹⁷ No specific set of instructions, addressed to Captain Jemmett concerning the Bridge River reserves, have been found to date. However, there were general instructions to surveyors laying out Indian reserves in British Columbia that Captain Jemmett was probably aware of. One, titled "General Instructions to Surveyors Employed in Running the Interior Boundaries of Indian Reserves, British Columbia," written in circa March 1878, included the following paragraphs:¹⁸

In case the line should be obstructed by a lake, pond, precipitous bluff, by other obstacle the surveyor will pass it by right angled [?], or if it is more convenient by a

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- 15 Copy on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa. Field book BC 302.
- 16 Copy of field book on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa. Field book BC 123.
- 17 Copy of field books on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa. Field books BC 123 and BC 124.
- 18 Copy on file at the National Archives Canada, RG 10, Volume 1273, pages 456-464. Microfilm C-13900.

trigonometrical operation for the distance, using in the latter case where the same can be obtained a base not less in length than half the estimated distance to be calculated.

Where a line crosses a river, or lake, posts not less than three inches in diameter, flatter on one side and marked "Indian Reserve" shall be securely planted on the shores, and surrounded by mounds or cairns of stones; care being taken that they are placed above high water mark.

Surveyors were also instructed that their field notes were to include the following information:

The distances at which the line strikes and leaves, roads, trails, lakes, ponds, rivers, timber, prairie and swamps, also the beginning of ascent, the top and foot of descent and of all hills and ridges with their estimated height in feet above the general level of bottom lands.

The distances at which rivers and creeks are crossed, average widths, depths, and velocities; these should particularly in the Interior Division be carefully noted, as an estimate may be required of the amount of water available for irrigation and the Survey should also ascertain what quantity of water if any, has been recorded by settlers from streams either flowing through or in the neighbourhood of the Reserve.

Captain Jemmett must also have been aware of another set of instructions, titled "General Instructions for Surveyors Employed Surveying Indian Reserves West of the Cascades," written in circa January 1880, which stated that:¹⁹ "Each allotment to have a frontage either on the sea, a navigable stream, or road." The Fraser River is immediately west of the Cascade Mountains.

Captain Jemmett's field book of Bridge River Indian Reserve No. 2, which borders on the Fraser River, begins with the following comment:

Survey of a piece of land situated on the right bank of Fraser River and nearly opposite the mouth of 14 mile creek.

¹⁹ Copy on file at the National Archives Canada, RG 10, Volume 11028, File SRR-2. Microfilm T-3967.

This reserve is known as No. 2 reserve Bridge River Indians, Lillooet District.

Start at a post marked "Ind Res" on the right bank of river, 50 links above H.W.M.²⁰

Bridge River Indian Reserve No. 2 totalled 140 acres, an increase of fifty acres above that which had been allotted by Indian Reserve Commissioner Peter O'Reilly. A map of the reserve is included with the field book.

Captain Jemmett, as stated, commenced the survey of Bridge River Indian Reserve No. 1 on 27 August 1884. On the first page of his notes on this reserve, he wrote the following:

Survey of a piece of land situated on the right bank of the Fraser River and on both sides of Bridge River, Lillooet District.

Chief: David

Start at a post marked "Ind Res" at the foot of rocky slide.

Bridge River Indian Reserve No. 1, as laid out by Captain Jemmett, totalled 9621 acres. This was an increase of 3121 acres above what had been allotted by Indian Reserve Commissioner Peter O'Reilly in 1881. A map of the reserve is included with Captain Jemmett's field book.

As will be discussed in more detail below, in 1962 a hearing was held in Lillooet, chaired by the provincial Minister of Mines and Petroleum Resources, to present arguments concerning placer mining leases along the shore of Bridge River as it passed through Bridge River Indian Reserve No. 1.²¹ It was stated at :

20 A "link" is approximately 0.66 feet. Fifty links is approximately thirty-three feet.

21 A copy of the transcript of this hearing is on file at the National Archives Canada, RG 10, Volume 6991, File 987/20-5-42-1, pt. 1. Microfilm C-12940.

that time by J.V. Boys, Indian Commissioner for British Columbia and the Yukon, that, according to his interpretation of Captain Jemmett's field books, the surveyor had meant to place a stake in the river at the northwest corner of the reserve. Mr. Boys told the hearing:

I would like to say that the field notes show that at the northwest corner here there is a post set, here (shows it). Now the field notes indicate, and I have a copy of them here, that this northwest corner of intersection is actually in the bed of the river, but obviously, of course, it was not possible to set a post in the bed of the river, so the post was set here. Now, logically, if a post was set in the bed of the river, one would naturally conclude that the river forms part of the area designated. Surely, if it was intended to exclude the river, then it would stop on the northerly bank of the river. I think this is a logical argument. But this specifically indicates that the corner of the Reserve is in the bed of the river...

However, this assessment of Captain Jemmett's field notes by Boys may not be accurate. A discussion with members of the Legal Surveys Division, Energy, Mines and Resources Canada, concluded that Captain Jemmett's intentions at the northwest corner of the reserve are ambiguous at first glance and, therefore, the Surveyor General of Canada will have to be requested to render an official opinion on this matter.

According to the field book, Captain Jemmett reached the northwest corner of the reserve on 12 September 1884. He wrote in his field book:²² "Continuation of the survey of Bridge River Reserve No. 1 starting at line post set on the left bank of the Bridge River at station 102." Post 103 was placed on the opposite side of the river "on bench, on steep bank of river."

²² See field book BC 124, p. 3. Copy on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa.

He then wrote: "Set a line post marked "Ind Res" 54 links true north of this station, on the top of steep bank of river (right bank)." This last post was marked 104.

On the page opposite these remarks in the field book is a trigonometrical calculation for posts 102 and 103. Above this calculation is the remark: "True corner 973 links true north of [line post ?]. Corner in river." The Surveyor General of Canada will have to determine if post 103, although staked on the right bank of Bridge River, was meant by Captain Jemmett to be in the bed of the river as later claimed by Boys. As well, the Surveyor General will have to determine if, by placing the "corner in river", Captain Jemmett meant to include the bed of the river in the reserve.

On 1 May 1886, two years after Captain Jemmett completed the surveys of the Bridge River Indian Reserves, the conveyance of these two reserves were approved by the Chief Commissioner of Lands and Works of British Columbia.²³ A map, titled "Plan of Indian Reserves, Bridge River. Lillooet District. British Columbia," was signed by both Indian Reserve Commissioner Peter O'Reilly and the Commissioner of Lands and Works on that date.²⁴

However, five months prior to the approval of the allotment of the reserves by the Chief Commissioner, a controversy erupted concerning mining along the banks of the Bridge River. On

²³ See letters from Peter O'Reilly to the Chief Commissioner of Lands and Works and to the Indian Superintendent of British Columbia, 10 June 1886. Copies on file at the National Archives Canada, RG 10, Volume 1276. Microfilm C-13900.

²⁴ Copies of the map are on file at the Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa. Maps BC 147 and TBC 147. See also an unsigned copy, TBC 153.

7 December 1885, Indian Agent William L. Meason posted the following notice on the doors of miners living along the banks of the river:²⁵

I hereby notify you, the occupants of this house, to remove from the land now occupied by you, as said land forms part of the Bridge River Indian Reserve - Also not to occupy nor reside upon any other part of the Reserve - nor to mine thereon.

Said Reserve comprises the entire width of the Bridge River Valley from base to base of the mountains, an average of three quarters of a mile for a distance of 13½ miles from the mouth of Bridge River.

Should you not remove Forthwith, you will be liable to Imprisonment for 30 days without option of a fine.

Every tree cut down by you upon the Reserve subjects you to a penalty of \$20.

Two weeks later, on 23 December 1885, the British Columbia Government Agent at Clinton sent a copy of Indian Agent Meason's notice, along with the following letter, to the provincial Minister of Mines:

In forwarding you this notice, any comments thereon by me are unnecessary. For your information, however, I have the honor to submit that this so-called Indian Reservation, referred to in the Notice, of 13½ miles long and from base to base of the mountains, has been and is a portion of the best gold producing sections of Lillooet District and, writing advisedly, the mineral wealth will not be exhausted by this generation.

At the present time there are between 70 and 80 Chinese mining on this stretch of 13½ miles, and the Revenue collected from them by Mr. Phair in November last was in the neighbourhood of \$500.00.

Further, the trail to Bridge River mines proper passes the entire length of this 13½ miles. Miners, Packers, Prospectors and other passing over this trail who have

²⁵ Copy on file at the National Archives Canada, RG 10, Volume 3730, File 26277. Microfilm C-10127.

the misfortune to camp on any part of this 13½ miles and who may cut down the few necessary poles for camping purposes are liable to be met with a bill of several hundred dollars for cutting trees on an Indian Reserve, where everything is a tree, be it six feet or six inches in diameter.

I have instructed Mr. Phair to inform the Chinese, or others, mining on this Reserve to go on with their lawful occupations paying no attention to the notices posted up by the Indian Agent, pending the arrival of definite instructions from the Hon. the Minister of Mines to me in the matter.

On 5 January 1886, the Lieutenant Governor in Council of British Columbia issued the following report concerning the posting of notices along Bridge River by the local Indian Agent:

... The land in question so far as the immediate river banks are concerned has been from the settlement of British Columbia in 1858 to the present time a fruitful field for placer gold mining available to individual efforts of miners. The mining is confined to the immediate banks of the river. They are utterly unsusceptible of agriculture or gardening purposes owing to the rocky and gravelly character of the land. To stop the mining industry in the locality indicated would be destructive of farming and trade interests in which actual settlers are engaged without any corresponding benefit to the Indians themselves. The latter derive great advantage from the mining, in that it affords them employment directly and, indirectly, a market for their own products and gives them necessaries [sic], and even luxuries, of life at prices far below those at which such commodities would be obtained were it not for the mining industry.

