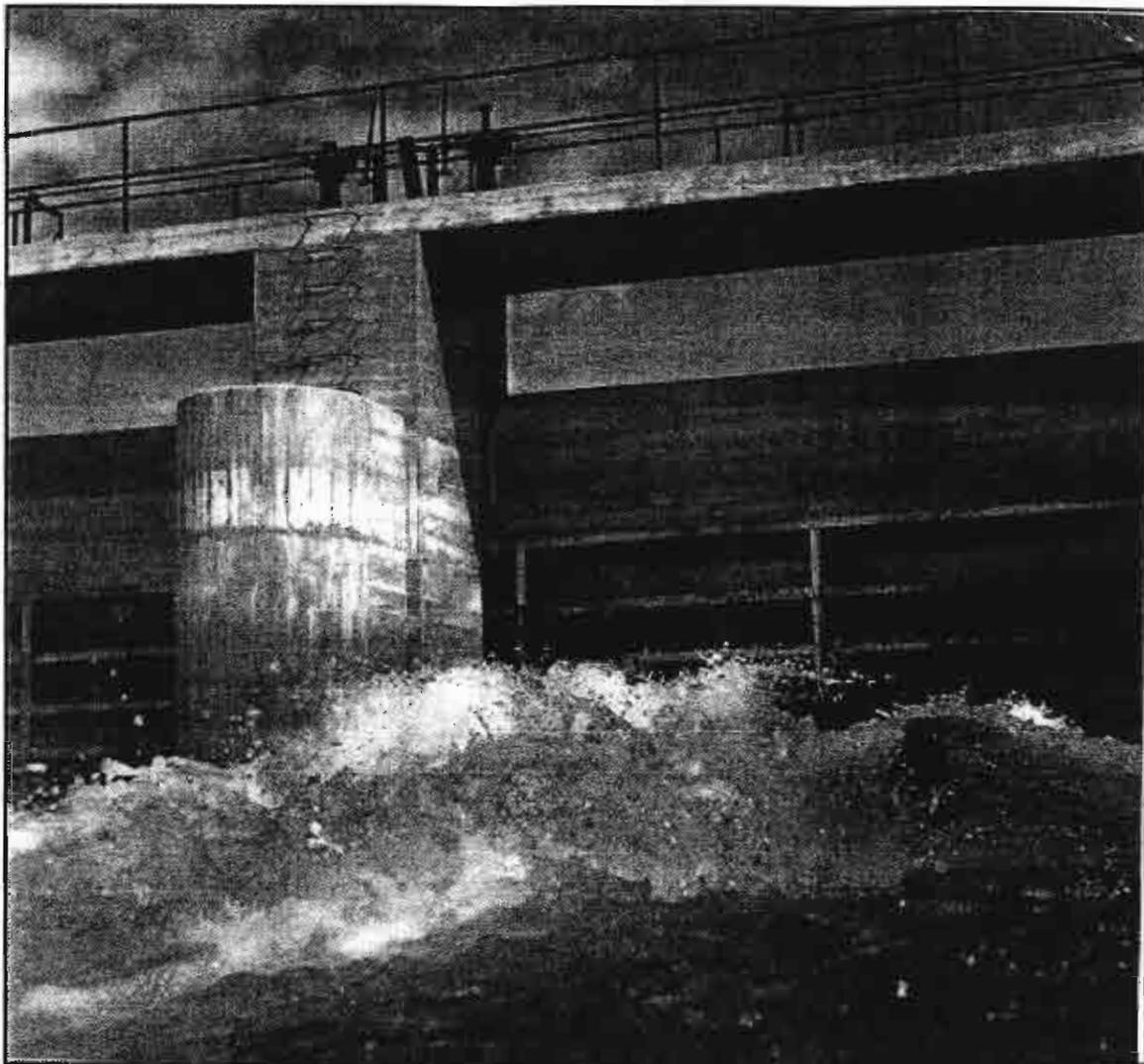


Okanagan Nation Fisheries Commission Dam Research
Final Draft



Okanagan Lake Control Dam, Penticton

Prepared for: Okanagan Nation Fisheries Commission, June 1999

Prepared by: Andrea Ernst, Running Horse Consulting, with the assistance of Andreas Artz

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INDEX

INDEX	1
LIST OF ACRONYMS, ABBREVIATIONS, AND GOVERNMENT AGENCIES	3
ACKNOWLEDGEMENTS	6
INTRODUCTION	7
PROJECT OBJECTIVES	8
RESEARCH METHODOLOGY	11
DESCRIPTION OF STUDY AREA	13
PRE-SETTLEMENT HISTORY OF THE PENTICTON AREA	15
SETTLEMENT HISTORY OF THE PENTICTON AREA	16
HISTORY OF THE PENTICTON DAM/OKANAGAN DAM/OKANAGAN LAKE CONTROL DAM	22
HISTORY OF THE SKAHA OR OKANAGAN FALLS DAM	27
HISTORY OF THE VASEAUX OR MACINTYRE DAM	29
OKANAGAN FLOOD CONTROL PROJECT AND ACT	32
OKANAGAN NATION & DEPARTMENT OF INDIAN AFFAIRS & OKANAGAN FLOOD CONTROL PROJECT AND ACT	42
FISHERIES PROTECTION WITHIN THE OKANAGAN FLOOD CONTROL PROJECT AND ACT	61
CONCLUSIONS & RECOMMENDATIONS	72
REFERENCES CITED	75
LIST OF PHOTOGRAPHS AND FIGURES	79
APPENDICES	80
APPENDIX ONE: DAM CHRONOLOGY	81
APPENDIX TWO: ZOSEL DAM	127
APPENDIX THREE: DAM PLANS	130

Without Prejudice

The participation of the Okanagan Nation Alliance in this project is Without Prejudice to the aboriginal rights of the Okanagan Nation or the aboriginal rights of any Okanagan Band or any members thereof.

Furthermore, the participation of the Okanagan Nation Alliance is Without Prejudice to its position that it holds aboriginal title to the whole territory within which the project work and this report applies and any claim that the Okanagan Nation may make therefore, including a claim for fair compensation for any infringement on that title.

In the event that the Okanagan Nation Alliance develops its own policy on consultation, infringement and compensation, its participation in this project and the information contained in this report and any related documentation will be subject to that policy.

The research, writing, and subsequent analysis presented within this report are the endeavours of the authors. Any ideas, questions, and remarks generated within the project are reflections and interpretations of the subject matter. This draft information is limited to the subject matter and is regarded as Without Prejudice to the ONA and Member Bands.

LIST OF ACRONYMS, ABBREVIATIONS, AND GOVERNMENT AGENCIES

BCARS - Formerly Provincial Archives of British Columbia (PABC) then renamed British Columbia Archives and Records Services (BCARS). Located in Victoria, BC.

Department - Typically refers to Federal authority.

Department of Public Works - Can be either Federal or Provincial. Usually specified. Historically Public Works had both federal and provincial departments/ministries which were involved within the Okanagan Basin.

DIA - Department of Indian Affairs is an abbreviated form for the various transformations of the Federal authorities which have administered matters related to First Nations. This term is loosely used to describe the following:

A Brief History of Indian Affairs Administration in Canada	
1755	The British Crown establishes the Indian Department, a branch of the military, to foster good relations and cultivate military alliances with First Nations.
1867	On Confederation, the new federal government is given legislative authority over "Indians and lands reserved for Indians" through the Constitution Act, 1867.
1867-1966	Indian and northern affairs administration is handled by various departments throughout the years, including the Office of the Secretary of State, Citizenship and Immigration, Mines and Resources, and Northern Affairs and National Resources.
1966	The present-day Department of Indian Affairs and Northern Development is created by an Act of Parliament.

DFO - Department of Fisheries and Oceans. DFO is Federal and typically has jurisdiction over tidal water fisheries. Fresh water fisheries are currently administered under MELP.

Domain - A legal term which describes the complete and absolute power over land or water.

Dominion Government - Historical term for Federal Government. The official name of Canada, established by the *British North America Act* of 1867, is Dominion of Canada. This official title was reconfirmed by the *Constitution Act* of 1982.

Fish and Game Branch - Known as the Game Commission 1920-1957, the Fish and Game Branch 1957-1966 and the Fish and Wildlife Branch 1966-1977.

GR - An archival term for Government records. Most often provincial.

Land Registry Office - Changed to Land Titles Office in 1978.

MELP - Ministry of Environment, Lands and Parks. In past years this administration has also had involvement from the Fish and Game Wildlife Branch (provincial).

Ministry - Typically refers to Provincial authority.

MP - Elected Member of Federal Parliament.

MPP – Elected Member of Provincial Parliament.

OIC – Order-in-Council. The Council is the Cabinet of the political party in power. An Order-in-Council is a resolution passed by the Cabinet. There is often an extensive paper trail associated with an OIC. OIC is always an act of the executive branch of government, which can be either federal or provincial.

Okanagan Basin Implementation Board (OBIB) - A four year study of water resource management in the Okanagan Basin was completed by the Canada-British Columbia Consultative Board in 1973. This resulted in forty-five 'recommendations comprising a comprehensive water management plan'. The Okanagan Basin Implementation Agreement was executed on February 9th 1976 by both Federal and Provincial Governments. One of the priorities of the OBIB was to ensure the standards of the Okanagan Flood Control System were in order before these works and their ongoing operation and maintenance costs were transferred to the province of British Columbia.

Okanagan River Boundaries Settlement Act – Formed in 1963 to address the discrepancies found to exist between the river boundary of certain parcels of land abutting on the Okanagan River.

ONA - Okanagan Nation Alliance.

ONFC - Okanagan Nation Fisheries Commission.

Penticton Board of Trade - The board was created in 1907 by local business interests in order to establish a viable and prosperous town. This required successful advertising and constant lobby efforts to the appropriate sources. The Penticton Board of Trade was created before the Municipality of Penticton and often appeared to be in a similar position of power as the Penticton Council. There were 46 charter members. At its inception the Board of Trade embodied a large territory, necessary in order to have a sufficient population base to ensure registration under the *Dominion 'Board of Trade Act'* (Atkinson, R. N. 1967:165). The Board was instrumental in the establishment of the experimental agricultural station situated outside of the Penticton city area.

PC - Privy Council. A resolution passed by the Federal Cabinet is known as an Order-in-Council or a Privy Council Order. Such orders are often indicated as PC followed by a number.

Provincial Police – body of police that were amalgamated within the RCMP system in the 1950's.

RG 10 - Record Group 10, describes a series of Federal records which document the papers associated with DIA.

South Okanagan Land Company - this was a company formed to dispose of the Ellis holdings. The company was gazetted in 1905 as limited liability company. The men involved in this company were located in such diverse areas as Halifax, Toronto, Montreal, Vernon, Victoria, and Sicamous. The company's primary purpose was to dispose of the Ellis holdings within the most profitable manner. Consequently they required large amounts of irrigation water.

TOR - Terms of Reference.

UVIC - University of Victoria

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**Circa 1900 Okanagan River
Source: Penticton Archives**

Introduction

There are approximately 2200 dams operating in British Columbia ranging in size and purpose from large hydro power dams to small privately owned irrigation dams.¹ At the onset of this project the subject matter appeared to be dams and their relationship to the loss and destruction of fish habitat, specifically sockeye salmon. Research, however, revealed a relentless drive and pressure within the Okanagan Basin to have the water resources of the area rigorously controlled. In fact this control was not only regional and provincial but involved federal powers as well. It was this dominant need for water control and regulation that ignored the requirements of salmon habitat and ultimately led to their population reduction and subsequent resource and cultural loss for the Okanagan people. Concurrent with the water control needs there appears to be minimal involvement of any form of recognised fisheries habitat protection, either through federal or provincial ministries. The Okanagan River, and the land through which it flows, was subject to extreme settlement and development pressures. This fact combined with the perceived secondary value of Interior salmon habitat, as well as the notion that the sockeye run has a more tangible value to the Americans, has undoubtedly contributed to the reduction of the sockeye salmon within the Canadian Okanagan River system.



Circa 1900 Okanagan River mouth at Penticton
Source: Penticton Archives

¹BC Ministry of the Environment, Lands and Parks, Water Management Division. Internet Home Page.

Project Objectives

Research conducted by the Okanagan Nation Alliance Fisheries Commission²(ONAF²C) in 1997 revealed a number of pertinent concerns. Essentially the Okanagan Nation, “has suffered great losses in the Okanagan basin salmon fishery, from estimates of harvests of up to 2,750,000 pounds of salmon down to harvests of less than 10,000 sockeye since 1953. The reasons for these losses are numerous: commercial fisheries, the construction of dams, habitat loss and degradation.”³ The 1997 study identified a number of research questions. Funding provided by the Aboriginal Council of BC for the fiscal year 1998/1999 provided the support to the Okanagan Nation Alliance Fisheries Commission to address those research concerns and questions. Specifically, the research questions addressed the history of three individual dams within the Okanagan Basin and how fishery concerns were both identified and protected within those infrastructures.

While there are a number of dams within the Okanagan Basin area, there are three dams that are considered as having a significant impact on the salmon fishery and they are the focus of this study:

- ◆ The Penticton Dam, also known as the Okanagan Lake Dam, adjacent the beached *Sicamous* on Penticton Lake
- ◆ The Okanagan Falls Dam also known as the Skaha Dam, south of the highway at Okanagan Falls
- ◆ The McIntyre Dam, also known as the Vaseaux Lake Dam, south of Vaseaux Lake. This dam is built on Crown land but accessed through private property.

These dams are primarily described as flood control dams. Their secondary function is water availability and fish habitat, while the third is recreation.⁴ A fourth dam, the Zosel Dam in Osoyoos, although not included in the Terms of Reference, was briefly examined and its history is included within the Appendices. The Zosel dam has potential importance to the ONAF²C, as this dam’s jurisdiction is two thirds Canadian and one third American.

In March of 1999, Ms. Dawn Machin, Fisheries Biologist for the Okanagan Nation Alliance Fisheries Commission provided Research Consultant, Andrea Ernst with a list of instructions and questions that ONAF²C considered of vital importance. These were:

- ◆ Research and document all details associated with the construction of the dams at the outlets of the Okanagan, Skaha and Vaseaux Lakes. This should include verification of all the details outlined in the Terms of Reference. As outlined they are:
- ◆ Which government authorised the building of the dams

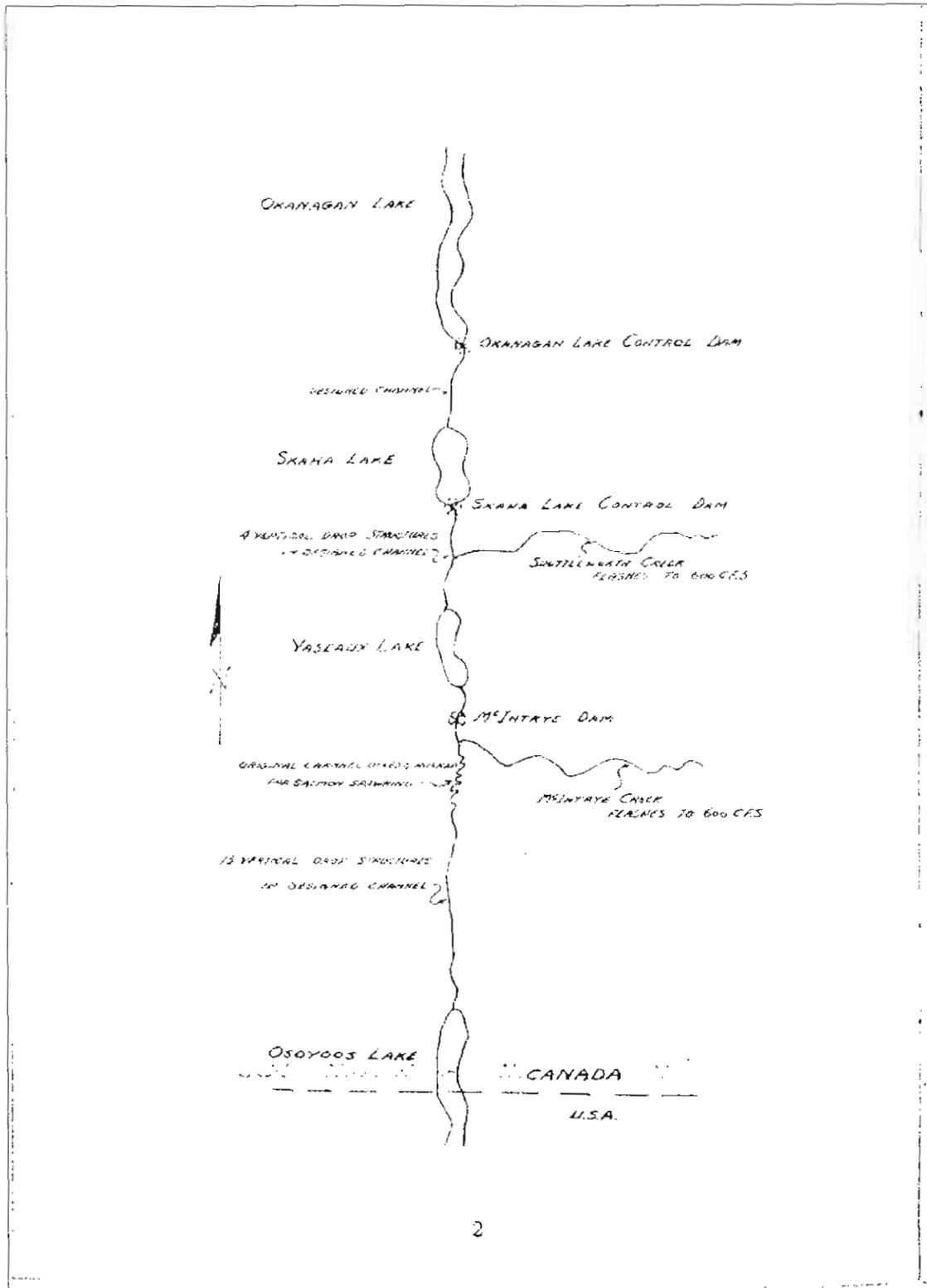
² Machin, Dawn. Okanagan Nation Fisheries Losses. April 1997.

³ Ibid. p.9.

⁴ Personal conversation: Brian Symonds, Ministry of Environment, Lands and Parks (MELP) Water Management, Penticton. March 19th, 1999.

- ◆ Were the requirements of the migrating salmon considered – if so how
- ◆ What dates did the construction—including any modifications—take place
- ◆ Who operates each facility
- ◆ What is the nature, if any of DIA involvement
- ◆ Were any of the Okanagan Bands consulted or contacted – who, how, when – details
- ◆ What, if any, was the key legislation involved with the construction of the dams
- ◆ Were U.S. interests, state or federal, involved

Project deliverables included a chronology of events, a citation of references, and all copies of relevant Federal and Provincial correspondence on the matter.



Circa 1956 map showing the three dams
Source: Penticton Archives File No.26-2246

Research Methodology

This research project was primarily a historical research project. Historical documents were located and examined in order to create an understanding of the forces that shaped the construction of dams and subsequent salmon population depletion. Preliminary research to provide background information was conducted through telephone discussions on March 19th, 1999. These conversations were conducted with various Provincial representatives Okanagan Nation Alliance background information was provided by Dawn Machin via a copy of her April 1997 report, *Okanagan Nation Fisheries Losses*.

Andrea Ernst conducted primary research at the Penticton Archives on March 20th, 24th, and 25th. A thorough examination of all files relating to dam history was conducted with considerable assistance from archivists Randy Manuel and Suzanne Haverkamp. This included: Penticton Board of Trade Books; “Old City” Records, including By-laws; Municipal files; Council Minutes; Penticton Creek Dam files; the photograph collection; satellite photos; Okanagan River files; Penticton Irrigation System files; Herald Newspaper files; and the Okanagan Historical Society files. Files within the Ernst archives were also examined. These included the *Dominion of Canada, Department of Marine and Fisheries Annual Reports 1904 – 1938* and *The Report of the Deputy Superintendent-General of Indian Affairs, 1879 – 1916*.

Archives examined on the lower mainland included: the Union of British Columbia Indian Chiefs Archives, the Doyle collection at UBC, the Federal Archives at Fisheries and Oceans, the Pacific Salmon Commission Archives, Vancouver Federal Records Centre in Burnaby, local archives in Penticton, and British Columbia Archives and Records Services (BCARS) in Victoria. Internet access to BCARS was utilised to examine a number of records within the GR group (see Appendix Three for further details). As there were a number of land transfers involved within this research project the Surveyor Generals Office in Victoria was also examined. In order to complete the project within the short time span, March/April 1999, researchers in Vancouver (Susan Roy) and in Victoria (Yasmeen Qureeshi) were contracted.

A dam chronology (Appendix One) was established from the archival documents and used as a baseline reference tool to guide the researchers in Vancouver and Victoria. As material was gathered, the chronology was updated. Due to time limitations and protocol considerations the project did not conduct any research interviews with Okanagan Nation Members. In fact the primary conversations were with Provincial Government employees. Okanagan Nation culture is not represented and consequently the research can be viewed as incomplete in that respect.

The research material, once organised in chronological order, revealed five paramount subjects that had an impact on the sockeye fishery:

- ❖ Settlement History of the Penticton area
- ❖ History of the Okanagan Control Dam
- ❖ Okanagan Flood Control and Act

❖ Okanagan Nation & Department of Indian Affairs Consultation within the Okanagan Flood Control and Act

❖ Fisheries Consultation within the Okanagan Flood Control and Act

The available research material regarding the Skaha and MacIntrye Dams was extremely limited in comparison to the Penticton Dam. This fact should be noted for future research. Consequently the study tended to focus on the Penticton area. This focus should not be interpreted as assigning less importance to other sites within the lower Okanagan regarding their impact or value to the sockeye salmon. Rather, it must be understood that Penticton evolved as a central figure in flood control and that this fact has generated considerable data.

Description of Study Area

The study area, known as the Okanagan River Basin, straddles the Canada-U.S. border, extends from the head of Okanagan Lake north of Vernon, British Columbia, to the confluence of the Okanagan and Columbia Rivers at Brewster, Washington. While the study concentrates specifically on the three flood control dams specified in the introduction to this work, the affected area is in reality a significant portion of this entire watershed.

The Okanagan River drainage was classified by Krajina (1965, 1969) as belonging to the Ponderosa Pine-Bunchgrass Biogeoclimatic zone. Ministry of Forests technicians have subsequently separated this zone into two discrete classifications: the grasslands below 900 m elevation are treated as a separate Bunchgrass zone and are considered to represent the northern limits of large grasslands to the south⁵. Nevertheless, what is pertinent to this study is that this area is typified by hot dry summers resulting in large moisture deficits during the growing season.⁶ Mule deer, Elk, and Bighorn Sheep habitat is represented at higher elevations.⁷

Okanagan Lake, at approximately 350 m asl (metres above sea level), is the predominant geographic feature of the area. It is approximately one hundred and twenty kilometres long, averaging three kilometres in width, with an area of about 420 square kilometres and a maximum depth of some 260 metres. The Okanagan River begins at the south end of Okanagan Lake, flows through the flatlands separating Okanagan and Skaha Lakes, a distance of 8 kilometres. Although the elevation drop from the head of Okanagan Lake to Osoyoos Lake is 111 metres, Okanagan Falls below Skaha Lake is the only dramatic drop in elevation (4.5 metres) along the length of this river. From there it is only 5 kilometres to Vaseaux Lake. The river then meanders through the low-lying lands around the town of Oliver, and not far from there it enters Osoyoos Lake. The outflow of the lake is a short distance north of Oroville, Washington, where the Similkameen River joins the Okanagan River. Finally, the Okanagan (as it is spelled in the US) joins the Columbia River at Brewster, Washington.

The majority of the inflow water to this system comes during the period from April to June. Except for the major tributary streams, most of the smaller creeks and streambeds are dry from July to November, due chiefly to upstream storage and irrigation demands. It is estimated that of an annual gross inflow of 664,000 acre feet to Okanagan Lake Basin, up to 1/3 is lost by evaporation and transpiration from Okanagan Lake. About 15% of the mean annual surface runoff to Okanagan Lake is used for irrigation.⁸

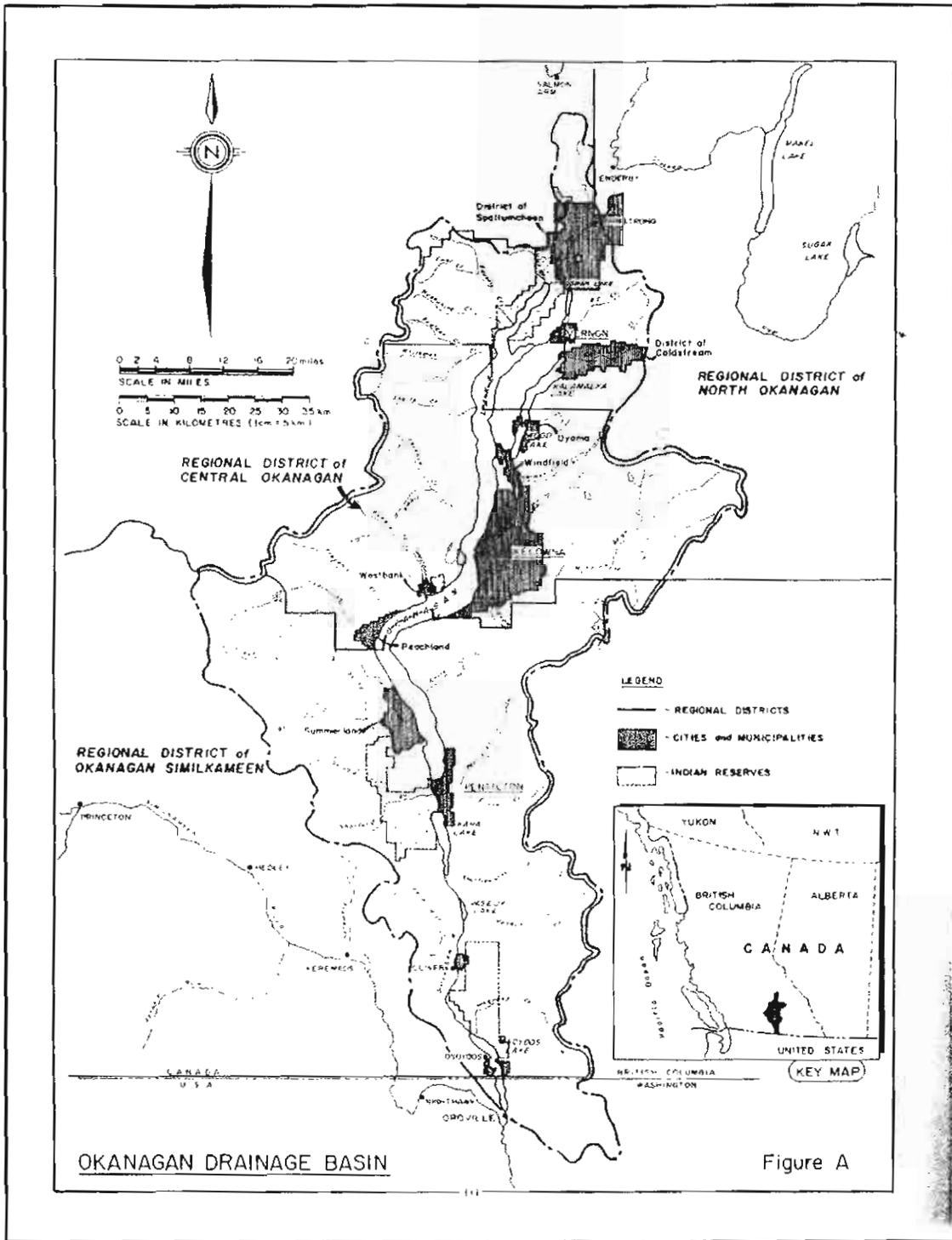
The climate, with its average 200 plus growing days in the south Okanagan Valley, has attracted a host of fruit and vegetable producers as well as dairy farmers and beef ranchers. It is this influx of settlement that prompted the chain of events leading to the building of dams that formed the main strategy of Okanagan Flood Control.

⁵ Meidinger and Pojar 1991, p.129.

⁶ Ibid. p.140.

⁷ Okanagan-Shuswap LRMP, Ungulate Habitat Map 1999.

⁸ Pinsent, Stockner et al. 1974, p.5.



Okanagan Drainage Basin
Source: Penticton Archives

Pre-Settlement History of the Penticton Area

While it is beyond the scope of this project to write a thorough ethnographic history, a basic understanding of Okanagan Nation use of the study area is of importance. The decision was made, therefore, to rely on previously written work.⁹ It is widely known and not a matter of debate that the study area is wholly within the traditional territory of the Okanagan peoples. The Okanagan, “a branch of the Interior Salish, occupy an area (including the Douglas Lake area) extending from the south side of the Columbia River in the south, to the Upper Arrow Lake to the north, from Slocan Lake to the east to Nicola Lake to the west.”¹⁰ The Okanagan people who lived within the study area are thought to have inhabited one of the largest permanent villages in the Okanagan at Skaha and Okanagan Lakes.

Pertinent to the study area within the Penticton section of the Okanagan River, Equinox Research and Consulting (1998) wrote: “Elders from the Penticton Band (pers. comm. Joe Pierre 1998) indicate that prior to construction of the airport, Okanagan people lived in semi-subterranean pithouses between Okanagan and Skaha Lakes during the winter months. . . . It is unknown how many houses were built along the river channel but they were built in the area that is presently occupied by the eastern portion of the airport.”¹¹ Former Penticton archivist, R. N. Atkinson, provides a further description of habitation along the river lands between Okanagan and Skaha Lakes:

The main Indian village had its centre at the west end of Huth Ave. from whence it sprawled over thirty acres . . . the river there meandered in a series of small bends and turns, and it was in one of those that the crossing was safest . . . for some unexplained reason the village was almost entirely confined to the east side of the river. Smaller sites extended in either direction towards the two lakes. . . . Evidence of a fair sized camp near the head of the river that extended sparsely along the foreshore to the big coulee (Mt. Chopka Auto Court), has almost been completely destroyed in recent years. The best part of this site centred on the head of the river proper.¹²

Okanagan Falls was one of the most important salmon fishing sites in the area and, indeed, was at the end of the salmon run.¹³ Undoubtedly the Okanagan River, and the expansive marsh/estuary lands fed by seasonal flooding and nutrient renewal, were parts of a landscape that had significance and provided sustenance in a number of ways.

⁹ To the best of the author's knowledge the Penticton Band was fully consulted in the field work and writing of *Results of an Archaeological Inventory / Impact Assessment of the Penticton Airport* Equinox Research and Consulting Ltd. 1998. Penticton Indian Band Permit #00142. Consequently this report has been relied upon to provide culturally approved ethnographic data.

¹⁰ Ibid:6

¹¹ Ibid:7

¹² R. N. Atkinson Papers, Penticton Archives.

¹³ Webber, Jean and the En'okwin Centre *Okanagan Sources*, Theytus Books Ltd. Penticton, 1990 p.54

Settlement History of the Penticton Area

For the purpose of this report, the dam chronology document was organised into concurrent sections of history (pre-settlement, settlement, dam history, etc.), which resulted in a further understanding of the forces affecting the fisheries in the study area.

In 1861 the Penticton area began its reserve formation and consequent “settlement phase” when W.G. Cox attempted to establish the first Indian Reserves in the Penticton area. On May 25th 1865, Thomas Ellis rode into the area with magistrate J.C. Haynes. Haynes had been sent by Joseph Trutch, Chief Commissioner of Lands and Works, to reduce the Indian Reserves previously established by Cox. On his arrival, Ellis recorded in his diary the infamous words he will always be remembered by: “I don’t think much of the place.”¹⁴

Haynes in accordance to prior instructions (from Trutch) laid out the Indian Reserves at the head and foot of Okanagan Lake.¹⁵ Haynes, and later surveyor Turnbull, used the natural boundary of the Okanagan River and both Skaha and Okanagan Lakes to create a line between the lands known as Indian Reserve and the lands available for pre-emption.

In compliance with the wishes of Mr. Haynes (magistrate of the Osoyoos District) I have laid out three Indian Reserves situated on the north and southern extremity of the Okanagan Lake and I herewith beg to lay before you the enclosed plan, which will show their positions, yet, etc., together with the following remarks respecting them . . . the first reserve which is situated on the south end of the Okanagan Lake (and known to the Indians as Penticton), is . . . bounded on the south by Lake du Chien; on the east by the Okanagan River; on the west by the base of the low rolling hills, and terminates about 2 ½ miles north at the first point, where the hillside and river meets.¹⁶

Turnball continued with the observation that “the reserve at Penticton comprises 842 acres. The one on the west of lake about 1,500 acres, in my opinion more than double what is necessary to serve the purposes of the Indians settled on the Okanagan.”¹⁷

Less than two years later, on April 6th.1867, Thomas Ellis, apparently having reconsidered his first assessment of the area, embarked on a process that would make him into one of the pre-eminent land barons in the south Okanagan, as well as a major influence on the future of the region. He filed a pre-emption of 160 acres of land at Penticton. His first move in a long series of acquisitions spanning the next twenty-five years, ran from the “foot of Okanagan Lake - bounded on the north by the pre-emption of A. McFarland - on the

¹⁴, Ellis/Hanna binder Penticton Archives

¹⁵ Haynes, John C. Colonial Correspondence. File #741 BCARS

¹⁶ Papers Connected with the Indian Land Question 1850-1875. Victoria, Wolfenden Government Printer, 1875 p.195

¹⁷ Ibid. p.195

west by the swamp-on the south partly by the river & in the east by scattered timber.¹⁸ In all, Ellis was to claim 642.35 acres of bottomland between Okanagan and Skaha Lake. This low land was the same land that had been occupied by the Okanagan people:

Thereon was the home location from which Thomas Ellis carried on his extensive trading and ranching undertakings until he became known as the cattle king of the Okanagan Valley. . . . It will be noted that his first location was described as being at Penticton which was the name given by the Indians to the locality at the outlet of the Lake, meaning 'ever' or 'forever'.¹⁹

Ellis was a consummate land baron and during the next quarter century he acquired a total of 31,000 acres of land.

