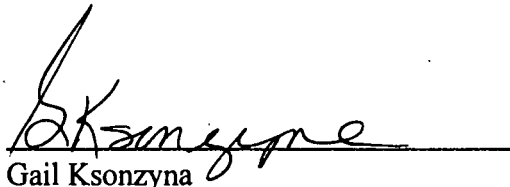


CERTIFICATION

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copies of the Osoyoos Indian Band Taxation Bylaw and the Osoyoos Indian Band Assessment By-law dated December 22, 1995 are true copies of the said bylaws.

A handwritten signature in black ink, appearing to read 'G. Ksonzyna', is written over a horizontal line.

Gail Ksonzyna
Lands and Trust Services,
a superintendent as defined in
Section 2(1) Indian Act RSC 1985



Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-laws
made by the Osoyoos Indian Band, in the Province of British Columbia, at
a meeting held on the 22nd day of December 1995.

- **Osoyoos Indian Band Taxation Bylaw**
- **Osoyoos Indian Band Assessment Bylaw**

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line.

Dated at Ottawa, Ontario this 22nd day of July, 1996.

Canada

Legal Code of the Osoyoos Indian Band

COPY

Property Assessment Bylaw

Legal Code of the Osoyoos Indian Band

Osoyoos Indian Band Property Assessment Bylaw PR-95-01

Whereas:

The Band Council of the Osoyoos Indian Band deems it advisable and in the best interests of the band to engage in the taxation for local purposes of land, or interests in land, in the reserve lands of the Osoyoos Indian Band, including rights to occupy, possess or use land in the reserve lands of the Osoyoos Indian Band.

Now Therefore Be It Hereby Resolved:

That the Property Assessment Bylaw be and is hereby enacted for the purpose of engaging in the assessment and taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, pursuant to the provisions of the *Indian Act* and in particular pursuant to the provisions of subsection 83(1) of the *Indian Act*,

and,

That upon approval by the Minister of Indian Affairs, the Property Assessment Bylaw shall come into full force and effect.

Legal Code of the Osoyoos Indian Band

Osoyoos Indian Band Property Assessment Bylaw PR-95-01

Part 1

Interpretation and Titles

| Interpretation

1.(1) In this bylaw, including without limiting the generality of the foregoing in this subsection:

"actual value" means the market value of the interest in land and improvements as if the Interest holder held a fee simple interest located off reserve

"agent" means a person who acts with the written authority of a person or interest holder,

"appraiser" means a person who is a property valuator engaged by the assessor or appointed by council under this bylaw,

"assessment" means a valuation of property for taxation purposes,

"*Assessment Act*" means the *Assessment Act*, RSBC 1979, c. 21,

"*Assessment Authority Act*" means the *Assessment Authority Act*, RSBC 1979, c. 22,

"assessment bylaw" means assessment bylaw as defined in the Osoyoos Indian Band Property Taxation Bylaw, PR-95-02,

"assessment roll" includes a supplementary assessment roll and anything recorded as an addendum to the assessment roll,

"assessor" means an assessor appointed by the council under this bylaw,

"band" means the Osoyoos Indian Band, being a band within the meaning of section 2.(1) of the Indian Act

"band council resolution" means a motion passed and approved by a majority of the councillors of the band,

"band land register" means the lists and files kept by the land management department of the band in which are listed or filed particulars in respect of property including particulars in respect of property not listed or filed in any land title office or reserve land register,

"band manager" means the band manager of the band or his delegate,

"band member" means a member of the band,

"board" means the board of review.