Apart from the politic considerations above adverted to, and apart from any question as to the legal establishment of the reserve in question, or as to its survey or non-conveyance, there is the constitutional aspect of the matter under the Terms of Union. The opinion is unhesitatingly expressed that while British Columbia has agreed to reserve lands for Indian purposes, she never agreed to part with, or contemplated the alienation of the precious or other minerals being or lying in upon or under those lands. The minerals in question remain the property of Her Majesty as represented by the Province. The laws of the Province authorize the searching for and

acquisition of the precious and baser minerals, and under such laws the miners are free to mine upon the lands in question.

In accordance with this view the Attorney General advises that the [Honorable] the Minister of Mines be requested to write Mr. Soues, the Government Agent, in confirmation of his advice to Mr. Phair, the local Agent of the Government at Lillooet, that miners mining on this Reserve be advised to continue their mining pursuits and operations.

The Attorney General begs further to express the opinion that the posting of the notices referred to was most injudicious. Such a step can only serve to excite in the Indian mind belief in rights to property they do not possess with consequential ideas of taking into their own hands what they conceive to be the law - notions fortified by the ostentations - and, to them, lawful and approving - actions of the Indian Agent...

A copy of this Order in Council was forwarded to the Secretary of State in Ottawa. On 19 February 1886, the Deputy Superintendent General of Indian Affairs informed Prime Minister John A. Macdonald, who was also Superintendent General of Indian Affairs, that:

The undersigned having caused a careful search to be made into all the records, in regard to the agreement had with British Columbia by the Dominion Government, respecting the lands to be allotted as Reserves to the Indians of that Province, can find nothing to warrant such an assumption as that contained in the report of the Committee of the Executive Council, namely, that while British Columbia has agreed to reserve lands for Indian purposes, she never agreed to part with or contemplated the alienation of the precious or other minerals being or lying in upon or under those lands, and that the minerals in question remain the property of Her Majesty as represented by the Province.

The Deputy Superintendent General quoted extensively from the relevant sections of the Indian Act (1880), pointing out that the Indian Agent had acted correctly in advising "trespassers" on Indian reserve land of the consequences of their actions.

No other correspondence can be found at this time on this topic, but it should be noted that from the late 1880s onward, most non-native miners acquired leases or permits from the Department of Indian Affairs to work along the shore and benches of Bridge River as it ran through the Indian reserve.²⁶

While the Department of Indian Affairs wished to restrict the actions of non-natives on Bridge River Indian Reserve No. 1, the Indians themselves began to petition for more land along the river. On 5 October 1896, Indian Agent E. Bell informed Indian Superintendent A.W. Vowell:²⁷

The Indians of Bridge River reserve are very anxious to secure a piece of meadow land about 17 miles from the mouth of the river and up the river about 200 acres in extent. They have broken some of it up and sowed some Timothy seed on it and it is necessary for them as they are going more into cattle raising and want this land where they can cut plenty of hay for wintering their cattle. It appears they have been using this for some time and I asked the Chief "why did you not explain this to Commissioner O'Reilly when he laid out the reserve" to which he replied "I did and he told me it was too far to go there." I would like to see these Indians get the land as they are industrious and seldom ask for aid for relief for their band.

Vowell wrote the Deputy Superintendent General in Ottawa concerning the request, who replied that he wished Indian Reserve Commissioner Peter O'Reilly to report on the matter. O'Reilly wrote Ottawa on 16 November 1896, informing the Deputy S.G.I.A.:

... In this connection I beg to say that I have not been in the neighbourhood of Bridge river since the reserves were allotted in 1881. At that time I

26 See correspondence in the National Archives Canada, RG 10, Volume 3850, File 75,621. Microfilm C-10150. See also RG 10, Volume 7640, File 18165-60, pt. 1 and 2. Microfilm C-11594.

27 Copy of letter on file at the National Archives Canada, RG 10, Volume 10241, File 987/30-42-2. Microfilm T-7544.

experienced great difficulty in selecting suitable lands for the use of this band, as may be inferred from the fact, that the whole valley of the Bridge river for a distance of fourteen miles [sic] from its mouth was set apart as a reserve. Every place indicated by the Indians was given them.

They mentioned that they were in the habit of cutting a small quantity of swamp hay from scattered patches on the top of the mountain, but no desire was experienced by them, or by the Indian Agent, who accompanied me, to have these patches reduced.

The Deputy S.G.I.A. replied to O'Reilly on 13 January 1897, informing him that:

... I have to request you to be good enough to make a note of this case, in order that when there are sufficient matters in that and neighbouring districts to warrant a visit from yourself, you will, if you judge it necessary, allot the land desired as a reserve for these Indians. You [?] that these Indians have a large tract of almost useless land, it might be advisable in order to secure the new reserve, to cut off and abandon a portion of the useless land.

No records could be found during this present search of documents in the National Archives Canada to indicate if O'Reilly ever returned to Bridge River. No increase or adjustment was made to the reserve in the 1890s but, as will be discussed below, the Bridge River Indian Reserve No. 1 band did share in a new reserve that was created by the Royal Commission on Indian Affairs for the Province of British Columbia in 1915.

At the turn of the twentieth century, interest in the gold of Bridge River developed again. In 1897 a prospector made a strike on Cadwallader Creek, a tributary of Bridge River, which eventually evolved into the Pioneer Gold Mines Limited. With the development of hard-rock mining on the middle reaches of the river, miners, settlers and their families moved into the Bridge River Valley. Among these families were the Beaubiens, who had earlier emigrated to British Columbia from Quebec. The Beaubien

farm was located in the area that is now covered Carpenter Lake. In a recently-published history of the family, one member recalled the following about navigating the middle reaches of the river:²⁸

We had a homemade rowboat and canoe for travelling up and down the Bridge River and a ferry for crossing it with horses and loaded waggons. As we had to go across the river frequently, the ferry was anchored at both ends with pulleys hooked on the cable. The ferry was propelled by the swift river current. It worked very well.

In 1912, A.M. Bateman of the Geological Survey of Canada examined the Bridge River Valley and wrote the following about the contrasting sections of Bridge River:²⁹

Bridge river and its larger tributaries, the North and South Forks, Cadwallader, Gun and Tyaughton creeks, form the main drainage of the district and this water reaches the Fraser at a point about 5 miles above Lillooet ... The tributaries of Bridge river enter with steep gradients and flow through precipitous and narrow valleys and canyons. For 25 miles above its mouth Bridge river flows swiftly through a steep canyon. In the upper 10 miles of this canyon the walls rise almost vertically from the river for about 2,500 feet, but above the canyon the valley broadens and the river meanders over a wide, flat bottomed, swampy valley containing many small lagoons and river cut-offs. This wide, silt-covered portion of the valley extends upstream to beyond the Wayside mine, a distance of about 30 miles, where it again changes to a narrow valley with a steep profile broken by falls. Above this, the current again becomes sluggish and the valley broad and flat, containing many swamps and ox-box lakes, remnants of previous river meanders. Where the

28 Jeannette Beaubien McNamara, Wilderness Dream : Glimpses of Pioneer Life in British Columbia. Victoria : Braemar Books, 1986, p. 51.

29 A.M. Bateman, "Lillooet Map-Area, British Columbia," Summary Report of the Geological Survey, Department of Mines, for the Calendar Year 1912. Ottawa : C.H. Parmelee, 1914, p. 189-190.

Cadwallader valley joins with that of the South Fork there is a broad flattish bench which extends from the junction of these two streams to where the South Fork enters Bridge river. Into this bench the South Fork is sharply incised and flows through a steep narrow canyon. The formation of the bench is considered to be due to the combined action of glaciers from Cadwallader, South Fork of Cadwallader, and South Fork of Bridge River valleys which at their point of coalescence, during the Glacial period, widened and deepened a previously formed river valley.

In 1913, a Royal Commission on Indian Affairs for the Province of British Columbia was established. This Royal Commission was set up to solve the land title problem whose roots dated back to the Indian Reserve Commission and before. During the life-span of the Indian Reserve Commission, which existed from 1876 to 1910, over 1000 Indian reserves had been allotted in the province. But while these reserves had been approved by the provincial Chief Commissioner of Lands and Works, no formal recognition by the British Columbia government was ever given these reserves in the guise of Orders in Council or publication notices in the B.C. Gazette.

In 1912, Dr. J.A.J. McKenna, representing the federal government, and Premier Richard McBride of British Columbia signed a document, now known as the "McKenna-McBride Agreement," establishing a five-man Royal Commission to investigate and report on Indian lands in the province.³⁰ The Royal Commission was given the power to adjust reserve acreage by reducing the size where the Commissioners deemed the Indians had more land than needed, to determine the area to be added in cases where bands had insufficient land, and to set aside reserves for bands that had not yet received any. The Commissioners were also authorized by a separate federal Order in Council of June 1913 to

³⁰ A copy of the McKenna-McBride Agreement is on file at the National Archives Canada, RG 2/1, 3 February 1930. Order in Council P.C. 208.

gather information on issues which, although extraneous to the terms of the McKenna-McBride Agreement, were nevertheless considered to effect the rights and interests of the Indian population. From 1913 to 1916 the Royal Commission travelled the province compiling their evidence.