The influx of pre-emptions and settlement brought a requirement for control of what was previously an unregulated resource and habitat for fish, ducks, geese and a host of other wildlife. On September 1st 1892, Thomas Ellis was granted a record of 2000 inches of water from Penticton Creek for "agricultural and milling purposes".²⁰ On January 20th 1905, the Southern Okanagan Land Company Limited (SOLCL) was formed to dispose of the vast Ellis holdings. Thomas Ellis conveyed practically all the land he had acquired from the Haynes Estate (1895 - 20, 765 acres for the sum of \$65,000.00), and his own land, to the Southern Okanagan Land Company for the sum of \$300,000.00. The total transfer was estimated to be 30,000 acres, of which a little less than 10,000 acres was in the vicinity of Penticton. With the land went 3,750 head of cattle, for which the Company paid an additional \$112,500.00. Of equal importance to the sale of this land were the transferable water rights previously established by Ellis, Haynes, and other pre-emptors.

The Southern Okanagan Land Company subsequently divided the Ellis land and further settlement occurred. This subdivision of land led to an immediate and pressing need for a more controlled and constant source of irrigation water. "The first attempt to create a storage reservoir on Penticton Creek resulted in the construction of the 'Twenty Mile Dam', containing approximately 700 acre feet in comparison to our present day storage capacity at this site of 10,000 acre feet".²¹ When the dam on Penticton Creek was completed, it delivered water onto the main benches for sixty years (original log structure replaced with concrete in 1930).

Further non-Native authority over the Penticton landscape occurred in 1907 when the Penticton Board of Trade was formed. The Board applied for jurisdiction over territory extending from Trepania Creek* on the west side of Okanagan Lake, ten miles on each side of the lake and ten miles on the west side of Okanagan River and five miles on the east to

¹⁸Ellis/Hanna binder, Penticton Archives, source BCARS GR 0112.

¹⁹Ellis/Hanna binder, Penticton Archives, source Add Mss 700 p.486 BCARS.

²⁰Angliss vs Penticton, 25-4404, Box 3, File #8. Penticton Archives.

²¹R.N. Atkinson. Penticton Pioneers in Story and Picture. pp.35-37.

*Trepania Creek is also known as Trepanier Creek.

the International Boundary Line.²² Late in 1908 Penticton was incorporated as a District Municipality under section 3A of the *Municipalities Incorporation Act*. The land description contained within the gazette included:

thence due west thirteen hundred and five feet along the south boundary of said Lot 196 to the east water line of Dog Lake (Lake Skaha); thence northerly, westerly, and easterly, following the water line of said Dog Lake (Lake Skaha) to the west bank of Okanagan River; thence following upstream the meandering of the west bank of said Okanagan River to Okanagan Lake; and thence along south and east water line of said Okanagan Lake to the point of commencement; containing seven thousand and forty-four acres (Provincial Gazette, January 1909 Penticton Archives).

During the winter of 1908 - 1909, Public Works of Canada carried out a survey of the Okanagan River between Okanagan and Skaha Lakes.²³ This survey is presently unavailable but should be located with a future research project.* It appears to be the first involvement of the federal arm of the Department of Public Works with the Okanagan River in the Penticton area.

In July of 1909, during the Quarterly General meeting of the Penticton Board of Trade, it was moved that a committee be appointed to request from the Council and the Land Co., "what steps were being taken regarding the responsibility of the small dam on Penticton Creek." This motion was then amended, "that in view of the fact that another flood is entirely improbable this season, and as the Council are at present considering the matter, this Board should take no action pending the decision of the Council." The motion was then withdrawn. This lack of action points to the dual governance in effect within the Municipality of Penticton. Research has revealed that the Penticton Board of Trade, and the subsequent Penticton Council, was often concerned with similar issues.

The July, 1909 Penticton Board of Trade meeting had further discussions in regard to the early dams. W. T. Shatford explained:

the dam was put to prevent all the residential part of the town from flooding with the exception of the part lying between Ellis Bridge and the water. The dam was offered to the Municipal Council for free but the keys were returned by the latter and the South Okanagan Land Co. notified that the Council would not be held responsible for any damage done by the creek. Mr. Shatford stated that he did not believe half present knew of the existence of the dam. People passed along the road and saw that at that point the south trench of

²²Penticton Board of Trade transcripts p.1. Penticton Archives.

²³Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.82.

*A copy of this Federal document is not available in the Provincial Archives.

Penticton Creek would hold quite a lot of water and then concluded that it would do so its whole length. If the dam was not taken over within 30 days of notice it was liable to be taken out.” Further announcements included that the dredging of the river would now proceed and that the work of putting a bridge over the Okanagan River was also to proceed.²⁴

The interests of the Municipality, the Board of Trade, Southern Okanagan Land Company, and the Federal and Provincial Governments were focussed primarily on development issues with little concern for any impact on salmon stocks.

During the spring of 1910 the first dredging of the Okanagan River began. In order to move the dredge downstream cuts were made into half of the natural bar that lay at the head of the river at Okanagan Lake.²⁵ This action marks the beginning of the transformation of the Okanagan River between Okanagan and Skaha Lake. The meandering river, surrounded by old river bows and ancient river beds, was gradually altered into the straight, concrete-lined canal it is today.

The considerable value of water in the Penticton area was revealed in June of 1910 when an agreement was entered into between the Southern Okanagan Land Company Limited, the Penticton Water Supply Company, and the Municipality of Penticton. The Municipality purchased the irrigation system of the Penticton Water Supply Company for the sum of \$90,000.00.²⁶ The *Land Act* ensured that the purchase of land entitled the buyer to water rights.

The stretch of Okanagan River between Okanagan and Skaha Lake, in addition to orchard and cattle farming irrigation needs, had further settlement pressures. The December 3rd 1910, issue of the *Penticton Herald* reported that “concessions have been made by the municipality to the Penticton Lumber company which have smoothed aside any difficulties that might have been in the way of the establishment of an important industry in Penticton.”²⁷ The 1910 prospectus for the company states:

The Company has purchased one of the best Mill sites in the valley, consisting of 10 acres on the Okanagan River in the Municipality of Penticton, with ample room for storing logs.* The water transportation from the site to the markets north and south on Okanagan Lake is excellent. The accepted location surveys of two lines of railway pass near the mill site and will give excellent transportation facilities to convey the manufactured lumber to the Prairie Provinces.²⁸

²⁴Penticton Board of Trade transcripts, p.55. Penticton Archives

²⁵Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.82.

²⁶25-4404 Box 3, File # 8. Penticton Archives.

²⁷*Penticton Herald*. December 3,1910. Vol.1No.23. File # 15-4463. Penticton Archives.

*The log pond was situated within a river bow at approximately the half way point between the two lakes.

²⁸*Prospectus* Penticton Lumber Company Ltd. File # 15-4463. Penticton Archives.

On June 21st 1912, under Order-in-Council, approval under the *Navigable Waters Protection Act* was granted to the Penticton Lumber Company Ltd. for construction of wharves and booms on the Okanagan River.²⁹ The company grew rapidly and found a steady market in the production of wood suitably milled for fruit boxes. In 1930-1931, due to severe drought conditions, Penticton Sawmills was permitted to construct a temporary dam across the river downstream of the log pond.³⁰ Over time, relations between the Municipality and the Lumber Company appear to have grown strained. On June 29th 1942, Provincial Police were called in to ensure that Penticton Sawmills remove logs jamming the Okanagan River.³¹

In 1914, during the regular monthly meeting of the Penticton Board of Trade, it was agreed that the Federal Government should be urged to improve the dredging of the Okanagan River thus enabling a more navigable stream:

It was moved by Mr. P.H. Fraut and seconded by Mr. J.R. Mitchell that for a number of years large amounts of public money have been spent with the object of making Okanagan river navigable between Okanagan and Skaha lakes. And whereas after spending this large amount of money this river is totally unfit for navigation. And whereas the present dredging outfit is totally inadequate to accomplishing successful results on connection with this particular work. And whereas to continue the present system of working would entail an additional waste of public money. And whereas through the rapid development of the Skaha lake district a large amount of produce will be brought to Penticton- the nearest shipping point. And whereas the Okanagan river is the only possible means of transportation between the two lakes. And whereas with the spring floods Okanagan lake raises several feet seriously interfering with the sanitary arrangements of Penticton and Kelowna. And whereas by the widening and deepening of the Okanagan river in order to make this stream navigable this danger will be overcome by providing a sufficient outlet for the spring floods. Therefore, be it resolved that the Dominion Government be urgently requested to stop all further expenditure as conducted hitherto, and that a proper system of dredging be adopted immediately, with a view of making the Okanagan river a navigable stream.³²

After World War I, the British Columbia Government began development work on the Southern Okanagan Lands Project. This scheme made 22,000 acres in the southern

²⁹Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.83.

³⁰Ibid. p.91.

³¹Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.108.

³² Penticton Board of Trade transcripts pp.148-149 Penticton Archives.

Okanagan available for the benefit of returning servicemen. In 1922, the town of Oliver was the headquarters of the project.³³ In order to make these lands more productive, extensive water irrigation plans were developed. Once again, fish habitat requirements do not appear to have been considered—they were secondary to irrigation and flood control concerns.

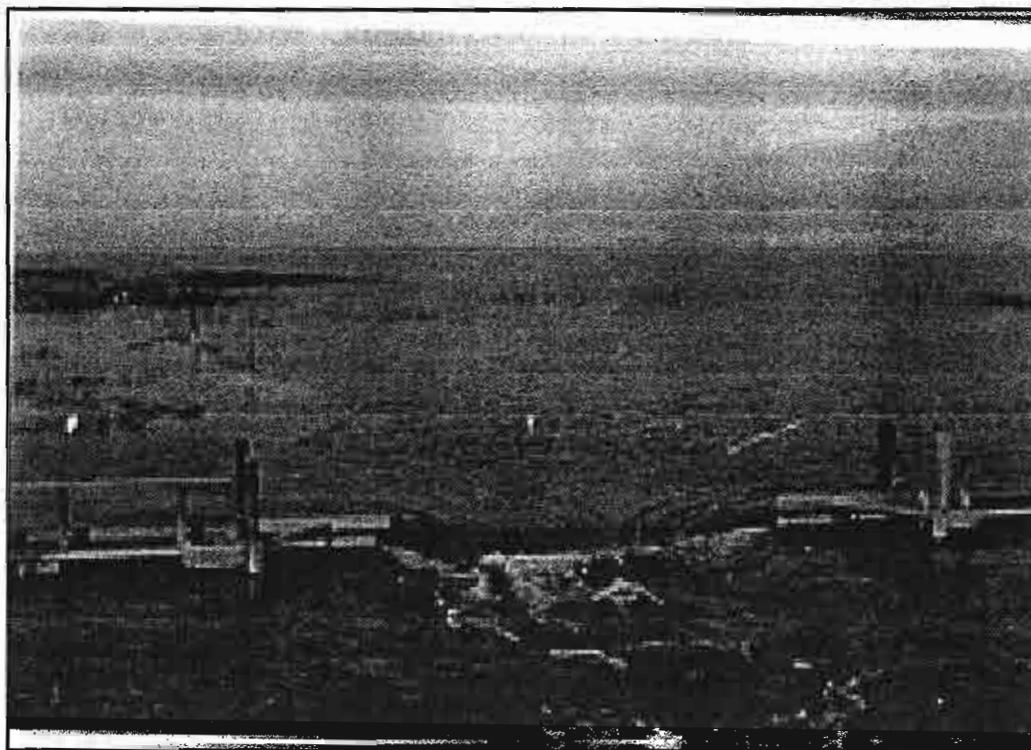
On May 10th 1948, Penticton was incorporated as a City Municipality. The archival record shows that as the Penticton area evolved through settlement, the concerns of fish habitat were secondary to other interests, specifically the control of water for flood control and irrigation purposes.

³³Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.73.

History of the Penticton Dam/Okanagan Dam/Okanagan Lake Control Dam

The Okanagan Dam, the Okanagan Lake Control Dam or the Penticton Dam (these names can cause confusion when researching dam history and should not be confused with the Penticton Creek Dam) was built and rebuilt three or four times according to some historical sources. Every construction phase slightly altered the dam's location.

The first date that establishes a dam across the Okanagan River in Penticton appears to be the year of 1908. Responsibility for dredging the Okanagan River at Penticton was assigned to a Joe McDonald (he became Superintendent of the Provincial Public Works in 1907).³⁴ For ten years McDonald was to work on the channel between Skaha Lake and Okanagan Lake. His objective was to improve the drainage of Okanagan Lake and make the river more navigable. There was a fourteen-foot difference between the two lakes, wharves on Okanagan Lake were left high and dry as the work proceeded. Consequently the first dam is built between the two lakes after Kelowna and other towns object to the lowering of the lake.³⁵ Pictures in the Penticton Archives indicate that the first dam was a loosely built log structure.

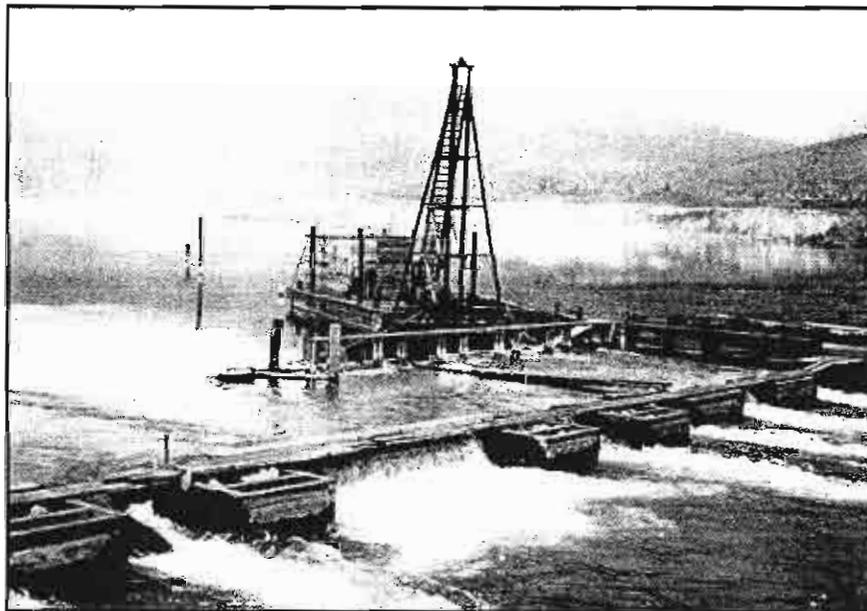


**Circa 1910 First Penticton Dam.
Source: Penticton Archives, No. 37-1495**

³⁴Okanagan Historical Society 1949. p. 65.

³⁵Ibid. pp. 65-70.

Conflicting dam building/completion dates were revealed during archival research. One source states that on March 30th 1914, the “*Mallard*” 32 feet long . . . drawing about 1 foot and six inches when loaded, made her first trip between Okanagan and Skaha Lakes. “After the first control dam was constructed in 1915 she found difficulty in passing into Okanagan Lake and finally this became impossible, so freight was unloaded just before the dam and hauled to the Penticton wharf by teams.”³⁶ This date for the first construction of the Penticton dam conflicts with the earlier date of 1908. However, the earlier structure was a simple obstruction of logs, perhaps it was not considered a “real” dam. The 1914/1915 dam was begun on December 14th 1914, and completed in March 1915. It was about 61 metres long with a main opening 15.24 metres in width and nine openings 2.4 metres wide, all provided with stop logs.³⁷ There is no mention of fish passage provisions



Pre-1928 (1914-15) Penticton Dam during flood.
Source: Penticton Archives, No. 37-1495

In 1920, between January and October, the second control dam was built in Penticton.³⁸ This dam appears not to have been adequate. By September 13th 1928, the *Penticton Herald* announced that “Fifty thousand will be spent upon river and dam work in Penticton. Improvements will provide for quicker run-off from lake. Low lying lands not to be reclaimed. This is not the purpose of dredging of river between lakes.”³⁹ Tenders were requested for the construction of a new dam. At this date a fish ladder was included. Note of the fish ladder is made in the 1946 *Report of the Joint Board of Engineers Okanagan Flood Control*. Research has not located those specifications to date, but has verified that this

³⁶Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.73.

³⁷Ibid.p.83.

³⁸Ibid.p.85.

³⁹File#37-1495. Penticton Archives.

second dam (technically the third dam, if we acknowledge the earlier log structure as a dam) was completed by early April, 1929.

On April 8th 1929, a Provincial Engineer from the Department of Public Works, sent instructions to Penticton that “It is my intention to be present before and at the time the dam is put into commission, and to this end I will arrive in Penticton on Thursday morning’s train. In any event, let no water through and keep the river as low as possible until my arrival.”⁴⁰

This rebuilding of the dam appears to have been marginally adequate for flood control. In 1946 the *Report of the Joint Board of Engineers Okanagan Flood Control*, a joint publication between the Federal and Provincial Governments, was released. Reference to the Penticton Dam states:

The present control dam at the outlet of Okanagan Lake near Penticton is a rock-filled timber crib stop-log structure with six discharge openings, four of them each ten feet in width and two each twenty feet in width. **One of the ten foot openings is blocked by a fish ladder** and therefor carries only a small flow. Hence for practical purposes, the discharge through the dam is limited to what the other five openings will carry. The elevation of the sill and the downstream apron is 1116.9 (96.2). . . . Hence it is evident that the present dam has not sufficient discharge capacity to meet the requirements of the proposed improvements to the river system. . . . It is proposed to locate the new dam on the new channel 150 feet downstream from the present dam, where the ground is favourable for construction. The new location lies within a bend of the existing channel and the dam can here be built in dry ground and without any interruption of run-off in the present river channel.⁴¹

In 1946 the Department of Public Works, Canada, operated the Penticton Dam. At this time the Penticton Dam appears to straddle both the Penticton Indian Reserve #1 land to the east and the Municipality land on the west. Further research should systematically address all the complicated land transactions associated with each new dam construction. In addition there are numerous right-of-way transactions associated with the new channel. The following quotation is an example of the complexity associated with the construction and the right-of-ways. The 1946 Report further proposed:

to purchase a right-of-way strip 300 feet in width extending ordinarily 150 feet on each side of the centre line of the new channel. This will provide an area on which excavated material, both during construction and during maintenance, could be deposited. . . . Surveys of the right-of-way should be

⁴⁰Okanagan Control Dam Files No.26-2246. Penticton Archives.

⁴¹Report of the Joint Board of Engineers Okanagan Flood Control,1946. pp.30-31.

made and the boundaries marked with permanent monuments.⁴²

Proposed dam expenditures were estimated as follows: Okanagan Lake Control Dam \$120,000.00. Skaha Lake Control Dam \$8,000.00. Purchase estimations for right-of ways included: Okanagan Lake to Skaha Lake, \$20,100.00 and Indian Reserve #1 to Highway Bridge, \$600.00. The total estimated expenditures were \$1,699,000.00.⁴³

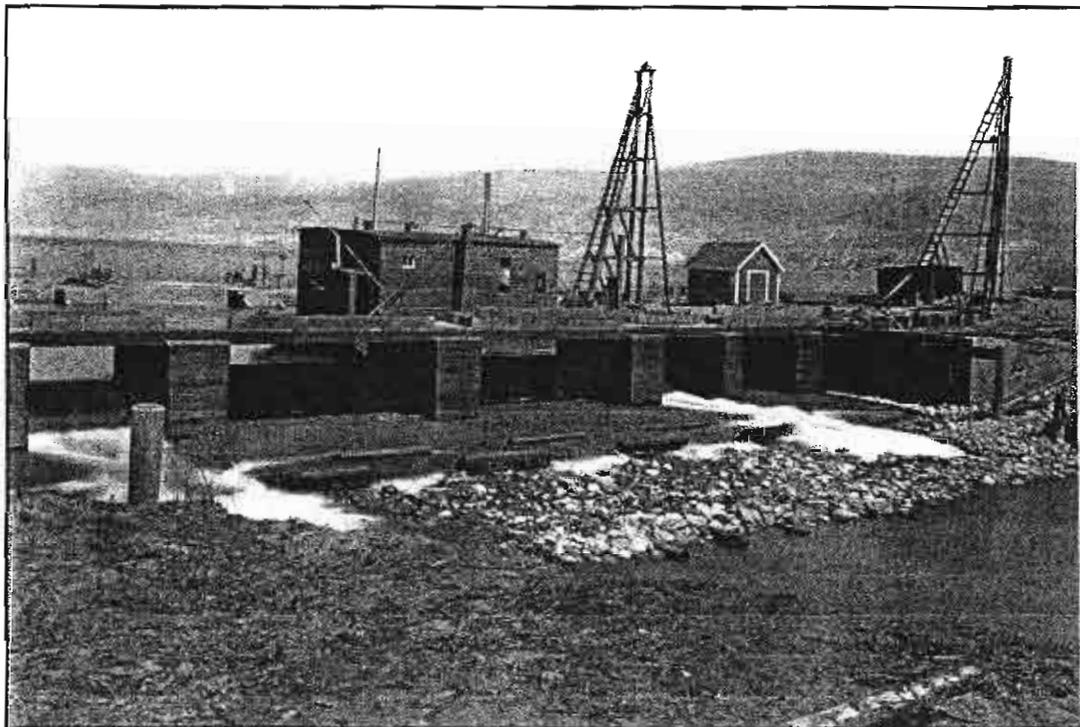
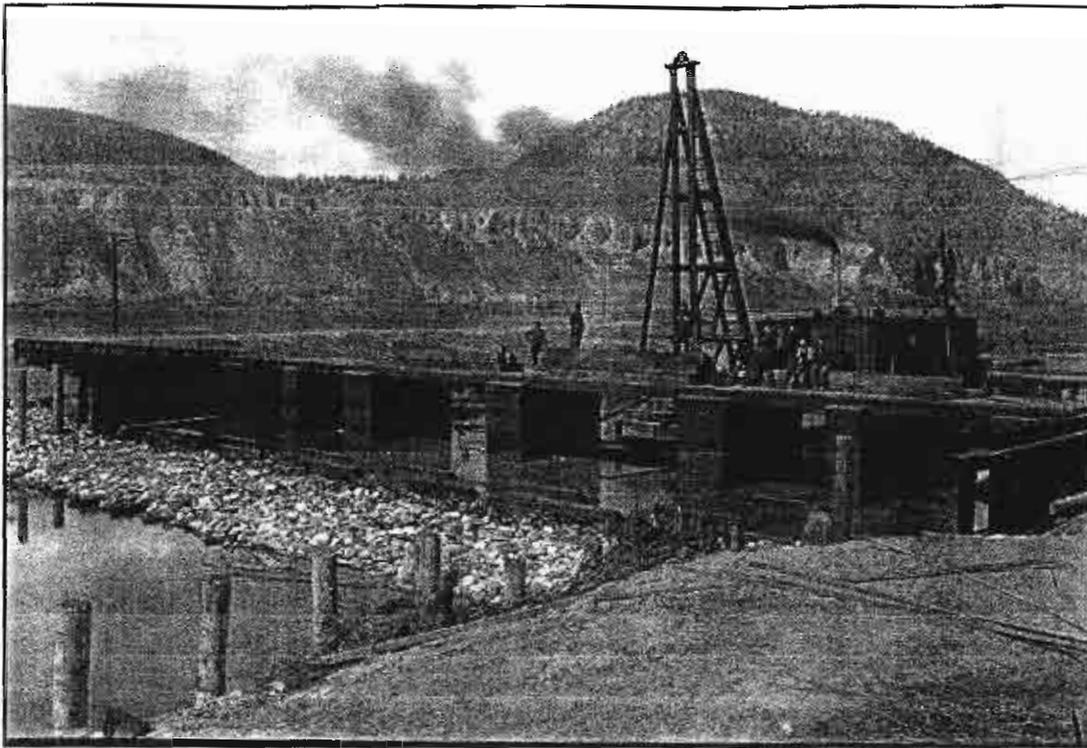
During the years 1952 to 1954 construction of the Penticton Dam, the Skaha Lake Dam and the interconnecting river channel was undertaken. The new Okanagan Lake Control Dam (Penticton Dam) was completed in July, 1954. Although this is the accepted date for completion of the above projects, examination of other records indicates otherwise.⁴⁴ It appears that the work was not completed until later in 1955. Further upgrading of the Penticton Dam also known as the Okanagan Lake Dam, and both Skaha Lake Dam and Vaseaux Lake Dam was completed during 1978-79.⁴⁵

⁴²Ibid. p.39.

⁴³Ibid. p.64.

⁴⁴Okanagan Control Dam File #26-2246, p.10 Penticton Archives.

⁴⁵Third Annual Report of the Okanagan Basin Implementation Board, for the period April 1, 1978 to March 31, 1979.p.7 Penticton Archives.



1928 Construction Penticton Dam.
Source: Penticton Archives, No. 37-1495

History of the Skaha or Okanagan Falls Dam

Skaha Lake, approximately 7 kilometres south of Okanagan Lake, is 13.2 kilometres in length with an average width of about 1.65 kilometres and an area of 2,178 hectares. The outlet of Skaha Lake is at Okanagan Falls, about twenty kilometres south of Penticton. In 1946 just below the outlet, the river cut through solid rock for a distance of 100 metres and dropped about 4.5 metres in that distance. An island approximately 30 metres wide and 50 metres long within this 100-metre section of the river, bisected the Okanagan River creating two channels.⁴⁶ Prior to the 1946 *Report of the Joint Board of Engineers Okanagan Flood Control* the lake was not used for water storage. However, it was noted in 1946 that excess water levels in Skaha Lake have interfered with water drainage on both the Penticton Airport and Penticton Municipality's South Main Street.

In December of 1941 a plan for a proposed dam at Okanagan Falls was submitted to the Public Works of Canada by the Provincial Comptroller of Water Rights. The original plans proposed a solid concrete structure completely across the west channel at the crest of the falls. In the east channel the plans identified a solid concrete sill with an arrangement of timber piers to create five openings that would be closed with stop logs to a maximum elevation at approximately the extreme high water mark. (Note: The extreme is given on the plans as 1111.4 feet above sea level, normal low water 1107.4).⁴⁷ This would result in the west channel being completely closed at the assumed normal high water level and the east channel would have a discharge 10 metres wide by 1.7 metres deep over the concrete sill. However Public Works of Canada refused to accept this plan. The primary reason given was; "the natural flow capacity at Okanagan Falls must be fully available at all times, if required."⁴⁸ Public Works suggested that a control dam, constructed with stop logs would be preferable, as this type of structure would allow full natural flow capacity.

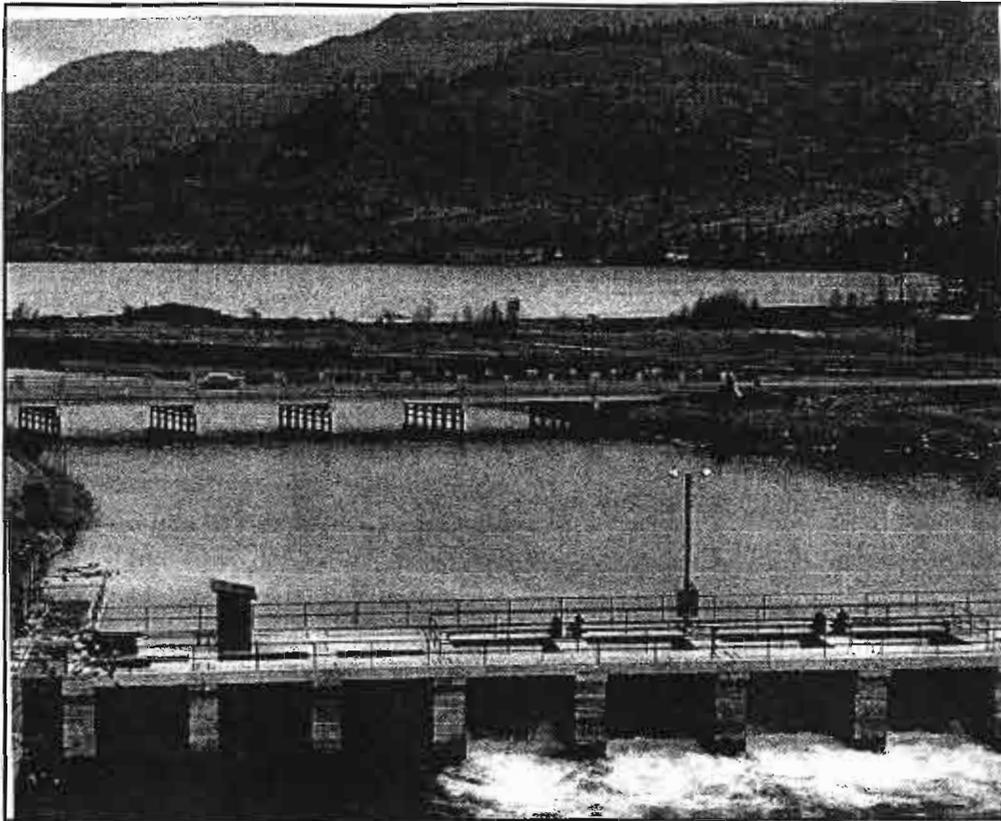
In 1942 a concrete and timber crib stop-log structure was built in the east channel of the Okanagan River at Okanagan Falls. This structure was intended as a diversion dam whereby water was carried through a flume to a turbine that drove a pump supplying irrigation water to the lower levels of the Okanagan Falls Irrigation District. The 1946 *Report of the Joint Board of Engineers Okanagan Flood Control* recommended (after a November 1944 meeting) construction of a control dam in the westerly branch of the river. This dam was required to maintain water levels in Skaha Lake. Plans for this dam were created by the Water Rights Branch, Department of Lands and Forests and the Provincial Government. Research specific to this project did not locate a copy of this plan. The current dam was constructed during the Okanagan Flood Control Project of the 1950's. MELP has control and jurisdiction over this dam.

⁴⁶Report of the Joint Board of Engineers Okanagan Flood Control. 1946 p.18.

⁴⁷Ibid p.103

⁴⁸Ibid. p.103

*See chronology for details re: Joint Board of Engineers



Circa 1960 Skaha Dam at Okanagan Falls.
Source: Penticton Archives

History of the Vaseaux or MacIntyre Dam

Vaseaux Lake Dam, also known as the MacIntyre Dam, is situated along the Okanagan River below Vaseaux Lake. MacIntyre Creek enters Okanagan Lake to the north-east. This dam was first constructed in 1920 and rebuilt in 1950.⁴⁹ The archival record indicates that this dam was primarily used for irrigation purposes.

The Penticton Board of Trade meeting of November 17th 1921, included a verbal report from a Committee responsible for studying the fish habitat concerns in the area.* This Committee Report focused on the investigation of a fish ladder in the dam for the Southern Okanagan Irrigation Scheme (also known as the Southern Okanagan Lands Project). This was the original Vaseaux Lake dam.

Upon investigation your Committee finds that the original plans for this dam included a fish ladder but that shortly before construction this was omitted by order of the Dominion authorities. Dominion Statutes make the insertion of a fish ladder compulsory unless omitted by authority and consent of the Minister. If a fish ladder has been thus omitted by consent the expense of insertion later comes upon the Dominion Government. . . .

Your Committee is advised that the only way to have this matter rectified is to memorialise the Dominion authorities and therefore recommends that the following resolution be passed and copies sent to the member for this constituency and the Minister of Marine & Fisheries, Ottawa and the Fish & Game Protective Association be asked to endorse the resolution.

Whereas the Land Settlement Board of the Province of British Columbia for the purpose of developing the Southern Okanagan Valley, have erected a dam across the Okanagan River a short distance below the outlet to Vaseaux Lake.

And whereas no fish ladder is provided in the said dam with the result that large numbers of game fish are prevented from ascending the Okanagan River and entering Vaseaux, Skaha and Okanagan Lakes.

And whereas this Board is informed that the purpose of this omission was to prevent the entry of Bass and Carp into Vaseaux, Skaha and Okanagan Lakes but there are already large numbers of these fish in the said lakes the omission of a fish-ladder serves no good purpose in this respect but does

⁴⁹ File # 6-3634. Penticton Archives.

*Future research should attempt to locate a copy of this report.

prevent large numbers of trout and fresh-water salmon from ascending the Okanagan River.

Therefore be it resolved that the Dominion Government be urged to install a fish-ladder in the said dam during the period of low water so that it may be in operation for the coming season".⁵⁰

This reasonable request is further substantiated thirty years later by the 1954 report, *The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, Canada*. This report recorded that:

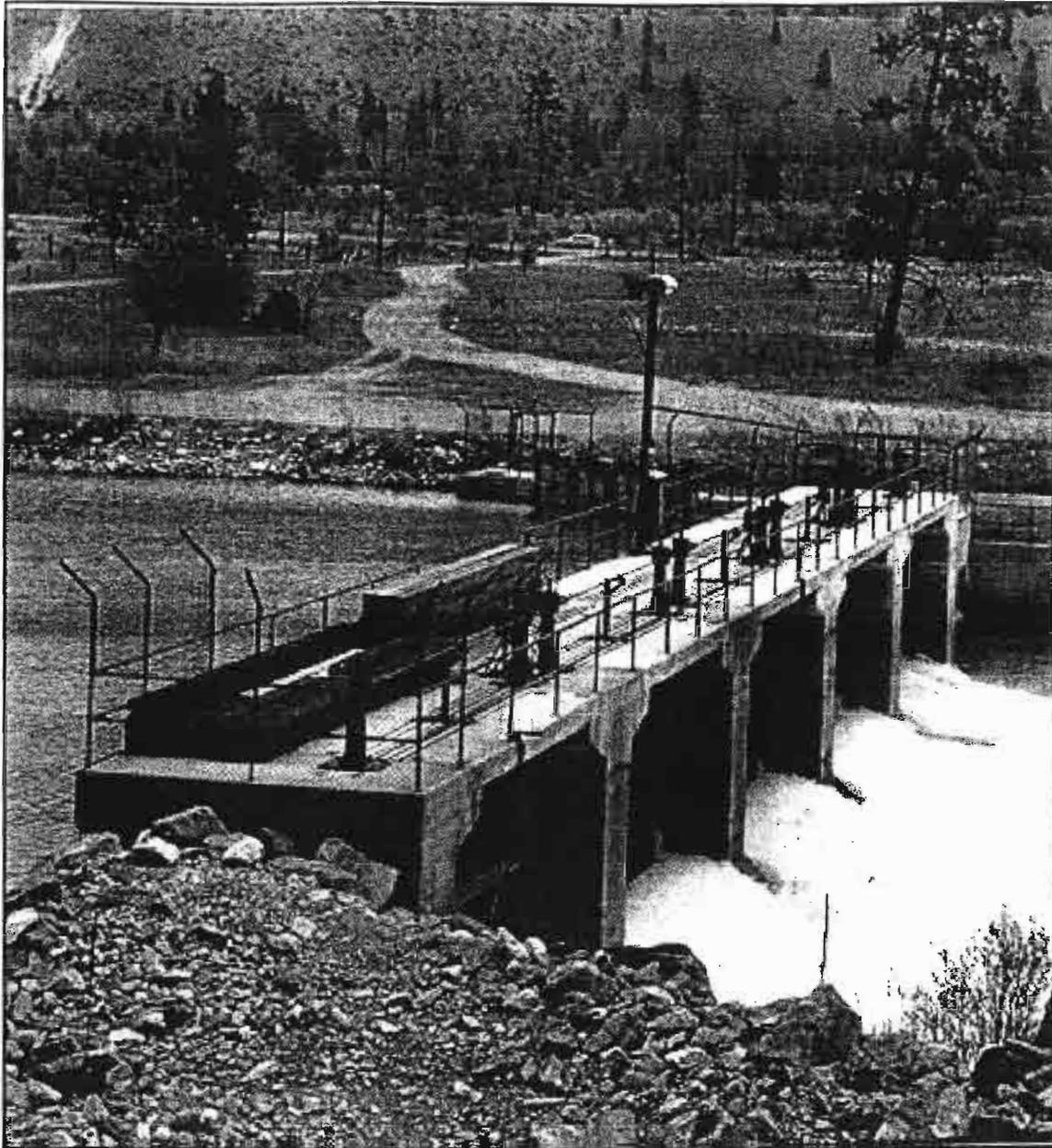
when the S.O.L.P. Dam was constructed in 1921, just downstream from Vaseaux Lake, it was equipped with a wooden fish ladder to permit the upstream passage of fish. This fish ladder soon became inoperative and it was never repaired or replaced. Thus, since shortly after 1921, the S.O.L.P. Dam has been the upstream limit of migration.⁵¹

This dam raises numerous questions. Future research should examine all documentation that is associated with this site. In fact, this dam, pivotal to fish passage, could be the topic of a separate study. The Penticton Control Dam Project generated volumes of material but the Vaseaux Lake Dam is remarkably absent from the archival record. This may be due to the fact that the dam is situated on crown land but accessed through private property. The new Vaseaux Lake Dam was constructed during the 1950's Okanagan Flood Control Project. Further upgrading of the Penticton Dam also known as the Okanagan Lake Dam, and both Skaha Lake Dam and Vaseaux Lake Dam was completed during 1978-79.⁵² At present MELP, Penticton, administers this dam. However, the irrigation diversion portion is administered by the town of Oliver.