"board of review" means a board of review appointed by the council under section 40,

"British Columbia Assessment Authority" means the British Columbia Assessment Authority as defined in the *Assessment Authority Act*,

"closed circuit television corporation" includes a person operating for a fee or charge a television signal receiving antenna or similar device, or equipment for the transmission of television signals to television receivers of subscribers, or any or all of those devices and equipment,

"council" means the council of the Osoyoos Indian Band as elected by the band members,

"court" means a court of competent jurisdiction,,

"cp" means a certificate of possession as referred to under subsections 20(1) and 20(2) of the *Indian Act*, and for the purposes of this bylaw only, includes a notice of entitlement, a certificate of occupation as referred to under subsections 20(4) and 20(5) of the *Indian Act* and any such other permits, agreements, licenses or interests as are issued or given from time to time by band council resolution authorizing the use of land in reserve by a band member,

"farm" means an area of land classified as such by the assessor,

"forest land" means land that has as its highest and best use the production and harvesting of timber,

"general purposes" means local purposes,

"highway" includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right of way on private property,

"improvements" means any building, fixture, structure or similar thing constructed or placed on or in land, or water over land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in the definition by subsection (2) and section 1.1:

- (a) production machinery,
- (b) anything intended to be moved as a complete unit in its day to day use,

- (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand,

"*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5, and any amendments thereto,

"interest" includes any legal or beneficial right, title, estate or interest,

"interest holder" means a person who has an interest in, or is an occupier of, land or improvements, or both,

"land" means land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, and includes, but is not limited to:

- (a) land covered by water,
- (b) quarries, and
- (c) sand and gravel,

"land co-operative" means a parcel of land of which an interest holder is a corporation which holds its interest in the land exclusively for the benefit of its shareholders who

- (a) have rights to occupy a portion of the parcel, and
- (b) hold, own or have the use of shares or shares and other securities in the corporation that have a value equivalent to the value of the portion in relation to the value of the parcel,

"land title office" means the land title office or offices for the land title district in which land located in the reserve may have been registered under the *Land Title Act* of the Province of British Columbia, and without limiting the generality of the foregoing but for greater certainty includes each land title office in which land located in any named reserve may have been so registered,

"manufactured home" means manufactured home as defined in the taxation bylaw,

"manufactured home park" means manufactured home park as defined in the taxation bylaw,

"minister" means the Minister of Indian Affairs and Northern Development and includes a person designated in writing by the Minister,

"multi dwelling leased parcel" means a parcel of land on which are located two or more residences, the interest holders of one or more of which, under leases having terms of not less than one year, lease portions of the parcel from the interest holder of the parcel or from a lessee of the interest holder of the parcel and on which portion the interest holder of the residence has his residence,

"municipality" means, in accordance with the context, either any area incorporated as a city, district, township, town or village, under any Act of the Province of British Columbia, or the corporation into which the residents of the area have been incorporated as a municipality or regional district pursuant to the provisions of the *Municipal Act* of the Province of British Columbia,

"named reserves" means named reserves as defined in the taxation bylaw,

"natural gas" means a gaseous mixture of hydrocarbon and other gases received from the wells, and includes that gas after refinements,

"occupier" means:

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass,
- (b) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from the Crown, or who simply occupies the land,
- (c) a person in possession of land within the reserve that is held directly or indirectly under a lease, licence, agreement, easement or other record from a person who is exempted from taxation under the taxation bylaw or any Act that applies to land in the reserve or who simply occupies the land, or
- (d) in relation to land that in ordinary conditions:
 - (i) is covered by non-tidal water, or
 - (ii) sometime or always during a calendar year is covered by tidal water,a person who is entitled directly or indirectly under a lease or licence to possess or occupy, or who simply occupies, the land, the water covering the land or the surface of the water covering the land,

"parcel" means a lot, block, or other area in which land is held or into which land is subdivided, and does include a highway or portion of a highway and the right or interest of an occupier of Crown land,

"person", in addition to its ordinary meaning, includes a partnership, syndicate, association, corporation, government or any agency or political subdivision thereof and the agent or trustee of a person,

"petroleum" or "petroleum products" means crude oil or liquid hydrocarbons, or any product or by-product of them,

"pipe line corporation" means a person having an interest in or operating a pipe line, all or any part of which is situate in or on the reserve, for the purpose of gathering or transporting natural gas, petroleum or petroleum products,

"production machinery" means any:

- (a) engine,
- (b) motor, or
- (c) machine

used to manufacture, process, repair or convey a product,

"property" includes land and improvements,

"property class" means a class of property established under section 26(7),

"registered" and "registration", when used in respect of land, refer to registration in the books of the land title office or the books of the reserve land register or listed or filed in the band land register,

"registered owner" means a person registered in the books of the land title office, the reserve land register or the band land register as having or being entitled to property and includes a person who registers a charge,

"reserve" means those lands:

- (a) that have been set apart for the use and benefit of the band, pursuant to section 18 of the Indian Act, and
- (b) that have been set apart for the use and benefit of the band pursuant to section 36 of the Indian Act,

"reserve land register" means the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 21 of the *Indian Act* and the register or registers kept by the Department of Indian Affairs and Northern Development pursuant to section 55 of the Indian Act, and without limiting the generality of the foregoing but for greater certainty includes each such register relating to each named reserve,

"residential building" means a building used or designed to be used in whole or in part for residential purposes and includes an associated outbuilding of and other improvements to a building used or designed to be used in whole or in part for residential purposes, but does not include a floating manufactured home,

"Schedule" means a schedule to this bylaw,

"surveyor of taxes" means the surveyor of taxes appointed under the taxation bylaw,

"taxation bylaw" means the Osoyoos Indian Band Property Taxation Bylaw, PR-95-02 passed by the council and approved by the minister,

"taxation year" means the calendar year to which an assessment roll applies for the purposes of taxation as referred to in section 2 (1.2),

"taxes" means taxes as defined in the taxation bylaw,

"trustee" includes a personal representative, guardian, committee, receiver and any person having or taking on himself the possession, administration or control of property affected by any express trust, or having, by law, the possession, management or control of the property of a person under a legal disability.

(2) Without limiting the definition of "improvements" in subsection (1), the following things are deemed to be included in that definition unless excluded from it by Schedule "I":

- (a) anything that is an integral part of a building or structure and is intended to serve or enhance the building or structure, including elevators, escalators and

- systems for power distribution, heating, lighting, ventilation, air conditioning, communications, security and fire protection,
- (b) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, green houses and cooling towers,
 - (c) any lighting fixtures, paving and fencing,
 - (d) any
 - (i) piling, retaining walls and bulkheads, and
 - (ii) water system, storm drainage system and industrial or sanitary sewer system,the value of which is not included by the assessor in the value of the land,
 - (e) any foundations, such as footings, perimeter walls, slabs, pedestals, piers, columns and similar things, including foundations for machinery and equipment,
 - (f) any pipe racks, tending platforms, conveyor structures and supports for machinery and equipment, including structural members and comprising tresses, bents, trusts and joist sections, stringers, beams, channels, angles and similar things,
 - (g) any aqueducts, dams, reservoirs, and artificial lagoons and any tunnels other than mine workings,
 - (h) any roads, air strips, bridges, trestles and towers, including ski towers,
 - (i) any mains, pipes or pipe lines for the movement of fluids or gas,
 - (j) any track in place, including railway track in place,
 - (k) any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains, that are used to provide electric light, power, telecommunications, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre,
 - (l) any vessels, such as tanks, bins, hoppers and silos, with a capacity prescribed in Schedule "II" and any structure that is connected to those vessels,
 - (m) docks, wharves, rafts and floats,
 - (n) floating homes and any other floating structures and devices that are used principally for purposes other than transportation,
 - (o) that part of anything referred to in paragraphs (a) to (n) or of any building, fixture, structure or similar thing that, whether or not completed, or capable of being used for the purpose for which it is designed,
 - (i) is being constructed or placed, and
 - (ii) is intended, when completed, to constitute, or will with the addition of further construction constitute, any of those things.

Manufactured Home a Deemed Improvement

1.1 Without limiting:

- (a) the definition of "improvements" in subsection 1(1), or
- (b) subsection 1(2),

a manufactured home is deemed to be an improvement for the purpose of property assessment and taxation under this bylaw and the taxation bylaw.