On Saturday, 7 November 1914, the Commissioners met with the Bridge River Indian Band on Bridge River Indian Reserve No. 1. Following an explanation of the scope and purpose of the Commission to the natives, Band Chief David was allowed to address the Commissioners:³¹

We have been hearing about our Commission coming up here, and we have been waiting for you people because we wanted to see you. I don't know whether you people have heard that we are all right up here; however I am very pleased to see you people come up here to see us. The Indians are very poor up here - we cannot make what we would like to get. If we were going to build a ditch we could not finish it. That is why I am very glad to see you people come up here. Everything that we want to get, we cannot do it. We have got no money to use. If we are going to build a fence and clear the land, or if we want to build a ditch, we have'nt [sic] got enough money to finish it. If you go and see where we are living, I don't think you would go in because it is awful. We have'nt got no beds - some have blankets in the corner on which they lie down. One thing I am going to tell you about this white man - about the game and the salmon. Some of the Indians are pretty poor now; we can only hunt a small piece of land up here, the other places are all tied up. About the wood question, some of them are very poor - they used to get some wood - we used to get some grub which we used to buy through selling cordwood and that is the way some of them live. We cannot get any work on the waggon roads - why can't we get some work on the waggon roads? We are the first people here. If one of my boys has a wagon and tries to do some freighting between Lytton and Lillooet, the white man will catch

³¹ A copy of the Royal Commission evidence is on file at the Indian Land Registry, DIAND, Ottawa. Another copy is on file at the National Archives Canada, RG10, Volume 11025, File AH7. Microfilm T - 3963.

hold of him and make him pay a licence - That is the way we are here. We are very poor, and I am very glad to see you gentlemen come up here to see us.

Under questioning, Chief David explained that there were 100 members of the Bridge River Band, all living on No. 1 reserve. No one lived permanently on No. 2 reserve. They made their living from working the land, "such as potatoes, carrots and a little salmon and things like that." No mention was made of the Indians' mining activities. When asked where the Band members did their fishing, on reserve No. 1 or reserve No. 2, Chief David replied: "On No. 1, right below where we are now." When asked if there was anything specific the Band would like from the Commission, the Chief explained they would like more grazing land for their cattle, between Anderson Lake and Bridge River. Most of the questioning by the Commissioners concerned the Band's attempts to irrigate their land.

Four months after their visit to Bridge River, the Royal Commission, on 12 March 1915, passed the following Minute of Decision:³²

Lytton Agency - Bridge River Tribe

ORDERED: That Indian Reserves Nos. One (1) and Two (2) of the Bridge River Tribe or Band, described in the Official Schedule of Indian Reserves, 1913, at Page 123 thereof, BE CONFIRMED as now fixed and determined and shown on the Official Plans of Survey, viz.:

"No. 1 - Bridge River, 9,621.00 acres," and
"No. 2 - 140.00 acres."

³² Report of the Royal Commission on Indian Affairs for the Province of British Columbia. Victoria: Acme Press, 1916, p. 509.

Included in that same Minute of Decision was approval for the creation of a new reserve which the Bridge River Band was to share with the Indians of Lillooet Indian Reserve No. 1. The Minute of Decision continued:

ORDERED: That a parcel of land lying between Indian Reserve No. One (1) of the Lillooet Tribe and Bridge River Indian Reserve No. One (1) of the Bridge River Tribe, described as follows, viz.: "Commencing at the northwest corner of Lillooet I.R. No. One (1) and running thence north approximately one hundred and ninety (190) chains to the southern boundary of Bridge River I.R. No. One (1); thence following the said boundary of Lot Thirty-one Hundred (3100), to the northwest corner of Lot Thirteen Hundred and Three (1303); southerly, to the northwest corner of Lot Three Thousand and Ninety-nine (3099); thence south to the northern boundary of Lillooet Townsite; and thence east to the place of commencement, containing an area of Two Thousand Four Hundred and Fifty (2450) acres, more or less, subject to survey," BE CONSTITUTED a Reserve allotted for the joint use and benefit of the Indians of the Lillooet and Bridge River Tribes or Bands, of the Lytton Agency.

On 28 June 1916, the Minute of Decision was amended, reducing the acreage of the new, shared reserve to 1970 acres, subject to survey.³³

Meanwhile, while the Royal Commission was sitting, a dispute between representatives of the Department of Indian Affairs and the Department of Fisheries and provincial authorities erupted over Indian fishing rights on the Fraser River and its tributaries, especially Bridge River. This dispute came about as a result of the rock slide in Hell's Gate Canyon in 1913 which

³³ See file in National Archives Canada, RG10, Volume 11026, File SNG-2. Microfilm T-3965.

blocked the ascent of salmon up the Fraser River. In a letter to the Royal Commission, dated 9 November 1915, Indian Agent Graham of Lytton Agency outlined his side of the story:³⁴

In my Agency I find that a great hardship has been imposed upon the Indians by the Regulations brought into force by the Dominion Fishery Department restricting the catching and sale of salmon by the Indians. For the last two seasons, for instance, the Fishery Department brought this regulations into force and for a certain period last season stopped the Indians altogether from fishing. I took this matter up very strongly with them and then they conceded to the Indians the right to catch a certain number which we have now got to 100 salmon per head, which I may here state is never got or on very rare occasions, but the Fishery Department insisted upon the regulation of prohibiting the Indians from selling any fish to their own or any other tribes of Indians and furthermore to any white men under penalty of fine or imprisonment. I would like to point out that in my opinion this is not only a hardship but a very great injustice, not only to the Indians who have always had the privilege of catching whatever fish they required for their own use, but many of the old Indians claim at this day they are unable to live unless they get the salmon. Besides they have been denied the privilege of selling an odd fresh fish or two to the ranchers, prospectors or any other white man who care to buy and this is also a great hardship on the white population who have to live in the country and who are not allowed to catch for themselves, thereby being barred from ever tasting fresh fish owing to the inability of being able to obtain it from the salt water ...

The extent of the market is so limited because there are not a very great number of Indians who make a practice of catching and selling, and then again the white population along the river is very limited. I do not think that there are more than from three to four hundred salmon sold during the whole season to individual white men ...

³⁴ Copy on file at the National Archives Canada, RG10, Volume 11020, File 517. Microfilm T-3957.

Indian Agent Graham concluded by asking the Royal Commission to grant the Indians in his agency the privilege of catching and selling fish in any manner best suited to them.

However, the Department of Fisheries had a different perspective on this issue, as outlined by Lieutenant Colonel F.H. Cunningham, Chief Inspector of Fisheries for British Columbia, to members of the Royal Commission on 23 December 1915. Also present at the meeting was John Pease Babcock, the provincial Deputy Commissioner of Fisheries.³⁵ Cunningham told the Commissioners:

... on the Fraser River during the current season there were some 2600 licenses issued; of those 2600 licenses, 307 commercial licenses on the Fraser were issued to the Indians. Now the fishing boundary on the Fraser River terminates at the Mission Bridge - the law says no fish shall be caught above Mission Bridge except by the Indians, who can catch these fish for food purposes only. If the Indians were allowed to sell fish caught above the Mission Bridge after the 1st of October, how would we enforce the close season and how would we protect the fish? If there is anything that has placed the Indian beyond the ban of consideration it is his actions above the commercial fishing boundaries of the rivers in this Province. This year Indians are taking fish above the Mission Bridge; they are selling these fish to the hatcheries [sic; fish processing plants]; these half-breeds are selling these fish down to Vancouver and New Westminster in jerries marked "fruit", and in fact they are doing everything they possibly can to injure the fishing industry ... This year there were very few fish at Bridge River - there were 6,000 sockeye, and the Indians took them all ...

Babcock testified before the Commission in the same vein:

... The Indians have always been permitted at certain seasons to take a certain number of fish with the result that there was tremendous waste - these fish instead of being allowed to go up to their spawning

³⁵ Copy of transcript of meeting on file at the National Archives Canada, RG10, Volume 11020, File 517A. Microfilm T-3957.

grounds are caught by the Indians. At Bridge River they caught 6,000. You take the Chilcotin Indians - now these Indians have never been interfered much with in their fishing, and we say there has been less waste with the Chilcotin than with any of the other Indians of B.C. You take it in Bridge River - the Indians there they come from all over the Province - they come from Nicola, Shuswap, Lillooet and many other points, and the waste up there for the last two years was one of the most awful sights I have ever seen. This is the first year this camp has been reasonably clean. Two years ago they took over 20,000 salmon, which was about the total number of fish that got through at Hell's Gate - two years ago we blew out those rocks and the Indians assembled at the banks and they got every blooming fish that went through, and the waste that went on there this year was simply awful. In addition to this and what they cured for themselves, they filled as many barrels as the people of Lillooet could provide for them and sold them right in the town of Lillooet, so that I maintain that if it was not for the law that prohibits fishing in the river for a number of hours in the week, the Bridge River Indians would not get anything at all, because they (the fish) would all be taken by the Indians lower down long before they would ever reach that territory at all.

Babcock complained that the current problem developed when

... Mr. Graham comes along and, knowing nothing at all about the fishing business, rakes up a ruling made by O'Reilly in 1868 [sic; the actual date was 1881] to the effect that the Indians might take as much fish in Cayoose Creek as they wished, and he wrote them to this effect, and says "You can take all the fish you want, and Babcock can't prevent you." We had to go to a lot of trouble about the matter, and it took us quite a long time to straighten the difficulty out.

Prior to his meeting with the members of the Royal Commission, F.H. Cunningham had suggested in a letter to the Superintendent of Fisheries, dated 25 June 1915, a possible solution to the slaughter of salmon by Indians at Bridge River:³⁶

³⁶ Copy on file at the National Archives Canada, RG23, Volume 1329, File 729-4-2[1].

In connection with the duties of the [Fishery] Guardian, R. Webster, for the Bridge River District, particularly with regard to the depredations of the Indians in connection with the taking of salmon in that district, I consider that it would be very advisable to adopt a similar practice to that in force in the Birkenhead and Pemberton District. At the latter point, the Department of Indian Affairs supplies salt to the Indians each season, who, instead of the customary wholesale slaughter of fish as in the past, are now allowed to take only a sufficient number to supply their winter wants. By the old method, in order to obtain a sufficient number of fish which would be properly cured by the crude method of hanging in the sun, it was necessary to slaughter a great many fish owing to the fact that a very small proportion of those placed on the drying racks were in a condition to store for the winter. By the new means, the Indians are shown how to salt their fish, which means that every one caught is properly cured and there is no waste ...

The Department of Indian Affairs, when presented with this idea, agreed to the suggestion. It appears to have been tried for a few seasons and then discontinued.