⁵⁰Penticton Board of Trade Book, April 1916 to February 1924. Penticton Archives.

⁵¹The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, Canada, April 1954 p.5.

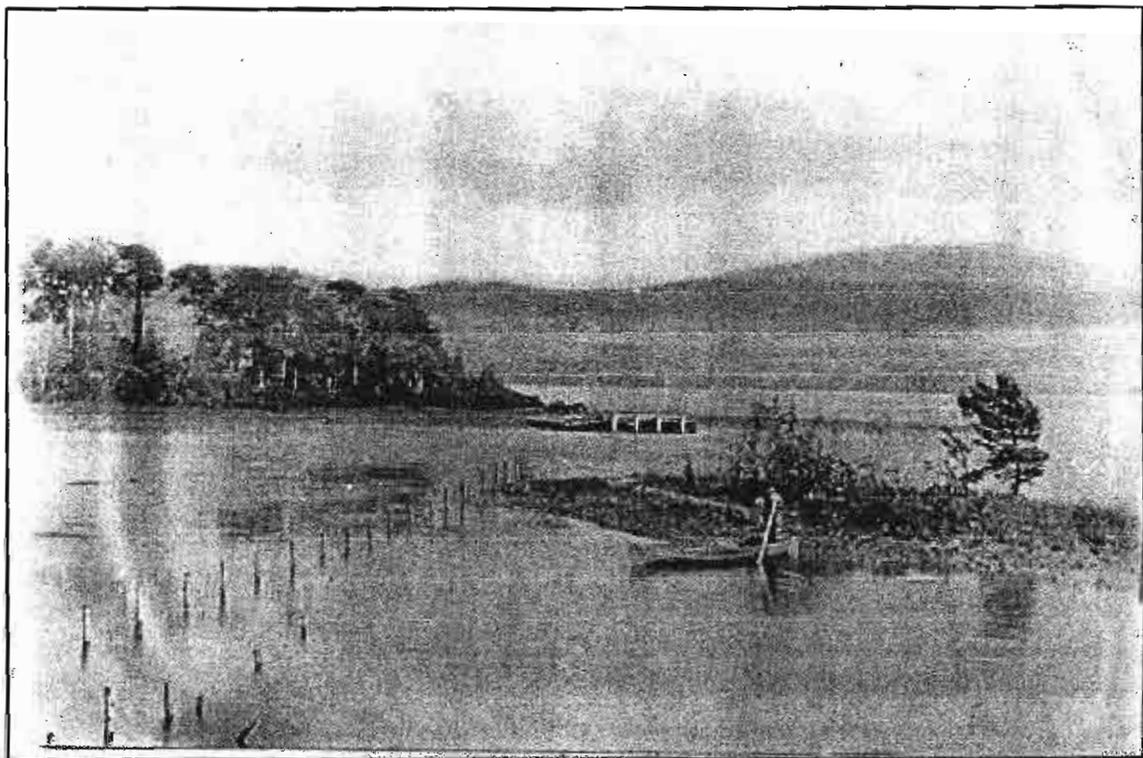
⁵²Third Annual Report of the Okanagan Basin Implementation Board, for the period April 1, 1978 to March 31, 1979.p.7 Penticton Archives.



Circa 1960 MacIntyre/Vaseaux Dam.
Source: Penticton Archives

Okanagan Flood Control Project and Act

The inception of the relationship between the flooding of lowlands in the Okanagan area and the future *Okanagan Flood Control Project and Act*, originated in 1894 when massive flooding occurred throughout British Columbia. In Penticton water covered all the low lands between the two lakes. Hay fields were unusable. Cattle and other livestock belonging to settlers had to be drastically reduced in anticipation of the coming winter months. Naturally this created tension, and thus the momentum that was to culminate in the *Okanagan Flood Control Project and Act* was begun. The construction and history of the three dams, Okanagan, Skaha and MacIntyre, is the direct result of the history of the Okanagan floods.



Circa 1910 Highwater Okanagan River at Penticton. Note submerged fence posts. Source: Penticton Archives No.37-4473

In 1921 extensive flooding occurred in Penticton and Kelowna during the spring run-off. The lake over topped the Penticton control dam by 1.6 feet (48 centimetres).⁵³ Further flooding in the Penticton area occurred after a very heavy spring run-off in 1923. After this flood and the subsequent damage to the town, the Federal Government was requested to improve the Okanagan River.⁵⁴ Yet these requests were not immediately acted upon. In 1927 on November 14th, during a meeting of the Penticton Board of Trade Executive:

⁵³Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.86.

⁵⁴Ibid.p.87.

Mr. W. A. MacKenzie spoke on the matter of the height of water in Okanagan Lake and it was moved by T. Andrews, sec by W. Baskin that the secretary write Mr. Doncaster asking for immediate action on the matter, pointing out the serious damage a flood would do. Secretary was also asked to write the Oliver Board of Trade re: possibility of flood and stating the action taken by this Board.⁵⁵

The following year, on January 25th 1928, at the Annual Meeting of the Penticton Board of Trade:

A letter was read from the Kelowna Board of Trade enclosing a copy of a telegram they had sent to the Hon. The Minister of Public Works, Ottawa, asking that a dredge be put in commission on Okanagan River at once so that the anticipated high water might run off without damage to the towns on Okanagan lake, this Board was asked to co-operate with them in this connection. It was moved . . . that we send a similar telegram.⁵⁶

A response from the Federal Government was provided on May 22nd, 1928. A meeting was called by Public Works of Canada in Penticton to discuss water levels for Okanagan Lake.⁵⁷ An extremely wet fall and winter, combined with spring run off, resulted in wide spread floods. The high water did not recede until mid July of that year.

In June of 1932, Public Works of Canada closed the natural flood channel of the Okanagan River. The channel existed 60 metres north of the control dam and permitted an overflow from the lake (after it reached 31 m asl-101.5 feet) into the large sloughs on the west side of the river. The channel was closed with a rock and earth dam, about 33 metres long, varying in height 0.45 to 1.05 metres. When the highway was reconstructed this old channel was completely filled in.⁵⁸

On July 1st, 1935 further extensive floods occurred. Penticton was severely impacted. Again in 1942 the area was flooded and Penticton lobbied the Federal Government:

The Cities of Penticton and Kelowna requested the Dominion Government to arrange for a conference of Dominion, Provincial and Municipal Officials and representatives of the transportation companies, to consider what action could be taken to avoid further recurrence of such damage as had been caused by flooding in that year and all too frequently in the past.⁵⁹

⁵⁵Penticton Board of Trade Book, November 12th, 1924 to April 1934. Penticton Archives

⁵⁶Ibid.

⁵⁷Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.89.

⁵⁸Ibid.p.91.

⁵⁹Ibid.p.1.

The Reeve of Penticton wrote to Ian Mackenzie, Minister of Pensions and National Health and to Public Works of Canada requesting a conference to deal with the matter of Okanagan Lake levels and other related problems.⁶⁰ Of interest is that this final flooding occurred during the Second World War. Presumably there were other areas of concern for the Federal Government. Yet the flooding issue was of enough importance that a meeting was organised in Penticton on August 24th, 1942.



Circa May 1942 Penticton Flood.
Source: Penticton Archives

The meeting was chaired by Mr. Morton, attended by Honourable R. H. Bruhn, Minister of Public Works for British Columbia; the Honourable Grote Stirling, MP for Yale; Members of the Provincial Legislature; Representatives of the Cities of Kelowna and Vernon; the Municipalities of Penticton, Summerland, Naramata, and Peachland; officials of all interested departments* of the Dominion and Provincial Governments, the Canadian National Railways and the Canadian Pacific Railway Company. Kelowna and Penticton

⁶⁰Ibid.p.129.

*It is currently unknown if this included DLA and Department of Fisheries.

submitted briefs and everyone present was invited to speak their thoughts. This meeting resulted in an unanimous resolution requesting that a joint board of engineers be appointed by both Governments to study all matters relating to the problems associated with lake and river control in the Okanagan Valley. In addition this board was to recommend remedial measures. The result of this resolution was that consultation was held between both Ministers of Public Works, Federal and Provincial. This resulted in the appointment of *The Joint Board of Engineers, Okanagan Flood Control* in May of 1943.⁶¹



Circa May 1942 Penticton Flood.
Source: Penticton Archives

On May 19th 1943, the first meeting of the Joint Board of Engineers Okanagan Flood Control took place. Terms of Reference in connection with the Okanagan flooding were established at this meeting. At no point is there inclusion of fishery concerns within the Terms of Reference document. This Board determined that the existing control dam be reconstructed to permit the passage of 2,100 cubic feet of water per second as well as the “Okanagan River between Okanagan Lake and Skaha Lake is to be relocated, straightened and enlarged to carry the increased flow from Okanagan Lake plus the flow from tributary

⁶¹Ibid.p.1.

creeks.” Costs were estimated as \$1,699,000.00 to complete the plans for Okanagan Lake and River. An additional \$263,000.00 was estimated to upgrade the Penticton Creek area.⁶²

Five years later on February 26th 1948, a Meeting of the Committee of the Privy Council, and subsequent Order-in-Council (P.C.No.657) “approved the construction of a floodway to permit increased flow from Okanagan Lake without damage to adjacent lands and roads, and of necessary dams to control the flow, and of appurtenant work.”⁶³ The agreement confirmed that the Province had requested 50% financial assistance from the Federal Government for costs of the proposed work. This is clearly specified for three sections: Section A, 4.2 miles between Okanagan Lake and Okanagan Falls; Section B, Okanagan Falls to 2 miles north; Section C, 2 miles north of Oliver to Osoyoos Lake. The Province required a right-of-way and this title was to be registered in the “name of the Domain.”⁶⁴

Specifications for the work were submitted for approval to the Public Works of the Federal Government. The agreement further outlined that “upon completion of the work, the Dominion shall undertake the maintenance thereof and the supervision of the operation of the control dams at Penticton and Okanagan Falls, the division of the cost of such maintenance and supervision to be agreed upon by parties at that time.”⁶⁵ On August 10th 1950 Order-In-Council No.1779 authorised the Ministry of Public Works of BC to enter into an agreement with the Government of Canada for the “construction of a floodway to permit the increased flow from Okanagan Lake without damage to adjacent lands and roads, and of necessary dams to control the flow, and or appurtenant works.” This OIC stated that the work must be completed in three years, beginning April 1st, 1950.⁶⁶ This OIC was further amended on November 26th 1952, by the August 10th Order-In-Council No.2845 authorising the Ministry of Public Works of BC to amend the 1950 OIC agreement with the Government of Canada. This new OIC stated that the Okanagan River Channel work must be completed in three years, from April 1st 1953, until March 31st 1956.⁶⁷ A further extension was granted June 15th 1955, when Treasury Board meeting, Number 467412, approved by the Governor General of Canada, authorised the Government of Canada to extend the Okanagan River channel work until June 1957.⁶⁸

⁶²Ibid. p.5.

⁶³Dept of Lands and Forests, File 0193560, part 1. Memorandum of Agreement, p.4. Okanagan Flood Control R/W, February 23, 1952.

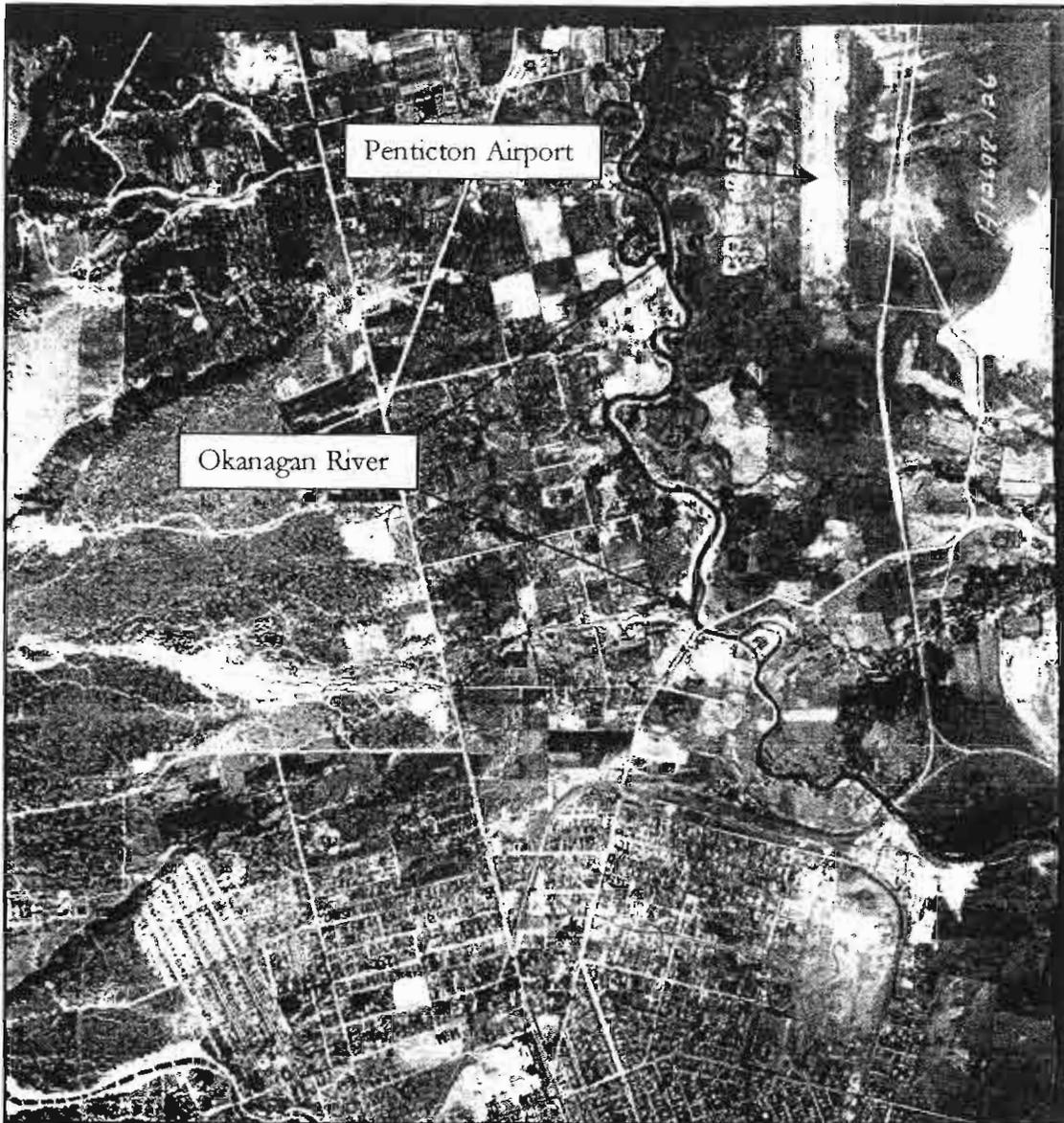
⁶⁴Ibid.

⁶⁵Ibid.

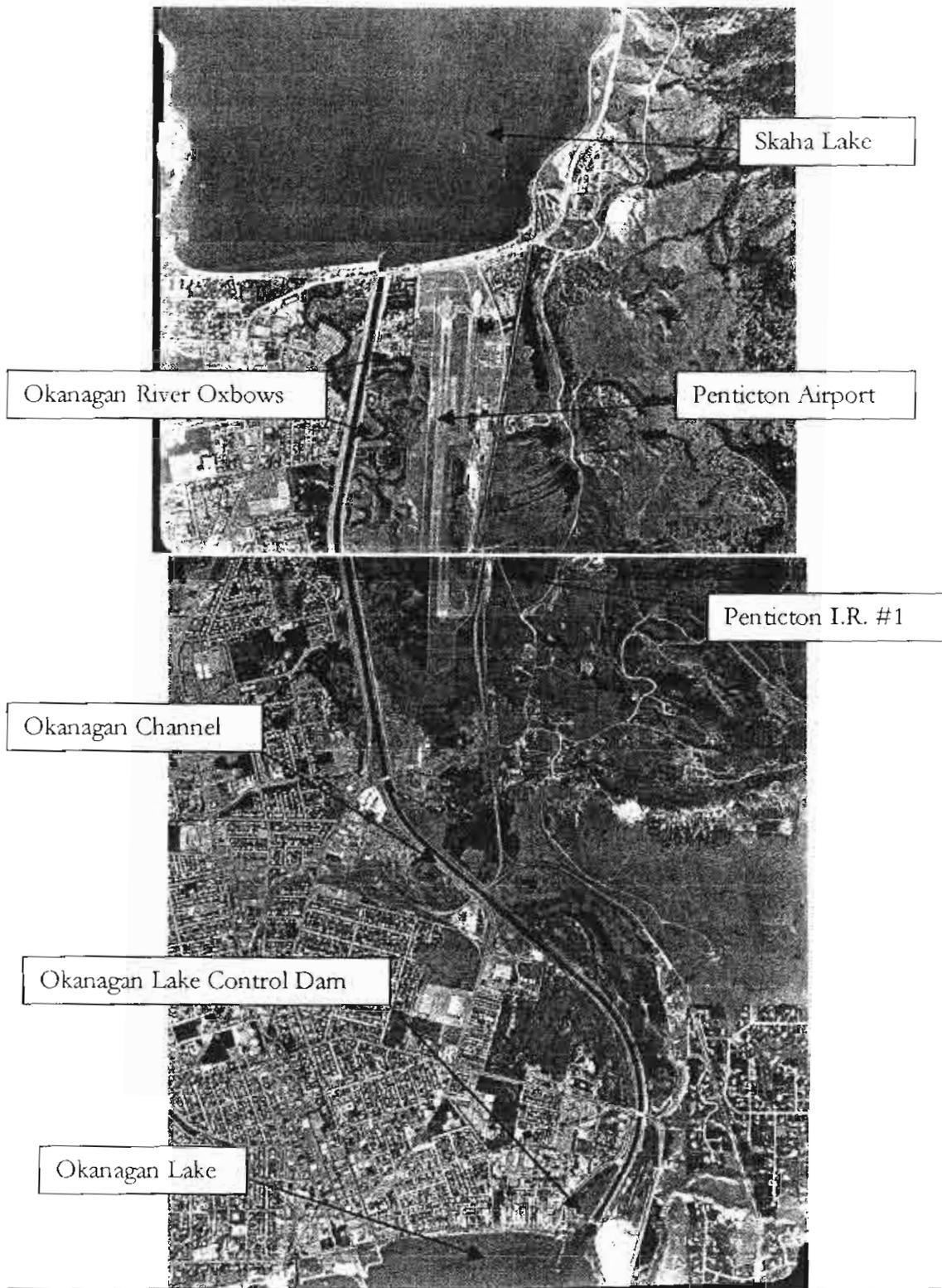
⁶⁶Dept of Lands and Forests, File 0193560, part 1, Copy of Approved Minute November 22, 1955, Okanagan Flood Control R/W , February 23,1952.

⁶⁷ Ibid.

⁶⁸ Ibid.



Circa 1940 satellite image of Okanagan River prior to channel construction.
Source: Penticton Archives

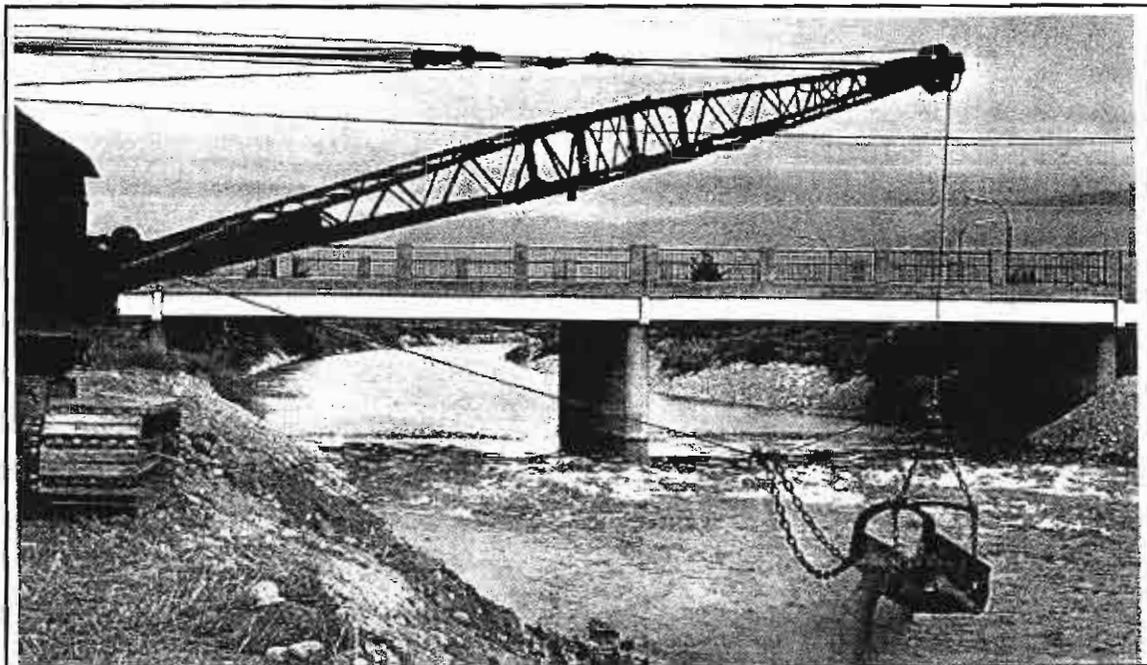


Circa 1986 composite satellite image of Okanagan Channel.
Source: Penticton Archives

A further agreement* was signed on March 16th, 1960 between the Federal and Provincial authorities relating to the Okanagan Flood Control Project. Paragraph 2 of the agreement specified that:

The manner of operating the project will be at the sole discretion of the Province, but the Province will give full consideration to flood control, irrigation, fisheries, industries, and other affected interests and shall be operated in accordance with the intent of the Report of the Joint Board of Engineers, Okanagan Flood Control 1946.⁶⁹

The agreement confirmed a 50% cost sharing split for the repair, maintenance and reconstruction of the Okanagan Lake Control Dam, the Skaha Lake Control Dam, the Okanagan River channel, drop structures, creek mouth stilling basins, and culverts.



**Circa 1963 Dredging Okanagan River Channel.
Source: Penticton Archives**

As a result of the Okanagan River straightening, a confusing array of unresolved land transactions were created. Questions over land ownership and jurisdiction were unanswerable and resulted in significant legal problems. Consequently the 1963 *Okanagan River Boundaries Settlement Act* was formed. The Surveyor General Branch, Victoria, noted that:

*Research to date has not verified a time limit on this agreement.

⁶⁹ File # 0193560, Sec.2. Surveyor General's Branch, Victoria.

discrepancies have been found to exist between the river boundary of certain parcels of land abutting on the Okanagan River as shown on the plan of the parcels deposited in the Land Registry office for Kamloops Land Registration District and the river boundary as it was surveyed on the surveys of the flood-control canal or right-of-way constructed pursuant to the *Okanagan Flood-Control Act*, being chapter 47 of the Statutes of British Columbia 1949.⁷⁰

On October 29th 1969 the “Canada-British Columbia Okanagan Basin Agreement” was established. This agreement covers all aspects of water resources in the Okanagan basin. The cost of the four-year project, to be shared equally by both governments, was estimated not to exceed \$2,000,000.00.⁷¹ Further expansion of this agreement was established on February 9th 1976. The time frame of the cost sharing agreement was extended until September 30th 1982. The agreement included references to ongoing fisheries management.⁷²

The bureaucracy involved with co-management of the right-of-ways which surround the Okanagan Dam and Okanagan River Channel appear to have become increasingly complex. On June 5th 1978, P.M. Brady wrote to A.F. Smith, Assistant Director of Land Management, MoE. The letter addressed the current permit system that was in place at the time with regard to the Okanagan River. Brady wrote:

For example in a memorandum dated February 20, 1978, I asked for the views of your Branch on the division of responsibility between the Water Investigations Branch and the Land Management Branch for administering the Crown Land in the Okanagan River right-of-way. No reply was received.⁷³

The letter clarifies that the Ministry of Highways, under the Okanagan Flood Control Act, had jurisdiction for construction of works on the Okanagan channel. However there were discrepancies within this jurisdiction:

As far as is known, however, these permits covered only the Okanagan River Channel right-of-way but none were issued covering the Crown land in the old river oxbows or for those portions of Crown land between the channel right-of-way and the oxbows.⁷⁴

To conclude, spring flooding and the growing irrigation needs of the Okanagan Basin were directly responsible for dam construction. The 1956 language contained within the “Field

⁷⁰File # 0193560, Sec.2 Surveyor General Branch, Victoria.

⁷¹Okanagan Basin Study Information Brochure.p.1. Penticton Archives.

⁷²Summary Report on the Okanagan Basin Implementation Agreement. 1982 Penticton Archives.

⁷³File 0193560,Section 5 Surveyor General Branch, Victoria.

⁷⁴Ibid.

'Trip, Tour of Okanagan Flood Control Project' agenda, effectively conveys the prevalent thinking within that decade:

The studies of the Joint Board of Engineers found two undesirable features in the drainage system as it existed up to 1944 and these were that the river system was not able to carry the peak spring freshet, hence flooding, and at the same time storage control factors were missing, hence very often in August, between irrigation demands and a high rate of evaporation there was a shortage of water.⁷⁵

Lamentably, a further example of the 1950's mentality manifests itself in the lack of foresight and protection provided for salmon habitat.

The Okanagan Flood Control Dam is administered by MELP, Penticton.

⁷⁵Joint Meeting Western Snow Conference and Columbia River Basin Water Forecast Committee. 1956. Okanagan Control Dam, File # 26-2246. p.5. Penticton Archives.

Okanagan Nation & Department of Indian Affairs & Okanagan Flood Control Project and Act

The record of communication between the Okanagan people and Department of Indian Affairs (DIA) chronicles a relationship directed largely by the paternalistic outlook typical of the times. Archival research specific to this project naturally revealed countless examples of this restricted interaction. Inasmuch as the focus of this project is dams and their relationship to salmon, a number of DIA records were examined to identify any correspondence that expressed concern for fish habitat protection. To date the first DIA archival documentation to reveal that Okanagan people and their relationship with salmon will be compromised by settlement irrigation needs is the October 3rd 1877 document titled, 'Report of G. M. Sproat to the Department of the Interior regarding the laying out of inland fishing stations'.⁷⁶ Sproat writes:

There are in this part (Head of the Lake), and I believe throughout the interior of the country Indian fisheries on streams flowing into lakes. The Indians catch white fish there and other small fish at certain seasons. Probably these fish are valued articles of diet, though not to be compared with the almost necessary salmon We have been asked to lay off fishing stations at some of these places by the Indians, and we have done so, not however without some reluctance in the case of small streams where there is a possibility of the water being required for irrigating valuable land . . . we are sanctioning a method of fishing namely weirs . . . contrary to the law – see Clauses 8 and 13 Fishery Acts 1868.⁷⁷

Sproat identified a possible conflict between irrigation requirements for white settlers and the current practice of “weir fishing” and concluded laws governing weirs should be altered to avoid any disputes.*

Disputes between the Okanagan and DIA that involve salmon rights/habitat, appear fairly common. In 1914 on July 13th Chief Baptiste Cheanut, of Inkamcep I.R., Fairview, wrote to Royal Commission on Indian Affairs. This file is included within the chronology as it provides a glimpse into the past when the issue of fish and the rights to those fish was already a contentious issue. Chief Baptiste Cheanut wrote:

We spoke to you about our trouble when your commission was here October 9th the time our old people when the queen told them you Indians can take the land you want to live on the queen told them they can take one side of the river and

⁷⁶There undoubtedly is additional relevant archival material in existence – further research should locate additional files of this type.

⁷⁷Indian Affairs Central Registry Files, 1868-1970. RG10, Volume 7537.BCARS.

*See copy of original

the white people on the other side of the river and the Indians were all willing, because they need fish every day a short time after we take the land and somebody take the river away from us.⁷⁸

The Penticton area, as previously noted, was subject to a number of early transactions involving land and water rights. This issue is further complicated by the close proximity of settlement lands to the formally designated Reserves. On June 28th 1906, A. Irwin, Indian Agent, Kamloops wrote to A.W. Vowell Indian Superintendent, Victoria regarding the Southern Okanagan Land Company Ltd. (SOLCL) proposal to establish a dam and irrigation flume through IR#2. Although relevant to Penticton IR#2, the following excerpt is of note:

The nature of this country is such that it would be impossible to get water without passing through the reserve in question, which is only a timber reserve with but a small portion, if any, fit for cultivation if cleared. . . . The Indians have expressed to me their willingness to allow the work proposed, and **in the interest of progress I would recommend the favour to be granted.**⁷⁹

Secretary DIA, Ottawa, replied to A.W. Vowell on July 16th 1906 in reference to the Southern Okanagan Land Company Ltd. Proposal:

I have to say that there does not appear to be any special reservation of water rights for the Indians in connection with this stream (Ellis Creek) or their reserve. The Reserve Commissioners, however in 1877, made a general reservation of water rights for Indians, which probably have no weight unless duly recorded.⁸⁰

The Secretary states that permission may be granted to SOLCL but Agent Irwin should decide the quantity of water.

Duncan Ross, MP for Greenwood wrote further support for the SOLCL on August 25th 1906, to Frank Pedley, Superintendent of Indian Affairs, Ottawa. It appears that this permission is granted *if* SOLCL guarantees 200 inches (508 centimetres) of water; “to the Indians, this water to be taken at any time the Indians desire to do so.”⁸¹ Ross objected to this guarantee as; “the Company is experiencing considerable difficulty in securing sufficient water to irrigate its fruit lands, and is utilizing all the small stream available. There are not 200 inches of water in the stream in question.”⁸² Ross requested that this agreement be rescinded:

⁷⁸RG 10, Vol. 11021, File # 524D BCARS.

⁷⁹RG 10, Vol. 8315, File #982/8-4-3-1 Vol.1.BCARS.

⁸⁰Ibid.

⁸¹Ibid.

⁸²Ibid.

I scarcely think it is good policy to practically make it impossible for a company, such as the Southern Okanagan Land Company, to use certain available water to which they are entitled simply because it is necessary for them to cross certain portions of the Indian reservation.⁸³

Historically this type of reasoning is what created the endless drain on water resources and ultimately the demise of fish habitat within the Okanagan basin.

Requests to DIA for portions of Penticton Reserve lands began soon after the Penticton Board of Trade was formed and Penticton was incorporated as a District Municipality in 1908. The 1909 August 20th Executive Meeting of the Penticton Board of Trade read a letter from the Municipality re: “acquiring Indian Reserve on Main St.” It was determined that the board should “address the Indian Dept. in co-operation with the Municipal Council in an endeavour to get possession of said Reserve.”⁸⁴ DIA (through the Ministry of Agriculture) response was reported as “the usual reply that matters were still in dispute between Dominion and Provincial Governments.”⁸⁵ In 1938 Penticton was granted a lease of a section of Skaha Lake waterfront. On November 21st Harry Boyle, Barrister and Solicitor, wrote to the Municipal Clerk, Penticton:

We enclose herewith three copies of the lease of the Skaha Lake Water Front. These three documents should be executed by the Municipality under its seal, then forwarded to the Indian Agent at Vernon with a check for the first years rent, namely One Hundred and Fifty dollars (\$150.00). It would be advisable to get this away as soon as possible as we are anxious that the first years rent will be released by the Indian Department before Christmas, and as the matter has to be approved at Ottawa before its release, there is not much time to be lost. The release of this money will probably enable the negotiations with regard to the Airport to be concluded without much difficulty.⁸⁶

The Okanagan Flood Control Project was a complex transaction with regard to the various rights-of-way, land ownership, leases, and expropriations. Numerous examples of transactions indicate previously leased portions of Penticton Reserve lands were expropriated through the *Okanagan Flood Control Act* (see Okanagan Nation & Department of Indian Affairs & Okanagan Flood Control section).

These requests for Reserve lands are further complicated by the survey inaccuracies that appear to prevail in the Penticton area. The *Certified Minute Record* reveals that the Corporation of the District of Penticton identified a number of incorrect boundary

⁸³RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

⁸⁴Penticton Board of Trade transcripts p.59. Penticton Archives.

⁸⁵Ibid p.62.