Short Title

1.2 This bylaw may be cited for all purposes as the Osoyoos Indian Band Property Assessment Bylaw, PR-95-01.

Part 2

Preparation of Annual Assessment Roll

Completion of Roll

- 2.(1) On or before December 31 of each year, the assessor shall:
- (a) complete a new assessment roll containing a list of each property that is within each named reserve and that is liable to assessment under this bylaw, the taxation bylaw or any other bylaw of the band, and
 - (b) mail a notice of assessment to each person named in the assessment roll.
- (1.1) Where two or more interest holders are liable to assessment under the taxation bylaw or any other bylaw of the band in respect of the same property, the property may be assessed in the name of any of those persons or in the names of any two or more of those persons jointly.
- (1.2) Subject to this bylaw, an assessment roll completed under subsection (1) is the assessment roll for the purpose of taxation during the calendar year following completion of that roll.
- (2) The assessment roll and notice of assessment shall be prepared as, and contain the information, specified in sections 1 through 1.5 of Schedule XIII.
- (3) When completing an assessment roll, the assessor shall make reference to the records of the land title office, the reserve land register or the band land register as those records stood on November 30 of the year in which that assessment roll is completed.
- (4) In the case of a parcel of land for which no land title office, reserve land register or band land register description is available, the assessor shall use the best description available to him.
- (5) The assessor shall exercise reasonable care in obtaining and setting down the address of an interest holder and shall more particularly adopt the following alternatives in the order named:
- (a) the address known to the assessor,
 - (b) the address as it appears in the application for registration or otherwise in the land title office, the reserve land register or the band land register.
- (6) In the event that the address of the interest holder of the land is not known to the assessor or is not recorded in the land title office, the reserve land register or the band land register, the assessor shall set down the address of the interest holder as the post office situated nearest the land in question.

Request for Copy of Assessment Notice

3. A person who is an interest holder of a registered charge may, at any time, give written notice, with full particulars of the nature, extent, and duration of the charge, to the assessor and request copies of all assessment and taxation notices issued during the duration of the charge, and the assessor shall enter his name and address on the assessment roll.

Grouping of Parcels

4. Where a building or other improvement extends over more than one parcel of land, those parcels, if contiguous, may be treated by the assessor as one parcel and assessed accordingly.

Notice of Assessment

5.(1) Any number of parcels of land assessed in the name of the same interest holder may be included in one assessment notice.

(2) In the event that several parcels of land are assessed in the name of the same interest holder at the same value, the assessment notice is sufficient if it clearly identifies the property assessed, setting it out as a block, parts of a block or as a series of lots, without giving in full the description of each parcel as it appears in the assessment roll.

(3) Notwithstanding section 2, where property is wholly exempt from taxation, the assessor need not mail an assessment notice in respect of that property.

(4) Before completion of the assessment roll, the assessor shall mail to each person from whom he has received a written notice and request under section 3, at the address given by the person in the notice, a copy of the assessment notice in respect of the property subject to the charge held by that person.

(5) Before completion of the assessment roll, the assessor shall send by registered mail a true copy of any assessment notice sent by him under section 2 to any person from whom he has received during the 12 months preceding completion of that assessment roll, a request in writing for a copy, if the request contains a short description of the property in respect of which the copy is required, and is accompanied by the fee prescribed in Schedule "III" for each parcel of land.

(5.1) The assessor may at any time send a true copy of any assessment notice sent by him under section 2 to a person named in the assessment roll, to any person who is an interest holder in respect of the property assessed.

(6) In subsection (7) "lessee" means a person having an interest in property under a lease or sublease, other than a registered lease or registered sublease, for a term of one year or more.

(7) On receipt of an assessment notice for a property included in a class defined in this bylaw, the interest holder of the property shall, on request by a lessee of all or part of the property, promptly deliver a copy of the notice to the lessee.