When the Royal Commission reached the point where they had to decide on the fishing rights of British Columbia Indians, they found themselves in a quandry. Not having received any legal advice from the federal government as to the previous powers of the Indian Reserve Commission to allot such rights in the first place, the Royal Commission decided to pass ambiguous resolutions concerning this issue. Their resolution for the Bridge River Indians is typical:³⁷

³⁷ Report of the Royal Commission on Indian Affairs for the Province of British Columbia, p. 542.

FISHING RIGHTS OF INDIANS IN B.C.

Minute and Resolution of the 6th June, 1916:

WHEREAS former Indian Reserves Commissioners, acting under joint Governmental Agreements, allotted defined Fishery Rights to certain Tribes or Bands of Indians in British Columbia;

WHEREAS this Commission has been unable to obtain any advice from the law officers of the Crown in right of the Dominion of Canada as to the authority of the said former Commissioners to allot such fishery rights;

AND WHEREAS this Commission desires that any right or title which Indians may have to such allotted fisheries may not be adversely affected by inaction on its part -

BE IT RESOLVED: That, to the extent to which the allotting Commissioners had authority to allot such Fishery Rights, this Commission, insofar as the power may lie in it so to do, CONFIRMS the said allotted Fishery Rights as set forth in the Schedule hereto appended:

SCHEDULE

Lytton Agency

Bridge River Tribe: Minute of Decision of September 1st, 1881, constituting Bridge River Reserve No. 2: . . . "The exclusive right of salmon fishing on both banks of the Fraser River from half a mile South of Bridge River upstream to Fountain Indian Fishery."

As similar resolution was passed concerning water rights:³⁸

WATER RIGHTS OF INDIANS IN B.C.

Minute and Resolution of the 15th June, 1916:

WHEREAS former Indian Reserves Commissioners, acting under joint Governmental Agreements, allotted defined Water Rights to certain Tribes or Bands of Indians in British Columbia;

³⁸ Ibid, p. 544-547.

WHEREAS this Commission has been unable to obtain any advice from the law officers of the Crown in right of the Dominion of Canada as to the authority of the said former Commissioners to allot such Water Rights;

AND WHEREAS this Commission desires that any right of title which Indians may have to such allotted Water Rights may not be adversely affected by inaction on its part,

BE IT RESOLVED: That, to the extent to which the allotting Commissioners had authority to allot such Water Rights, this Commission, insofar as the power may lie in it so to do, CONFIRMS the said allotted Water Rights as set forth in the Schedule hereto appended:

SCHEDULE

Lytton Agency

Bridge River Tribe: Minute of Decision of September 1st, 1881, constituting Bridge River Reserve No. 1: ... "The water of the various tributary streams flowing through this Reserve, as also Three hundred inches of water from Bridge River, are assigned to the use of the Indians."

Minute of Decision of September 1st, 1881, constituting Bridge River Reserve No. 2: ... "The water of a creek situated half a mile above this land is reserved for the use of the Indians."

Two years later, in September 1918, the Dominion Water Power Branch, a division of the Department of the Interior, was requested by the Department of Indian Affairs to investigate water rights appurtenant to Indian reserves in the "Dry Belt" of British Columbia. The reports contained lists of water records, allotments or privileges granted prior to 1909. The researchers claimed they made a careful search of federal and provincial

records, as well as official publications, Minutes of Decision, and other related documents. One of these reports compiled by M. Balls, contained information on Bridge River Indian Reserve No. 1 and Bridge River Indian Reserve No. 2.³⁹

Balls listed the following recorded rights for Bridge Indian Reserve No. 1:

I.R.C. allotments September 1, 1881; Provincial Record issued February 23, 1891

- (1) 25 inches from unnamed stream through reserve one mile north of village on Fraser River
- (2) 50 inches from Big Creek
- (3) 50 inches from unnamed stream three miles from mouth of Bridge River on south bank
- (4) 50 inches from unnamed stream 5 1/2 miles from mouth of Bridge River on south bank
- (5) 50 inches from Camoos Creek
- (6) 10 inches from springs on reserve four miles from mouth of Bridge River on north bank
- (7) 50 inches from unnamed stream on Reserve, seven miles from mouth of Bridge River on North bank
- (8) Sept. 1, 1881, I.R.C. Allotments, 300 inches from Bridge River
- (9) All required from tributary streams to Bridge River
- (10) All required from unnamed stream on Indian Reserve

(1 to 7) filed by former Indian Agent William Laing Meason and Provincial records issued (8 to 10) I.R.C. allotments (Cochrane list) NOTE: Record (2) on Big Creek may be intended for Bridge River No. 2.

He listed the following recorded rights for Bridge River Indian Reserve No. 2:

Sept. 1, 1881, 50 inches from Big Creek
Sept. 1, 1881, All water required from Creek 1/2 mile above Indian Reserve

³⁹ M. Balls, "Water Records Appurtenant to British Columbia Indian Reserves. Report No. 1, Lytton Indian Agency." Copy on file at the National Archives Canada, RG 89, Volume 558 File 442.

Official schedule page 123, I.R.C. report p. 547

Throughout this period, placer mining activities continued on a small scale along the banks of Bridge River, including where it ran through the Indian Reserve. No discussion was made of riparian rights. However, at least one surrender was taken of Indian land to allow non-natives the right to mine within the confines of the reserve.

In 1923, Frank Michell [sometimes spelled Michel], a member of the Bridge River Indian Reserve No. 1 band, located and recorded a mineral claim at the northwest corner of the reserve.⁴⁰ Permission was given Michell by both the Department of Indian Affairs and by the band to work the claim, known as the "Moha" lease. Mitchell was informed, however, that he had to follow the provisions of the provincial Mining Act in working the claim. A rough sketch map of the Moha mining lease, showing the forty-acre site, indicates that the northern boundary of the property bordering on Bridge River began at the high water mark.

Five years later, in 1928, Frank Michell decided to sell his claim to the United Development Corporation Limited. The Indian Agent, H. Graham, was informed by Ottawa that a provincial surveyor had to survey the land in question, furnishing not only a blue print but also a description by metes and bounds. Graham was informed by the Secretary of the Department of Indian Affairs, John McLean, that:

The Department can only proceed with the leasing of the surface rights, after surrender, as the question of the ownership of the precious metals on Indian Reserves in B.C., especially in the Railway Belt, has not been definitely determined.

⁴⁰ Correspondence dealing with this claim is on file at the National Archives Canada, RG 10, Volume 7640, File 18165-60(1). Microfilm C-11594.

Bridge River Indian Reserve No. 1 is outside the Railway Belt.

The property was surveyed by H. Neville Smith on 1 November 1928. His blueprint, titled "Plan of Placer Lease No. . Situated on Bridge River Indian Reserve No. 1. Lillooet District," showed that the property the United Development Corporation wished to lease totalled 92.06 acres. The northern boundary for most of this land, as clearly indicated on the blueprint, was above the high water mark of Bridge River.

On 17 April 1929, the Bridge Indian Reserve No. 1 band agreed to surrender for a ten-year period the land desired by the United Development Corporation. On 21 June 1929, the Governor General in Council was requested to accept the surrender. The following month, on 19 July 29, Order in Council P.C. 1214 was passed approving the surrender. The Order in Council reads as follows:⁴¹

The Committee of the Privy Council have had before them a Report, dated 21st June, 1929, from the Superintendent General of Indian Affairs, submitting a surrender, given on the 17th day of April, 1929, by the Bridge River Band of Indians, in the Lillooet District, in the Province of British Columbia, of certain lands contained therein, being composed of Placer mining lands, more particularly described as follows:

Commencing at a post planted near the southerly shore of the Bridge River at a point one thousand eight hundred and one feet and one tenth of a foot South and two thousand and one feet and four tenths of a foot East of the witness post marked five chains west of the North West corner of the Bridge River Indian Reserve Number One; thence South thirty six degrees and thirty one minutes East two thousand five hundred and forty feet and four tenths of a foot; thence North thirty six

⁴¹ Original on file at the National Archives Canada, RG 2/1, 19 July 1929. Copies are also on file at the National Archives Canada, RG 10, Volume 7640, File 18165-60(1). Microfilm C-11594; and at the Indian Land Registry, DIAND, Ottawa.

degrees and twenty nine minutes East one thousand feet and two tenths of a foot to the shore of Bridge River; thence following up the shore of the river to where the western boundary of this parcel produced intersects the shore; thence to the place of beginning, containing by admeasurement ninety two acres and six hundredths of an acre, more or less.

The said surrender has been given in order that the said lands may be leased for the benefit of the said band of Indians by the Department of Indian Affairs.

The Minister recommends, as the said surrender has been duly authorized, executed and attested in the manner required by the 51st Section of the Indian Act, that the name be accepted by Your Excellency in Council.

As the economic depression tightened its grip on Canada during the 1930s, more individuals took up placer mining to acquire cash. Bridge River was one area where many came to prospect. This, however, was causing animosity among Band members. In a letter to the Secretary of the Department of Indian Affairs, dated 12 May 1932, Indian Agent A. Strang wrote:⁴²

The Indians of the Bridge River Band object and have always objected to white men prospecting on their lands, but in 1919, Section 50 of the Indian Act was so amended that the Governor in Council could make regulations enabling the Superintendent General without surrender to issue leases for surface rights of Indian Reserves, even if the Indian did object to their property being destroyed.

The people asking for surface rights on this reserve claim that they do not have to get any permission for the privilege of mining on any creek running through Indian Reserve from the Department of Indian Affairs, as they say that they have the right by Provincial Government regulations to mine 500 feet on either bank of any creek no matter where it is situated ... I would like to have the Department's ruling on this, as I understood that in the case of a creek running through an Indian Reserve where the reserve land was on each side of it the reserve took in the whole stream,

⁴² Copy on file at the National Archives Canada, RG 10, Volume 7640, File 18165-60(1). Microfilm C-11594.

excepting on rivers such as the Fraser River. As there are so many people now asking to prospect and to stake claims for mining on Indian Reserves, it is most important to have an understanding on this matter ...

