

ALL COMMUNICATIONS SHOULD BE ADDRESSED TO THE  
DIRECTOR OF SURVEYS AND MAPPING  
THE REPLY TO THIS LETTER SHOULD BE MARKED  
FOR THE ATTENTION OF:



YOUR FILE NO.  
Circular Letter No. 248.

OUR FILE NO.

DIRECTOR AND SURVEYOR-GENERAL X  
FIELD OPERATIONS DIVISION  
LEGAL SURVEYS DIVISION  
MAP PRODUCTION DIVISION

SURVEYS AND MAPPING BRANCH  
DEPARTMENT OF LANDS, FORESTS,  
AND WATER RESOURCES  
VICTORIA, BRITISH COLUMBIA

June 17, 1974.

CIRCULAR LETTER TO ALL BRITISH COLUMBIA LAND SURVEYORS  
AND REGISTRARS OF LAND REGISTRY OFFICES

Dear Sir:

Re: Natural Boundaries

The present instruction for treatment of natural boundaries is contained in B. C. Reg. 5/70 at Section 2.04 where it requires survey of the boundary by traverse and offsets.

In cases where the plan boundary of the area being subdivided is waterward of the present Natural Boundary, there have been many instances where a new plan boundary is a representation of the old boundary, whether or not it is the Natural Boundary. This practice originated from a belief that the title was always based on the plan boundary and not the Natural Boundary as it is on the ground.

In the judgement of the Supreme Court of Canada dated April 2nd, 1974, in the case of the Attorney-General for British Columbia vs Dr. J.S. Miller, the judges restored the original trial judgement and gave the land waterward of the natural boundary to the Crown, despite the fact the land in question was covered by a specific Certificate of Title. The original Crown grant terminated at the Natural Boundary because of Section 52(1) of the Land Act. In a subsequent survey under the Land Registry Act, the surveyor had surveyed the "beach" as part of the upland property. The court said that, "The concluding words of Sec. 52(1) 'notwithstanding any certificate of title, the title to the land shall be construed accordingly,' show that a subsequent certificate of indefeasible title cannot prevail over the effect of Sec. 52(1)."


In order that the legal position is quite clear to all persons affected by the ownership question, surveyors must, on every survey that adjoins a body of water owned by the Crown, traverse the Natural Boundary as required by the aforementioned regulation, and show it on the plan.

The question of whether the land, waterward of the present Natural Boundary, should be returned to the Crown will be influenced by:

- (a) whether it has been eroded - See Section 112(3) of the Land Registry Act - a matter of choice

- (b) whether it is beyond the boundaries of the original survey and Crown grant. In some instances, in view of the Miller case, you and your client may judge it prudent to restrict the survey to the Natural Boundary and label the surplus area "Return to the Crown."

Yours truly,

  
A. H. Ralfs,  
Surveyor General and Director,  
Surveys and Mapping Branch