⁸⁶25-4404 Box 3, File#8. Penticton Archives.

descriptions within the Municipality. The *Minutes* record that as of May 1st 1927, the boundaries of Penticton were defined by a new description.⁸⁷ This led to the *Penticton Boundaries Extension By-Law 1927*. The new Bylaw was in effect an extension of the Municipality limits. It included a portion of the foreshore of Okanagan Lake and Skaha Lake, as well as areas between low water mark on the two lakes. The distance extended into the lakes was 1000 feet (300 metres). This included the centre-line of the Okanagan River where it met Okanagan Lake. Municipal Council passed this by-law June 1st 1927, reconsidered and finally adopted, signed with the seal on June 15th 1927. The centre-line of the Okanagan River was to change considerably with the construction and straightening of the Okanagan River. It is some of this land, contained within the old river oxbows that was to cause tremendous survey and R/W problems in the future.

The first correspondence found during this project written by a Penticton Band member concerning dams, was a November 23rd 1948 letter in regard to the proposed dam in the Shingle Creek area. The dam project was proposed by the Prairie Farm Rehabilitation Organization, who applied to the Ministry of Agriculture (DIA) for permission. DIA noted: “the area being considered is what is known as the cut-off but the proposed reservoir site lies within Penticton I.R.#1 and involves approximately ninety acres on Shingle and Shatford Creeks. . . . No action is indicated pending completion of the survey by the P.F.R.A.”⁸⁸ The letter from the Penticton Band stated:

On behalf of the Penticton Indian Band. We have been worried (sic) very much about the dam that which the white people are intending to build. We want them to stop some how. We would appreciate very much if you could help us. Our Indian Agent is against us as well as the Indian Commissioner. They wouldn't take the Surveyor's off the Res. They say them Surveyor's are from Ottawa, and they won't stop them. We think they are going too far with it. We have been trying every way but it don't seem to work. We want to get word through to Ottawa at once. We want to have them stopped. If we don't get our Res. won't be any good to us anymore. They are going to take the best farm land, and the water as well that would mean we have to surrender our Res. That's why we are trying so hard. For our Res. is small enough the way it is. A lot of the younger generation have no homes. What we have we make just enough to live on it. We don't know what they are going to do when they grow a little older. What are they going to live on? We want our water as well as the land, that would be occupied by the dam. I guess that's our worst worry at the time. Thank you. Your's Truly, The Penticton Indian Band. There are fifty signatures in “favour of the letter.”⁸⁹

⁸⁷25-4404 Box 3, File #8 Penticton Archives

⁸⁸RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS

⁸⁹Ibid.

A Jack Logic, from Victoria, wrote on December 1st 1948 to Department of Indian Affairs, Ottawa regarding the November 23rd letter and proposed dam on Shingle Creek:

If your Dept. had wished to keep the Indians of the Pentiction band and particularly those residing on Shingle Creek in a turmoil for the last twenty five years, they have succeeded admirably as the Indians have been losing sleep over it for that length of time to my certain knowledge. I attended many meetings with J. R. Brown who was Indian Agent at the time and we did our best to convince them that their land was safe for a long time as no water would be available to make it worth stealing. I will be pleased to learn the present status of the project so that I may satisfy my Indian friends to some extent but unfortunately they know the white men well enough to know that if they want the land and water badly enough they will always find an excuse for taking it.⁹⁰

As previously noted, on August 10th 1950, Order-In-Council No.1779 was written. The Order authorised the Ministry of Public Works of BC to enter into an agreement with the Government of Canada for the “construction of a floodway to permit the increased flow from Okanagan Lake without damage to adjacent lands and roads, and of necessary dams to control the flow, and or appurtenant works.” The Order also stated that the work must be completed within three years of April 1st 1950.⁹¹

By November 4th 1950 there are references indicating that the Pentiction Band were not pleased with the proposed flood control plans. In a letter written by N.M. McCallum, Chief Engineer to W.S. Arneil, Indian Commissioner for BC, there is reference to a meeting between Mr. L.J. Moore, Right-of-Way Agent and Arneil:

It was our hope to achieve an amicable settlement in this matter and only when the Indians took such an adamant stand, did we give consideration to seeking legal opinion on the position of the Department. We have been advised that, under the provisions of Order-in-Council No.1036, dated July 29th, 1938, the Crown (Provincial) has the right to “resume, for making roads, canal, bridges, towing paths or other works of public utility; . . .no stipulation is made for payment of compensation, the land being ‘resumed’.”⁹²

McCallum concludes that compensation for the R/W will be paid, however the amount offered will be less if the matter goes to arbitration hearings. “In order that there will not

⁹⁰RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

⁹¹Dept of Lands and Forests, File 0193560,part 1. Copy of Approved Minute November 22, 1955, Okanagan Flood Control R/W, February 23, 1952.

⁹²RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

be any misunderstanding instructions have been given to a Mr. Barton to re-survey the area.”⁹³

Barton was a Ministry of Public Works surveyor. It is unclear if he was an independent professional or under permanent contract with Public Works. Regretfully his work contained a number of inaccuracies that were to complicate the compensation paid to the Penticton Indian Band for quite a number of years.

On November 25th 1950 W.S. Arneil, Indian Commissioner for BC, wrote to Indian Affairs Branch, Ottawa, requesting a further interpretation of Order-in-Council No.1036. Arneil’s concern was that Penticton Band had requested \$500.00 per acre in settlement for the proposed R/W and the Province wished to pay no more than \$200.00. An independent valuator considered the average price per acre to be \$380.60.⁹⁴ DIA promptly requested legal advice. The legal division of DIA responded on January 10th 1951, with a memorandum that described the legalities of the Order-in-Council of July 29th 1938:

In order to avoid any further dispute with the provincial authorities, it would be highly advisable, if possible to arrive at a compromise. . . . If the province is attempting to resume the occupation of lands that are occupied by Indians, as stated, then I am of the opinion the province has no such right.⁹⁵

By April 26th 1951, a document was written and signed by Penticton Indian Band #1 to “Register objection to the loss of 103.92 acres for the Okanagan Flood Control Project, without payment for the land as required by Provincial Order In Council #1036, dated 29th July, 1938.”⁹⁶ This document continues with the acknowledgement that the Band approved the acceptance of \$200.00 per acre:

as payment for the improvements on this land to be paid on an equal basis to the land owners on the attached list. In accepting this compensation for improvements it is done provided payment will be made before work starts on the project, that the right-of-way will be fenced with openings to provide for cattle watering, and access provided to all Indian land on both sides of the canal.” Those Band members and their acreage are as follows: Michel Jack 9.2 acres, William Kruger 3.7, Millie Cawston, 0.6, Narcisse Gabriel 12.2, Sam Gabriel 12.2, Victor Gabriel 12.2, Francis Phillip 1.32, Selina Timoyakin 2.2, Antoine Gabriel 2.9, Gideon Eneas 20.7,

⁹³RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS

⁹⁴Ibid.

⁹⁵Ibid.

⁹⁶Surveyor General’s Branch, File # 0193560, Sec.4) also contained within RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

Elizabeth Felix 2.5, Louise Lezard 11.9, Julia Manuel 2.9, Jack Alex 4.4, George Lezard 11.5 and Baptiste George 17.9.⁹⁷

This issue was undoubtedly contentious amongst Penticton Indian Band members. The May 1st 1951 letter written by R.H.S. Sampson, Superintendent, Okanagan Indian Agency, to W.S. Arneil revealed that:

Two trips were made after April 27th to try to get the signatures of Mrs. Julie Manuel and Francis Paul, but without success. Mrs. Manuel however indicated to us that she was agreeable to the terms of the document, and told Albert George he could place her name on the document. She refused, though, to put her mark on the paper. Francis Paul, the other councillor, is adamant in his refusal to sign any paper concerning the release of Indian land and is asking to be relieved of council duties.⁹⁸

Arneil informed Ottawa: "As the matter now stands we have the consent of fifteen of the locatees of lands situated within the right of way area and the refusal of one to sign and it is most unfortunate the matter is delayed because of this one refusal."⁹⁹ On May 9th 1951, D.J. Allan, Superintendent Reserves & Trusts, replied to Arneil that the project will not be delayed by one Band member and that if Mrs. Julia Manuel did not accept the \$200.00 an acre, her refusal would proceed to arbitration. Allan also acknowledged that the Penticton Band had clearly requested that compensation payment must be made before any work commenced. Consequently the Province must supply a plan of the project on original linen tracing for approval by the Surveyor General.¹⁰⁰ This simple request for an original linen tracing began a series of events that spanned over two years.

It appears that some form of pressure was applied to Mrs. Manuel, for by June 7th 1951 Superintendent Sampson wrote to Arneil:

Mrs. Manuel was visited on 23rd May in company with Councillor Albert George, and the attached document was signed by her, and witnessed by Mr. George. . . . Mrs. Manuel seemed satisfied to accept the \$200.00, but firmly maintained that she was not selling her land for that price, but merely relinquishing her improvements, and that the land itself was to remain her property.¹⁰¹

This, of course, was not the fact.

⁹⁷Surveyor General's Branch, File # 0193560, Sec.4) also contained within RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

⁹⁸RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

⁹⁹Ibid.

¹⁰⁰Ibid.

¹⁰¹Ibid.

Although it was agreeable to all parties that compensation must be paid before construction begins, there were numerous obstacles to hinder the completion of the transaction. On June 8th 1951, Arneil wrote to Indian Affairs Branch, Ottawa with reference to D. J. Allan's letter of May 9th:

We have an assurance from the Province that entry will not be made into the area until compensation has been paid. The payment of compensation must, of course, be approved by Provincial Order-in-Council and as the Province is anxious to dispose of this formality so that work may be proceeded with at an early date, they have requested our confirmation of the acreage of the right-of-way as shown by Mr. R. A. Barton's plan of the survey completed May 17th, 1950, the original linen tracing of which is to-day being forwarded to you under separate registered cover. . . . We have already had so much difficulty with this right-of-way that we do not wish to be instrumental in causing any delay so far as payment of compensation is concerned.¹⁰²

June 15th 1951, D.J. Allan, Superintendent Reserves and Trusts, sent B.W. Waugh, Surveyor General, Ottawa, a plan of the survey consisting of an original tracing showing the proposed new river channel across the reserve. "The river, as you know, forms the boundary of this reserve, and according to the addition of the acres shown on the plan within the reserve total 106 acres."¹⁰³ By July 17th 1951, Waugh responded to Allan that, "We find that the plan is not, in its present form, acceptable for recording in Indian Affairs survey records."¹⁰⁴ Allan, Superintendent Reserves & Trusts, promptly wrote to Arneil on July 20th 1951. "We understand that the alterations to be made are, on the whole, minor ones, and if Mr. Barton will give the matter his immediate attention, we should be able to get the plan approved at an early date."¹⁰⁵ However surveyor Barton requested that he "be provided with a copy of Plan R.D. 1918, a copy of plan No.M-3179 and a copy of plan No.M-3053, none of which are on file in the Kamloops Registry Office."¹⁰⁶ These files, of which DIA had a copy, should have been deposited at Kamloops Lands Registry Office. This issue was to further complicate the compensation payable to the Penticton Indian Band. On August 9th 1951, Waugh, Surveyor General, Ottawa sent to Arneil "herewith one blueprint of each of the following plans: Rd 1918 –Penticton Indian Reserve, New Road, M 3179 - Penticton Indian Reserve, 3 acre parcel for lease, M 3053 - Power line to Airport."¹⁰⁷

Arneil wrote to Ottawa on August 24th 1951:

Apparently it is anticipated by Public Works that the required amendments to the survey plan of the tight of way will not

¹⁰²RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹⁰³Ibid.

¹⁰⁴Ibid.

¹⁰⁵Ibid.

¹⁰⁶Ibid.

¹⁰⁷Ibid.

affect the individual acreage's as payment of the compensation agreed upon, \$20,784, covering 103.92 acres at \$200.00 per acre has been paid and is today being remitted to the Receiver General for return to Supr. Sampson and distribution to the Indians concerned. White landowners in the vicinity have already been compensated and it is hoped that there will be no delay . . . as the matter of payment has been the subject of frequent representations by them during the past few weeks.¹⁰⁸

Allan, Superintendent Reserves & Trusts, Ottawa responded to Arneil on August 31st 1951:

In reply to your letter dated August 24th, I regret to advise that we will hardly be able to make distribution of the \$20,784.00 to the individual Indians before the plan has been approved, as it is possible that there will be a change in the acreage's, as between individual Indians. You should, therefor, urge the Surveyor to amend his plan at the earliest possible date.¹⁰⁹

Allan notes that there is a discrepancy, as the plan for the Okanagan Flood Control Project contained 106 reserve acres. Provision for payment totalled 103.92 acres. In addition there is further discrepancy between lands belonging to F. Phillips, W. Kruger and M. Jack.¹¹⁰

On September 21st 1951, Allan, Superintendent Reserves & Trusts, Ottawa, wrote to Waugh, Surveyor General, Ottawa. Allan authorised the survey plans to be changed according to July 17th memorandum. This memorandum clearly identified a number of survey problems. Allan also requested action on the financial disbursement issue.¹¹¹

By September 25th 1951 compensation still had not been issued. Okanagan Superintendent Sampson sent a telegram to Indian Affairs Branch. "White landowners paid months ago and Indians demanding immediate payment . . . could twenty five percent be advanced in trust."¹¹² Allan replied that "an immediate distribution of fifty per cent of the compensation dollars will be mailed by the following day."¹¹³ The funds were sent the following day. Allan advised that as soon as the revised survey plans were approved the balance of the funds would be paid.¹¹⁴

Although fifty per cent compensation was paid, the balance owing was delayed due to the continuing survey issue. On November 15th 1951 Waugh, Surveyor General, Ottawa, wrote Allan, Superintendent Reserves & Trusts, Ottawa, "we have amended the plan held by us

¹⁰⁸RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹⁰⁹Ibid.

¹¹⁰Ibid.

¹¹¹Ibid.

¹¹²Ibid.

¹¹³Ibid.

¹¹⁴Ibid.

of the above right of way as authorised by the surveyor in the memorandum returned by him but there remains some points to be cleared up before we are prepared to record the plan with the Indian Affairs records." Those points indicated that "another plan than the one supplied by us is deposited in the Land Titles Office, it would appear that a copy of that plan in the land Titles Office should be filed here to base transfer on."¹¹⁵ Allan wrote to Arneil on November 24th 1951 and discussed the difficulties within the survey situation. The Surveyor General concludes his letter with the statement that, if necessary, he will return the plan in his possession to the Provincial Department of Public Works in order that it may be amended to agree with the one registered in the Land Titles Office.¹¹⁶

By Christmas of 1951 there were further compensation problems. Sampson sent a telegram to Indian Affairs Branch, Ottawa. "Penticton Council asked me to determine if any reason why other half of payment for land taken by Okanagan Flood Control project could not be paid to individuals. These people annoyed at unfulfilled promises of early payment."¹¹⁷ Allan's reply was that payment would be issued when the survey plan was found satisfactory. "Province should be urged to supply corrected plan agreeing with the one registered in the Land Titles Office."¹¹⁸ Sampson then wrote to Arneil on December 18th 1951 reiterating the payment difficulties and urging that the Province supply the corrected plan.¹¹⁹

On January 5th 1952 Arneil wrote to Indian Affairs Branch, Ottawa that "for no apparent good reason we have experienced considerable difficulty in securing a copy of the plan. . . . An ozalid print of the right-of-way has now been secured, however, and has today been forwarded to you under separate cover."¹²⁰ However, on January 16th 1952, Allan, Superintendent Reserves & Trusts, Ottawa, responded to Arneil: "the ozalid print has not been received." (This print was in fact not received until May 4th, 1953 - it somehow disappeared within the DIA system) On January 19th, 1952, Arneil, Indian Commissioner for BC, replied to Indian Affairs Branch, Ottawa, that the ozalid print was not sent via registered mail and consequently a white print had been sent under separate registered mail.¹²¹ On January 24th 1952, J. Allan, wrote to Arneil that he had received the paper copy, however; "a paper print is of no value. . . . I would suggest that you secure this print as quickly as possible."¹²² Arneil responded to DIA on February 4th that he had arranged to have the correct survey copy sent directly from the Lands Office in Kamloops. He concluded that this matter should have been better dealt with and he did not understand how the original could have gone astray.¹²³

On February 12th 1952, Allan, Superintendent Reserves & Trusts, Ottawa, wrote to Arneil that he had received the survey copy, however it was again a plain white print and therefore unusable. Allan also requested a further 25% disbursement be issued. "The balance will be

¹¹⁵RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹¹⁶Ibid.

¹¹⁷Ibid.

¹¹⁸Ibid.

¹¹⁹Ibid.

¹²⁰Ibid.

¹²¹Ibid.

¹²²Ibid.

¹²³Ibid.

paid when a satisfactory plan is received.”¹²⁴ Arneil replied on February 20th by stating the survey plan problems and concluded that what was required by the Indian Affairs Dept. was in fact an ozalid transparency not a print. If this fact had been clearly indicated the whole issue would have been dealt with sooner.¹²⁵ On March 18th the plan was noted as being received in Ottawa.

Amazingly on April 9th 1952, Waugh, Surveyor General, Ottawa wrote to Allan, Superintendent Reserves & Trusts, Ottawa, that the plan was finally received, however there were further problems. “Upon examining this plan we find that it does not have the amendments made to it that were authorised by the surveyor and which were made to the original plan submitted to us with your letter June 15th 1951. . . the two plans will need to be brought into an agreement.”¹²⁶ On April 19th, Acting Superintendent Reserves & Trusts, Ottawa, wrote to Arneil with further discussion of the survey problem. “Will you please take this matter up with the Department of Public Works and try to have them submit a proper plan at the earliest date possible.” A six-page memorandum of the right-of-way survey situation was attached to this letter.¹²⁷ On June 16th L.J. Moore, Right-of-Way Agent, Department of Public Works responded to Arneil with a three-page letter identifying a number of problems associated with the survey of the R/W. “There appear to be easements which were never formally recorded in the Land Titles Office. There also will not be recognition of the “tribal subdivisions” on the land in question.”¹²⁸

Acting Superintendent Reserves & Trusts, Ottawa responded to Arneil June 21st 1952. “The suggestions made by Mr. Moore are quite satisfactory. Tribal subdivisions do not need to be shown on the plan recorded in the Land Registry Office at Kamloops under No.A-1189, amended as suggested.”¹²⁹ On August 8th 1952, Arneil forwarded to DIA Plan. No. A 1189 amended as requested.¹³⁰ This plan was then sent from DIA to Waugh, Surveyor General, Ottawa on August 18th. “We would kindly ask you to examine the plan, and if found satisfactory, have it recorded in the Indian Affairs survey records and supply us with a description suitable for use in Submission to Council transferring title to this right of way to the Province of British Columbia.”¹³¹ On August 25th Waugh, responded to L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa that the Surveyor General’s office is prepared to accept an amended copy of plan A-1189.¹³² It would appear that this issue was finally resolved. However, on September 4th 1952, Brown, Acting Superintendent Reserves & Trusts, Ottawa wrote to Arneil:

However, there is no proof that the plan filed in the Land Registry Office has in fact been amended to agree with the one submitted. . . . It is most unfortunate that the Provincial authorities proceeded to file a plan in the Land Registry

¹²⁴RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹²⁵Ibid.

¹²⁶Ibid.

¹²⁷Ibid.

¹²⁸Ibid.

¹²⁹Ibid.

¹³⁰Ibid.

¹³¹Ibid.

¹³²Ibid.

Office before it had been approved by the Surveyor General, and in order to avoid similar instances, the Right of Way Agent for the province should carry out the provisions of the Canada Lands Surveys Act, Indian Reserves are affected.¹³³

Brown responded to a night telegram on September 25th from Superintendent, Okanagan Indian Agency, requesting why the “Indians of the Penticton Band” have not been paid their last instalment. “You are aware of the reason for not being able to pay the balance of the compensation . . . and we would suggest that you explain the same to those concerned.” The reason is of course the lengthy survey problem that appears to be further compounded by the lack of a proper survey document. On October 20th Brown, Acting Superintendent Reserves & Trusts, Ottawa wrote to Arneil asking why there has been no response to the September 4th request for an ozalid transparency.¹³⁴

In October 1952 eight Penticton Band members sought legal council through a local firm, McInnes & Washington, Barristers, Solicitors and Notaries. This firm then wrote to Indian Affairs Branch, Ottawa requesting clarification why the Band members have not received their due compensation funds. “I have checked with the Okanagan Flood Control Office and I am advised that the survey plan has been recorded and therefore there should be no further need for further delay in paying these Indians.”¹³⁵ Brown, Acting Superintendent Reserves & Trusts, Ottawa responded to McInnes & Washington on October 22nd. He explained the delay is because the Department of Public Works, “has not supplied a satisfactory plan of survey of this right of way.”¹³⁶ Yet the Okanagan Flood Control Project was proceeding.

On November 10th 1952 Arneil wrote Indian Affairs Branch, Ottawa that he had received the transparent linen copy of the requested plan and had forwarded it to Ottawa.¹³⁷ By November 15th, 1952 there is record that the linen copy of the plan was now deposited at the Land Registry Office at Kamloops. Brown wrote to Waugh; “we would greatly appreciate if you would now deal with the matter, and if possible, provide us with a suitable description for use in Submission to Council.”¹³⁸

On February 20th 1953, Sampson, Superintendent, Okanagan Indian Agency again wrote to Indian Affairs Branch, Ottawa, requesting news of the compensation funds:

It is now almost two years since these people signed their consent to alienation of the lands required by the Flood Control Project on the express agreement they would be paid before work on the project commenced. However, this agreement was broken several months ago when the

¹³³RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹³⁴Ibid. all quotes in this paragraph.

¹³⁵Ibid.

¹³⁶Ibid.

¹³⁷Ibid.

¹³⁸Ibid.

construction of the bridges, and clearing the right of way commenced.¹³⁹

Brown, Acting Superintendent Reserves & Trusts replied to Sampson, Superintendent, Okanagan Indian Agency, on March 2nd 1953. Brown explained the further complication with regard to the R/W survey.¹⁴⁰ That is because February 23rd 1953, Waugh, Surveyor General, Ottawa, wrote to Brown, Acting Superintendent Reserves & Trusts, Ottawa: "We have made a thorough examination of the plan and find it unacceptable for the purpose required." Waugh listed the serious problems associated with the R/W.¹⁴¹ On April 30th, Arneil Indian Commissioner for BC, reported to DIA, Ottawa, that Department of Public Works had requested surveyor, Mr. Barton, to directly contact the Surveyor General with regard to the R/W plan's survey requirements.¹⁴²

On May 4th 1953 Brown, Acting Superintendent Reserves & Trusts, Ottawa, wrote to Arneil, Indian Commissioner for BC, with further notes on the survey issue. "You may be interested to know that the copy of the plan which was considered lost in the mail in January 1952, turned up on our file just last Saturday, having been received by the Agency Section on January 14th, 1952, with a notation therein that it was not accompanied by a letter."¹⁴³

In what may be considered a generous show of faith, on August 24th 1953, Penticton Indian Band Chief and Council approve the dumping of excavated material from the Flood Control Project on Penticton Indian Reserve #1.¹⁴⁴ It is currently unknown why this permission was granted or if there was any monetary compensation.

The R/W issue continued on into the summer of 1953. On August 31st L.J. Moore, Right-of-Way Agent, Department of Public Works, wrote to Arneil specifying the Department of Public Works position on the R/W survey. Arneil, in turn, wrote on September 2nd 1953, to DIA, Ottawa, in reference to the August 31st letter from Moore: "I fail to see what difference it makes who is the present holder of each of the nine parcels under lease as long as the surveys of the parcels are indicated on the flood control right of way plan."¹⁴⁵ Brown, Acting Superintendent Reserves & Trusts, Ottawa wrote to B.W. Waugh, Surveyor General, Ottawa, on September 8th 1953: "we feel that it is hardly pertinent as to what individual Indians own the land involved. We believe that all you are interested in at the present time is to have a plan of the survey that has been properly posted on the ground."¹⁴⁶

On September 8th 1953, Brown, Acting Superintendent Reserves & Trusts, Ottawa, wrote to Arneil, Indian Commissioner for BC, Vancouver. He reiterated that Barton (the Public Works surveyor) and the Surveyor General need to deal with the R/W and that:

¹³⁹RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹⁴⁰Ibid.

¹⁴¹Ibid.

¹⁴²Ibid.

¹⁴³Ibid.

¹⁴⁴Ibid.

¹⁴⁵Ibid.

¹⁴⁶Ibid.

ownership of the land involved is not of great importance at the moment. What we want is a plan of the survey properly posted on the ground that is acceptable for recording in the Indian Affairs survey records, and which may be used as a basis for transferring title to the province.¹⁴⁷

Waugh, Surveyor General, Ottawa wrote to Brown, Acting Superintendent Reserves & Trusts, Ottawa, on September 18th 1953: “Mr. Moore is understandably distressed by our vagueness about the status of the parcels in question. We would suggest, respectfully, that you now inform him and the surveyor which of these parcels now involve alienated rights.”¹⁴⁸ Brown informed Arneil, attempting to clarify further details associated with the R/W, that “It does not appear to be generally understood by land surveyors and Provincial Department of Highways that the Provincial legislation with respect to surveys and land titles is not applicable to Indian Reserve lands.”¹⁴⁹

The previously mentioned Skaha Lake waterfront lease became another factor in the legal transference of R/W's. On September 24th 1953, Arneil noted to DIA, Ottawa that the continued R/W problem also has the additional issue of leased beach lands. “This lease definitely conflicts with the flood control right-of-way.”¹⁵⁰ DIA responded on September 29th to Arneil. “In regard to further correspondence on the leased beach land and its effect on the R/W; “we find that the old leases, numbers 551, 605, and 705 are being consolidated into one new lease, which lease has already been prepared and reserves the right to construct a river channel through the area.”¹⁵¹ Ultimately on June 23rd 1955, Order in Council P.C. 1955-916 transferred, “the administration, control and management of certain lands”, belonging to Penticton Indian Reserve #1, to the Province of BC.” The land was required “for canal and flood purposes by the Province pursuant to Minute 1036 of the Executive Council of the Province of British Columbia of the 29th of July, 1938.” Note this transfer omitted a small portion of land (1.78 acres) which was not amended until February 9th 1978.¹⁵²

The archival RG 10 file that was extensively used during this project does not indicate when final compensation was paid to Penticton Indian Band. Absence of correspondence regarding the final compensation may be interpreted as proof that the funds were finally received or that further correspondence may be located in other files that reside either in the Burnaby or Ottawa archives.

During the years 1953 to 1954:

In connection with the Dominion-Provincial flood control project on the Okanagan River, joint studies were carried on to determine the best methods of preventing interference with the Columbia River sockeye runs. The two year study

¹⁴⁷RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS.

¹⁴⁸Ibid.

¹⁴⁹Ibid.

¹⁵⁰Ibid.

¹⁵¹Ibid.

¹⁵²Surveyor General's Branch, File # 0343779

suggested by the International Joint Commission were completed in co-operation with the United States Fish and Wildlife Service and the Washington Department of Fisheries.”¹⁵³

No archival record has been located indicating that Pentiction Indian Band or indeed other Okanagan Bands had any consultation with all involved parties of the Okanagan Flood Control Project, other than in matters dealing with land rights. There appears to be an absence of fishery related correspondence. It must be strongly noted that this does not mean that this correspondence does not exist, but rather that it was not located during this research project. “The Okanagan flood control project neared completion in 1957-58. Hydraulic studies of the completed portions were made to determine the effect of any future work required on the Columbia River sockeye runs which spawn in the area. The sockeye run passed through the completed drop structures and spawned successfully in the dyked area, which was the normal spawning ground.”¹⁵⁴

As recorded by all of the prior correspondence is apparent that the expansive construction and development decade of the 1950's had considerable impact upon the lands belonging to Pentiction Indian Band. However, the sixties began in a similar manner. On January 14th 1960, the Province of BC applied for a *Certificate of Indefeasible Title* for “those portions of the Pentiction Indian Reserve #1, Plan M 284, which contain 105.7 acres more or less.”¹⁵⁵ On March 16th an agreement was signed between the Federal and Provincial authorities in order to specify certain matters relating to the Okanagan Flood Control Project. Paragraph 2 specifies that:

The manner of operating the project will be at the sole discretion of the Province, but the Province will give full consideration to flood control, irrigation, fisheries, industries, and other affected interests and shall be operated in accordance with the intent of the Report of the Joint Board of Engineers, Okanagan Flood Control, 1946.¹⁵⁶

The agreement specified a 50% cost sharing split for the repair, maintenance and reconstruction of: the Okanagan Lake Control Dam, the Skaha Lake Control Dam, the Okanagan River channel, drop structures, creek mouth stilling basins and culverts.

On January 5th 1961, Section 47 of the *Department of Highways Act* Chapter 103 of the *Revised Statutes of British Columbia 1960*, provides that any real property, when no longer required for the use of any public work, may be sold, leased or disposed of by tender or public auction, under authority of the Lieutenant-Governor in Council. Consequently, part of Pentiction Indian Reserve #1, Plan M284, (Parcels 1 & 2, 5.79 and 0.82 acres respectively) was exchanged with Pentiction City Council, for Lots 1, 2 and 3, Map 5166, registered to the City

¹⁵³Department of Fisheries Annual Reports for the year 1953-54.pp.10-11. UVIC SH 223-A22b.

¹⁵⁴Department of Fisheries Annual Reports for the year 1957-58.pp.10-11. UVIC SH 223-A22b.

¹⁵⁵File # 0343779. Surveyor General's Branch, Victoria.

¹⁵⁶File # 0193560, Sec.2 Surveyor General's Branch, Victoria.

of Penticton.¹⁵⁷ Quickly thereafter on January 20th L.V. McGarran, Acting Deputy, Public Works Canada wrote to R.G. Harvey, Deputy Minister, Dept. of Highways for BC. The letter referred to a small portion of land; “described on a plan of survey recorded in the Survey’s Branch of the Department of Indian Affairs under M2471A.” McGarran advised that arrangements were being made to the transfer the property to the Province.¹⁵⁸

During the seventies it becomes apparent that Penticton Indian Band was becoming uncomfortable with the various R/W intrusions upon their land. A 1977 March 23rd letter between P. Brown, City of Penticton Engineer and G. Wilson, Director of Land Management, MoE, requests permission to run a pipeline on the bank of the Okanagan River channel. This pipe would extend the sewage treatment plant’s out-fall pipe into Skaha Lake. P. Brown wrote; “because of the problems the BC Department of Highways have encountered with the local Indian Band it is critical that we know whether permission can be obtained for our proposed pipeline prior to beginning detailed design.”¹⁵⁹

On April 12th 1977 G.H. Fielding, Director of Land Management wrote to G.E. Simmons, Assistant Deputy Minister, Environmental and Engineering Services:

Reference is made to the telephone conversation between the writer and yourself on April 7th, 1977, concerning a request from the City of Penticton dealing with the proposed sewer pipeline that is to be constructed along the west bank of the Okanagan River within the City of Penticton.

In view of the fact that this right-of-way will adjoin Indian Reserve #1, this matter was discussed with Mr. D. Borthwick, Assistant Deputy Minister, Special Projects and he stated that this part of the river came the jurisdiction of your Branch and that we should refer same to you for comments before giving a decision to the Corporation of the City of Penticton. He also stated that he was negotiating with Mr. Dennison of the Dept. of Highways to have a portion of the right-of-way presently held in the name of Her Majesty the Queen in right of Canada transferred to the Crown Provincial.¹⁶⁰

April 15th 1977 a letter between A. F. Smith, Assistant Director Land Management and P. Brown, City of Penticton stated that Land Management could not grant permission to the City of Penticton for the proposed pipeline route. “This is a conflict area involving Indian Reserves lands which has not been settled. The Ministry of Highways and Public Works is currently working towards a resolution of the problem.”¹⁶¹ This pipeline R/W concern was still being discussed in 1979. On April 9th of that year, D. Borthwick, Assistant Deputy

¹⁵⁷File # 0193560 Sec.2. Surveyor General’s Branch, Victoria.

¹⁵⁸File # 0343779. Surveyor General’s Branch, Victoria.

¹⁵⁹Ibid.

¹⁶⁰Ibid.

¹⁶¹File # 0343779 Surveyor General’s Branch, Victoria

Minister in Charge, Special Projects wrote to A. F. Smith, Assistant Director, Lands Department regarding the City of Penticton's application for sewer pipeline R/W. Although the city wishes for a R/W on the west dyke (they have a R/W on the east side) this request cannot be granted. Item 4) states that, "It would seem to me that the City must negotiate a right-of-way with the band if it wishes to use the west side of the dyke or negotiate the use of the By-Pass Highway on the east dyke with the Ministry of Highways."¹⁶²

Legal representation was once again required by Penticton Indian Band. On May 25th 1977, Worrall, Page & Company, on behalf of Penticton Indian Band wrote to David Borthwick, Assistant Deputy Minister, Special Projects. This correspondence concerned Penticton Band's issues with: Dept. of Highways, lands within the old river bows, pollution of the channel by the City of Penticton, effluent on the beach, water table loss and cattle water access.¹⁶³ There is no mention of fish habitat concerns.

On June 2nd 1977, D. Borthwick, Assistant Deputy Minister, Special Projects wrote to J. Fournier, Executive Director, Office of Native Claims, DIA, Ottawa. This letter is regarding the Penticton I.R. #1 and the R/W for the Okanagan River Channel. Penticton Band had expressed concern that lands were transferred to the province without a formal Band surrender. This included lands within the old river bows that were not required for the R/W. Further concerns were that the channel completion lowered the water table and, "seriously reduced the ability of the adjacent reserve lands to produce hay". In addition the previously mentioned construction denied the Band's cattle access to water.¹⁶⁴ The right for water access for cattle was established in 1951 during planning of the Okanagan River Channel, yet this agreement was still not being honoured.

Further correspondence on October 24th 1977 between A. F. Smith Director of Land Management to P. Brown, Engineer, City of Penticton, addressed "a conflict area of concern to both of us involves Indian Reserve Lands on the control channel. This subject is presently under discussion between Public Works Canada and the Provincial Ministry of Highways and Works. Provincial Public Works is still waiting for Public Works Canada to transfer the land to the Province."¹⁶⁵ Privy Council # 1978-379 transferred to the Province on February 9th 1978 the 1.78 acres belonging to Penticton Indian Reserve #1. It is not exactly clear if this is the piece of land that the Okanagan Control Dam was built upon. This parcel of land was mistakenly omitted during PC 1955-916.¹⁶⁶

Astoundingly on March 14th 1978, V.A. Drew, Director of Property Services, Ministry of Highways and Public Works, wrote to George Wilson, Director of Land Management, MoE with further land transaction problems associated with the Okanagan Flood Control Project:

¹⁶²File# 0193560, Section 5. Surveyor General's Branch, Victoria.