Two weeks later Chief David of the Bridge River Band wrote the Secretary requesting clarification of the situation. Secretary A.F. MacKenzie replied on 9 June 1932:

... For your information I may say that, as these mining operations are being conducted for the recovery of either gold or silver, it is not necessary first to obtain the consent of the Band in order to carry on such operations. Gold and silver, being known as precious metals, are the property of the Province, and the Province has the right to issue leases covering lands on Indian Reserves.

However, five years later, the Indian Affairs Branch, now part of the Department of Mines and Resources, began informing miners differently. On 25 October 1937, miner Bert Snider of Lytton wrote Ottawa requesting to know if Indians "have any claims on the property along the following rivers, Fraser, Bridge and Thompson between High and Low water levels."⁴³ Snider was told in a letter dated 3 November 1937:

In reply I have to state that these rivers being non-navigable, the shores between high and low water level which front on Indian Reserves, form part of the reserves, and the Indians who own the Reserve have a prior right to the placer mining privileges.

The following April, Bridge River made national news when a Canadian Press story was published in newspapers around the country concerning a dispute between the Bridge River Band and miners. Typical of these reports was the one carried on the front page of The Winnipeg Tribune on 4 April 1938 under the headline: "White Gold Miners Driven From Lillooet Indian Land":

⁴³ Correspondence on file at the National Archives Canada, RG 10, Volume 7640, File 18165-60(2). Microfilm C-11594.

White miners were driven from Indian Reservation property here today amid rumors that the trouble between the Whites and natives had been caused by discovery on the Bridge River of the richest gold-bearing gravel ever found in the Cariboo district.

Albert Anderson, one of the 20 white miners evicted from the Banks of the Bridge River where it runs through the reservation, banked \$350 in Lillooet a few days before the trouble came to a head.

An unidentified half-breed deposited \$1,000 - and it was claimed the bank credit was given for river gold. The Michel Brothers, Indians of nearby Moha, have been banking gold all winter.

Action of the Indians in evicting the white men and Chinese was approved by Indian Agent Alex Strang of Lytton, B.C., who attended a meeting of the Bridge River tribe to discuss the situation. Mr. Strang told the meeting that miners prospecting on Indian Reserves or conducting mining operations there must have a permit from the Department of Indian Affairs.

The 20 ejected miners held no such permits, Mr. Strang said.

The two mining companies operating on the reserve hold permits, and will be permitted to proceed with preparations. When they begin to produce compensation will be made to the Indians for any metal recovered ...

Possibility of further trouble for white miners developed at [Lillooet] Reserve No. 1 on the Fraser River some miles below the junction of the Fraser and Bridge Rivers. Indians there began to order white miners from river bars fronting their reserve.

More than a score of Lillooet residents conducting small-scale mining operations there will be forced to obtain permits or vacate the property.

Legal opinion in Lillooet, however, suggests the Indians may have no rights to force evictions at Reserve No. 1 [on the Fraser River], claiming they have no rights over frontage on navigable waters.

The Bridge River is not considered navigable, so all the River passing through the Indian reserve there is the property of the Indians.

Lawyers expressed the opinion that Indians on Reserve No. 1 could prohibit white miners from crossing the reserve ground to reach their diggings, and could refuse camping sites or use of firewood or water from reserve property unless a permit were obtained.

In the Bridge River dispute, a new angle developed when James Adolph, son of the chief of the Fountain Tribe, continued to dig for gold within the limits of Bridge River Reserve. He has stubbornly refused to move, although technically he has no more rights to mine on the reserve than any white man.

Indian Agent Strang has ordered he must move ...

Gold panning on the Bridge River has not been interfered with for 70 years. Hundreds of small operators have lived in shacks along the Fraser, Thompson and Bridge Rivers, which are known to carry alluvial gold.

On receipt of this and other press clippings, the Secretary of the Indian Affairs Branch in Ottawa wrote Indian Agent Strang on 13 April 1938 to inform him:⁴⁴

The surface rights of a reserve, whether it is bounded by a navigable stream like the Fraser or a non-navigable river like the Bridge river, belong to the Indians, and the Indian Act forbids any white man to enter a reserve without permission in writing from the Department.

An Indian agent is authorised to issue prospector's permits on payment of a fee of \$5.00 and unless a white man holds such a permit, he is trespassing on the reserve.

On 6 May 1938, George S. Pragnell, Inspector of Indian Agencies for British Columbia, visited Indian Agent Strang and filed the following report concerning ownership of the river bed of the Fraser River:

⁴⁴ Correspondence on this issue, on file at the National Archives Canada, continues on RG10, Volume 6991, File 987/20-5-42-6 PT. 1. Microfilm C-128-40.

We spent considerable time going into the vexed question of mining properties and mining leases in connection with gold mining in the bed of the Fraser River. The exact legal status of the Indians' holdings and Miners' rights on reserves fronting the Fraser River wants classification, if possible. Considerable publicity has taken place in the newspapers lately on the subject, with all parties concerned seeming to have various interpretations in the matter. The Indians themselves claim their land and rights run right down to extreme low water mark (non-tidal is being referred to), and further even claim islands exposed at low water. Indian Agent Strang, from correspondence in the past, seems to think a point half way between low and high water mark fixes the boundary. Indian Commissioner MacKay thinks the boundaries of the reserve are fixed in a good many cases by survey along the shore, wherever previous surveyors could get a reasonably long straight line. On the other hand, I have the idea that the Fraser River for most of its course, in this case, through-out the Agency, is classed as a navigable river, though it is not, and that the boundaries are therefore fixed by high water mark, even if there are surveys that definitely go below that point. The miners themselves seem to think this also. It is to their benefit to do so. It would seem to turn on the point as to how this River is classified legally. Is it a navigable river? If so what are the legal boundaries of property in the case of Indian Reserves whose one side is boundaried by the said river. If this river, anyhow from Hope westwards, is a non-navigable river, and this definition may be possible in that all the bridges crossing it, to the best of my recollection are not swing, operated for steamer traffic, the status of holdings would appear to be clear. If non-navigable holdings run, I understand, to the centre of the waterway or bed of the river, right across, if a reserve were on both sides, as happens at Bridge River. If, therefore, the Department can give any guidance on the matter, I think it would be of great help.

No reply to Pragnell's request for guidance from the Indian Affairs Branch of the Department of Mines and Resources could be found at this time.

Meanwhile, on 29 July 1938, the Government of British Columbia passed Order in Council 1036 conveying Indian reserves outside the Railway Belt and the Peace River Block to the federal

government. This transfer conveyed 1219 reserves to Canada in trust, for the use and benefit of British Columbia Indians. Both Bridge River Indian Reserve No. 1 and Bridge River Indian Reserve No. 2 were included in the transfer. The description of Bridge River Indian Reserve No. 1 was as follows: "Lillooet District, on both banks of Bridge River, from its confluence with the Fraser River, upstream."

As the interior of British Columbia was becoming more settled and developed, the need for electricity for industrial and residential use was becoming more evident. Bridge River was singled out for its hydro-electric potential.

The first to realize this potential of Bridge River was a surveyor named Geoffrey M. Downton. In 1912, while working on assignment for the Surveyor General, Downton noticed how close Bridge River was to Seton Lake and how much higher in elevation. With another surveyor named Booth, he "staked" an area thirty miles from the mouth of the river for a dam and reservoir under the name of the Bridge River Power Company.

A Consulting Engineer, W.R. Bonnycastle, joined with Downton and Booth, and the former completed a partial survey of the lower reservoir, a traverse over Mission mountain to determine the length of a tunnel through the mountain to a powerhouse on Seton Lake, and a topographic survey of the powerhouse site.⁴⁵

The project was to have been completed in 1917, but World War I took both Booth and Downton overseas. Booth was killed in action in France. The idea was not revived until after the war.

⁴⁵ James D. Hayworth, "Preliminary Report on the Water Power of Bridge River, British Columbia." Copy on file at the National Archives Canada, RG 89, Volume 558, File 463.

By the late 1920s, the Bridge River Power Company, under the new management of B.C. Electric [now B.C. Hydro], had received permission to divert 3000 cubic feet per second of water from Bridge River into Seton Lake. Neither the Department of Fisheries nor John Pease Babcock, the provincial Deputy Commissioner of Fisheries, thought this would affect the salmon run up Bridge River.⁴⁶ By 1931, the tunnel between Bridge River and Seton Lake was completed but the generating plant was not installed at this time. Whether it was the economic depression of the 1930s or the outbreak of World War II, the project stalled again until 1946.

When the project was finally completed by 1960, Bridge River had been dammed, creating the seventeen square mile Carpenter Lake. Water flows from this lake through two, two and one-half mile long tunnels to the power houses on Seton Lake. A second dam was completed in 1955 behind Lake Carpenter, creating the sixteen mile-long reservoir, Lake Downton.

While the planning and construction of a dam thirty miles from the mouth of Bridge River was in progress, remedial work was also being planned on a set of rapids in the Fraser River, just north of the mouth of Bridge River. As early as 1926, the Department of Fisheries had requested the Board of Engineers of the Dominion Water Power Branch, Department of the Interior, to investigate the possibility of improvement of conditions for the passage of salmon in that portion of the Fraser known as Bridge River Rapids.

⁴⁶ Correspondence, reports and photographs dealing with the effects of the hydro-electric project on salmon spawning in Bridge River are on file at the National Archives Canada, RG 23, Volume 843, Files 719-9-101 (1-3).

On 9 November 1928, the Board of Engineers made the following report to W.A. Found, Deputy Minister of Fisheries:⁴⁷

The locality has been visited and examined and it is evident that there are two pronounced rapids within a comparatively short distance of each other both of which at certain stages of the water are reported to be obstructions to the free ascent of salmon...

The amount of fall in these rapids has not been ascertained throughout all stages of the river but it is definitely known that at lower stages the fall at the lower rapids amounts to 9.2 feet. The fall at the upper rapids is estimated to be somewhat less than this at the same stage.

