

NO. 32177
KAMLOOPS REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

HER MAJESTY THE QUEEN in right of the PROVINCE OF BRITISH COLUMBIA as represented by the BRITISH COLUMBIA ASSETS AND LANDS CORPORATION and the ATTORNEY GENERAL OF BRITISH COLUMBIA

PLAINTIFFS

AND

SUN PEAKS RESORT CORPORATION, JANICE BILLY, SARAH DENAULT, AMANDA SOPER, NICOLE MANUEL, JOHN DOE, JANE DOE and PERSONS UNKNOWN acting in concert with them

DEFENDANTS

NOTICE OF MOTION

To: The Defendants

And: Their Solicitors

TAKE NOTICE that an application will be made by the Plaintiffs to the presiding Judge at the Courthouse at Kamloops, British Columbia at a date and time to be heard for an Order:

1. Enjoining the Defendants Janice Billy, Amanda Soper, Sarah Denault, Nicole Manuel, John Doe and Jane Doe and persons unknown but acting in concert with them and to whom notice of the order may come from occupying unsurveyed Crown land at McGillivray Lake ("McGillivray Lake"), or otherwise impeding access to McGillivray Lake or in any other way interfering with the use of McGillivray Lake by members of the

public or the Defendant Sun Peaks Corporation in accordance with its license of occupation;

- 2. Dispensing with the undertaking normally required by Rule 45(6);
- 3. Providing that any person affected by the Order may apply to modify it or set it aside on two clear day's notice;
- 4. Providing that any Peace Officer be authorized to arrest and remove any person whom the Peace Officer has reasonable and probable grounds to believe is contravening or has contravened the provisions of the Order sought in paragraph 1 above and ordered by this Court and further providing that any Peace Officer who arrests or removes any person pursuant to the Order be authorized to:

- (i) release that person from arrest upon the person agreeing in writing to appear before this Court at such time and place as may be fixed for the purpose of being proceeded against for contempt of court or for fixing a date for such proceeding;
- (ii) where such person has refused to give a written undertaking to appear before this Court or where in the circumstances the Peace Officer considers it appropriate, to bring forthwith such person before this Court at the Supreme Court Registry in Kamloops, British Columbia, or any such other place the Court may direct for the purpose of being proceeded against for contempt of court or for fixing the time for such proceedings; or
- (iii) detain such person until such time until they can be brought before this Court; and


7. That the Plaintiffs be granted their costs of this application.

THIS APPLICATION is made pursuant to Rules 3(2), 44, and 45 of the *Supreme Court Rules*, section.39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253 and the inherent jurisdiction of the Court.

AND TAKE NOTICE that in support of the application will be read the affidavits of Drew Frymire, sworn on November 22, 2001; Psyche Brown, sworn on November 22, 2001; Charles Salmon, sworn on November 21, 2001; Peter Walters,

sworn on November 22, 2001; Catherine Panter, sworn on November 21, 2001, Darcy Alexander, sworn on November 22, 2001, Kevin Tessier, sworn on June 8, 2001, Kent Helgren, sworn on June 6, 2001, Willie Takashita, sworn on June 6, 2001, and other material as counsel may advise.

Dated: November 22, 2001



Lisa J. Mrozinski
Solicitor for the Plaintiffs,
Her Majesty the Queen in Right of
the Province of British Columbia, as
represented by B.C. Assets and Land
Corporation and the Attorney
General for British Columbia

This matter is not within the jurisdiction of the Master as the Plaintiffs rely on the inherent jurisdiction of the Court to grant injunctive relief. Estimated time for hearing is 1 hour, 45 minutes.

This Notice of Motion was prepared by Lisa Mrozinski, solicitor for the Plaintiffs, of the Ministry of the Attorney General, Legal Services Branch, whose place of business is PO Box 9225, Stn Prov Govt, 1175 Douglas Street, 5th Floor, Victoria, British Columbia, V8W 9J7.

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