¹⁶³File # 0193560, Section 4 Surveyor General's Branch, Victoria.

¹⁶⁴Ibid.

¹⁶⁵File # 0343779. Surveyor General's Branch, Victoria.

¹⁶⁶Ibid.

As the land required for the subject project is under administration of your Ministry I am enclosing a copy of Privy Council Order #1978-379. . . . The transfer of the parcel was overlooked in the transfer of other Federal lands to the province in 1955 and this is the reason for the enclosed Order which you will see is of very recent date. To assist you with locating the subject parcel, we are enclosing a Xerox print of plan M 2471-A.¹⁶⁷

Months later on November 2nd 1978, a Memorandum was issued from W. C. Fry, Administrative Officer, Special Projects, MoE, to G. Fielding, Administrative Officer, Policy and Planning, Land Management Branch, MoE. This memorandum refers to an earlier one dated September 22nd 1978. There appears to be concern that land at the north end of the flood control channel still belongs to Penticton Indian Band. In addition, land at the southern end of the channel (Lot 19) also belongs to the Band. The memorandum states that a response from Privy Council is expected.¹⁶⁸ This response was slowly forthcoming. On March 20th 1979, Paul Pearlman, Solicitor, Attorney General's Office BC., issued a Memorandum to T. Johnson, Assistant Deputy Minister, Highways. Pearlman wrote that as per Gordon Poupore, DIA instructions, upon receipt of a legal survey the Federal Government will transfer to the Province "the administration and control of the lands required for Penticton Channel Parkway for the purposes of roads, canals, bridges, towing paths or other works of public utility or convenience."¹⁶⁹

The map on the following page may illustrate one of the contentious pieces of land. If in 1977, the Okanagan Control Dam was in fact still on Penticton Indian Reserve #1 lands, then presumably there should be more examples of complex correspondence between Penticton Indian Band and all involved interests. Perhaps in the survey confusion is went unnoticed that this land belonged to IR#1. In addition there appears to be an absence of correspondence with regard to fishery concerns and the Okanagan Control Dam at Penticton. This lack of correspondence is noted from both DIA and the Penticton Indian Band. However, as repeatedly noted, this absence of documentation does not indicate the correspondence does not exist. Only that, to date, it has not been located via standard archival research. However an absence of relevant correspondence can indicate that the involved First Nations were not adequately consulted with regard to fishery concerns and the Okanagan Flood Control Project.

To conclude this section, the fundamental archival record reveals that Penticton Indian Band interests were marginally noted during construction of the Okanagan Flood Control Project. Further research will need to determine how the more southern Okanagan Bands fared with this project. In addition the complexity and magnitude of the Okanagan Flood Control Project contributed to an absence of fisheries concerns on the part of the Canadian authorities. The corresponding U.S. departments, however, were more active in this respect.

¹⁶⁷File # 0343779. Surveyor General's Branch, Victoria.

¹⁶⁸File # 0193560, Section 4. Surveyor General's Branch, Victoria

¹⁶⁹File # 0193560, Section 5. Surveyor General's Branch, Victoria.

Fisheries Protection within the Okanagan Flood Control Project and Act

British Columbia history, both for First Nations and non-Native peoples, is closely interwoven with the various *salmonid* species. Volumes of historical data have been, and can be, compiled and analysed for the north, central, and west coasts, the Skeena, Nass, and Fraser Rivers, Thomson/Adam's River systems, and for the extensive Columbia River system. However the Okanagan River system which straddles two countries, Canada and the United States, is somewhat more complex to both gather information for, and to understand the forces that shaped the legislation and control over this system. In addition, the fact that a significant portion of British Columbia's economic wealth was, and continues to be, dependent on both fisheries and water/hydro resources has created a detrimental situation for salmon habitat and sustainability. Coastal overfishing, downstream interception, habitat degradation, irrigation demands, cattle grazing, and deforestation have all taken their toll.

Historical and often contemporary knowledge has focused on the geographic areas where commercial harvest of salmon occurs. This unbalanced knowledge generates a misplaced concept of *salmonid* life cycles. Most crucially this ignores the vital fact that many salmon travel deep into the interior country to spawn. Salmon within British Columbia tidal waters are administered by Federal authorities and are subject to the ever-changing concepts of a fisheries administration thousands of miles away, while Provincial jurisdiction governs freshwater fisheries. This bilateral governance results in, among other effects, intricate research procedures.

In practical terms, research for this project was complicated by the fact that although there is extensive documentation revealing the history of dam building and flood control within the Okanagan Basin, there is dramatically less documentation chronicling non-Native legislative and resource use history in relation to salmon in the Interior. Archival research reveals that there are three points of view to be noted when gathering salmon history within the Okanagan River system. The first is, of course, the Okanagan people's interaction with salmon, both pre and post-contact. The second is the history of administrative control over the salmon resource and the third is the non-Native involvement and interest to increase habitat for "sport fish" (despite the fact that these same people are often responsible for destruction of salmon habitat).

Historically Okanagan people fished for their own uses and for a valuable trading commodity. It is known that some of this Okanagan dried salmon reached the Hudson's Bay Fort in Kamloops. Other salmon procured at the resource rich site of Okanagan Falls were traded at Fort Okanagan. One of the first DIA administrative records to quantify the value of Okanagan salmon is the *1892 Annual Report*. Herein it was noted that the "value of fish taken within the Okanagan Agency was estimated as \$1,135."¹⁷⁰ This figure does not provide data for how and by what forms of fish this figure was generated. The following year of 1893, the figure declines to \$985.00.¹⁷¹ In 1895, the Okanagan Agency was combined with Kamloops Agency; subsequently the 'value of fish figure' is not accurate.

¹⁷⁰Department of Indian Affairs Annual Report 1892 p.232.

¹⁷¹Department of Indian Affairs Annual Report 1893 p.222.

The *1898 Annual Report for the Kamloops-Okanagan Agency* noted that the First Nations “realise a considerable profit from fish taken for sale and for their own use.”¹⁷² There are numerous ethnohistorical sources that detail the relationship between the Okanagan and salmon. It is beyond the scope of this project to include this information. Nevertheless, the sockeye salmon run has significant historic and contemporary value for the Okanagan

The first non-Native correspondence addressing the Okanagan sockeye run, located by this project, was written on April 23rd 1897. A W. J. Harber, from Greenwood City, BC, wrote and asked MP Hewitt Bostock, “Is there any possibility of securing a small appropriation for the purpose of putting in a Fish Ladder at Okanagan Falls? Salmon come up from the Columbia but are unable to get above the falls. If a fish-ladder were put in there would be no hindrance to their reaching Okanagan Lake.”¹⁷³ On May 1st 1897, Bostock passed the letter requesting a fish-ladder at Okanagan Falls to the Hon. J.L.H. Davis, Minister of Marine and Fisheries, Ottawa. Hand-written notations on the bottom of the page state: “**As the commercial salmon fisheries on the Columbia River are solely in US territory an expenditure which would mainly benefit US fishermen would not be advisable, especially as more urgent cases are under consideration.**”¹⁷⁴ This type of limited thinking characterises much of the non-Native history of interaction with Interior salmon.

The first record located by archival research identifying non-Native concerns with regard to Okanagan fishery within the Penticton area are Penticton Board of Trade records.¹⁷⁵ On January 10th 1912, a resolution was passed asking the membership to consider plans to stock Okanagan Lake with whitefish. “Mr. Shalford strongly objected to this and pointed out what was wanted was the stocking of the lake with fish of a (illegible) native which would attract fishermen and help the town as a tourist resort.” The original resolution was withdrawn and reworded to indicate trout should be stocked instead of whitefish.¹⁷⁶ Further correspondence in January of 1912 was generated by the Penticton Conservative Association to the Minister of Marine and Fisheries, J. D. Hazen, Ottawa. The Association requested the establishment of a trout hatchery in the area.¹⁷⁷ The response from Ottawa was, that due to budget constraints and the establishment of a hatchery in the Kootenay District it was not possible to consider this plan.¹⁷⁸ The Penticton Board of Trade did not stop their requests. In March of 1912 they again wrote to J. D. Hazen, Minister of Marine and Fisheries, Ottawa: “Whereas the lakes of the Okanagan are fast becoming denuded of Trout and that a number of first class Tourist hotels are being erected on the shores of those lakes.” The Board submitted an enclosure of a resolution requesting the Dominion Government to establish a trout hatchery at Penticton.¹⁷⁹

Early in 1913 the Private Secretary, Department of Agriculture, wrote to the Private Secretary, Department of Marine and Fisheries, Ottawa: “Would you kindly let me know if

¹⁷²Department of Indian Affairs Annual Report 1898 p.245.

¹⁷³GR 2908, Reel B-11110, Part 1 BCARS

¹⁷⁴Ibid.

¹⁷⁵Although the issue at hand is directed towards trout and other fish it is important to understand what the historical record, an expression of the times, reveals.

¹⁷⁶Penticton Board of Trade Book, April 1911 to July 1913. Penticton Archives.

¹⁷⁷Department of Fisheries, File No.3802, Pt.1, Reel #B-11139 BCARS.

¹⁷⁸Ibid.

¹⁷⁹Ibid.

there is any likelihood of a hatchery being established at Penticton during the coming fiscal year?"¹⁸⁰ The reply was that no such consideration was being planned because, "The sports fisheries in the non-tidal waters of the Province are owned and largely administered by the Provincial Government. This Department, therefore, contemplates confining its Fish Breeding operations as far as practical to the incubation of the commercial fish."¹⁸¹

Trout, presumably due to their game fish value, were definitely of concern to the non-Native population. During the June 25th 1915 meeting of the Penticton Board of Trade a presentation was made by the Special Committee investigating the fishing conditions in the district. The report states that there are questions arising from the illegal gaffing of fish during spawning season, specifically rainbow trout.¹⁸² The fish hatchery concern was still an issue in 1916. In August of that year during the regular meeting of the Penticton Board of Trade a "letter was read from the Hon. Martin Burrell re: fish hatcheries."¹⁸³ This issue continued on in 1918. On February 11th 1918, during the annual meeting of the Penticton Board of Trade, a letter was written to "F.H. Cunningham, Inspector of Fisheries, New Westminster, BC, regarding trout fry for this district and also the establishment of a hatchery at Penticton."¹⁸⁴

This hatchery issue persisted. In early 1921 the Penticton Board of Trade passed a resolution:

Whereas practically no assistance has been given by the Government in connection with the game fish supply of the interior of British Columbia, particularly this section. . . .
Since irrigation systems have been installed in the Okanagan the fish in the larger lakes, which formerly spawned up the streams have apparently been decreasing on account of shortage of stream water in their spawning season. This fact makes the establishment of a hatchery to keep up the supply a most essential thing.¹⁸⁵

The Penticton Board of Trade meeting of November 17th 1921 included a report from a Committee responsible for studying the fish habitat concerns in the area. This Committee report focused on the investigation of a fish ladder in the dam for the Southern Okanagan Irrigation Scheme. This is the original Vaseaux Lake dam.

Upon investigation your Committee finds that the original plans for this dam included a fish ladder but that shortly before construction this was omitted by order of the Dominion authorities. Dominion Statutes make the insertion of a fish ladder compulsory unless omitted by authority and consent of the Minister. If a fish ladder has been thus

¹⁸⁰Ibid.

¹⁸¹Ibid.

¹⁸²Penticton Board of Trade, Early By-Laws, March 19 1914 to March 1916. Penticton Archives.

¹⁸³Penticton Board of Trade Book, April 1916 to February 1924. Penticton Archives.

¹⁸⁴Ibid.

¹⁸⁵Ibid.

omitted by consent the expense of insertion later comes upon the Dominion Government. . . .

Your Committee is advised that the only way to have this matter rectified is to memorialise the Dominion authorities and therefore recommends that the following resolution be passed and copies sent to the member for this constituency and the Minister of Marine & Fisheries, Ottawa and the Fish & Game Protective Association be asked to endorse the resolution.

Whereas the Land Settlement Board of the Province of British Columbia for the purpose of developing the Southern Okanagan Valley, have erected a dam across the Okanagan River a short distance below the outlet to Vasseaux Lake.

And whereas no fish ladder is provided in the said dam with the result that large numbers of game fish are prevented from ascending the Okanagan River and entering Vasseaux, Skaha and Okanagan Lakes.

And whereas this Board is informed that the purpose of this omission was to prevent the entry of Bass and Carp into Vasseaux, Skaha and Okanagan Lakes but there are already large numbers of these fish in the said lakes the omission of a fish-ladder serves no good purpose in this respect but does prevent large numbers of trout and fresh-water salmon from ascending the Okanagan River.

Therefore be it resolved that the Dominion Government be urged to install a fish-ladder in the said dam during the period of low water so that it may be in operation for the coming season”¹⁸⁶

During the 1923 June 13th regular meeting of the Penticton Board of Trade, the question of stocking the Okanagan Lake with fish was brought up by Game Warden Robertson. A motion was passed to seek further advice from Fisheries in Ottawa.¹⁸⁷ It would appear that non-Native pressure bore fruit, for it is noted that in 1926, “in response to the constantly increasing public demand, greater attention was paid to game fish, and the distribution of game trout was approximately the same as in the previous year which was greater than before.”¹⁸⁸

In 1927, the Summerland hatchery was established. “A concrete block building thirty feet long and sixteen and one-half feet wide was purchased from the municipality of

¹⁸⁶Penticton Board of Trade Book, April 1916 to February 1924. Penticton Archives

¹⁸⁷Penticton Board of Trade Book, April 1916 to February 1924. Penticton Archives.

¹⁸⁸Department of Fisheries Annual Reports 1926-27 p.11. UVIC SH 223-A22b.

Summerland for the establishment of a small hatchery on Okanagan Lake, the water supply being from the overflow of springs used by the municipality for water services.”¹⁸⁹ The Summerland hatchery was:

established for the purpose of re-distributing eggs and fry shipped from other hatcheries and streams. It is utilised for stocking and re-stocking of many streams and lakes in the Okanagan and Nicola districts that could not other wise be conveniently reached for other fish cultural stations. Up to the present no independent collection has been made in the immediate district, but in view of the abundance of fish now reported in waters originally stocked from the Summerland hatchery, it is hoped that in the near future collections will be made therefrom and this district will probably become self supporting.¹⁹⁰

The Summerland hatchery was under federal jurisdiction until 1937. “During 1937, following negotiations between the two federal and provincial governments, the fish cultural operations and protection work, in so far as the sport fish of the non-tidal waters are concerned were transferred to the provincial authorities under Order in Council P.C. 2532, which was approved . . . on October 12th, 1937.”¹⁹¹ Naturally this included the Summerland hatchery.

Prior to the establishment of the Summerland hatchery, fish were raised in the Kootenays and then transferred to the Okanagan. In 1927, Fisheries records note that “two hundred and twenty-three thousand two hundred redfish or Kokanee eggs were collected in the West Arm of Kootenay lake, about fifteen miles east of Nelson. This is the first collection of the species in the district, and was made with a view to its re-establishment in Okanagan Lake where their spawning grounds have been seriously decreased by irrigation projects. . . . Four million seven hundred and eighty thousand eastern whitefish (from Lake Winnipegosis)– were distributed in Okanagan lake.”¹⁹²

The hatchery in Summerland quickly incubated and released a number of non-indigenous fish into the Okanagan Lake system. In 1929 Summerland hatchery, “received 5,000,000 whitefish eggs from Fort Qu’Appelle hatchery, Saskatchewan, 107,500 speckled trout eggs from Nelson, and 464,855 Kamloops trout eggs from Penask Lake. Its total distribution for all species for the season was 5,238,200, made up as follows: Kamloops trout 450,850; speckled trout, 107,350; and whitefish, 4,680,000.”¹⁹³

In 1932 “a further transfer of 240,000 eggs was made to Summerland hatchery to rehabilitate the waters of Okanagan lake.” The Summerland hatchery, “substation was again extensively utilised for distribution of eyed eggs and resultant fry transferred from

¹⁸⁹Department of Fisheries, Annual Reports 1927-28 p.150. UVIC SH 223-A22b.

¹⁹⁰Department of Fisheries, Annual Reports 1931-32 p.129. UVIC SH 223-A22b.

¹⁹¹Department of Fisheries, Annual Reports 1937-38 p.70. UVIC SH 223-A22b.

¹⁹²Department of Fisheries, Annual Reports 1928-29 pp.174-175. UVIC SH 223-A22b.

¹⁹³Department of Fisheries, Annual Reports 1929-30 p.201. UVIC SH 223-A22b.

other hatcheries for the stocking of waters in the Okanagan Lake District.”¹⁹⁴ This release of hatchery stock continued in 1933 when “some 239,250 Kennerly’s salmon fry were liberated into Okanagan lake during February, 1933.”¹⁹⁵ The limitations of the Summerland hatchery directed the type of fish that were released into the Okanagan Lake system. It is recorded in 1937 “as no collection of ova was made at this hatchery, it depends entirely on its supply from an outside source which this year was Penask lake hatchery, and supplied it in June and July with 1,315,000 Kamloops trout eyed eggs. The total distribution for the year was 1,290,023, consisting of 725,000 eyed eggs and 565,023 fry planted in waters tributary to Okanagan, Shuswap and Similkameen rivers.”¹⁹⁶

Along with the release of fish to stock the depleted Okanagan Lake system was the simultaneous destruction of fish considered undesirable. In 1935, “some 12,215 coarse fish (squaw fish, suckers, carp, etc.) were also destroyed in Blue Lake (Princeton area), Boyce’s Slough (Kelowna District), Okanagan Control Dam and Lake, and Duck Lake (Kelowna District), in British Columbia.” Of interest, in 1935 “during a particularly hot spell of weather in July a very heavy unaccountable loss of native fish (Rocky Mountain whitefish) occurred in Woods Lake and the shores of the lake were strewn with dead fish in numbers.”¹⁹⁷

The first reference to fish ladder provisions within the study area dams is contained within the 1946 joint publication between the Federal and Provincial Governments, *Report of the Joint Board of Engineers Okanagan Flood Control*. Reference to the Penticton Dam states:

The present control dam at the outlet of Okanagan lake near Penticton is a rock-filled timber crib stop-log structure with six discharge openings, four of them each ten feet in width and two each twenty feet in width. **One of the ten foot openings is blocked by a fish ladder** and therefor carries only a small flow. Hence for practical purposes, the discharge through the dam is limited to what the other five openings will carry. The elevation of the sill and the downstream apron is 1116.9 (96.2). . . . Hence it is evident that the present dam has not sufficient discharge capacity to meet the requirements of the proposed improvements to the river system. . . . It is proposed to locate the new dam on the new channel 150 feet downstream from the present dam, where the ground is favourable for construction. The new location lies within a bend of the existing channel and the dam can here be built in dry ground and without any interruption of run-off in the present river channel.¹⁹⁸

¹⁹⁴Department of Fisheries, Annual Reports 1932-33 pp.102-3. UVIC SH 223-A22b.

¹⁹⁵Department of Fisheries, Annual Reports 1933-34 p.107. UVIC SH 223-A22b.

¹⁹⁶Department of Fisheries, Annual Reports 1936-37 p.163. UVIC SH 223-A22b.

¹⁹⁷Department of Fisheries, Annual Reports 1934-35 pp 180 UVIC SH 223-A22b.

¹⁹⁸ Report of the Joint Board of Engineers Okanagan Flood Control, 1946 pp.30-31.

Currently it is unknown who or what body of governance noted the importance of fish passage and monitored the insertion of the fish ladder. The archival records examined during this project did not locate the documents pertinent to this subject. Further research will have to focus on very specific details such as these. In addition, further research should locate the field records (if any) from 1951-52 when the Okanagan River was examined through Department of Fisheries fieldwork.¹⁹⁹

Archival documents reveal that the 1950's decade generated the first cohesive material concerning the Okanagan River sockeye salmon run. Ironically, it appears that American fishery personnel created the impetus that would generate action and concern for fish habitat within the Okanagan Flood Control Project.

During the fall of 1950 personnel of the Washington State Department of Fisheries and the US Fish and Wildlife Service became aware of the details of a proposed flood control project on the Okanagan River in Canada. The project plans included the construction of a new stream channel between Osoyoos lake and the Southern Okanagan Lands Project Dam (S.O.L.P. dam), which would eliminate a major part of the blueback salmon spawning area in the Okanagan River. It appeared that this phase of the proposed project would result in serious reduction in the abundance level of Columbia River blueback salmon.²⁰⁰

The American concerns prepared a series of functional plans for fishways at the S.O.L.P. dam, the proposed Skaha Lake control dam, the proposed Okanagan Lake control dam and for the approximately twelve drop structures between the S.O.L.P. dam and Okanagan Lake.²⁰¹ Of importance to this subject is the written record which indicates that:

In the fall of 1951, **Canadian authorities expressed some concern as to the feasibility of, and need for the tentative plan of including fish passage and fish protective facilities in the project works** from the S.O.L.P. dam to Okanagan Lake, which would make possible the extension of range of blueback salmon to the upper part of the Okanagan River. The entire subject was finally considered before the International Joint Commission which in a report dated February 1, 1952 made the following recommendations:

(a) Work on the project for flood control be proceeded with as soon as practicable.

¹⁹⁹Department of Fisheries Annual Reports for the year 1951-52 p.21. UVIC SH 223-A22b.

²⁰⁰The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, April 1954 p.2.

²⁰¹Ibid.p 3

(b) The plans for the channel rectification be developed to retain as large a percentage of the existing blueback spawning area as possible and to provide in the section of the river channel under improvements, where possible, other suitable spawning areas in lieu of those that will be destroyed.

(c) During the progress of the work above Oliver Lake Intake Dam it would be advantageous if the reach of the Okanagan River from Osoyoos Lake to the Oliver Intake Dam were kept under observation by the Canadian authorities concerned and a study of the blueback salmon runs made in the reach with a view to due consideration being given by these authorities to the matter after consultation with the appropriate United States fisheries officials, and before any action is taken which might have the effect of disturbing any existing spawning beds below Oliver Intake Dam.

(d) Work on the channel rectification between the Oliver Intake Dam and Osoyoos Lake and operation of the entire project after completion should be carried out in such a manner as to result in a minimum of disturbance to migrating blueback salmon, or their spawn.²⁰²

These recommendations resulted in a series of meetings between all concerns, American and Canadian. In addition, a joint biological-engineering investigation took place during 1952-53. This investigation continued during 1953 and 1954:

In connection with the Dominion-Provincial flood control project on the Okanagan River, joint studies were carried on to determine the best methods of preventing interference with the Columbia River sockeye runs. The two-year study suggested by the International Joint Commission was completed in co-operation with the United States Fish and Wildlife Service and the Washington Department of Fisheries.²⁰³

The results of this investigation form the major portion of the 1954 report titled, *The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, Canada. Report prepared by the technical staffs of the United States Fish and Wildlife Service; the Washington State Department of Fisheries; and the Department of Fisheries, Canada.* The report deals specifically with what American sources describe as blueback salmon, more commonly called sockeye (*Oncorhynchus nerka*) in Canada. The most salient points are included below.

²⁰²The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, April 1954, pp.4-5.

²⁰³Department of Fisheries Annual Reports for the year 1953-54, pp.10-11. UVIC SJ1 223-A22b.

▶▶ At the present time the Okanagan River is one of the two major spawning areas of the species in the Columbia Basin. The Okanagan bluebacks spawn in Canada upstream from Osoyoos Lake and subsequently spend a period of time in the lake prior to their ocean migration.²⁰⁴

▶▶ The occurrence of Kokanee in Okanogan Lake suggests that blueback salmon probably spawned in all the suitable tributaries of Vaseaux, Skaha, and Okanogan Lakes in the past. However, Okanogan Falls, located in the outlet of Skaha Lake, has been a virtually impassable barrier to bluebacks in recent historical time. When the S.O.L.P.* Dam was constructed in 1921, just downstream from Vaseaux Lake, it was equipped with a wooden fish ladder to permit the upstream passage of fish. This fish ladder soon became inoperative and it was never repaired or replaced. Thus, since shortly after 1921, the S.O.L.P. Dam has been the upstream limit of migration.²⁰⁵

▶▶ No quantitative data are available as to the magnitude of the run of fish into the Okanogan River in the early days. Fragmentary reports of catches by the Indians on both sides of the border, together with sketchy observations on the spawning grounds, indicate, however, that the run was of some magnitude.²⁰⁶

▶▶ It was further decided that the Indian fishery should be kept under close observation and arrangements were made by the Department of Fisheries, Canada, to have a protection officer patrol the area.²⁰⁷

▶▶ Studies in regard to the abundance of blueback on the spawning grounds in the Okanagan system have been carried out since 1947 by American interests.²⁰⁸

▶▶ In order to determine the feasibility of creating additional spawning areas, the construction of an experimental channel was recommended by the fisheries agencies. The channel, which was cut through a small island a short distance below Okanogan River-McIntyre Creek junction, by the

²⁰⁴Department of Fisheries Annual Reports for the year 1953-54, pp.10-11. UVIC SH 223-A22b.

* South Okanogan Lands Project, also referred to as Oliver Intake Dam.

²⁰⁵The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, April 1954. pp 4-5.

²⁰⁶Ibid. p 6.

²⁰⁷Ibid. p 17. (these records should be located, however, previous fisheries research has noted an absence of this type of individual record).

²⁰⁸Ibid. p 14

Department of Public Works, during the latter part of August, was kept under special observation throughout the spawning season.²⁰⁹

▶▶ In addition to the numerous habitat modifications the thirteen drop structures located in the new channel will constitute a series of obstructions to the upstream migration of the salmon. When it is considered that the blueback salmon ascending the river from Osoyoos Lake are fast approaching maturity the introduction of such obstacles in their path would be of serious consequence. Investigations of the effects of obstructions on maturing salmon have shown that periods of delay cause physiological damage resulting in death or decreased spawning efficiency.²¹⁰

▶▶ Three main fisheries problems arise from the Flood Control Project as planned and these are as follows:

- 1) Provision for passage of fish to the spawning grounds
- 2) Provision of adequate spawning area for the fish
- 3) Protection of eggs, fry and adult salmon during the construction period.²¹¹

This project was unable to access either the United States Fish and Wildlife Service or the Washington Department of Fisheries records. Future research should focus on these records. In fact, to date, there is minimal archival documentation that reveals the correspondence generated from this joint project. This indicates that less conventional sources will need to be closely examined in the future.

Of further interest to the 1954 report is the report contained within as an Appendix titled: *Report on Model Studies of Proposed Drop Structures and Fish Passage Facilities for the Okanagan Flood Control Project*, written by K.C. Lucas, February 1954. This primarily technical report identified a number of construction concerns that would be rectified by a series of drop structures:

Throughout an eleven mile portion of the proposed channel, from a point approximately 1 ½ miles north of the town of Oliver to Osoyoos Lake, (designated as Section "C" of the Flood control Project) it was planned to use drop structures in order to reduce the channel gradient to the point where no bottom or bank protection would be necessary to prevent erosion. There would be thirteen three-foot drop structures

²⁰⁹Ibid. p.35

²¹⁰The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, April 1954. pp.47-48.

²¹¹Ibid. p 48.

in this section. An overall plan of the proposed flood control project is shown on drawing #19A-20-P1.²¹²

Lucas reaffirms that since this portion of the Okanagan River is used as a migratory route and spawning area by Columbia River blueback (sockeye) salmon, concern was felt by the United States fisheries agencies that, among other things, the upstream passage of the fish would be impeded by drop structures. After a series of meetings between the U.S. fisheries agencies and the Departments responsible for construction of the project the matter was finally placed before the International Joint Commission. One of the recommendations that the International Joint Commission made in their report issued in February, 1952, was that Canadian authorities should make a study of the blueback salmon in the Okanagan River to assess the possible effects of the Flood Control Project.²¹³ These results are contained within the previously described April 1954 *The Salmon Problems Associated with the Proposed Flood Control project on the Okanagan River in British Columbia, Canada. Report prepared by the technical staffs of the United States Fish and Wildlife Service; the Washington State Department of Fisheries; and the Department of Fisheries, Canada.*

The construction of the Okanagan Flood Control Project proceeded regardless of all stated concerns and the *Department of Fisheries Annual Reports* for the year 1957-58 conclude that:

The Okanagan Flood Control Project neared completion in 1957-58. Hydraulic studies of the completed portions were made to determine the effect of any future work required on the Columbia River sockeye runs which spawn in the area. The sockeye run passed through the completed drop structures and spawned successfully in the dyked area, which was the normal spawning ground.²¹⁴

What were the long-term effects of the Okanagan Flood Control Project upon the Okanagan Sockeye run and habitat? It would appear that the Okanagan sockeye run was impacted historically by the various irrigation dams established within the Okanagan Basin. Those questions will have to be addressed by the Okanagan Nation Fisheries Commission and are beyond the scope of this historical research.

It is known that the contemporary corollary to the Okanagan Flood Control Project—the Okanagan Basin Implementation Board—did address fishery concerns within a very limited capacity. In April of 1980 responsibility for programs concerned with the enhancement of the sport fishery in the headwater lakes and in the main valley lakes as initiated under the *Implementation Agreement* was transferred to the Fish and Wildlife Branch, MoE.²¹⁵

²¹²K.C. Lucas, Report on Model Studies of Proposed Drop Structures and Fish Passage Facilities for the Okanagan Flood Control Project, 1954 pp.1-2.

²¹³Ibid.

²¹⁴Department of Fisheries Annual Reports for the year 1957-58, pp.10-11. UVIC SH 223-A22b.

²¹⁵Fifth Annual Report of the Okanagan Basin Implementation Board, for the period April 1, 1980 to March 31, 1981, p.9 Penticton Archives.

Conclusions & Recommendations

The historical record located and analysed by this research project revealed that consistent non-Native expansion into and within the Okanagan area created a serious demand for water control. This inevitably led to the construction of a series of dams. The design, construction, and administration of the various dams gave only marginal consideration to fisheries concerns. In addition, historically, one of the prevailing attitudes of the Federal Fisheries authorities was that any salmon habitat action benefiting down stream American fishery interests was not of great concern to Canadian authorities.

Records located to date indicate that the Department of Indian Affairs was greatly involved in the land transactions associated with the Okanagan Flood Control Project. However, DIA note of fishery protection, historically and within the Okanagan Flood Control Project, has not been comprehended or acted upon. Research to date has revealed a complex number of involved interests, however this has also revealed that fisheries concerns appear to have been absent from the negotiations between the Federal, Provincial, and Municipal governments.

To conclude this section: the fundamental archival record reveals that Penticton Indian Band interests were only marginally noted during the design and construction of the Okanagan Flood Control Project. Further research will need to determine how the more southern Okanagan Bands fared with this project.

Future research specific to the effects of dam construction should note and examine:

- ◆ Penticton Dam - Note of the 1920 dam construction fish ladder specifications is made in the 1946 *Report of the Joint Board of Engineers Okanagan Flood Control*. Research has not located those specifications to date. Currently it is unknown who or what body of governance noted the importance of fish passage and monitored the insertion of the fish ladder. The archival records examined during this project did not locate the documents pertinent to this subject. Further research will have to focus on very specific details such as these.

- ◆ In addition, there appears to be an absence of correspondence with regard to fishery concerns and the Okanagan Control Dam at Penticton. This lack of correspondence is equally absent from both the DIA and the Penticton Indian Band. However, as repeatedly noted, this absence of documentation does not indicate that the correspondence does not exist but only that it has not been located presently via standard archival research. However an absence of relevant correspondence can equally indicate that the involved First Nations were not adequately consulted with regard to fishery concerns and the Okanagan Flood Control Project. Penticton Band members should be consulted in regard to this issue.

- ◆ All documentation related to the Vaseaux Lake/MacIntyre Dam. In fact, this dam, so pivotal to fish passage, could be the topic of a separate study. This project, due to the large amount of data available for the Penticton Dam, did not have time to concentrate on the

Vaseaux Lake/MacIntyre Dam. The records associated with this dam are considerably more obscure. It is known that as of 1921, the Penticton Board of Trade included a report from a Committee responsible for studying the fish habitat concerns in the area. This Committee report focused on the investigation of a fish ladder in the dam for the Southern Okanagan Irrigation Scheme. This is the original Vaseaux Lake dam. The Committee noted that upon investigation, the original plans for this dam included a fish ladder but that shortly before construction this was omitted by order of the Dominion authorities. This research project did not locate the order of exclusion. Future research should locate these records. In addition, research should concentrate more closely on the Oliver area to document the uses of water diverted by this dam and water diversion system.

◆ Skaha Lake Dam was formerly required to maintain water levels in Skaha Lake. Original plans for this dam were created by the Water Rights Branch, Department of Lands and Forests, and the Provincial Government. Research specific to this project did not locate a copy of this plan. Future research should locate these records.

◆ American vs. Canadian concerns. This project was unable to access either the United States Fish and Wildlife Service or the Washington Department of Fisheries records. Future research should focus on these records. Currently there is minimal archival documentation revealing correspondence generated from this joint project. This indicates that less conventional sources will need to be closely examined in the future.

◆ Further research should locate the field records (if any) from 1951-52 when the Okanagan River was examined through Department of Fisheries fieldwork.

◆ Establish a summary of all the ethnographic and ethnohistorical sources associated with the Okanagan fishery.

◆ Establish a chronology of all key persons associated with fishery concerns within the study area. This would enable the research to locate individual records and create a more in-depth understanding and knowledge from a grass-roots level vs. a bureaucratic level.

◆ Identify Okanagan Nation individuals who have either an interest in the dams or associated history and record their observations. In fact to reiterate Ms.Machin's 1997 recommendations:

Considering the lack of archival information on Okanagan salmon it would be valuable to interview Okanagan nation Elders immediately. The following information needs to be gathered: anecdotal information on fish abundance, information on fish sizes, timing of the runs, specific fishing

locations, fishing methods, management and ownership, and fish quality.

Every day, month and year that passes by brings further loss of valuable cultural information. Without this information, pivotal to cultural strength, the attempt at an integral and undiminished interpretation of the Okanagan fisheries is lost.