The engineers reported that the lower rapids were caused by masses of out-cropping rock which constricted the channel. The upper rapids were apparently caused by a broad reef of rock and boulders which acted as a submerged weir.

It has been brought to the attention of the Board that the close proximity of the two rapids has considerable bearing upon the blockades which are said to occur at the upper rapids. Salmon which successfully negotiate the lower rapids arrive at the upper rapids in an exhausted condition and are not physically able to immediately overcome the second obstruction.

However, the Board concluded that any scheme for by-passing salmon through the upper and lower rapids "would necessitate the removal of a considerable quantity of rock which would be expensive because of local and climatic condition." There general recommendation was that the work not be done.

The situation apparently remained static for another twenty years, until, in 1943, the International Pacific Salmon Fisheries Commission, as part of their mandate to research the sockeye

⁴⁷ "Final Report of the Engineers Enquiring into Frasier River Conditions at Bridge River Rapids, 1926-1928." Copy on file at the National Archives Canada, RG 89, Volume 593, File 1249.

salmon in the Fraser River, decided to study the migration of the sockeye through the Bridge River Rapids.⁴⁸ In 1945, it was decided by the Commission that a fishway would have to be built at the Bridge River Rapids to help the salmon ascend the Fraser.

Permission was sought by the Commission to enter onto the Reserves of Both the Bridge River Indian Reserve No. 1 and the Fountain Indian Reserve No. 10. The Fountain Band readily agreed to the surrender, but the Bridge River Band refused. In a letter to his superiors in Ottawa, dated 27 August 1945, Indian Agent Strang gave the following account of a meeting with the Bridge River Band held to discuss the issue:⁴⁹

I beg to submit herewith my report of a meeting held with the Indians of the Bridge River Band on August 15th, 1945, attended by Major D.M. MacKay, Indian Commissioner for B.C. and myself...

Major MacKay, after being introduced to the meeting, addressed the Indians regarding the benefits they were sure to feel in an increased production of salmon in the Fraser River and pointed out that such an increase may possibly bring about a lessening of the restrictions at present placed on their fishing. It was also pointed out that the number of salmon passing up the river at the critical period, indicated success on the part of the Commission with respect to their efforts at Hell's Gate. The Indians were further informed that the giving of their consent to the above application would in no way affect their fishing rights...

48 The International Salmon Fisheries Commission was established in 1937 by treaty between Canada and the United States. It was given power to regulate fishing and increase the remaining stocks of sockeye salmon on the Fraser River.

49 Correspondence dealing with this topic is on file at the National Archives Canada, RG 10, Volume 8742, File 987/8-9-42-1(1). Microfilm C-14886.

In spite of every effort on the part of Major MacKay and myself, the Indians were firm in their belief that their consent to the application would entail signing away certain fishing rights. Their main objection is that the proposed cut on the West bank of the lower rapids will isolate them from their only available fishing rock, and according to the plan submitted by the Commission this would appear to be true...

MacKay reported, in a letter to Ottawa dated 6 September 1945, that:

Following the meeting, I visited the site of the proposed escape with members of the Bridge River Band and Mr. Indian Agent Strang, and according to the information given on the plan found that it will pass through the area now used by the Indians for fishing. Should the Indians be prevented from their accustomed use of the area following construction of the escape there is no doubt but that such action will make it much more difficult for them to get their fish food supply.

The Commission desire to proceed with the proposed construction on the Bridge River Reserve at the earliest possible date and if they are to do so permission to occupy the Reserve lands required for the purpose is necessary in the absence of the consent of the Indians, at least until such time as they do consent or expropriation proceedings are taken to acquire for the Commission the lands they need...

The plan referred to by MacKay was a blue print titled "Fraser River Project. International Pacific Salmon Fisheries Commission. Bridge River Rapids. Plan showing areas required from Bridge River Indian Reserve No. 1, and Fountain Indian Reserve No. 10 for river development and access thereto."⁵⁰ The plan indicated that 10.4 acres was needed on the west bank of the Fraser River belonging to the Bridge River Indian Band.

⁵⁰ A copy of the plan is on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa. Plan No. 5009.

On 17 October 1945, after repeated attempts to entice the Bridge River Indian Band to surrender their property, D.B. Finn, Deputy Minister of Justice, was asked for legal guidance in the proper method to expropriate the land. It was decided that the land could be expropriated under the War Measures Act, then in effect, for the "security, defence, peace, order and welfare of Canada." On 23 November 1945, Order in Council P.C. 7051 was passed. The Order in Council reads:⁵¹

Whereas by reason of the war it is deemed necessary for the security, defence, peace, order and welfare of Canada that certain lands comprising part of Bridge River Indian Reserve No. 1, Lillooet District, British Columbia, and certain other lands comprising part of Fountain Indian Reserve No. 10, Lot 5280, Lillooet District, British Columbia, be appropriated for use by His Majesty in right of Canada;

NOW, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Fisheries, and under the authority of the War Measures Act, is pleased to make and doth hereby make the following order:

- ORDER -

1. The lands hereinafter described, namely:
 - (a) All and singular that certain parcel or tract of land and premises comprising 10.4 acres more or less of Bridge River Indian Reserve No. 1 in Lillooet District, Province of British Columbia, as shown outlined in green on the plan annexed hereto; and
 - b) All and singular that certain parcel or tract of land and premises comprising 1.38 acres more or less of Bridge River Indian Reserve No. 1 in Lillooet District, Province of British Columbia, as shown outlined in red on the plan annexed hereto; and

⁵¹ A copy of the Order in Council is on file at the National Archives Canada, RG2/1, 23 November 1945.

(c) All and singular that certain parcel or tract of land and premises comprising 13.1 acres more or less of Fountain Indian District Reserve No. 10 (Lot 5280, Lillooet District) in Lillooet District, Province of British Columbia, as shown outlined in blue-black on the plan annexed hereto;

which lands are more particularly described in the Schedule annexed hereto, together with every right, title and interest therein or in or to the use thereof whether real or personal, notwithstanding anything contained in the Indian Act, are hereby appropriated for use by His Majesty in right of Canada free from any burden and encumbrance whatsoever.

2. The person who from time to time holds or is acting in the office of the Minister of Fisheries shall administer the lands hereby appropriated.

3. The Minister of Fisheries shall cause a copy of this Order in Council, together with a copy of the plan and schedule annexed hereto to be deposited of record in the office of the Registrar of Deeds for the county or registration division in which the lands are situated.

4. Compensation shall be made in respect of any right, title or interest hereby appropriated and where the amount of compensation cannot be agreed upon the claim shall be referred by the Minister of Justice to the Exchequer Court or to a Superior or County Court of the province within which the claim arises or to a judge of any such court in accordance with the provisions of the War Measures Act.

On 1 May 1961, the Department of Fisheries forwarded to the Indian Affairs Branch a cheque for \$2,356.00 for the 11.42 acres of land expropriated on Bridge River Indian Reserve No. 1 for the fishways.⁵²

⁵² See file in National Archives Canada, RG10, Volume 8742, File 987/8-0-42-1(1). Microfilm C-14886. A map of the expropriated land showing the location of the fishways is also included in this file.

The following year, 1962, a debate erupted again over the right of placer miners to stake the shores of Bridge River within the bounds of Bridge River Indian Reserve No. 1. In May of that year, twenty-six placer leases had been staked within the bounds of the reserve by non-natives. In a letter to the J.V. Boys, Indian Commissioner for British Columbia and the Yukon, dated 23 May 1962, Indian Superintendent R.J. Meek wrote:⁵³

As it is impossible to reach the river without trespassing on Bridge River I.R.#1, and as no request for prospecting or leasing has been received at this office, I viewed the staking with apprehension. Mr. Offin [B.C. Gold Commissioner at Lillooet] informed me that two of the stakers introduced themselves as professional men, one being a doctor and the other a lawyer, both from Victoria. These men informed Mr. Offin that they had consulted the Provincial Attorney General, Mr. Bonner, and had been informed by him that there was no objection to staking placer leases on an Indian Reserve.

Meek concluded his letter by stating: "One of the main points upon which a decision will rest will be whether or not the original survey of 1884 included the bed of the stream known as Bridge River. May I please be advised as to this point."

The following month, on 12 June 1962, the Indian Affairs Branch Legal Advisor, D. Vogt, informed the Chief, Reserves and Trusts that:

It is our opinion that the bed of Bridge River is included in the Reserve. In this connection, the Surveyor General advises that a survey post marking a corner of the Reserve is planted in the bed of the river. The surveyor's field notes suggest the post was placed in the bed of the river deliberately and there would have been no need to place the post in this position if it had been intended that the banks of the

⁵³ Correspondence on this issue is on file at the National Archives Canada, RG 10, Volume 6991, File 987/20-5-42-1(1). Microfilm C-12940.

river were to constitute the boundaries of the Reserve along the river. Furthermore, ownership of the bed of the river is reflected on Plan 50252, being the survey of the highway through the Reserve. The highway crosses the river at one point and the river crossing was included in the transfer of land to the province...⁵⁴

As Vogt later learned, however, no survey post was ever planted in the bed of Bridge River.

The Indian Affairs Branch decided to lodge a protest against the granting of the placer leases under Section 2 of the B.C. Indian Reserves Mineral Resources Act, 1943. The Bridge River Indian Band also lodged a separate protest and hired Henry Castillou as their lawyer.

However, the provincial government had a different perspective on the ownership of the river bed. Gold Commissioner Offin, in a letter dated 6 June 1962 to Indian Superintendent Meek, wrote:

With reference to our telephone conversation today this is to confirm that the Department of Mines and Petroleum Resources has ruled as follows, and I quote from the advice of the Chief Gold Commissioner dated June 1, 1962 addressed to myself:

"In reply to your letter of May 25th, the schedule of lands conveyed under Order in Council 1036/38 for the benefit and use of the Indians describes Bridge River I.R. No. 1 as follows:- Lillooet District, on both banks of Bridge River from its confluence with the Fraser River, upstream.