Return of Completed Assessment Roll

6.(1) On completing the assessment roll under section 2, the assessor shall make a statutory declaration in the form and manner provided in section 1.6 of Schedule XIII.

(2) The assessor shall return the completed roll to the band in care of the surveyor of taxes as soon as possible after it has been completed.

Assessment Roll Open for Inspection

7. On receipt by the surveyor of taxes, the assessment roll shall be open to inspection by the public at the office of the surveyor of taxes during regular business hours.

Certification

8. The assessor shall attach to the completed assessment roll a statutory declaration of the assessor in the form provided in section 1.6 of Schedule XIII.

Correction of Errors

9.(1) The assessor shall bring all errors or omissions in a roll completed under section 2 to the board of review for correction.

(2) No assessor shall make changes in the completed assessment roll without the consent of the board of review.

Validity of Completed Assessment Roll

10.(1) The completed assessment roll, regardless of whether or not it has been identified and confirmed pursuant to section 47(2), is, unless changed or amended under section 11 or 47, valid and binding on all parties concerned, notwithstanding any omission, defect or error committed in, or with respect to, that assessment roll, or any defect, error or misstatement in any notice required, or the omission to mail any notice.

(2) Changes or amendments to an assessment roll under section 11 or 47 shall be valid and binding upon all parties concerned, but no such change or amendment shall be of any force or effect until it is actually made and no such change or amendment shall affect the validity or binding effect under subsection (1) of any part of the assessment roll that is not changed or amended.

- (3) The assessment roll is, for all purposes, the assessment roll of the band for the year in respect of which it has been prepared.

Supplementary Roll

11.(1) Where, subsequent to the completion of an assessment roll, the assessor finds that any property or anything liable to assessment:

- (a) was liable to assessment for the current year, but has not been assessed on the current roll, or
 - (b) has been assessed for less than the amount for which it was liable to assessment,
- he shall assess the property or thing on a supplementary roll, or further supplementary roll, subject to the conditions of assessment governing the current assessment roll on which the property or thing should have been assessed.

(2) Where, subsequent to the completion of an assessment roll, the assessor finds that any property or anything liable to assessment:

- (a) was liable to assessment for a previous year, but has not been assessed on the roll for that year, or
 - (b) has been assessed in a previous year for less than the amount for which it was liable to assessment,
- he shall assess the property or thing on a supplementary roll or further supplementary roll for that year, subject to the conditions of assessment governing the assessment roll on which the property or thing should have been assessed, but only if the failure to assess the property or thing, or the assessment for less than it was liable to be assessed, is attributable to:

- (c) an interest holder's failure to disclose,
 - (d) an interest holder's concealment of particulars relating to assessable property,
 - (e) a person's failure to make a return, or
 - (f) a person's making of an incorrect return, required under this or any other bylaw.
- (3) Notwithstanding sections 9 and 10 and in addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 of the year following the return of the completed assessment roll under section 6, correct errors and supply omissions in a completed assessment roll, and shall correct errors and supply omissions in the completed assessment roll by means of entries in a supplementary assessment roll.
- (4) The assessor shall not make a change or amendment that would be contrary to a change or amendment in the assessment roll ordered or directed by the board of review or made as a result of a decision of a court of competent jurisdiction or an appellate court of competent jurisdiction.
- (5) Nothing in subsections (1), (3) or (4) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating an assessment roll later than 12 months after the assessment roll is completed but nothing in this section 11 shall prevent or prohibit the preparation of a supplementary roll, the correction of a roll, or any change or amendment to an assessment roll made under Part V of this bylaw at any time.

Provisions Applicable to Supplementary Assessment Roll

12.(1) The duties imposed on the assessor with respect to the annual assessment roll and the provisions of this bylaw relating to assessment rolls shall, so far as they are applicable, apply to supplementary assessment rolls.

(2) Where a notice of appeal is given in writing to the assessor on a supplementary assessment roll in accordance with section 41, the assessor shall make an entry of the notice in his appeal book, and shall place the appeal before the next sitting of the board of review.