◆ Establish a list of prior dam and fishery history research conducted by all ONA and Member Bands. Request permission from individual Bands to copy related archival records in their possession in order to avoid costly research duplication. Documents and reports should be organised within an annotated bibliography specific to Okanagan Nation fisheries.

◆ Conduct research in Ottawa, Vancouver, Oliver, Nanaimo, and other archival repositories previously not researched.

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LIST OF PHOTOGRAPHS AND FIGURES

Circa 1900 Okanagan River _____	6
Circa 1900 Okanagan River mouth at Penticton _____	7
Circa 1956 map showing the three dams _____	10
Okanagan Drainage Basin _____	14
Circa 1910 First Penticton Dam _____	22
Pre-1928 (1914-15) Penticton Dam during flood _____	23
1928 Construction Penticton Dam _____	26
Circa 1960 Skaha Dam at Okanagan Falls _____	28
Circa 1960 MacIntyre/Vaseaux Dam _____	31
Circa 1910 Highwater Okanagan River at Penticton _____	32
Circa May 1942 Penticton Flood _____	34
Circa May 1942 Penticton Flood _____	35
Circa 1940 satellite image of Okanagan River prior to channel construction _____	37
Circa 1986 composite satellite image of Okanagan Channel _____	38
Circa 1963 Dredging Okanagan River Channel _____	39
Mid 1980's City of Penticton Map _____	60
Zosel Dam, at the south end of Osoyoos _____	130
Upstream view of Zosel Dam, 1974 _____	130

APPENDICES

Appendix One: Dam Chronology

Appendix Two: Zosel Dam

Appendix Three: Dam Plans

Appendix One: Dam Chronology

Pre-1824

Okanagan peoples resided along the river lands between Okanagan and Skaha Lakes:

The main Indian village had its centre at the west end of Huth Ave. from whence it sprawled over thirty acres. . . the river there meandered in a series of small bends and turns, and it was in one of those that the crossing was safest. . . for some unexplained reason the village was almost entirely confined to the east side of the river. Smaller sites extended in either direction towards the two lakes. Evidence of a fair sized camp near the head of the river which extended sparsely along the foreshore to the big coulee (Mt.Chopka Auto Court), has almost been completely destroyed in recent years. The best part of this site centred on the head of the river proper. The construction of the control dam at that point and the previous work in connection with dredging and the ramps adjoining the old Summerland bridge built at the same point all added to the general disturbance of the surrounding surface. Anything left at this point is likely well covered with gravel. (R.N. Atkinson Papers, Penticton Archives)

At Penticton a natural bar existed across the Okanagan river mouth at Okanagan Lake. This bar constituted a natural control to the low-water level of the lake. (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.82)

1824 Tom McKay blazed The Brigade Trail for the Hudson's Bay Company. It ran from Fort Okanagan:

up the east side of the river to the head of Osoyoos Lake, then along the bench lands on the west side of the valley, and back to the shore of Okanagan lake at Peachland Creek (between Greata Creek and Peachland) and followed the shore to the north end of Okanagan Lake, from which point is swung westward, crossing through Grande Prairie (Westwold) to Kamloops. Camping places were selected in suitable locations about 30 miles apart (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.70).

1865 May 25th Thomas Ellis rode into the Penticton area with J.C. Haynes. Ellis recorded in his diary, "I don't think much of the place" (Ellis/Hanna binder, Penticton Archives).

1865 November 28th J.C. Haynes to Joseph Trutch Chief Commissioner of Lands and Works.

Haynes reported that in accordance to instructions dated July 9th he has laid out the Indian Reserves at the head and foot of Okanagan Lake (Haynes, John C. Colonial Correspondence, File #741 BCARS).

1866 January 17th Turnball to Trutch, Chief Commissioner of Lands and Works:

In compliance with the wishes of Mr. Haynes (magistrate of the Osoyoos District) I have laid out three Indian Reserves situated on the north and southern extremity of the Okanagan Lake and I herewith beg to lay before you the enclosed plan, which will show their positions, yet, etc., together with the following remarks respecting them. . . the first reserve which is situated on the south end of the Okanagan Lake (and known to the Indians as Penticton), is . . . bounded on the south by Lake du Chien; on the east by the Okanagan River; on the west by the base of the low rolling hills, and terminates about 2 ½ miles north at the first point, where the hillside and river meets." Turnball continued with the observation that "the reserve at Penticton comprises 842 acres. The one on the west of lake about 1,500 acres, in my opinion more than double what is necessary to serve the purposes of the Indians settled on the Okanagan (Papers Connected with the Indian Land Question 1850-1875. Victoria, Wolfenden Government Printer 1875, p.195).

1866 February 5th Joseph Trutch, Chief Commissioner of Lands and Works to the Colonial Secretary re: letter from Mr. Haynes informing Trutch that he had in accordance with directions:

laid out Indian Reserves at the head and foot of Okanagan Lake and that sketches of the same would be handed to me by Mr. Turnball who had assisted in staking them out". Trutch continues with the observation that although Mr. Haynes suggests that the lands around Okanagan Lake, formerly known as Indian Reserves should be opened to pre-emption (with the exception of lands stakes out by Turnball under Haynes direction), it may be advisable to defer this action until a decision is made with regard to other neighbouring Indian reserves (Papers Connected with the

Indian Land Question 1850-1875. Victoria, Wolfenden
Government Printer 1875, p.194).

1867 April 6th Thomas Ellis filed a pre-emption of 160 acres of land at Penticton, “foot of Okanagan Lake - bounded on the north by the pre-emption of A. McFarland - on the west by the swamp - on the south partly by the river & in the east by scattered timber”. This land was granted a certificate of improvement based on evidence from W.H. Lowe and C.H. Phillip January 1st, 1870 (Ellis/Hanna binder, Penticton Archives, source BCARS GR 0112).

1867 April 6th Thomas Ellis to J.C. Haynes

“I hereby make application to pre-empt 160 acres of land in the Okanagan Valley at the south end of Okanagan Lake and more particularly described as follows”. Known as Lot 1, G 7 Yale Lytton (Ellis/Hanna binder, Penticton Archives, source BCARS A/E/Or3/E152.1).

1867 April 6th Andrew McFarland, Irish friend of Ellis, filed a pre-emption of 160 acres at Penticton, “foot of Okanagan Lake - bounded on the north by Okanagan Lake on the east by scattered timber on the south by the pre-emption of W. Ellis & on the west by a swamp which overflows at high water”. This land was granted a certificate of improvement based on evidence from W.H. Lowe and C.H. Phillip January 1st, 1870 (Ellis/Hanna binder, Penticton Archives, source BCARS GR 0112).

1867 April 6th Andrew McFarland to J.C. Haynes: “I hereby make application to pre-empt 160 acres of land situated in the Okanagan Valley at the south end of the Okanagan Lake.” Of interest both the Ellis and McFarland letters have identical handwriting, the only difference in penmanship is McFarland’s signature. It is thought that J.C. Haynes wrote the note (Ellis/Hanna binder, Penticton Archives, source BCARS A/E/Or3/E152.1).

1870 May 20th At Penticton Andrew McFarland paid for 85 acres of land which adjoined his pre-emption on the south-eastern corner. This parcel of land appears to be a former pre-emption filed by T. Ellis. The larger, adjoining piece of land is situated at the head of Okanagan Lake and runs along the Okanagan River (Ellis/Hanna binder, Penticton Archives, source BCARS GR 0826 vol.1).

1870 October 4th Thomas Ellis purchased for \$100.00 (\$50.00 deposit) one hundred acres of land below the McFarland pre-emption. This land is bounded on the west by the Okanagan River. Known as Lot 5, G.7 Yale Lytton (Ellis/Hanna binder, Penticton Archives, source BCARS GR 0826 vol.1). The Ellis lots:

together with Lots 2,3 and 4,G.7 pre-empted by Andrew McFarland, but transferred to Thomas Ellis , embrace an area of 642 acres now forming the western part of the townsite of

Penticton. Theron was the home location from which Thomas Ellis carried on his extensive trading and ranching undertakings until he became known as the cattle king of the Okanagan Valley. . . . It will be noted that his first location was described as being at Penticton which was the name given by the Indians to the locality at the outlet of the Lake, meaning 'ever' or 'forever' (Ellis/Hanna binder, Penticton Archives source, BCARS Add Mss 700 p.486).

1870 October 4th Andrew McFarland purchased for \$116.00 (\$58.00 deposit) a further one hundred and seventeen acres of land in two plots adjoining his pre-emption claim (Ellis/Hanna binder Penticton archives source BCARS GR 0826 vol.1).

1877 October 3rd Report from G. M. Sproat to the Department of the Interior regarding the laying out of inland fishing stations. "There are in this part (Head of the Lake), and I believe throughout the interior of the country Indian fisheries on streams flowing into lakes. The Indians catch white fish there and other small fish at certain seasons. Probably these fish are valued articles of diet, though not to be compared with the almost necessary salmon." Sproat identifies a possible conflict between irrigation requirements for white settlers and the current practice of "weir fishing":

We have been asked to lay off fishing stations at some of these places by the Indians, and we have done so, not however without some reluctance in the case of small streams where there is a possibility of the water being required for irrigating valuable land . . . we are sanctioning a method of fishing namely weirs . . . contrary to the law – see Clauses 8 and 13 Fishery Acts 1868.

Sproat goes on to suggest the laws be altered in the meantime to avoid any disputes (Indian Affairs Central Registry Files, 1868-1970. RG10, Volume 7537).

1892 September 1st Thomas Ellis was granted a record of 2000 inches from Penticton Creek for "agricultural and milling purposes" (Angliss vs. Penticton, 25-4404, Box 3, File #8, Penticton Archives).

1894 Massive flooding throughout British Columbia. In Penticton water covered all the low lands between the two lakes. Hay fields were unusable. Livestock belonging to settlers were reduced in anticipation of the coming winter months.

1897 *Water Clauses Consolidation Act* This Act is the first to deal exclusively with water in the Province. This Act did not deal with water within the *Railway Belt Act*.

1897 April 23rd W.J. Harber, Greenwood City, BC to MP Hewitt Bostock: "Is there any possibility of securing a small appropriation for the purpose of putting in a Fish Ladder at Okanagan Falls? Salmon come up from the Columbia but are unable to get above the falls. If a fish-ladder were put in there would be no hindrance to their reaching Okanagan Lake."(Gr 2908, Reel B-11110, Part 1 BCARS).

1897 May 1st MP Hewitt Bostock to Hon. L.H. Davis, Minister of Marine and Fisheries, Ottawa. Encloses letter for fish-ladder request at Okanagan Falls from W.J. Harber. Hand-written notations on the bottom of the page state: "As the commercial salmon fisheries on the Columbia River are solely in US territory an expenditure which would mainly benefit US fishermen would not be advisable, especially as more urgent cases are under consideration." (Gr 2908, Reel B-11110, Part 1 BCARS).

1905 January 20th Southern Okanagan Land Company Limited was formed to dispose of the vast Ellis holdings.

1905 May 10th Thomas Ellis conveyed to the Southern Okanagan Land Company practically all the land he acquired from the Haynes Estate (1895 - 20,765 acres for the sum of \$65,000.00) and his own land for the sum of \$300,000.00. The total acreage of the transfer was estimated to be 30,000 of which a little less than 10,000 was in the vicinity of Penticton. With the land went 3750 head of cattle for which the Company paid an additional \$112,500.00.

1905 Southern Okanagan Land Company was gazetted as a limited liability company. This led to an immediate and pressing need for irrigation water. "The first attempt to create a storage reservoir on Penticton Creek resulted in the construction of the 'Twenty Mile Dam' a mere puddle containing approximately 700 acre feet in comparison to our present day storage capacity at this site of 10,000 acre feet" (R.N. Atkinson. Penticton Pioneers in Story and Picture, pp. 35-37).

1906 June 5th Southern Okanagan Land Company Ltd., W. T. Shatford to A. Irwin, Indian Agent, Kamloops. The SOLCL applied for permission to construct a flume through Penticton Indian Reserve #2. "We also request permission to construct a small dam at Ellis Creek for the purpose of raising the water to flume level. This dam will be about six feet higher than the bed of the creek." Sketch included (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 June 28th A. Irwin, Indian Agent, Kamloops, to A.W. Vowell, Indian Superintendent, Victoria re: the Southern Okanagan Land Company Ltd. proposal. "The nature of this country is such that it would be impossible to get water without passing

through the reserve in question, which is only a timber reserve with but a small portion, if any, fit for cultivation if cleared. . . . The Indians have expressed to me their willingness to allow the work proposed, and in the interest of progress I would recommend the favour to be granted.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 July 3rd A.W. Vowell Indian Superintendent, Victoria to illegible name, Secretary Department of Indian Affairs, Ottawa. Copy of Southern Okanagan Land Company Ltd June 5th letter and sketch enclosed (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 July 16th Secretary Department of Indian Affairs, Ottawa to A.W. Vowell Indian Superintendent, Victoria in reference to the Southern Okanagan Land Company Ltd. Proposal: “I have to say that there does not appear to be any special reservation of water rights for the Indians in connection with this stream (Ellis Creek) or their reserve. The Reserve Commissioners, however in 1877, made a general reservation of water rights for Indians, which probably have no weight unless duly recorded.” The Secretary states that permission may be granted to SOLCL but Agent Irwin should decide the quantity of water (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 August 25th *The Boundary Creek Times* Greenwood BC, no signature, (however it must be Duncan Ross, MP Greenwood as Pedley’s reply is addressed to him) to Frank Pedley, Superintendent of Indian Affairs, Ottawa. The author writes of the application of SOLCL to the Department for permission to run an irrigation flumes across the “Indian Lands”. It appears that this permission is granted if SOLCL guarantees 200 inches of water, “to the Indians, this water to be taken at any time the Indians desire to do so. The Company is experiencing considerable difficulty in securing sufficient water to irrigate its fruit lands, and is utilizing all the small stream available. There are not 200 inches of water in the stream in question.” The writer continues with the request that this agreement be rescinded as “I scarcely think it is good policy to practically make it impossible for a company, such as the Southern Okanagan Land Company, to use certain available water to which they are entitled simply because it is necessary for them to cross certain portions of the Indian reservation” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 September 6th Frank Pedley, Superintendent of Indian Affairs, Ottawa to Duncan Ross, MP Greenwood. “I am having this looked into to see what can be done towards meeting your views in the matter.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 September 20th Memo from Chief Surveyor (illegible signature) to Deputy Superintendent General. The author writes that “I think the matter might be referred to him (Vowell) with instructions to look further into the question with the view of meeting the wishes of the Land Company if possible, while at the same time securing such rights, the Indians may be justify theirs.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 October 3rd Illegible signature to A.W. Vowell Indian Superintendent, Victoria. “The Department does not wish to block the work of said Company, but simply to make reasonable reservation in favour of the Indians as may be necessary for domestic purposes,

and if possible also a reasonable quantity for agricultural purposes.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 October 8th A.W. Vowell Indian Superintendent, Victoria to Secretary Department of Indian Affairs, Ottawa. Vowell clarified that the Department had stated that 150 inches of water for agricultural purposes and 50 inches for domestic purposes should be made available to the Penticton people. Vowell stated that he assumed the size of the dam was capable of providing water for all the required usage and that he had written to the Indian Agent advising of the situation. Note: this is the last correspondence on this matter within this file until August 22, 1917 (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1906 Intake dam on Penticton Creek was completed, this dam delivered the water onto the main benches for sixty years (original log structure replaced with concrete in 1930).

1907 May 11th Penticton Board of Trade was formed. J.R. Mitchell was the first chairman of the board. It was moved by W.J. Clement and Norman Hill that the territory to be applied for should extend from Trepania Creek on the west side of Okanagan Lake, ten miles on each side of the lake and ten miles on the west side of Okanagan River and five miles on the east to the International Boundary Line (Penticton Board of Trade transcripts, Penticton Archives, p.1).

1908 January 11th Penticton Board of Trade records the need for a bridge across Okanagan River at the foot of Okanagan Lake. It was agreed that a copy of this resolution should be forwarded to MPP Price Ellison and L.W. Shatford (Penticton Board of Trade transcripts, Penticton Archives, p.12).

1908 July 29th Penticton Board of Trade again records the need for a bridge across Okanagan River at the foot of Okanagan Lake. At this meeting it was decided to request this project from the Provincial Government. No mention is made of other interests (Penticton Board of Trade transcripts, Penticton Archives, p.19).

1908 n.d. Responsibility for dredging of the Okanagan River at Penticton was assigned to Joe McDonald (he became Superintendent of Public Works in 1907). For ten years McDonald was to work on the channel between Skaha and Okanagan Lake. His objective was to improve the drainage of Okanagan Lake and make the river more navigable. As there was a fourteen-foot difference between the two lakes, wharves on Okanagan Lake were left high and dry as the work proceeded. Consequently the first dam is built between the two lakes after Kelowna and other towns object to the lowering of the lake (Okanagan Historical Society 1949, pp.65-70).

1908 December 31st Penticton incorporated as a District Municipality under section 3A of the *Municipalities Incorporation Act*. This was formerly gazetted on December 31st. The land description contained within the gazette included:

thence due west thirteen hundred and five feet along the south boundary of said Lot 196 to the east water line of Dog Lake (Lake Skaha); thence northerly, westerly, and easterly, following the water line of said Dog Lake (Lake Skaha) to the west bank of Okanagan River; thence following upstream the meandering of the west bank of said Okanagan River to Okanagan Lake; and thence along south and east water line of said Okanagan Lake to the point of commencement; containing seven thousand and forty-four acres (Provincial Gazette, January 1909, Penticton Archives).

This Act was set on January 1st 1909.

1908-1909 Winter Public Works of Canada carried out a survey of the Okanagan River between Okanagan and Skaha Lakes (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.82).

1909 January 31st Penticton Water Supply Company formed (Angliss vs. Penticton, 25-4404, Box 3, File #8, Penticton Archives).

1909 June 16th Special Meeting of the Executive, Penticton Board of Trade. At this meeting there were numerous discussions on the proposed Southern Okanagan Land Company's irrigation systems. Their accrued costs of their systems were roughly estimated at: dams \$65,000.00, 30 miles of fluming \$47,000.00, and earth and rock works at \$8,000.00. At this time 1,800 acres of bench land and 1,300 acres of bottomland had been sold. It was discussed that water rights were sold with the land.

There was further discussion that the Government (presumably provincial) had suspended operations on the Okanagan River. W. J. Clement thought the CPR was behind this. Several members wished the river to be more accessible. Costs for dredging and opening the river were estimated at \$250,000.00. It was moved that that the Secretary should correspond with the Minister of Public Works and appropriation should be applied for at once to make the river suitable for small craft (Penticton Board of Trade transcripts, Penticton Archives, p.48).

1909 July 14th Quarterly General meeting of the Penticton Board of Trade. It was moved by H. Main and seconded by J.R. Mitchell that a committee be appointed to wait on the Council and the Land Co. and to ascertain what steps are being taken regarding the responsibility of the small dam on Penticton Creek. This motion was then amended by E.W. Mutch and seconded by C.L. Carless, "that in view of the fact that another flood is entirely improbable this season, and as the Council are at present considering the matter, this Board should take no action pending the decision of the Council." H. Main then withdrew his motion.

There was further discussion by W.T. Shatford who explained:

that the dam was put to prevent all the residential part of the town from flooding with the exception of the part lying between Ellis Bridge and the water. The dam was offered to the Municipal Council for free but the keys were returned by the latter and the S. O. Land Co. notified that the Council would not be held responsible for any damage done by the creek. Mr. Shatford stated that he did not believe half present knew of the existence of the dam. People passed along the road and saw that at that point the south trench of Penticton Creek would hold quite a lot of water and then concluded that it would do so its whole length. If the dam was not taken over within 30 days of notice it was liable to be taken out.

Further announcements included that the dredging of the river would now proceed and that the work of putting a bridge over the Okanagan River was also to proceed (Penticton Board of Trade transcripts, Penticton Archives, p.55).

1909 August 20th Executive Meeting of the Penticton Board of Trade, held in the Council Chamber. A letter was read from the Municipality re, “acquiring Indian Reserve on Main St.” It was determined that the board should, “address the Indian Dept. in co-operation with the Municipal Council in an endeavour to get possession of said Reserve”. (Penticton Board of Trade transcripts, Penticton Archives, p.59).

1909 October 30th Southern Okanagan Land Company by agreement sold and transferred, “all of the right, title, and interest of the Southern Okanagan Land Company Limited in and to an irrigation system designed to carry water for irrigation purposes to certain lands, in the Municipality of Penticton.”(Supreme Court of Canada Between Hector Anglis and the District Municipality of Penticton – Statement of Claim) The Penticton Water Supply Company Limited assumed all the obligations of the Southern Okanagan Land Company with respect to water agreements between themselves and others (25-4404 Box 3, File # 8 Penticton Archives).

1910 January 6th Executive Meeting of the Penticton Board of Trade, held in the Council Chamber. “President reported the conversation that had taken place with the Minister of Agriculture when the Secretary stated that re correspondence about acquiring Indian Reserve, he had received the usual reply that matters were still in dispute between Domain and Provincial Governments.” (Penticton Board of Trade transcripts, Penticton Archives, p.62).

1910 Spring First dredging of the Okanagan River begins. In order to move the dredge downstream there are cuts made into half of the natural bar (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.82).

1910 June 22nd An agreement was entered into between the Southern Okanagan Land Company Limited, the Penticton Water Supply Company and the Municipality of Penticton. The Municipality purchased the irrigation system of the Penticton Water Supply Company for the sum of \$90,000.00 (25-4404 Box 3, File # 8 Penticton Archives).

1910 July 23rd By-Law No.26 authorising the irrigation system purchase was approved by Lieutenant-Governor-in Council (25-4404 Box 3, File # 8 Penticton Archives).

1910 August 20th By-Law No.26 was assented to by the electors (25-4404 Box 3, File # 8 Penticton Archives).

1910 August 27th By-Law No.26 was passed (25-4404 Box 3, File # 8 Penticton Archives).

1912 January 10th Annual monthly meeting of the Penticton Board of Trade. The minutes of the previous meeting were read. A resolution had been passed asking the membership of plans to stock Okanagan Lake with whitefish. "Mr. Shalford strongly objected to this and pointed out what was wanted was the stocking of the lake with fish of a (illegible) native which would attract fishermen and help the town as a tourist resort." The original resolution was withdrawn and reworded to indicate trout should be stocked instead of whitefish.

There was further discussion re the purchase of Indian Reserve land. Mr. Shalford, "said a portion of the reserve would be set aside for a rifle range and said help might come from both Governments." (Penticton Board of Trade Book, April 1911 to July 1913 Penticton Archives).

1912 January 31st James Edmond, Secretary, Penticton Conservative Association writes to Minister of Marine and Fisheries, J. D. Hazen, Ottawa, to request the establishment of a trout hatchery in the area (Department of Fisheries, File No.3802, Pt.1, Reel #B-11139 BCARS).

1912 February 8th J. D. Hazen, Minister of Marine and Fisheries, Ottawa, to James Edmond, Secretary, Penticton Conservative Association. Due to budget constraints and the establishment of a hatchery in the Kootenay District it is not possible to consider this plan (Department of Fisheries, File No.3802, Pt.1, Reel #B-11139 BCARS).

1912 March 21st Penticton Board of Trade to J. D. Hazen, Minister of Marine and Fisheries, Ottawa. "Whereas the lakes of the Okanagan are fast becoming denuded of Trout and that a number of first class Tourist hotels are being erected on the shores of those lakes." The Board submitted an enclosure of a resolution requesting the Dominion Government to establish a trout hatchery at Penticton (Department of Fisheries, File No.3802, Pt.1 Reel #B-11139 BCARS).

1912 March 28th M. Burrell, Department of Agriculture, to J. D. Hazen, Minister of Marine and Fisheries, Ottawa. "I enclose for your consideration copy of a resolution

passed by the Penticton Board of Trade.” (Department of Fisheries, File No.3802, Pt.1 Reel #B-11139 BCARS).

1912 April 1st Superintendent of Fisheries to F.H. Cunningham, Chief Inspector of Fisheries, New Westminster BC. Informs of the requests for a hatchery at Penticton. Requests that information be gathered regarding the supply of eggs that “might be expected from this district should such a hatchery be erected.” (Department of Fisheries, File No.3802, Pt.1.Reel #B-11139 BCARS).

1912 June 21st Under Order-in-Council, approval was granted under the *Navigable Waters Protection Act* to the Penticton Lumber Company Ltd. for construction of wharves and booms on the Okanagan River (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.83).

1913 March 8th Private Secretary, Department of Agriculture, to Private Secretary, Department of Marine and Fisheries, Ottawa. “Would you kindly let me know if there is any likelihood of a hatchery being established at Penticton during the coming fiscal year.” (Department of Fisheries, File No.3802, Pt.1, Reel #B-11139 BCARS).

1913 March 17th Private Secretary, Department of Marine and Fisheries, Ottawa to Private Secretary, Department of Agriculture. Informs that no such consideration is planned. “The sports fisheries in the non-tidal waters of the Province are owned and largely administered by the Provincial Government. This Department, therefore, contemplates confining its Fish Breeding operations as far as practical to the incubation of the commercial fish.” (Department of Fisheries, File No.3802, Pt.1, Reel #B-11139 BCARS).

1914 March 9th Regular monthly meeting of the Penticton Board of Trade, held in the Council Chamber:

It was moved by Mr. P.H. Eraut and seconded by Mr. J.R. Mitchell that for a number of years large amounts of public money have been spent with the object of making Okanagan river navigable between Okanagan and Skaha lakes. And whereas after spending this large amount of money this river is totally unfit for navigation. And whereas the present dredging outfit is totally inadequate to accomplishing successful results on connection with this particular work. And whereas to continue the present system of working would entail an additional waste of public money. And whereas through the rapid development of the Skaha lake district a large amount of produce will be brought to Penticton- the nearest shipping point. And whereas the Okanagan river is the only possible means of transportation between the two lakes. And whereas with the spring floods Okanagan lake

raises several feet seriously interfering with the sanitary arrangements of Penticton and Kelowna. And whereas by the widening and deepening of the Okanagan river in order to make this stream navigable this danger will be overcome by providing a sufficient outlet for the spring floods. Therefore, be it resolved that the Dominion Government be urgently requested to stop all further expenditure as conducted hitherto, and that a proper system of dredging be adopted immediately, with a view of making the Okanagan river a navigable stream (Penticton Board of Trade transcripts, pp.148-149 Penticton Archives).

1914 March 17th Special Meeting of the Penticton Board of Trade held in the Council Chamber.

Moved by M. Clayton, seconded by M. Mirch that a committee be appointed to look over the dredging work on the Okanagan river and make a report. "Mr. Eraut gave notice of motion to introduce a motion with regard to dredging, it having been ruled that an important matter of this character, required notice of motion." (Penticton Board of Trade, Early By-Laws, March 1914 to March 1916 Penticton Archives).

1914 March 28th Special Meeting of the Penticton Board of Trade.

The Committee appointed to go down the Okanagan river to inspect the dredging made their report, and after a great deal of discussion and many amendments the following amended resolution, moved by M. Eraut and seconded by Mr. Dufrese was carried unanimously". The resolution was essentially identical to the March 9th, 1914 resolution, with the special notation that the board recommended a much larger dredge be utilised (Penticton Board of Trade, Early By -Laws, March 19 1914 to March 1916 Penticton Archives).

1914 March 30th The "Mallard" 32 feet long, with beam of 18 feet and drawing about 1 foot and six inches when loaded, made her first trip between Okanagan and Skaha Lakes. "After the first control dam was constructed in 1915 she found difficulty in passing into Okanagan Lake and finally this became impossible, so freight was unloaded just before the dam and hauled to the Penticton wharf by teams." (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.73).

This date for the first construction of the Penticton dam conflicts with the earlier date of 1908. However that earlier structure appears to have been a simple obstruction of logs. The 1914/1915 dam was begun on December 1914 and completed in March 1915.

1914 July 13th Chief Baptiste Cheanut, Inkameep I.R., Fairview BC to Royal Commission on Indian Affairs. This file was included within the chronology as it provides a glimpse into the past when the issue of fish and rights to those fish was already a contentious issue:

We spoke to you about our trouble when your commission was here October 9th the time our old people when the Queen told them you Indians can take the land you want to live on the queen told them they can take one side of the river and the white people on the other side of the river and the Indians were all willing, because they need fish every day a short time after we take the land and somebody take the river away from us (RG 10, Vol 11021, File # 524D).

1914 August 10th Secretary Royal Commission on Indian Affairs to Chief Baptiste Cheanut, Inkameep I.R., Fairview BC. "I have the honour to acknowledge the receipt of your letter . . . re: fishing rights of your Tribe and suggesting re-visitation by the Commission of your reserves." (RG 10, Vol 11021, File # 524D).

1914 August 26th Secretary Royal Commission on Indian Affairs to J. Robert Brown, Indian Agent, Summerland BC. Refers to the letter sent by Chief Baptiste Cheanut, "and to request that you advise the Commission at your earliest convenience as to the facts, and with any explanation or opinion you may have to offer." (RG 10, Vol 11021, File # 524D).

1914 September 20th J. Robert Brown, Indian Agent, Summerland BC, to Secretary, Royal Commission on Indian Affairs. Brown encloses a November 17th 1910 letter from K.C. MacDonald, Inspector. The enclosed letter states, "at the time of surveying this Reserve the Indians agreed to Judge Haynes having the land along the River bottom, which fully explains why the western boundary does not follow the river." Brown concludes that, "respecting the claim of Chief Baptiste George and the Inkameep Indians to land along the bottom of the Okanagan River I also took the matter up with the Department at Ottawa, but they could do nothing in the matter." (RG 10, Vol 11021, File # 524D).

1914 December 14th Construction of the Penticton Dam began. The dam, about 200 feet long with a main opening 50 feet in width and nine openings each 8 feet wide, all provided with stop logs was built (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.83).

1915 June 25th Meeting of the Penticton Board of Trade. The Special Committee investigating the fishing conditions in the district made a presentation. The report states that there are questions that arise from the illegal gaffing of fish during spawning season,

specifically rainbow trout (Penticton Board of Trade, Early By-Laws, March 19 1914 to March 1916. Penticton Archives).

1916 August 22nd Regular meeting of the Penticton Board of Trade. “Letter was read from Hon. Martin Burrell re fish hatcheries.” (Penticton Board of Trade Book, April 1916 to February 1924, Penticton Archives).

1917 August 22nd W.E. Ditchburn, Inspector of Indian Agencies to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, Ottawa:

The fifth and last complaint states that there is a trespass on the reserve (Penticton #2) adjoining the townsite, and all water has been deflected from it. The Indians have no record for water on this reserve and no Indians live on this land. Should water be required on this land it will have to be purchased from the Municipality of Penticton, who controls the water system and supply all the ranches adjoining the city. As to the complaint of trespass, this has reference to the dam constructed on and the flume running through the reserve. No definite information was available on this matter except that Agent Brown stated that the flume and dam were there before he was appointed Agent and as no complaint has ever been made with reference to it, he has always taken it for granted that permission had been obtained by the Southern Okanagan Land Company at the time, which was in 1905 or 1906.

Ditchburn concludes that the matter should be examined by a record search (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1917 December 13th J.D. Mclean, Assistant Deputy and Secretary to W.E. Ditchburn, Inspector of Indian Agencies, Victoria. This letter is further correspondence re the dam and flume issue on Penticton IR#2. “It is presumed that the Company accepted the terms and forthwith constructed their dam and flumes. Will you be good enough to see that the Indians be informed accordingly. It is to be noted that this reserve, together with reserve No.2-A adjoining the said reserve, were ordered ‘cut-off’ by the Royal Commission.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1918 February 11th Annual meeting of the Penticton Board of Trade. “Letter to F.H. Cunningham, Inspector of Fisheries, New Westminster, BC regarding trout fry for this district and also the establishment of a hatchery at Penticton.” (Penticton Board of Trade Book, April 1916 to February 1924, Penticton Archives).

1920 MacIntyre Dam built (rebuilt 1950) (File # 6-3634 Penticton Archives).

1920 January until October Second control dam built in Penticton (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.85).

1921 January 10th Penticton Board of Trade Resolution re: Fish Hatchery:

Whereas practically no assistance has been given by the Government in connection with the game fish supply of the interior of British Columbia, particularly this section. . . . Since irrigation systems have been installed in the Okanagan the fish in the larger lakes, which formerly spawned up the streams have apparently been decreasing on account of shortage of stream ware in their spawning season. This fact makes the establishment of a hatchery to keep up the supply a most essential thing (Penticton Board of Trade Book, April 1916 to February 1924, Penticton Archives).

1921 Extensive flooding in Penticton and Kelowna during the spring run-off. The lake over topped the Penticton control dam by 1.6 feet (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.86).

1921 November 17th Penticton Board of Trade Meeting. Committee reports on the investigation of a fish ladder in the dam for the Southern Okanagan Irrigation Scheme:

Upon investigation your Committee finds that the original plans for this dam included a fish ladder but that shortly before construction this was omitted by order of the Dominion authorities. Dominion Statutes make the insertion of a fish ladder compulsory unless omitted by authority and consent of the Minister. If a fish ladder has been thus omitted by consent the expense of insertion later comes upon the Dominion Government.

Your Committee is advised that the only way to have this matter rectified is to memorialise the Dominion authorities and therefore recommends that the following resolution be passed and copies sent to the member for this constituency and the Minister of Marine & Fisheries, Ottawa and the Fish & Game Protective Association be asked to endorse the resolution.

Whereas the Land Settlement Board of the Province of British Columbia for the purpose of developing the Southern Okanagan Valley, have erected a dam across the Okanagan River a short distance below the outlet to Vasseaux Lake.

And whereas no fish-ladder is provided in the said dam with the result that large numbers of game fish are prevented from ascending the Okanagan River and entering Vasseaux, Skaha and Okanagan Lakes.

And whereas this Board is informed that the purpose of this omission was to prevent the entry of Bass and Carp into Vasseaux, Skaha and Okanagan Lakes but there are already large numbers of these fish in the said lakes the omission of a fish-ladder serves no good purpose in this respect but does prevent large numbers of trout and fresh-water salmon from ascending the Okanagan River.

Therefore be it resolved that the Dominion Government be urged to install a fish-ladder in the said dam during the period of low water so that it may be in operation for the coming season (Penticton Board of Trade Book, April 1916 to February 1924, Penticton Archives).

1922 March 23rd The British Columbia Government begins development work on the Southern Okanagan Lands Project, a land and irrigation scheme whereby 22,000 acres in the southern Okanagan are made available for the benefit of returning servicemen. Oliver is the headquarters of the project (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.73).