"The matter has been looked into by the Department of the Attorney-General and the opinion expressed that the bed of the river within the reserved area is Crown Provincial land, and, therefore, open to staking.

⁵⁴ A copy of Plan 50252 is on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources, Ottawa.

"In connection with posts being located on the reserve itself, I understand that any posts or cairns erected rather than being on the reserve are within the highway right-of-way. The Department of Highways told the locators that the right-of-way was, by right of construction or by right of easement or purchase of ownership, Crown Provincial land and that it was permissible to erect posts or cairns within it provided they do not constitute a menace to highway traffic."

This was followed by a letter from the Chief Gold Commissioner to Indian Commissioner Boys, dated 21 June 1962, summarizing the provincial position:

The description of the reserve contained in the schedule accompanying Order in Council No. 1036, dated July 29, 1938, reads as follows:- "Lillooet District, on both banks of Bridge River, from its confluence with the Fraser River, upstream". An examination of the official plan of the reservation on file here shows Bridge River to be coloured in blue, and this color on plans of British Columbia lands has been used by the Provincial Department for many years to show lands which are reserved to the Crown. The matter was placed before the Department of the Attorney-General some weeks ago and the opinion given that the bed of the river is vested in the Crown Provincial. In this connection, I enclose a copy of an extract from the Land Amendment Act 1961 which is pertinent to this point. It is considered the words "Crown Grant" therein apply to the transfer of the Indian Lands to the Federal Government since the transfer is equally outright.

In reply, Vogt advised, in a letter dated 29 June 1962:

The Gold Commissioner, you will note, has been advised by the Department of the Attorney General that the bed of the Bridge River is vested in the Crown Provincial, and the Department of the Attorney General relies on the 1961 Amendments of the Land Act...

The amendments of the Land Act are retroactive and provide that Crown grants shall be construed in accordance with the Land Act and not in accordance with the English Common Law.

In the case of Indian Reserves, it occurs to us that it is open to question whether this provincial legislation is applicable to land, title to which is vested in the Crown in right of Canada. Furthermore, the legislation refers to Crown grants, whereas both Fountain Indian Reserve No. 10 and Bridge River Reserve No. 1 were transferred by the Province to the Dominion by Minute of the Provincial Executive Council.

The Gold Commissioner, however, decided to reject the requests for placer leases on Bridge River. On 24 August 1962, Indian Commissioner Boys informed Ottawa that a hearing had been scheduled for 24 September 1962 in Lillooet as a result of an appeal of this order to refuse the placer leases on Bridge River. In his letter, Boys requested "to have clarified ... whether or not the total area under the original survey in 1884, 9,621 acres, would indicate that the river was included" in Bridge River Indian Reserve No. 1.

On 14 September 1962, Jules D'Astous, Chief, Economic Development Division, Indian Affairs Branch, informed Boys:

The Surveyor General cannot say conclusively that the survey of the Reserve included the river. There are, however, several factors pointing to an intention on the part of Mr. Jemmett to include the river.

Pages 3 and 45 of the field notes show the northwest corner of the reserve as being in the river. A photostatic copy of each page is attached.

Attached also is a print of tracing B.C. 147 on which the northwest corner is circled in red. You will note the most westerly boundary of the reserve runs due north to a post. The boundary north of the post is indicated by a broken line. According to page 3 of the field notes, the broken line extends 973 links true north of the post, and this distance places the corner in the river. There is a post designated "I.P." on the opposite side of the river. The existing post was placed by the surveyor who made the survey of the highway right-of-way shown on Plan 50252. Notes on Plan 50252 indicate that in the opinion of the surveyor, he found Jemmett's original post. According

to page 45 of the field notes, the boundary runs true west 557 links from this post and of course, would meet the west boundary in the bed of the river.

In an earlier letter, the writer stated that a post had been planted in the River. This statement after further discussion with the Surveyor General's office was incorrect.

Jemmett did not traverse the Bridge River and run offsets. It is thought that if he was excluding the River, he would have traversed the River and run offsets. Further, there is nothing to indicate that Jemmett ascertained the area of the river. This being the case, it might be concluded that the area given by him, namely, 9,621 acres, represents his computation of the area lying inside the perimeter and [?] included the river.

The Surveyor General using tracing T.B.C. 147 has checked the area by planimeter. The results are; dry land area - 9560 acres --- area of river - 190 acres.

It is questionable whether any significance can be attached to the difference in the areas as given by Jemmett and computed by the Surveyor General by planimeter.

It should be noted that these "factors pointing to the intention on the part of Mr. Jemmett to include the river" in the above letter were the opinions of D'Astous and not the Surveyor General of Canada.

A forty-three page transcript of the Lillooet hearing, although not a complete verbatim record, was eventually produced.⁵⁵ A newspaper report in the Vancouver Sun of 26 September 1962 summarized the proceedings. The meeting was chaired by W.K. Kiernan, the Provincial Minister of Mines and Petroleum Resources. Present at the hearing were representatives of the Bridge River Indian Band and their lawyer, H.G. Castillou; J.V.

⁵⁵ A copy of this transcript is on file at the National Archives Canada, RG 10, Volume 6991, File 987/20-5-42-1(1). Microfilm C-12940.

Boys, Indian Commissioner for British Columbia and the Yukon; W.R. Hourston from the Department of Fisheries; as well as representatives from the B.C. Attorney General's Department, the North American Indian Brotherhood, the twenty-six placer miners from Victoria and Vancouver, and local area miners.

As stated, the hearing was called not to determine ownership of the bed of Bridge River as it passed through the Indian reserve, but to hear an appeal from the placer miners whose applications for leases were rejected. However, the arguments revolved around whether the bed of the river had been included by Captain Jemmett in his 1884 survey of the reserve and subsequently transferred to the federal government under Order in Council 1036 in 1938. Throughout the hearing, though, Kiernan insisted that he had "accepted in principle that the bed of the river did not pass with the Reserve, has not passed prior to the creation of the Reserve, and has not passed subsequently." Both Castillou and the representatives of the Indian Affairs Branch argued that the bed of the river was included by Jemmett in the reserve [see above, page 13].

As stated earlier, Indian Commissioner Boys argued that he interpreted Captain Jemmett's field notes as placing the northwest corner of the reserve in the bed of Bridge River. He also argued that the bed must have been included in the reserve based simply on the numbering of the reserve:

Now, another point which I make in the case, and I think it was touched off by Mr. Castillou, is this, and I would like to emphasize that once again that this is one Reserve on the north and south side of the Bridge River. This is all one Reserve. Had it been the intention of the [Indian Reserve] Commissioners to award the north side of the river or the south side of the river, I think from what we have seen elsewhere in the Province that these would have been numbered differently. They would have been given different numbers. There are many instances of this. One is on

the Nass River where a rectangle is given and the river, which is considered navigable at that point, runs right through this rectangle, so that the Reserve on the west bank of the river is designated Reserve No. 1; the Reserve on the east bank is designated No. 1A, and in both these cases the river bank was traversed on both sides of the Nass River and offsets were shown from the cuts. But in this particular instance on the Bridge River, the river was not run. The river was not traversed on either the north or south banks, and it had been intended - now, a traverse must be closed - and if it had been intended that the river should be excluded, then I contend that a traverse would have been run along the river bank.

The hearing closed without the issue being resolved. Kiernan stated that he would not render a decision for thirty days, and in that time he would accept written submissions from the interested parties on their positions.

The Indian Affairs Branch asked the Department of Justice to file a submission on behalf of the federal government. On 4 October 1962, the "Deputy Attorney General of Canada" informed the Deputy Attorney General of British Columbia that:

Although I have not yet completed my consideration of this matter, it would appear from the information and documents that have been made available to be that the bed in question forms part of the Indian Reserve and is therefore under the administration and control of the federal government.

A month later, on 1 November 1962, the B.C. Minister of Mines and Petroleum Resources announced that he had decided to uphold the Chief Gold Commissioner's decision to withhold the leases to the twenty-six placer miners. In a quotation in the Vancouver Sun of that date, Kiernan is reported to have stated:

Without presuming to attempt to settle in any way the question of whether or not the bed of the Bridge River is part of the Bridge River Indian Reserve No. 1, I am led to the conclusion that it is not in the public interest to entertain or grant any placer mining leases in the area.

It would appear, from the records found in the National Archives Canada during this present search, that the issue of ownership of the bed of Bridge River has yet to be resolved.

THE FRASER RIVER

Bridge River Indian Reserve No. 1 and Bridge River Indian Reserve No. 2 both front on the Fraser River. The Fraser, one of the chief rivers of British Columbia, is approximately 850 mile in length. Its origin is in the Rocky Mountains near Jasper National Park. From its source, the Fraser flows in a meandering channel along the Rocky Mountain Trench until it reaches Prince George. From there it flows southward, picking up velocity as it is joined by tributaries.

South of Quesnel, the river enters the Fraser River Canyon, which extends for approximately 160 miles to near the town of Yale. In this section of the Fraser, the river has cut down into the bedrock of the Interior Plateau. However, it is only between Lytton and Yale that the river runs in a profound canyon. It is in this latter section where Hell's Gate is located, a treacherous gorge south of Boston Bar. Below Yale, the river broadens out as it passes through the Fraser Delta until it reaches the Strait of Georgia.

The river was named after Simon Fraser of the Montreal-based North West Company, the first European to descend the total length of the river to its mouth. Simon Fraser left Fort [later Prince] George on 28 May 1808 with nineteen French-Canadian voyageurs, two Indians, and two N.W.C. clerks, John Stuart and Jules Maurice Quesnel. Thinking he was on the Columbia River, Fraser and his entourage were searching for a viable supply and travel route from the B.C. interior to the Pacific Coast. The

trip from Fort George, a distance of approximately 500 miles, took thirty-six days to complete. They left Fort George on 28 May 1808 and arrived at the Strait of Georgia on 2 July 1808.