Part 3

Inspections and Returns

Inspections & Assessment Powers of Assessor

13.(1) The assessor or an appraiser may, at a time mutually agreeable with the interest holder, for any purposes relating to assessment enter into or on and inspect land and improvements.

(2) The interest holder or person in charge of the land and improvements entered by an assessor pursuant to subsection (1) shall give the assessor all reasonable assistance and furnish the assessor with such information as the assessor reasonably may require in order to assist the assessor in establishing the actual value of the land or improvements, or both, for the purposes of this bylaw.

Return of Information

14.(1) In this section, section 15 and section 16, "assessor" includes an appraiser and, if authorized by the assessor, any other employee of the band, the British Columbia Assessment Authority or an employee of the British Columbia Assessment Authority.

(2) A person who has an interest in or disposes of property shall, upon written request of the assessor, furnish to the assessor, within 21 days or a longer period specified in the notice, any information in that person's possession that is related to the value of the property and that the assessor requires to assist him to determine the actual value of the property.

(3) The assessor is not bound by the information furnished, but he may, if he has reason to doubt its accuracy, or if a person fails to comply with this section within 21 days or the longer period specified in the notice as referred to in subsection (2), assess the property in the manner and for the amount the assessor believes to be correct based upon such information as may be in the possession of the assessor.

Power to Examine Property and Accounts

15.(1) To determine an assessment of land and improvements, in respect of which he thinks a person may be liable to assessment or to confirm an assessment, the assessor, with the consent of the person who he thinks may be liable to assessment, may enter on any premises and may examine any property. He shall be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the person, who shall comply with section 13(2).

(2) The surveyor of taxes, a member of the board of review or any other person who has custody or control of information or records obtained under this bylaw shall not, without consent of the person liable to assessment, disclose the information or records to any other person, except:

- (a) in the course of administering this bylaw or another bylaw of the band or performing functions under it,
- (b) in proceedings before a board of review or a court of law, or
- (c) if permitted by subsection (3).

(3) The assessor may disclose to the agent of the interest holder of property confidential information relating to the property if the disclosure has been authorized in the form set out in Schedule XIV or, if pursuant to section 2 of Schedule XIV such form of authorization is not required, in writing by the owner.

(4) The assessor may disclose and disseminate to any person information under this bylaw respecting assessed or declared value and physical characteristics of any property.

Manufactured Home Park Information

16.(1) The interest holder of land upon which a manufactured home park is located or the operator of a manufactured home park shall, on demand, furnish to the assessor full information respecting the owner of each manufactured home in the manufactured home park.

(2) The interest holder of land upon which a manufactured home park is located or the operator of a manufactured home park shall notify the assessor and the surveyor of taxes, in writing, promptly after a manufactured home is moved into, or out of, the manufactured home park that a manufactured home has been moved into, or out of, the manufactured home park.

(3) The assessor may, during business hours as defined in the Property Taxation Bylaw and with the consent of the interest holder, enter a manufactured home park or a manufactured home for assessing the manufactured home and inspecting any records kept by the operator of the manufactured home park.

[THE NEXT SECTION IS 25.1]

Part 4

Valuation

Valuation and Status Dates

25.1(1) For the purpose of determining the actual value of property for an assessment roll, the valuation date is July 1 of the year during which the assessment roll is completed.

- (2) The actual value of property for an assessment roll is to be determined as if on the valuation date:
- (a) the property and all other properties were in the physical condition that they are in on October 31 following the valuation date, and
 - (b) the permitted use of the property and of all properties were the same as on October 31 following the valuation date.

Valuation for Purposes of Assessment

26.(1) In this bylaw "actual value" means the market value of the fee simple interest in land and improvements as if the interest holder held a fee simple interest located off reserve.

(2) The assessor shall determine the actual value of land and improvements and shall enter the actual value of the land and improvements within each named reserve in the assessment roll.