1922 n.d. "In British Columbia climatic and water conditions as a whole were the worst in so far as the collection of eggs was concerned that have been experienced by the oldest hatchery officers. The unusual freshets washed out the hatchery pens and fences in several streams and did an enormous amount of damage to the spawning beds." (Department of Fisheries Annual Reports for the year 1921-22, p.16. UVIC SH 223-A22b).

1923 Further flooding in the Penticton area after a very heavy spring run-off. After this flood the Dominion Government was requested to improve the Okanagan River (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.87).

1923 June 13th Regular meeting of the Penticton Board of Trade. Game Warden Robertson brought up the question of stocking the Okanagan Lake with fish. A motion

was passed to seek further advice from Fisheries in Ottawa (Penticton Board of Trade Book, April 1916 to February 1924, Penticton Archives).

1926 n.d. “but in response to the constantly increasing public demand, greater attention was paid to game fish, and the distribution of game trout was approximately the same as in the previous year which was greater than before.” (Department of Fisheries Annual Reports.1926-27, p.11. UVIC SH 223-A22b).

1927 April 14th *Certified Copy of a Minute* between A.M. Manson, Attorney General and John Oliver, Presiding Member of the Executive Council.

The Certified Minute Record reveals that the Corporation of the District of Penticton has identified incorrect boundary descriptions within the Municipality. The Minutes record that as of May 1st, 1927 the boundaries of Penticton will be as defined by the new description (25-4404 Box 3, File #8, Penticton Archives).

1927 August 26th *Certified Copy of a Minute* between A.M. Manson, Attorney General and J. D. MacLean, Presiding Member of the Executive Council:

That pursuant to the provisions of Section 13A of the *Municipalities Incorporation Act*, being Chapter 182 of the Revised Statutes of British Columbia, 1924, By-Law No.356, of the Corporation of the District of Penticton, cited for all purposes as ‘Penticton Boundaries Extension By-Law 1927’, be approved.

This Bylaw was in effect an extension of the Municipality limits. It included a portion of the foreshore of Okanagan Lake and Skaha Lake, as well as areas between the low water mark on the two lakes. The distance extended into the lakes was 1000 feet (300 metres). This included the centre line of the Okanagan River where it met Okanagan Lake. Municipal Council passed this By-Law June 1st 1927, reconsidered and finally adopted, signed with the seal on June 15th, 1927 (25-4404 Box 3, File #8 Penticton Archives).

1927 November 14th Meeting of the Executive members, Penticton Board of Trade:

Mr. W.A. MacKenzie spoke on the matter of the height of water in Okanagan Lake and it was moved by T. Andrews, sec by W. Baskin that the secretary write Mr. Doncaster asking for immediate action on the matter, pointing out the serious damage a flood would do. Secretary was also asked to write the Oliver Board of trade re possibility of flood and stating the action taken by this Board (Penticton Board of

Trade Book, November 12th 1924 to April 1934, Penticton Archives).

1927 November 23rd Regular meeting of the Penticton Board of Trade. "Letter from Mr. Doncaster read dealing with the high water in Okanagan Lake and being in reply to a letter asking that all possible efforts be made to reduce the level of the lake." (Penticton Board of Trade Book, November 12th 1924 to April 1934, Penticton Archives).

1927 n. d. Summerland hatchery was established. "A concrete block building thirty feet long and sixteen and one-half feet wide was purchased from the municipality of Summerland for the establishment of a small hatchery on Okanagan Lake, the water supply being from the overflow of springs used by the municipality for water services." (Department of Fisheries Annual Reports, p.150. 1927-28 UVIC SH 223-A22b).

1928 January 25th Annual meeting of the Penticton Board of Trade:

A letter was read from the Kelowna Board of Trade enclosing a copy of a telegram they had sent to the Hon. The Minister of Public Works, Ottawa, asking that a dredge be put in commission on Okanagan River at once so that the anticipated high water might run off without damage to the towns on Okanagan lake, this Board was asked to co-operate with them in this connection. It was moved . . . that we send a similar telegram (Penticton Board of Trade Book, November 12th 1924 to April 1934 Penticton Archives).

1928 May 22nd Meeting is held in Penticton called by Public Works of Canada to discuss water levels for Okanagan Lake (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.89).

1928 An extremely wet fall and winter combined with spring run off results in wide spread floods. The high water did not recede until mid July.

1928 September 13th *Penticton Herald* announces that "Fifty thousand will be spent upon river and dam work in Penticton. Improvements will provide for quicker run-off from lake. Low lying lands not to be reclaimed. This is not the purpose of dredging of river between lakes." Tenders were requested for the construction of a new dam (File#37-1495, Penticton Archives).

1928 n. d. "Two hundred and twenty-three thousand two hundred redfish or Kokanee eggs were collected in the West Arm of Kootenay lake, about fifteen miles east of Nelson. This is the first collection of the species in the district, and was made with a view to its re-establishment in Okanagan lake where their spawning grounds have been seriously decreased by irrigation projects. . . . Four million seven hundred and eighty thousand (eastern whitefish from Lake Winnipegosis)– were distributed in Okanagan lake." (Department of Fisheries, Annual Reports 1928-29 pp.174-175. UVIC SH 223-A22b).

1929 n. d. Summerland hatchery, “during 1929 it received 5,000,000 whitefish eggs from Fort Qu’Appelle hatchery, Saskatchewan, 107,500 speckled trout eggs from Nelson, and 464,855 Kamloops trout eggs from Penask lake. Its total distribution for all species for the season was 5,238,200, made up as follows: Kamloops trout 450,850; speckled trout, 107,350; and whitefish, 4,680,000 (Department of Fisheries, Annual Reports 1929-30 p. 201. UVIC SH 223-A22b).

1930 September 17th Regular meeting of the Penticton Board of Trade:

Moved by J. Lochore and seconded by M. Campbell that the Board of Trade assist the Council in obtaining Government assistance in financing the re-building that portion of the main flume of the Irrigation ditch from the intake to McIntyre’s. Carried (Penticton Board of Trade Book, November 12th 1924 to April 1934, Penticton Archives).

1930-1931 Due to severe drought conditions the Penticton Sawmills were permitted to construct a temporary dam across the river downstream of the log pond (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.91).

1931 n. d. The Summerland hatchery was, “established for the purpose of re-distributing eggs and fry shipped from other hatcheries and streams. It is utilised for stocking and re-stocking of many streams and lakes in the Okanagan and Nicola districts that could not other wise be conveniently reached for other fish cultural stations. Up to the present no independent collection has been made in the immediate district, but in view of the abundance of fish now reported in waters originally stocked from the Summerland hatchery, it is hoped that in the near future collections will be made therefrom and this district will probably become self supporting.” (Department of Fisheries, Annual Reports 1931-32 p.129. UVIC SH 223-A22b).

1932 June. Public Works of Canada closed the natural flood channel of the Okanagan River. The channel existed 200 feet north of the control dam and the small channel permitted an overflow from the lake after it reached 101.5 into the large sloughs on the west side of the river. The channel was closed with a rock and earth dam, about 108 feet long, varying in height 1.5 to 3.5 feet. When the highway was reconstructed this old channel was completely filled in (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.91).

1932 n. d. "A further transfer of 240,000 eggs was made to Summerland hatchery to rehabilitate the waters of Okanagan lake." Re: the Summerland hatchery, "This substation was again extensively utilised for distribution of eyed eggs and resultant fry transferred from other hatcheries for the stocking of waters in the Okanagan Lake District." (Department of Fisheries, Annual Reports 1932-33 pp.102-3. UVIC SH 223-A22b).

1933 n. d. "Some 239,250 Kennerly's salmon fry were liberated into Okanagan lake during February, 1933." (Department of Fisheries, Annual Reports 1933-34. p.107. UVIC SH 223-A22b).

1935 July 1st Further extensive floods. Penticton severely impacted.

1935 Department of Fisheries, Annual Report on Fish Culture. "Some 12,215 coarse fish (squaw fish, suckers, carp, etc.) were also destroyed in Blue Lake (Princeton area), Boyce's Slough (Kelowna District), Okanagan Control Dam and Lake, and Duck Lake (Kelowna District), in British Columbia."(p.1) "Resultant from the 150,000 Kennerly's salmon eggs received from Nelson hatchery on December 19, 1933, 149,200 free swimming fry were liberated into Okanagan lake in February." (Department of Fisheries, Annual Report on Fish Culture 1926-1945. p.35. UVIC SH 223-A22b).

1935 "During a particularly hot spell of weather in July a very heavy unaccountable loss of native fish (Rocky Mountain whitefish) occurred in Woods Lake and the shores of the lake were strewn with dead fish in numbers." (Department of Fisheries, Annual Reports 1935. p.180 UVIC SH 223-A22b).

1935 n.d. Situated near Kelowna the outlet of Beaver Lake caused fisheries concern. "A consultation with the engineer for the Okanagan District Irrigation Company was held to discuss the feasibility of the screen proposed to be placed at the outlet of the lake above the dam owned by the company." (Department of Fisheries, Annual Reports 1935-36. p.181. UVIC SH 223-A22b).

1936-37 n.d. "As no collection of ova was made at this hatchery, it depends entirely on its supply from an outside source which this year was Penask lake hatchery, and supplied it in June and July with 1,315,000 Kamloops trout eyed eggs. The total distribution for the year was 1,290,023; consisting of 725,000 eyed eggs and 565,023 fry planted in waters tributary to Okanagan, Shuswap and Similkameen rivers." (Department of Fisheries, Annual Reports 1936-37. p.163. UVIC SH 223-A22b).

1937 n.d. "During 1937, following negotiations between the two federal and provincial governments, the fish cultural operations and protection work, in so far as the sport fish of the non-tidal waters are concerned were transferred to the provincial authorities under

Order in Council P.C. 2532, which was approved . . . on October 12th 1937.” Naturally this included the Summerland Hatchery (Department of Fisheries, Annual Reports 1937-38. p.70.UVIC SH 223-A22b).

1938 November 21st Harry Boyle, Barrister and Solicitor to Municipal Clerk, Penticton:

We enclose herewith three copies of the lease of the Skaha Lake Water Front. These three documents should be executed by the Municipality under its seal, then forwarded to the Indian Agent at Vernon with a check for the first years rent, namely One Hundred and Fifty dollars (\$150.00). It would be advisable to get this away as soon as possible as we are anxious that the first years rent will be released by the Indian Department before Christmas, and as the matter has to be approved at Ottawa before its release, there is not much time to be lost. The release of this money will probably enable the negotiations with regard to the Airport to be concluded without much difficulty (25-4404 Box 3, File#8, Penticton Archives).

1938 n.d. (Department of Fisheries, Annual Reports 1937-38. p.180 1935. UVIC SH 223-A22b)

1942 Further flooding, Penticton severely impacted:

The Cities of Penticton and Kelowna requested the Dominion Government to arrange for a conference of Dominion, Provincial and Municipal Officials and representatives of the transportation companies, to consider what action could be taken to avoid further recurrence of such damage as had been caused by flooding in that year and all too frequently in the past (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.1).

1942 Reeve of Penticton wrote to Ian Mackenzie, Minister of Pensions and National Health and to Public Works of Canada requesting a conference to deal with the matter of Okanagan Lake levels and other related problems (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.129).

1942 June 29th Provincial Police called in to ensure Penticton Sawmills removed logs that had jammed the Okanagan River (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.108).

1942 August 24th Meeting was held in Penticton under chair of Mt. Morton, attended by Honourable R.H. Bruhn, Minister of Public Works for British Columbia; the Honourable Grote Stirling, MP for Yale; Members of the Provincial Legislature; Representatives of the Cities of Kelowna and Vernon; the Municipalities of Penticton, Summerland, Naramata and Peachland; Officials of all interested Departments of the Dominion and Provincial Governments, of the Canadian National Railways and of the Canadian Pacific Railway Company. Kelowna and Penticton submitted briefs and everyone present was invited to speak their thoughts. This meeting resulted in an unanimous resolution requesting that a joint board of engineers be appointed by both Governments to study all matters relating to the problems associated with lake and river control in the Okanagan Valley. In addition, this board was to recommend remedial measures. The result of this resolution was that consultation was held between both Ministers of Public Works, Federal and Provincial. This resulted in the appointment of *The Joint Board of Engineers, Okanagan Flood Control* in May of 1943 (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.1).

1943 May n.d. The Joint Board of Engineers, Okanagan Flood Control established. The Board consisted of the following:

Appointed by the Federal Government:

Chairman - F.G. Goodspeed, Superintending Engineer, Public Works of Canada, Ottawa, Ontario

Vice-Chairman - K.W. Morton, District Engineer, British Columbia & Yukon District, Public Works of Canada, New Westminster BC

E. Webb - District Chief Engineer, Dominion Water and Power Bureau, Dept. of Mines & Resources, Vancouver BC

Appointed by the Provincial Government

A.L. Carruthers - Chief Engineer, Dept. of Public Works, Victoria BC

E. Davis Comptroller of Water Rights, Dept. of Lands & Forests, Victoria BC

W. Ramsay – District Engineer, Dept. of Public Works, Kamloops BC.

Appointed by the Joint Board

C.F.P. Faulkner (Secretary) – Engineer in Charge, Okanagan Lake Control, Public Works of Canada, New Westminster BC. (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.2)

1943 May 6th Lawrence Burpee, Secretary, International Joint Commission, Ottawa to Hon. G. S. Pearson, Provincial Secretary, Victoria BC:

In the matter of the publication of the State of Washington for consideration and operation of certain dams, dykes and bars in the Okanagan river upon the levels in that river and in Osoyoos Lake, the Commission will hold public hearings in the Council Chamber of the Municipal Hall, Penticton, BC on Saturday, July 10th 1943 . . . and at the Town Council Room Orville Washington. . . . At these hearings all interested parties will be given an opportunity of expressing their views in regard to the subject matter of the Application (GR 1378). File #2, May 6th 1943.BCARS).

1943 May 19th First meeting of the Joint Board of Engineers Okanagan Flood Control. At this meeting Terms of Reference in connection with the flooding was established. At no point within this document are fishery concerns included. This Board determined that the existing control dam be reconstructed to permit the passage of 2100 cubic feet of water per second as well as the, "Okanagan River between Okanagan Lake and Skaha Lake is to be relocated, straightened and enlarged to carry the increased flow from Okanagan Lake plus the flow from tributary creeks." Costs were estimated as \$1,699,000.00 to complete the plans for Okanagan Lake and River. An additional \$263,000.00 was estimated to upgrade the Penticton Creek area (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.5).

1946 Report of the Joint Board of Engineers Okanagan Flood Control, joint publication between the Federal and Provincial Governments is released. Reference to the Penticton Dam states:

The present control dam at the outlet of Okanagan lake near Penticton is a rock-filled timber crib stop-log structure with six discharge openings, four of them each ten feet in width and two each twenty feet in width. **One of the ten foot openings is blocked by a fish ladder** and therefor carries only a small flow. Hence for practical purposes, the discharge through the dam is limited to what the other five openings will carry. The elevation of the sill and the downstream apron is 1116.9 (96.2). . . . Hence it is evident that the present dam has not sufficient discharge capacity to meet the requirements of the proposed improvements to the river system. . . . It is proposed to locate the new dam on the new channel 150 feet downstream from the present dam, where the ground is favourable for construction. The new location lies within a bend of the existing channel and the dam can here be built in dry ground and without any interruption of run-off in the present river channel (Report

of the Joint Board of Engineers Okanagan Flood Control, 1946 Pp.30-31).

In 1946 the Department of Public Works, Canada, operated the Penticton Dam.

The report addressed the Skaha Lake dam and recommended that this dam should be rebuilt. The Water Rights Branch, Dept. of Lands & Forests BC, prepared plans for the dam. Prior to 1946 the Skaha Lake Dam was constructed in the east channel of the Okanagan River. It was then proposed to move the new dam to the westerly branch of the river.

The 1946 Report further proposed:

to purchase a right-of-way strip 300 feet in width extending ordinarily 150 feet on each side of the centre line of the new channel. This will provide an area on which excavated material, both during construction and during maintenance, could be deposited. . . . Surveys of the right-of-way should be made and the boundaries marked with permanent monuments (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.39).

Proposed dam expenditures were estimated as follows: Okanagan Lake Control Dam \$120,000.00; Skaha Lake Control Dam \$8,000.00. Purchase estimations for right-of ways included: Okanagan Lake to Skaha Lake, \$20,100.00; Indian Reserve #1 to Highway Bridge, \$600.00. The total estimated expenditures were \$1,699,000.00 (Report of the Joint Board of Engineers Okanagan Flood Control, 1946 p.64).

1948 February 26th Meeting of the Committee of the Privy Council, and subsequent Order-in Council P.C. (No.657) “approved the construction of a floodway to permit increased flow from Okanagan Lake without damage to adjacent lands and roads, and of necessary dams to control the flow, and of appurtenant work.” The agreement specifies that the Province has requested 50% financial assistance from the Federal Government for costs of the proposed work. This is clearly specified for three sections; Section A 4.2 miles between Okanagan lake and Okanagan Falls, Section B Okanagan Falls to 2 miles north, Section C, 2 miles north of Oliver to Osoyoos Lake. The Province required a right-of-way and this title was to be registered in the “name of the Domain.”

Specifications for the work were submitted for approval to the Public Works of the Federal Government. The agreement further specified that, “upon completion of the work, the Dominion shall undertake the maintenance thereof and the supervision of the operation of the control dams at Penticton and Okanagan Falls, the division of the cost of such maintenance and supervision to be agreed upon by parties at that time.” (Dept of Lands and Forests, File 0193560, part 1. Memorandum of Agreement, p.4 Okanagan Flood Control R/W, February 23, 1952).

The Privy Council Meeting granted authority for an expenditure of \$75,000.00 towards the costs of the rights-of-way, additional surveys, and other associated costs. The total estimated costs being \$2,417,259.56 (Dept of Lands and Forests, File 0193560, part 1. P.C.#3159, Okanagan Flood Control R/W, February 23, 1952).

1948 May 10th Penticton incorporated as a City Municipality.

1948 August 17th C. E. Webb, District Chief Engineer, Mines, Forests and Scientific Services to W. S. Arneil, Indian Commissioner for BC, Vancouver re: Shingle and Shatford Creek dam project. Webb reports the results of an excursion to examine the possibility of damming the above creeks. "It is estimated that up to 300 acres of bottom lands might be covered by a dam at this site. The Indians consider that more than this area would be flooded." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1948 November 23rd Penticton Indian Band to an unknown person:

On behalf of the Penticton Indian Band. We have been worried very much about the dam that which the white people are intending to build. We want them to stop some how. We would appreciate very much if you could help us. Our Indian Agent is against us as well as the Indian Commissioner. They wouldn't take the Surveyor's off the Res. They say them Surveyor's are from Ottawa, and they won't stop them. We think they are going too far with it. We have been trying every way but it don't seem to work. We want to get word through to Ottawa at once. We want to have them stopped. If we don't get our Res. won't be any good to us anymore. They are going to take the best farm land, and the water as well that would mean we have to surrender our Res. That's why we are trying so hard. For our Res. Is small enough the way it is. A lot of the younger generation have no homes. What we have we make just enough to live on it. We don't know what they are going to do when they grow a little older. What are they going to live on? We want our water as well as the land, that would be occupied by the dam. I guess that's our worst worry at the time. Thank you. Your's Truly, The Penticton Indian Band. There are fifty signatures in 'favour of the letter' (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1948 December 1st Jack Logie, Victoria to Department of Indian Affairs, Ottawa re: the November 23rd letter and proposed dam on Shingle Creek.

If your Dept. had wished to keep the Indians of the Penticton band and particularly those residing on Shingle Creek in a turmoil for the last twenty five years, they have succeeded admirably as the Indians have been losing sleep over it for that length of time to my certain knowledge. I

attended many meetings with J. R. Brown who was Indian Agent at the time and we did our best to convince them that their land was safe for a long time as no water would be available to make it worth stealing. I will be pleased to learn the present status of the project so that I may satisfy my Indian friends to some extent but unfortunately they know the white men well enough to know that if they want the land and water badly enough they will always find an excuse for taking it (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1948 December 7th W.J.F. Pratt, General Executive Assistant, to W.S. Arneil, Indian Commissioner for BC, Vancouver. Re the December 1st letter from Jack Logie. "Will you please let me know whether construction of a dam on Shingle Creek is proposed? If so, by whom, and whether it will affect in any way the lands belonging to the Pentiction Indian Band." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1948 December 13th W.S. Arneil Indian Commissioner for BC, Vancouver, to Indian Affairs Branch, Ottawa. Re: the correspondence generated by the proposed Shingle and Shatford Creek dams. This project is proposed by the Prairie Farm Rehabilitation Organization, who applied to the Ministry of Agriculture for permission. "The area being considered is what is known as the cut-off but the proposed reservoir site lies within Pentiction I.R.#1 and involves approximately ninety acres on Shingle and Shatford Creeks. . . . No action is indicated pending completion of the survey by the P.F.R.O." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1949 January 5th W.J.F. Pratt, General Executive Assistant, to Jack Logie, Victoria, BC. Re the potential irrigation project proposed by the Prairie Farm Rehabilitation Organization (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1950 May 12th Memorandum to W.S. Arneil, Indian Commissioner for BC, Vancouver, from R.M. Martin, BSc. This memo concerns Martin's investigation into the river erosion on Shingle Creek dated April 27th 1950. Sketch included (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1950 June 19th W.S. Arneil Indian Commissioner for BC, to Indian Affairs Branch, Ottawa. Enclosed two copies of R. M. Martin's memorandum. The protective cost of \$1,200.00 should be procured (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1950 August 10th Order-In-Council No.1779. This Order authorised the Ministry of Public Works of BC to enter into an agreement with the Government of Canada for the; "construction of a floodway to permit the increased flow from Okanagan Lake without damage to adjacent lands and roads, and of necessary dams to control the flow, and or appurtenant works." This OIC stated that the work must be completed in three years, from

April 1st 1950 (Dept. of Lands and Forests, File 0193560, part 1. Copy of Approved Minute November 22nd 1955, Okanagan Flood Control R/W , February 23rd 1952).

1950 November 4th N. M. McCallum, Chief Engineer to W.S. Arneil Indian Commissioner for BC, Vancouver. Reference to a meeting between Mr. L.J. Moore, Right-of-Way Agent and Arneil:

It was our hope to achieve an amicable settlement in this matter and only when the Indians took such an adamant stand, did we give consideration to seeking legal opinion on the position of the Department. We have been advised that, under the provisions of Order-in-Council No.1036, dated July 29th, 1938, the Crown (Provincial) has the right to “resume , for making roads, canal, bridges, towing paths or other works of public utility; . . . no stipulation is made for payment of compensation, the land being ‘resumed’.

McCallum concludes that compensation for the R/W will be paid, however the amount offered will be less if the matter goes to arbitration hearings. In order that there will not be a misunderstanding instructions have been given to a Mr. Barton to re-survey the area (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1950 November 25th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Arneil requests a further interpretation of Order-in-Council No.1036. The Penticton Band has requested \$500.00 per acre in settlement for the proposed R/W and the Province wishes to pay no more than \$200.00. An independent valuator considers the average price per acre to be \$380.60. Arneil also requests a copy of the Order (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 January 5th Memorandum to W.M. Cory, Legal Advisor from Director (D1A?). Requesting a reply to Arneil’s letter of November 25th,1950 (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 January 10th Legal Division memorandum to Major MacKay. Describes the legalities of the Order-in-Council of July 29th, 1938. “In order to avoid any further dispute with the provincial authorities, it would be highly advisable, if possible to arrive at a compromise. . . If the province is attempting to resume the occupation of lands that are occupied by Indians, as stated, then I am of the opinion the province has no such right.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 February 5th Penticton Band Council request for \$60.00 from Band Fund account # 349, to install a culvert under roads to lands north of Shingle Creek to carry irrigation water. (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 February 9th R. H. S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC, Vancouver. "The use of their Band funds for this purpose is recommended as the installation of this culvert will benefit a majority of the members of the Penticton band who use the road. The road is not maintained by the Public Works Department and is used only by the Indian population. Installation of a culvert will also be of benefit to the adjoining land owner, who at present time has considerable difficulty maintaining his irrigation ditch across the road." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 April 26th A document is written and signed by Penticton Indian Band #1 to: "Register objection to the loss of 103.92 acres for the Okanagan Flood Control Project, without payment for the land as required by Provincial Order In Council #1036, dated 29th July, 1938." This document continues with the acknowledgement that the Band approved the acceptance of \$200.00 per acre "as payment for the improvements on this land to be paid on an equal basis to the land owners on the attached list. In accepting this compensation for improvements it is done provided payment will be made before work starts on the project, that the right-of-way will be fenced with openings to provide for cartle watering, and access provided to all Indian land on both sides of the canal." Those Band members and their acreage are as follows: Michel Jack 9.2 acres, William Kruger 3.7, Millie Cawston 0.6, Narcisse Gabriel 12.2, Sam Gabriel 12.2, Victor Gabriel 12.2, Francis Phillip 1.32, Selina Timoyakin 2.2, Antoine Gabriel 2.9, Gideon Encas 20.7, Elizabeth Felix 2.5, Louise Lezard 11.9, Julia Manuel 2.9, Jack Alex 4.4, George Lezard 11.5 and Baptiste George 17.9 (Surveyor General Branch, File # 0193560, Sec.4—also contained within RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 May 1st R.H.S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC, Vancouver. Re the April 26th document signed by Penticton Indian Band members. "Two trips were made after April 27th to try to get the signatures of Mrs. Julie Manuel and Francis Paul, but without success. Mrs. Manuel, however indicated to us that she agreeable to the terms of the document, and told Albert George he could place her name on the document. She refused, though, to put her mark on the paper. Francis Paul, the other councillor, is adamant in his refusal to sign any paper concerning the release of Indian land and is asking to be relieved of council duties." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 May 5th W.S. Arneil Indian Commissioner for BC, to Indian Affairs Branch, Ottawa. Re the Okanagan River channel R/W. and the question of one Band members refusal. "As the matter now stands we have the consent of fifteen of the locatees of lands situated within the right of way area and the refusal of one to sign and it is most unfortunate the matter is delayed because of this one refusal." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 May 9th D. J. Allan, Superintendent Reserves & Trusts to W.S. Arneil Indian Commissioner for BC, Vancouver. Allan states that the project will not be delayed by one Band member and that if Mrs. Julia Manuel does not accept the \$200.00 an acre her refusal will proceed to arbitration. Allan also acknowledges that the Penticton Band has clearly requested that compensation payment must be made before any work commences.

Therefor the Province must supply a plan of the project on original linen tracing for approval by the Surveyor General (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 May 15th R.H.S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC, Vancouver. "A delegation of Indians from Penticton came to this office today desiring assurance of payment for their land to be taken by the Flood Control canal." Sampson requested some form of assurance that these funds will be secured as individuals are in need and the banks will not advance loans unless the funds are first given to the agency (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 June 7th R.H.S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC, Vancouver. "Mrs. Manuel was visited on 23rd May in company with Councillor Albert George, and the attached document was signed by her, and witnessed by Mr. George. . . Mrs. Manuel seemed satisfied to accept the \$200.00, but firmly maintained that she was not selling her land for that price, but merely relinquishing her improvements, and that the land itself was to remain her property." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 June 8th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. In reference to D. J. Allan's letter of May 9th:

we have an assurance from the Province that entry will not be made into the area until compensation has been paid. The payment of compensation must, of course, be approved by Provincial Order-in Council and as the province is anxious to dispose of this formality so that work may be proceeded with at an early date, they have requested our conformation of the acreage of the right-of-way as shown by Mr. R. A. Barton's plan of the survey completed May 17th, 1950, the original linen tracing of which is to-day being forwarded to you under separate registered cover. . . We have already had so much difficulty with this right-of-way that we do not wish to be instrumental in causing any delay so far as payment of compensation is concerned (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 June 15th D.J. Allan, Superintendent Reserves and Trusts to B.W. Waugh, Surveyor General, Ottawa. Encloses plan of the survey consisting of an original tracing showing the proposed new river channel across the reserve. "The river, as you know, forms the boundary of this reserve, and according to the addition of the acres shown on the plan within the reserve total 106 acres." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 July 17th B.W. Waugh, Surveyor General, Ottawa to D. J. Allan, Superintendent Reserves & Trusts, Ottawa. "We find that the plan is not, in its present form, acceptable for recording in Indian Affairs survey records." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 July 20th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Re the unacceptable survey plan, “We understand that the alterations to be made are, on the whole, minor ones, and if Mr. Barton will give the matter his immediate attention, we should be able to get the plan approved at an early date.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 August 2nd W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. “The Surveyor has requested that he be provided with a copy of Plan R.D. 1918, a copy of plan No.M-3179 and a copy of plan No.M-3053, none of which are on file in the Kamloops Registry Office.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 August 8th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa. Re the surveyor’s requests for the three plans not on file in the Kamloops Registry office. To save time they should be forwarded to Arneil (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 August 9th B.W. Waugh, Surveyor General, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. “We are enclosing herewith one blueprint of each of the following plans. Rd 1918 –Penticton Indian Reserve, New Road, M 3179 - Penticton Indian Reserve, 3 acre parcel for lease, M 3053 - Power line to Airport.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 August 24th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa:

Apparently it is anticipated by Public Works that the required amendments to the survey plan of the right of way will not affect the individual acreage’s as payment of the compensation agreed upon, \$20,784, covering 103.92 acres at \$200.00 per acre has been paid and is today being remitted to the Receiver General for return to Supt. Sampson and distribution to the Indians concerned. White landowners in the vicinity have already been compensated and it is hoped that there will be no delay . . . as the matter of payment has been the subject of frequent representations by them during the past few weeks (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 August 31st D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. “In reply to your letter dated August 24th, I regret to advise that we will hardly be able to make distribution of the \$20,784.00 to the individual Indians before the plan has been approved, as it is possible that there will be a change in the acreage’s, as between individual Indians. You should, therefore, urge the Surveyor to amend his plan at the earliest possible date.” Allan notes that there is a discrepancy, as the plan for the Okanagan Flood Control Project contained 106 reserve acres. Provision for payment totalled 103.92 acres. In addition there is further discrepancy

between lands belonging to F. Phillips, W. Kruger and M. Jack (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 6th R.H.S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC. The Canadian Bank of Commerce will consider loans for the Penticton people if the Agency has control over the funds (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 11th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Requests that if the above procedure is in order to have one cheque made to the Okanagan Agency Trust Account (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 14th Acting Director Indian Affairs Branch, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. "You will note that Section 63 of the new Act makes provision for the handling of certain monies by a Superintendent, but this Section only authorises payment direct to the Indians." The Acting Director suggests that cheques will be issued to individuals and forwarded to Sampson for distribution (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 19th W.S. Arneil Indian Commissioner for BC, Vancouver to Acting Director Indian Affairs Branch, Ottawa re: the Flood Control Right-of-Way, Penticton I.R. #1, "enclosed is a copy of the Surveyor General's memorandum on the examination of a plan of the above-named right-of-way." Further details within the letter examine individual acreage discrepancies and the total acreage discrepancy. The attached July 17th, 1951 memorandum clarifies the R/W survey (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 21st D. J. Allan, Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa. Authorises the survey pans to be changed according to July 17th memorandum. Requests action on the financial disbursement issue (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 25th R. S. Sampson, Okanagan Indian Agency to Indian Affairs Branch. Telegram advising that bank refuses loans unless cash sent in trust to the office. "White landowners paid months ago and Indians demanding immediate payment . . . could twenty five percent be advanced in trust." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 25th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to R.S. Sampson, Superintendent, Okanagan Indian Agency. Advises that an immediate distribution of fifty per cent of the compensation dollars will be mailed by the following day." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 25th Cheque requisition form which details the amounts paid to individuals (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 September 26th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to R.S. Sampson, Superintendent, Okanagan Indian Agency. Encloses checks of fifty percent compensation. Advises that as soon as the revised survey plans are approved the balance of the funds will be paid (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 November 14th Poor copy of a credit advice receipt recorded by Indian Agent Arneil. The amount is \$60.00, paid by the Dept. of Public Works. It would appear to indicate the sum was for "land acquired related to Control Penticton." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 November 15th B.W. Waugh, Surveyor General, Ottawa to D. J. Allan, Superintendent Reserves & Trusts, Ottawa. "We have amended the plan held by us of the above right of way as authorised by the surveyor in the memorandum returned by him but there remains some points to be cleared up before we are prepared to record the plan with the Indian Affairs records." Those points indicate that "another plan than the one supplied by us is deposited in the Land Titles Office, it would appear that a copy of that plan in the Land Titles Office should be filed here to base transfer on." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 November 24th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Discusses the difficulties within the survey situation. "The Surveyor General concludes his letter with stating that, if necessary, he will return the plan in his possession to the Provincial Department of Public Works in order that it may be amended to agree with the one registered in the Land Titles Office." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 December 17th R. S. Sampson, Superintendent, Okanagan Indian Agency telegram to Indian Affairs Branch, Ottawa. "Penticton Council asked me to determine if any reason why other half of payment for land taken by Okanagan Flood Control project could not be paid to individuals. These people annoyed at unfulfilled promises of early payment." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 December 18th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to R.S. Sampson, Superintendent, Okanagan Indian Agency. "Payment will be paid when plan found satisfactory . . . Province should be urged to supply corrected plan agreeing with the one registered in the Land Titles Office." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951 December 18th R. S. Sampson, Superintendent, Okanagan Indian Agency to W.S. Arneil Indian Commissioner for BC, Vancouver. Repeats the payment difficulties and urges that the Province supply the corrected plan (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1951-52 n.d. Field work was carried out by the Department of Fisheries, Okanagan River was examined (Department of Fisheries Annual Reports for the year 1951-52.p.21. UVIC SH 223-A22b).