Fraser descended the river when it was in freshet, making it difficult and, in spots, unnavigable. Indians along the route tried to dissuade him from continuing the journey or at least to travel overland. However, he was determined to survey the actual river and to travel down it whenever humanly possible. But, as one historian later commented:⁵⁶

As it turned out, even Fraser was compelled to travel considerable distances by land. Between Leon Creek, north of Lillooet, near which he cached his canoes, and Yale, at the foot of the Fraser Canyon, the whole party rarely travelled by water. In some places all had to proceed overland; in others some of the party could use canoes, and the rest followed Indian trails along the hills.

Fraser rejected the river as a travel and supply route. Simon Fraser's expedition down the Fraser River has been repeated numerous times, the first in 1828 by Governor George Simpson of the Hudson's Bay Company. Simpson had decided that the Fraser River had to be re-examined as a possible travel and supply route. Simpson descended the river in the autumn when the water levels were low and most of the rapids and whirlpools much less swift and treacherous than during the summer freshet. In his journal of the trip, Simpson wrote that the journey was:⁵⁷

...an undertaking, compared to which, in my humble opinion, the much talked of and high sounding performances of His Majesty's recent discovery expeditions in the Arctic regions, were excursions of pleasure...

56 W. Kaye Lamb, "Introduction," The Letters and Journals of Simon Fraser, 1806-1808, p. 26.

57 Ibid, pages 29-30.

Fraser River, can no longer be thought of as a practicable communication with the interior; it was never wholly passed by water before, and in all probability never will again:... and altho we ran all the Rapids in safety, being perfectly light, and having three of the most skilful Bowsmen in the country, whose skill however was of little avail at times, I should consider the passage down, to be certain Death, in nine attempts out of Ten. I shall therefore no longer talk of it as a navigable stream.

However, Simpson's assessment of the Fraser as an unnavigable river is far from accurate considering the usage of a greater part of the waterway within a few decades of his descent. Soon after gold was discovered on the Fraser in 1858, and miners and settlers began moving northward up the river, almost every navigable stretch of water on the river was served by steamboats. The first of these boats to make it to Fort Yale was the Umatilla, which arrived on 21 July 1858.⁵⁸ Yale was considered the highest point a steamboat could ascend the Fraser from the Strait of Georgia.

Mining, road building, and later railroad building on the Upper Fraser after 1870 demanded vehicles to transport large quantities of freight, and steamboats soon were built on these sections of the river. According to one account:⁵⁹

58 Norman R. Hacking, "Steamboat 'Round the Bend.' American Steamers on the Fraser River in 1858, "British Columbia Historical Quarterly, Volume 8, No. 4 (October 1944): 268-269.

59 Norman R. Hacking, "British Columbia Steamboat Days, 1870-1883," British Columbia Historical Quarterly, Volume 11, No. 2 (April 1947): 70; see also Hacking's "Steamboating on the Fraser in the Sixties," British Columbia Historical Quarterly, Volume 10 (January 1946): 1-41.

On the Upper Fraser two steamboats operated between Soda Creek and Quesnel, the Victoria and Enterprise, owned by Gustavus Blin Wright, the road-builder. The season in the north was short, but freight rates were high and the boats were money-makers.

In 1956, the Geographic Branch of the Department of Mines and Technical Surveys, Ottawa, published a booklet on navigable waterways in Canada. Titled Extracts Relating to the Navigability of Canadian Inland Waterways,⁶⁰ this booklet is a compilation of extracts from published works and unpublished manuscripts and was designed "to make available in convenient form the wealth of source material revealed in the work of preparing a navigable waterways' map for the Atlas of Canada." Under the chapter titled "Pacific Coast Drainage," is a quotation concerning the Fraser River:⁶⁰

"The village of Tête Jaune, ... marks the beginning of navigation on the Upper Fraser River... Tête Jaune to Prince George, 315 miles... p. 4. ... In 1912 stern-wheel steamers were operating the 155 mile stretch between Prince George and Soda Creek... Navigation from Soda Creek to Chimney Creek Canyon about 20 miles is fairly safe... For two years in the 1880's a stern-wheeler gallantly operated the 26 miles between Lytton and Boston Bar without disaster, but craft of all kind would be well advised to avoid the entire stretch from Soda Creek to Yale... p. 8. There is no longer any regular service to that place (Yale) such as used to be provided by stern-wheelers... Yale to Chilliwack, 32 miles... small ocean-going vessels drawing up to 15 feet still go to Chilliwack... Chilliwack to New Westminster, 47 miles..." p. 9-10.

Jenness, D. and Leighton, J. The Fraser River system. Typed MS. in Geographical Branch Library, Mines and Technical Surveys Department. Ottawa, N.D.

⁶⁰ W.A. Black, Extracts Relating to the Navigability of Canadian Inland Waterways. Ottawa: Geographical Branch, Department of Mines and Technical Surveys, (1956): 2-3.

A search of the Geological Survey of Canada (Department of Energy, Mines and Resources Canada) library, the National Library of Canada, the National Archives Canada, and the National Museum of Man could not locate this typed manuscript by Jenness and Leighton.

In recent years, the Fraser River has seen increased usage by recreational canoeists and kayakers. On a recent map compiled by Canoe Sports B.C., titled British Columbia Canoe Routes, the following was written about the Fraser River:⁶¹

Named after the early explorer, Simon Fraser by fellow explorer David Thompson, the Fraser River flows 1600 km from Yellowhead pass to Vancouver. The banks of the river squeeze to only a few metres in its gorges, then stretch to over one kilometre near its mouth.

The Fraser River provides opportunities for paddlers of all levels, but there are sections of this river only for the expert. All canoeists who attempt the Fraser must be aware of the hazards and be prepared to recognize the dangers involved.

Many canyons have been created as the Fraser cut through the landscape and each contains rapids in excess of Grade III, some as much as VI. Most notable are: between Yellowhead and Rearguard, Grand Canyon 40 km below Penny, Fort George Canyon 20 km south of Prince George, Cottonwood Canyon 5 km upstream of Cotton Creek, Soda Creek Canyon north of Williams Lake, Morran Canyon from Big Bar and Yale. Open Canadian Canoes regularly run from Yale to Vancouver finding few hazards except whirlpools and wind.

Regardless of the section being paddled, every canoeist on the waters of the Fraser can feel the excitement felt by the early explorers.

⁶¹ Canoe Sport B.C. British Columbia Canoe Routes: A Guide to Canoeing in British Columbia. (Vancouver): Canoe Sport B.C., 1986.

According to the map, most of the Fraser River is navigable for Open Canadian canoes. Only those sections between Big Bar Creek and Lillooet, which includes the area of the river fronting on both Bridge River Indian Reserves, and between Boston Bar and Yale are not recommended for Open Canadian Canoes.

Conclusion

Based on historical documentation found to date, it would appear that most of Bridge River was not used for commercial or transportation uses by either Indians or white settlers. For twenty-five miles above its mouth, which includes that part which runs through the Bridge River Indian Reserve No. 1, the river flows swiftly through a steep canyon. Above this canyon, the river broadens into a valley where, at one time, settlers used canoes, rowboats and a ferry to travel that section of the river. Today, this area is under Carpenter Lake and Downton Lake.

Bridge River Indian Reserve No. 1 was sanctioned by Indian Reserve Commissioner Peter O'Reilly in a Minute of Decision on 1 September 1881. When surveyed, the reserve totalled 9,621 acres. It included land at the mouth of the river and on both sides of the river for a distance of approximately thirteen and a half miles. Since the reserve was surveyed in 1884, a debate has ensued over the ownership of the bed of the river as it runs through the reserve. The debate has come to centre around the intention of the Surveyor, Captain William S. Jemmett, to include or not the bed of the river in the reserve. Evidence found during this present search of documents indicates that his intentions are unclear. In 1960, the Surveyor General of Canada was requested to make a simple planimeter measurement of the dry land and the river bed to determine the exact acreage within the

reserve boundary. The result was inconclusive since neither the dry land alone nor the dry land plus the river bed totalled 9,621 acres. Another request should be made to the Surveyor General asking specifically for his opinion of Jemmett's intention, given the general instructions to surveyors that Jemmett was probably working under at that time.

In 1915, the Royal Commission on Indian Affairs for the Province of British Columbia confirmed the reserve in a Minute of Decision of 12 March 1915. In 1938, Bridge River Indian Reserve No. 1 was included in the list of reserves conveyed by British Columbia to the federal government under provincial Order in Council 1036. At that time, the reserve was described as being "... on both banks of Bridge River, from its confluence with the Fraser River, upstream." No mention was made of the bed of the river.

Indian Reserve Commissioner Peter O'Reilly also allotted a second parcel of land to the Bridge River Band, on the east bank of Fraser River some ten miles north of Bridge River. This reserve was allotted by a Minute of Decision on 1 September 1881. When surveyed by Captain Jemmett, the Bridge River Indian Reserve No. 2 totalled 140 acres.

O'Reilly also included in his Minute of Decision for this reserve the "exclusive right of salmon fishing on both sides of the Fraser river, from ½ mile south of Bridge river, upstream to the Fountain Indians fishery." This reserve was confirmed by a Minute of Decision of the Royal Commission on Indian Affairs on 12 March 1915. The fishing rights of this reserve were confirmed in a rather ambiguous Minute of Decision of 6 June 1916. In 1938, the reserve was conveyed to the federal government under provincial Order in Council 1036.

Although the Fraser River immediately in front of Bridge River Indian Reserves Nos. 1 and 2 might not be considered navigable during summer freshet for most forms of water transportation, the river as a whole is considerable navigable. Stern-wheel steamers plied many sections of the river from the mid-nineteenth century until 1923. Today, recreational canoeists are advised that only two sections of the Fraser River are not recommended for Open Canadian canoes; the rest of the river, although at times difficult to navigate, can be run.

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