1952 January 5th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. "For no apparent good reason we have experienced considerable difficulty in securing a copy of the plan. . . . An ozalid print of the right-of-way has now been secured, however, and has today been forwarded to you under separate cover." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 January 16th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. To that date the ozalid print had not been received (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 January 19th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. The ozalid print was not sent via registered mail and consequently a white print has been sent under separate registered mail (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 January 24th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Received the paper copy, however "a paper print is of no value. . . I would suggest that you secure this print as quickly as possible." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 February 4th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Arneil has arranged to have the correct survey copy sent directly from the Lands Office in Kamloops. He continues by stating that this matter should have been better dealt with and he does not understand how the original could have gone astray (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 February 9th W.S. Arneil Indian Commissioner for BC, Vancouver, to Indian Affairs Branch, Ottawa re: \$4.50 cost of the survey print (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 February 12th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Received the survey copy, however it is again a plain white print and therefor unusable. Has requested a further 25% disbursement be issued. The balance will be paid when a satisfactory plan is received (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 February 20th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Arneil states the survey plan problems and concludes that what was required by the Indian Affairs Dept. was in fact an ozalid transparency not a print. If this fact had been clearly indicated the whole issue would have been dealt with sooner (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 March 18th D. J. Allan, Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. The plan has been received (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 April 9th B.W. Waugh, Surveyor General, Ottawa to D. J. Allan, Superintendent Reserves & Trusts, Ottawa. The plan was finally received however there were further problems. "Upon examining this plan we find that it does not have the amendments made to it that were authorised by the surveyor and which were made to the original plan submitted to us with your letter June 15th 1951, . . . the two plans will need to be brought into an agreement." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 April 19th Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Further discussion of the survey problem. "Will you please take this matter up with the Department of Public Works and try to have them submit a proper plan at the earliest date possible." A six page memorandum of the right-of-way survey situation is attached (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 June 16th L.J. Moore, Right-of-Way Agent, Department of Public Works to W.S. Arneil Indian Commissioner for BC, Vancouver. This three-page letter identifies a number of problems associated with the survey of the R/W. There appear to be easements that were never formally recorded in the Land Titles Office. There also will not be recognition of the "tribal subdivisions" on the land in question (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 June 18th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. The June 16th letter is forwarded to Ottawa. Arneil requests that he be advised if surveyor Barton's suggestions are satisfactory (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 June 21st Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. "The suggestions made by Mr. Moore are quite satisfactory. Tribal subdivisions do not need to be shown on the plan recorded in the Land Registry Office at Kamloops under No.A-1189, amended as suggested." There is further clarification of the correct protocol with regard to Reserve Lands, Dept. of Indian Affairs, and the Surveyor Generals Office (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 June 23rd R.S. Sampson, Superintendent, Okanagan Indian Agency to Indian Affairs Branch, Ottawa. Sampson request separate compensation checks for Victor, Sam and Narcisse Gabriel (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 August 8th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Forwards Plan. No. A 1189 amended as requested (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 August 18th Acting Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa. "We would kindly ask you to examine the plan, and if found satisfactory, have it recorded in the Indian Affairs survey records and supply us with a description suitable for use in Submission to Council transferring title to this right of way to the Province of British Columbia." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 August 25th B.W. Waugh, Surveyor General, Ottawa to L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa. Further clarification of the survey problem. The Surveyor General's office is prepared to accept an amended copy of plan A-1189 (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 September 4th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. "However, there is no proof that the plan filed in the Land Registry Office has in fact been amended to agree with the one submitted. . . . It is most unfortunate that the Provincial authorities proceeded to file a plan in the Land Registry Office before it had been approved by the Surveyor General, and in order to avoid similar instances, the Right of way Agent for the province should carry out the provisions of the Canada Lands Surveys Act, Indian Reserves are affected." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 September 26th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to R. S. Sampson, Superintendent, Okanagan Indian Agency. Brown responds to a night telegram dated September 25th, requesting why the "Indians of the Penticton Band" have not been paid their last instalment. "You are aware of the reason for not being able to pay the balance of the compensation. . . and we would suggest that you explain the same to those concerned." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 October 20th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Brown asks why there has been no response to the September 4th request for an ozalid transparency (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 October 17th McInnes & Washington, Barristers, Solicitors and Notaries to Indian Affairs Branch, Ottawa. This letter was a result of eight Penticton Band members requesting clarification why they have not received their due compensation funds. "I have checked with the Okanagan Flood Control Office and I am advised that the survey plan has been recorded and therefore there should be no further need for further delay in paying these Indians." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 October 22nd L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to McInnes & Washington, Barristers, Solicitors and Notaries. Explains the delay is because the Department of Public Works, "has not supplied a satisfactory plan of survey of this right of way." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 October 24th McInnes & Washington, Barristers, Solicitors and Notaries to Indian Affairs Branch, Ottawa. "I acknowledge with thanks receipt of your letter of October 22nd with full explanation therein. Now that the matter has been made clear to me may I offer my apologies for having written you while I was misinformed. . . . As we have been consulted almost continuously for some time on this matter we feel that we have some legitimate charges and would ask you to protect us either by forwarding the cheque directly to this office or forwarding it to Mr. Sampson with instructions to protect our fees." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 October 27th L.L. Brown, Acting Superintendent Reserves & Trusts, Ottawa, to McInnes & Washington, Barristers, Solicitors and Notaries. Explains that individual checks are forwarded to the Superintendent for distribution and this policy, "will be carried out in this case." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 November 10th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Received the transparent linen copy of the requested plan. It has been forwarded to Ottawa (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 November 15th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa. "As the linen copy of the plan has now been deposited at the Land Registry Office at Kamloops we would greatly appreciate if you would now deal with the matter, and if possible, provide us with a suitable description for use in Submission to Council." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1952 November 26th Order-In-Council No.2845. This Order authorised the Ministry of Public Works of BC to amend the 1950 OIC agreement with the Government of Canada. This new OIC stated that the Okanagan River channel work must be completed in three years, from April 1st 1953 until March 31st 1956 (Dept of Lands and Forests, File 0193560, part 1. Copy of Approved Minute November 22, 1955, Okanagan Flood Control R/W , February 23, 1952).

1952 - 1954 Construction of Penticton Dam, Skaha Lake Dam and interconnecting river channel. Completed July 1954. Although this is the accepted date for completion of the above projects, examination of other records indicates otherwise (Okanagan Control Dam File #26-2246, p.10 Penticton Archives).

1953 February 20th R. S. Sampson, Superintendent, Okanagan Indian Agency to Indian Affairs Branch, Ottawa. "It is now almost two years since these people signed their consent to alienation of the lands required by the Flood Control Project on the express agreement they would be paid before work on the project commenced. However, this agreement was broken several months ago when the construction of the bridges, and clearing the right of way commenced." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 February 23rd B.W. Waugh, Surveyor General, Ottawa, to L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa. "We have made a thorough examination of the this plan and find it unacceptable for the purpose required." Waugh clearly lists the serious problems associated with the R/W (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 March 2nd L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa, to R. S. Sampson, Superintendent, Okanagan Indian Agency. Explains the further complication with regard to the R/W survey. Attached is a March 2nd, 1953 letter, Brown to Arneil (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 April 30th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Department of Public Works has requested surveyor, Mr. Barton to directly contact the Surveyor General with regard to the R/W plan's survey requirements (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 May 4th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa. Requests information updates on the survey issue as there are continual requests to issue the compensation due to Penticton Band members (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 May 4th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Further notes on the survey issue. In addition, "You may be interested to know that the copy of the plan which was considered lost in the mail in January 1952, turned up on our file just last Saturday, having been received by the Agency Section on January 14th 1952, with a notation therein that it was not accompanied by a letter." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 August 24th Penticton Indian Band Chief and Council approve the dumping of excavated material from the Flood Control Project on Penticton Indian Reserve #1 (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 August 31st L.J. Moore, Right-of-Way Agent, Department of Public Works to W.S. Arneil, Indian Commissioner for BC, Vancouver. This is an important letter as it specifies the Department of Public Works position on the R/W survey (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 2nd W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. Refers to the August 31 letter from L.J. Moore. "I fail to see what difference it makes who is the present holder of each of the nine parcels under lease as long as the surveys of the parcels are indicated on the flood control right of way plan (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 8th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to B.W. Waugh, Surveyor General, Ottawa: "we feel that it is hardly pertinent as to what individual Indians own the land involved. We believe that all you are interested in at the present time is to have a plan of the survey that has been properly posted on the ground." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 8th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Reiterates that Barton (the Public Works surveyor) and the Surveyor General need to deal with the R/W and that, "ownership of the land involved is not of great importance at the moment. What we want is a plan of the survey properly posted on the ground that is acceptable for recording in the Indian Affairs survey records, and which may be used as a basis for transferring title to the province." (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 18th B.W. Waugh, Surveyor General, Ottawa to L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa. “Mr. Moore is understandably distressed by our vagueness about the status of the parcels in question. We would suggest, respectfully, that you now inform him and the surveyor which of these parcels now involve alienated rights.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 22nd L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. This letter clarifies further details associated with the R/W. “It does not appear to be generally understood by land surveyors and Provincial Department of Highways that the Provincial legislation with respect to surveys and land titles is not applicable to Indian Reserve lands.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 24th W.S. Arneil Indian Commissioner for BC, Vancouver to Indian Affairs Branch, Ottawa. The continued R/W problem has the additional issue of leased beach lands. “This lease definitely conflicts with the flood control right-of-way.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953 September 29th L. L. Brown, Acting Superintendent Reserves & Trusts, Ottawa to W.S. Arneil Indian Commissioner for BC, Vancouver. Further correspondence on the leased beach land and its effect on the R/W: “we find that the old leases, numbers 551, 605, and 705 are being consolidated into one new lease, which lease has already been prepared and reserves the right to construct a river channel through the area.” (RG 10, Volume 8315, File #982/8-4-3-1 Vol.1.BCARS).

1953-54 n.d. “In connection with the Dominion-Provincial flood control project on the Okanagan River, joint studies were carried on to determine the best methods of preventing interference with the Columbia River sockeye runs. The two year study suggested by the International Joint Commission were completed in co-operation with the United States Fish and Wildlife Service and the Washington Department of Fisheries.” (Department of Fisheries Annual Reports for the year 1953-54. Pp.10-11. UVIC SH 223-A22b).

1954...February:

Throughout an eleven mile portion of the proposed channel, from a point approximately 1 ½ miles north of the town of Oliver to Osoyoos Lake, (designated as Section “C” of the Flood control Project) it was planned to use drop structures in order to reduce the channel gradient to the point where no bottom or bank protection would be necessary to prevent erosion. There would be thirteen three-foot drop structures in this section. An overall plan of the proposed flood control project is shown on drawing #19A-20-P1 (See appendix).

Since this portion of the Okanagan River is used as a migratory route and spawning area by Columbia River blueback (sockeye) salmon, concern was felt by the United States fisheries agencies that, among other things, the upstream passage of the fish would be impeded by drop structures. After a series of meetings between the U.S. fisheries agencies and the Departments responsible for construction of the project the matter was finally placed before the International Joint Commission. One of the recommendations which the International Joint Commission made in their report issued in February, 1952, was that Canadian authorities should make a study of the blueback salmon in the Okanagan River to assess the possible effects of the Flood Control Project (K.C. Lucas, Report on Model Studies of Proposed Drop Structures and Fish Passage Facilities for the Okanagan Flood Control Project, 1954 pp. 1-2).

1954 April A joint report (*The Salmon Problems Associated with the Proposed Flood Control Project on the Okanagan River in British Columbia, Canada, U.S. Fish and Wildlife Service; Washington State Department of Fisheries; Department of Fisheries, Canada, April 1954*) is published in response to the proposed flood control plans being developed for the Okanagan River. The report deals specifically with what they call blueback salmon, more commonly called sockeye (*Oncorhynchus nerka*) in Canada.

At the present time the Okanagan River (Figure 1) is one of the two major spawning areas of the species in the Columbia Basin. The Okanagan bluebacks spawn in Canada upstream from Osoyoos Lake and subsequently spend a period of time in the lake prior to their ocean migration.

During the fall of 1950 personnel of the Washington State Department of Fisheries and the U.S. Fish and Wildlife Service became aware of the details of a proposed flood control project on the Okanagan River in Canada (p.2).

The report goes on to explain some of the concerns related to the flood control project on pp. 2-3. More importantly, the recommendations put forward by the International Joint Commission, 1952 are included:

- (a) Work on the project for flood control proceed as soon as practicable.
- (b) The plans for the channel rectification be developed to retain as large a percentage of the existing blueback spawning area as possible and to provide in the section of the river channel under improvements, where possible, other suitable spawning areas in lieu of those that will be destroyed.

(c) During the progress of the work above Oliver Lake Intake Dam it would be advantageous if the reach of the Okanogan River from Osoyoos Lake to the Oliver Intake Dam were kept under observation by the Canadian authorities concerned and a study of the blueback salmon runs made in the reach with a view to due consideration being given by these authorities to the matter after consultation with the appropriate United States fisheries officials, and before any action is taken which might have the effect of disturbing any existing spawning beds below Oliver Intake Dam.

(d) Work on the channel rectification between the Oliver Intake Dam and Osoyoos Lake and operation of the entire project after completion should be carried out in such a manner as to result in a minimum of disturbance to migrating blueback salmon, or their spawn.

A joint biological-engineering investigation took place during 1952-53. The results form the major portion of this report. The most salient points are included below.

The occurrence of Kokanee in Okanogan Lake suggests that blueback salmon probably spawned in all the suitable tributaries of Vaseaux, Skaha, and Okanogan Lakes in the past. However, Okanogan Falls, located in the outlet of Skaha Lake, has been a virtually impassable barrier to bluebacks in recent historical time. When the S.O.L.P.* Dam was constructed in 1921, just downstream from Vaseaux Lake, it was equipped with a wooden fish ladder to permit the upstream passage of fish. This fish ladder soon became inoperative and it was never repaired or replaced. Thus, since shortly after 1921, the S.O.L.P. Dam has been the upstream limit of migration.

No quantitative data are available as to the magnitude of the run of fish into the Okanogan River in the early days. Fragmentary reports of catches by the Indians on both sides of the border, together with sketchy observations on the spawning grounds, indicate, however, that the run was of some magnitude (pp. 5-6).

1955 June 15th A meeting between the Treasury Board Number 467412, approved by the Governor General of Canada, authorised the Government of Canada to extend the

* South Okanogan Lands Project, also referred to as Oliver Intake Dam

Okanagan River channel work until June 1957 (Dept. of Lands and Forests, File 0193560, part 1. Copy of Approved Minute November 22, 1955. Okanagan Flood Control R/W, February 23, 1952).

1955 June 23rd Order in Council P.C. 1955-916 transferred, “ the administration, control and management of certain lands”, belonging to Penticton Indian Reserve #1, to the Province of BC. The land was required; “for canal and flood purposes by the Province pursuant to Minute 1036 of the Executive Council of the Province of British Columbia of the 29th of July, 1938.” Note this transfer omitted a small portion of land (1.78 acres) which was amended February 9th 1978 (Surveyor General’s Branch, Victoria, File # 0343779).

1957-58 n.d. “The Okanagan flood control project neared completion in 1957-58. Hydraulic studies of the completed portions were made to determine the effect of any future work required on the Columbia River sockeye runs which spawn in the area. The sockeye run passed through the completed drop structures and spawned successfully in the dyked area, which was the normal spawning ground.” (Department of Fisheries Annual Reports for the year 1957-58 pp.10-11. UVIC SH 223-A22b).

1960 January 14th The Province of BC applied for a *Certificate of Indefeasible Title* for “those portions of the Penticton Indian Reserve #1, Plan M 284, which contain 105.7 acres more or less.” (Surveyor General’s Branch, File # 0343779).

1960 March 16th An Agreement was signed between the Federal and Provincial authorities in order to specify certain matters relating to the Okanagan Flood Control Project. Paragraph 2) specifies that:

The manner of operating the project will be at the sole discretion of the Province, but the Province will give full consideration to flood control, irrigation, fisheries, industries, and other affected interests and shall be operated in accordance with the intent of the Report of the Joint Board of Engineers, Okanagan Flood Control, 1946 (Surveyor General’s Branch, Victoria, File # 0193560, Section 2).

The agreement specified a 50% cost sharing split for the repair, maintenance and reconstruction of the; Okanagan Lake Control Dam, The Skaha Lake Control Dam, the Okanagan River channel, drop structures, creek mouth stilling basins, and culverts.

1961 January 5th Section 47 of the *Department of Highways Act* Chapter 103 of the revised Statutes of British Columbia 1960, provides that any real property, when no longer required for the use of any public work, may be sold, leased or disposed of by tender or public auction, under authority of the Lieutenant-Governor in Council. Consequently, part of

Penticton Indian Reserve #1, Plan M284, (Parcels 1 & 2, 5.79 and 0.82 acres respectively) was exchanged with Penticton City Council, for Lots 1, 2 and 3, Map 5166, registered to the City of Penticton (Surveyor General's Branch, Victoria, File # 0193560, Section 2).

1963 *Okanagan River Boundaries Settlement Act* is created as:

discrepancies have been found to exist between the river boundary of certain parcels of land abutting on the Okanagan River as shown on the plan of the parcels deposited in the Land Registry office for Kamloops Land Registration District and the river boundary as it was surveyed on the surveys of the flood-control canal or right-of-way constructed pursuant to the *Okanagan Flood –Control Act*, being chapter 47 of the Statutes of British Columbia 1949 (Surveyor General's Branch, Victoria, File # 0193560, Section 2).

1969 October 29th The “Canada-British Columbia Okanagan Basin Agreement” was established. This agreement covers all aspects of water resources in the Okanagan basin. The cost of the four-year study, to be shared equally by both governments is estimated not to exceed \$2,000,000.00 (Okanagan Basin Study Information Brochure.p.1, Penticton Archives).

1976 February 9th Okanagan Basin Agreement entered into between both Federal and Provincial Governments. Time frame of cost sharing agreement was extended until September 30th 1982. The agreement included references to ongoing fisheries management (Summary Report on the Okanagan Basin Implementation Agreement 1982, Penticton Archives).

1977 January 20th L.V. McGarran, Acting Deputy, Public Works Canada wrote to R.G. Harvey, Deputy Minister, Dept. Of Highways for BC. The letter referred to a small portion of land “described on a plan of survey recorded in the Survey's Branch of the Department of Indian Affairs under M2471A.” McGarran advised that arrangements are being made to the transfer the property to the Province (Surveyor General's Branch, Victoria, File # 0343779).

1977 March 23rd P. Brown, City of Penticton Engineer wrote to G. Wilson, Director of Land Management, MoE, requesting permission to run a pipeline on the bank of the Okanagan River channel. This pipe would extend the sewage treatment plant's out-fall pipe into Skaha Lake. P. Brown continued with: “because of the problems the BC Department of Highways have encountered with the local Indian Band it is critical that we know

whether permission can be obtained for our proposed pipeline prior to beginning detailed design.” (Surveyor General’s Branch, Victoria, File # 0343779).

1977 April 12th G.H. Fielding, Director of Land Management wrote to G.E. Simmons, Assistant Deputy Minister, Environmental and Engineering Services:

Reference is made to the telephone conversation between the writer and yourself on April 7th, 1977, concerning a request from the City of Penticton dealing with the proposed sewer pipeline that is to be constructed along the west bank of the Okanagan River within the City of Penticton.

In view of the fact that this right-of-way will adjoin Indian Reserve #1, this matter was discussed with Mr. D. Borthwick, Assistant Deputy Minister, Special Projects and he stated that this part of the river came the jurisdiction of your Branch and that we should refer same to you for comments before giving a decision to the Corporation of the City of Penticton. He also stated that he was negotiating with Mr. Dennison of the Dept. of Highways to have a portion of the right-of-way presently held in the name of Her Majesty the Queen in right of Canada transferred to the Crown Provincial (Surveyor General’s Branch, Victoria, File # 0343779).

1977 April 15th Letter between A. F. Smith, Assistant Director Land Management and P. Brown, City of Penticton. Smith states that Land Management cannot grant permission to the City of Penticton for the proposed pipeline route. “This is a conflict area involving Indian Reserves lands which has not been settled. The Ministry of Highways and Public Works is currently working towards a resolution of the problem.” (Surveyor General’s Branch, Victoria, File # 0343779).

1977 May 25th Worrall, Page & Company to David Borthwick, Assistant Deputy Minister, Special Projects. Further correspondence on Penticton Band’s concerns with; Dept. of Highways, lands within the old river bows, pollution of the channel by the City of Penticton, effluent on the beach, water table loss and cattle water access (Surveyor General’s Branch, Victoria, File # 0193560, Sec.4).

1977 June 2nd D. Borthwick, Assistant Deputy Minister, Special Projects, to J. Fournier, Executive Director, Office of Native Claims, DIA, Ottawa. This letter is re: the Penticton I.R. #1 and the R.O.W. for the Okanagan River Channel. Penticton Band had expressed concern that lands were transferred to the province without a formal Band surrender. This included lands within the old river bows that were not required for the R.O.W. Other concerns were that the channel completion lowered the water table and, “seriously reduced the ability of the adjacent reserve lands to produce hay”. In addition the fore mentioned construction denied the Band’s cattle access to water. (Surveyor General’s Branch, Victoria, File # 0193560, Sec.4).

1977 September 6th P. Brown, Engineer, City of Penticton wrote to G. Wilson, Director of Land Management, MoE. “ We are most anxious to resolve the question of whether or not the City of Penticton will be able to use the Okanagan River channel bank as a route for our sewage treatment plant effluent line. . . Please advise as soon as possible regarding the above.” (Surveyor General’s Branch, Victoria, File # 0343779).

1977 October 24th A. F. Smith, Director of Land Management, to P. Brown, Engineer, City of Penticton. Smith referred to a September 6th 1977 letter (not within file) “a conflict area of concern to both of us involves Indian Reserve Lands on the control channel. This subject is presently under discussion between Public Works Canada and the Provincial Ministry of Highways and Works. Provincial Public Works is still waiting for Public Works Canada to transfer the land to the Province.” (Surveyor General’s Branch, Victoria, File # 0343779).

1978 - 79 Upgrading of the Penticton Dam also known as the Okanagan Lake Dam, Skaha Lake Dam and Vaseaux Lake Dam (Third Annual Report of the Okanagan Basin Implementation Board, for the period April 1, 1978 to March 31, 1979 p.7. Penticton Archives).

1978 February 9th Privy Council # 1978-379 transferred a parcel of land, 1.78 acres belonging to Penticton Indian Reserve #1 to the Province. This parcel of land was mistakenly omitted during PC 1955-916. (Surveyor General’s Branch, Victoria, File # 0343779).

1978 March 14th V.A. Drew, Director of Property Services, Ministry of Highways and Public Works, to George Wilson, Director of Land Management, MoE re: the Okanagan Flood Control Project:

As the land required for the subject project is under administration of your Ministry I am enclosing a copy of Privy Council Order #1978-379. . . The transfer of the parcel was overlooked in the transfer of other Federal lands to the province in 1955 and this is the reason for the enclosed Order which you will see is of very recent date. To assist you with locating the subject parcel, we are enclosing a Xerox print of plan M 2471-A (Surveyor General’s Branch, Victoria, File # 0343779).

1978 June 5th Letter from P.M. Brady to A.F. Smith, Assistant Director of Land Management, MoE. The letter addresses the current permit system that is in place with regard to the Okanagan River. Brady wrote:

For example in a memorandum dated February 20, 1978, I asked for the views of your Branch on the division of responsibility between the Water Investigations Branch and the Land Management Branch for administering the Crown Land in the Okanagan River right-of-way. No reply was received (Surveyor General's Branch, Victoria, File 0193560, Section 5).

The letter clarifies that the Ministry of Highways, under the Okanagan Flood Control Act, had jurisdiction for construction of works on the Okanagan channel. This jurisdiction:

As far as is known, however, these permits covered only the Okanagan River Channel right-of-way but none were issued covering the Crown land in the old river oxbows or for those portions of Crown land between the channel right-of-way and the oxbows (Surveyor General's Branch, Victoria, File 0193560, Section 5).

1978 November 2nd Memorandum from W.C. Fry, Administrative Officer, Special Projects, MoE, to G. Fielding, Administrative Officer, Policy and Planning, Land Management Branch, MoE. This memorandum refers to an earlier one dated September 22, 1978. There appears to be concern that land at the north end of the flood control channel still belongs to Penticton Indian Band. In addition land at the southern end of the channel (Lot 19) also belongs to the Band. The memorandum states that a response from Privy Council is expected (Surveyor General Branch, Victoria, File 0193560, Section 4).

1979 March 20th Paul Pearlman, Solicitor, Attorney General's Office BC. Memorandum to T. Johnson, Assistant Deputy Minister, Highways. Pearlman wrote that, as per Gordon Poupore DIA instructions, upon receipt of a legal survey, the Federal Government will transfer to the Province "the administration and control of the lands required for Penticton Channel Parkway for the purposes of roads, canals, bridges, towing paths, or other works of public utility or convenience." (Surveyor General's Branch, Victoria, File 0193560, Section 5).

1979 April 9th D. Borthwick, Assistant Deputy Minister i/c Special Projects to A. F. Smith, Assistant Director, Lands Department re: the City of Penticton's application for sewer pipeline R/W. Although the city wishes for a R/W on the west dyke (they have a R/W on the east side) this request cannot be granted. Item 4) states that "It would seem to me that the City must negotiate a right-of-way with the Band if it wishes to use the west side of the dyke or negotiate the use of the By -Pass Highway on the east dyke with the Ministry of Highways." (Surveyor General's Branch, Victoria, File 0193560, Section 5).

1980 April Responsibility for programs concerned with the enhancement of the sport fishery in the headwater lakes and in the main valley lakes as initiated under the

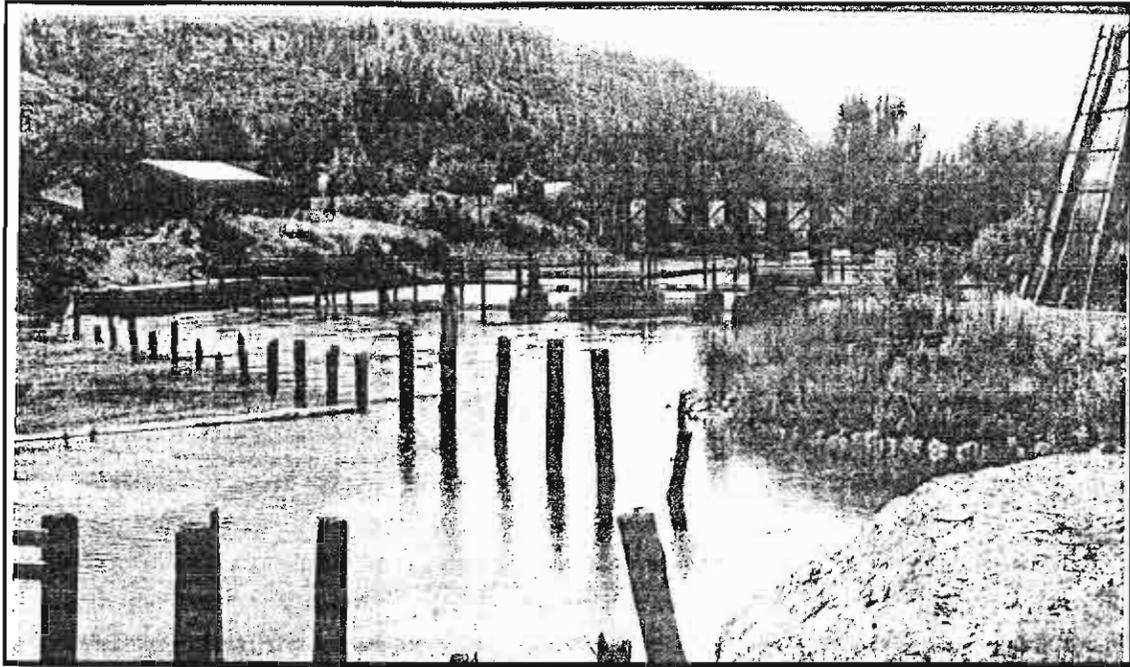
Implementation Agreement was transferred to the Fish and Wildlife Branch, Mof (Fifth Annual Report of the Okanagan Basin Implementation Board, for the period April 1, 1980 to March 31, 1981, p.9 Penticton Archives).

Appendix Two: Zosel Dam

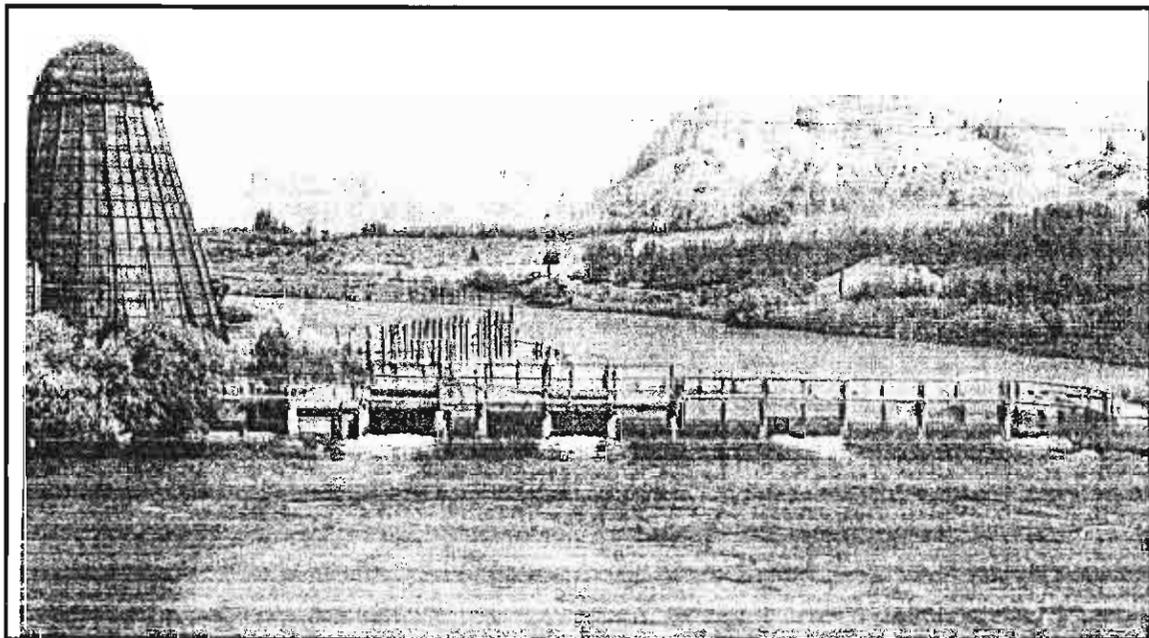
R. Y. McNeil's *Brief Chronology Of Zosel Dam's History*, written in September, 1966, was provided by MELP, Penticton and is included below.

- 1927 - Zosel dam constructed to provide a millpond for delivery of logs to the Zosel Mill. No reference made to Canada or the International Joint Commission (IJC).
- 1943 - Complaints about high Osoyoos Lake levels result in Washington State asking the IJC to hold hearings. This done, they appoint a Board of Engineers (B of E) to investigate the hydraulics of the outlet of Osoyoos Lake.
- 1946 - The B of E determines that under some conditions, Zosel Dam is causing high lake levels. The IJC order Zosel to increase the capacity of the dam so that it can pass 2500 ft³/sec with the millpond level not exceeding elevation 911 ft. No mention is made of Osoyoos Lake levels. An International Osoyoos Lake Board of Control is established to monitor the operation.
- 1948 - Modifications to Zosel Dam completed to IJC's satisfaction.
- 1960s - Zosel sawmill stops using the millpond to deliver logs.
- 1974 - Partial collapse of dam (due to age/maintenance) necessitates emergency repairs by Washington and the US Army Corps of Engineers (USACE).
- 1975 - Another failure of the dam occurs, again repaired.
- 1978 - The IJC ask the USACE to report on the condition of Zosel Dam. Their report expresses grave concern about the dam's structural integrity and indicates that, were it to collapse, Osoyoos Lake could fall as low as 905 ft.
 - Although there has been no reference from either BC or WA, the IJC calls hearings to discuss the condition of Zosel Dam. During these hearings, BC and WA agree that there is a basis for a co-operative approach and tell the Commission that they will return within a year with a joint reference. The IJC asks the USACE to draw up plans for a replacement structure.
- 1979 - The USACE produce a plan for a replacement structure almost a kilometre upstream of the original dam. The cost estimate is for US\$6.2 million.
- 1980 - BC and WA exchange a document entitled *British Columbia - Washington Co-operation Plan for Osoyoos Lake Levels and Trans Border Flows*. This document which is non-binding lays out target lake elevations and trans-border flows during both normal and drought conditions once a new dam is built.
 - WA applies to the IJC for permission to rebuild Zosel Dam much as outlined in the USACE report with the BC-WA Co-operation Plan attached for reference only.

- 1981** - The IJC holds public hearings in both Oroville and Osoyoos to gather local input to the proposed dam.
- 1982** - The IJC issues an *Order of Approval* for the construction of the dam as requested and which details the required capacity of dam (2500 cfs at a lake elevation of 913 ft) and the range of allowable lake levels under various conditions.
- 1985** - WA and BC agree on a *Memorandum of Understanding* regarding the cost sharing of the design and construction of the new facility. (The delay was mostly due to fiscal problems in both jurisdictions.)
- Acres International (Vancouver) is appointed as the consulting engineer. After detailed site investigation and design they submit plans which show the dam moved downstream (close to the original dam location), with a different gate design and requiring a new solution to the Tonasket Creek fan problem from that proposed by the USACE.
- Because the dam location is changed and because the original time limit for construction of the dam would be exceeded, the IJC decides to hold further public hearings in Oroville and Osoyoos. After these a *Supplementary Order of Approval* is issued, approving the new design and location and extending the completion date.
- 1986** - Construction of the new dam begins.
- 1987** - Construction essentially complete.
- Drought conditions are forecast on the Similkameen. After the water has been stored and the lake raised to elevation 913, drought does not materialise and stored water is dumped in early August.
- 1988** - Drought forecast and occurs both Osoyoos and OK Lake criteria. Osoyoos Lake held above elevation 911.5 from May 6 through August 25, maximum 912.63 ft.
- 1992** - Drought forecast and occurs both Osoyoos and OK Lake criteria. Osoyoos Lake above 911.5 from June 18 until September 30th, with a peak of 912.87 in mid-August. This is achieved by importing water from the Similkameen through the old OTID flume.
- 1993** - Drought forecast and occurred in Similkameen. Inflow to OK Lake not at drought level. An agreement is reached with WA to release 2850 acre-ft. (=6" on Osoyoos Lake) in the early summer to aid smolt migration. In return WA agrees that they will not store water on Osoyoos Lake above elevation 912.5 for remainder of the summer.
- 1994** - Repeat of 1993



Zosel dam, at the south end of Osoyoos Lake, south of Oroville, Washington, 1974.



Upstream view of Zosel dam, 1974.
Source: Penticton Archives

Appendix Three: Dam Plans