(3) In determining actual value, the assessor may, except where this bylaw has a different requirement, give consideration to present use, location, original cost, replacement cost, revenue or rental value, selling price of the land and improvements and comparable land and improvements both within and without the reserve, economic and functional obsolescence, the market value of comparable land and improvements both within and without the reserve, jurisdiction, community facilities and amenities, and any other circumstances affecting the value of the land and improvements provided such considerations do not conflict with subsection (1).

(3.1) Without limiting the application of subsections (1) to (3), where an industrial or commercial undertaking, a business or a public utility enterprise is carried on, the land and improvements used by it shall be valued as the property of a going concern.

(3.2) The assessor may include in the factors that he considers under subsection (3), any restriction placed on the use of the land and improvements by the band.

(3.3) The duration of the interest of an interest holder, or the right of an interest holder or any other person to terminate that interest, is not a restriction within the meaning of subsection (3.2).

(4) Notwithstanding this or any other bylaw of the band, where land and improvements are exempt from taxation, unless ordered by the council, the assessor need not, in respect of the exempt land and improvements:

- (a) assess the land and improvements, or
- (b) prepare an annual assessment roll.

(5) Notwithstanding this or any other bylaw, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act*, of the Province of British Columbia, are exempt from assessment.

(6) Land and improvements shall be assessed at their actual value.

(7) Council hereby establishes in Schedule "IV" to this bylaw classes of property for the purpose of administering property taxes and in Schedule "IV" defines the types or uses of land or improvements, or both, to be included in each property class.

(8) The actual values of land and improvements determined under this section shall be set down separately on the assessment notice and in the assessment roll together with information specified pursuant to section 2(2).

Major Industry Valuation

26.1(1) In this section:

"cost of industrial improvement" means the cost of replacing an existing industrial improvement with an improvement that:

- (a) has the same area and volume as the existing industrial improvement,
- (b) serves the same function that the existing industrial improvement was designed for, or where the existing industrial improvement is no longer used for that function, serves the same function that the existing industrial improvement now serves, and
- (c) is constructed using current, generally accepted construction techniques and materials for the type of improvement being constructed,

and, for the purposes of determining cost, council shall prescribe those manuals establishing rates, formulae, rules or principles for the calculation of cost prescribed in Schedule "V",

"industrial improvement" means an improvement that is part of a plant that is designed, built and can be used for the purpose of one or more of the following:

- (a) mining, extracting, beneficiating or milling of metallic or non-metallic ore,
- (b) mining, breaking, washing, grading or beneficiating of coal,
- (c) producing of aluminium,
- (d) smelting or refining of metal from ore or ore concentrate,
- (e) manufacturing of refined petroleum and natural gas products including fuels, blended oils and greases,
- (f) manufacturing of lumber or other sawmill and planing mill products,

- (g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products,
- (h) manufacturing of gypsum board,
- (i) manufacturing of pulp, paper or linerboard,
- (j) manufacturing of chemicals,
- (k) manufacturing of chemical fertilizer,
- (l) manufacturing of synthetic resins or the compounding of synthetic resins into moulding compounds,
- (m) manufacturing of cement,
- (n) manufacturing of insulation,
- (o) manufacturing sheet glass or glass bottles,
- (p) building, refitting or repairing ships,
- (q) loading cargo onto sea going or lake going ships or barges, including associated cargo storage and loading facilities,

but council may exempt from this definition the industrial improvements in a plant or a class of plant that has less than a prescribed capacity and may prescribe different capacities for various types of plant, and hereby makes such exemptions as set out in Schedule "VI".

- (2) Notwithstanding section 26, there is established a class of properties consisting of:
 - (a) land used in conjunction with the operation of industrial improvements, and
 - (b) industrial improvements.
- (3) The actual value of properties to which this section applies is:
 - (a) the actual value of the land as determined under section 26, and
 - (b) the cost of industrial improvements less depreciation that is at a rate and applied in a manner prescribed by council in Schedule "VII" for individual properties or classes or types of properties.

Valuation for Certain Purposes not Actual

27.(1) The actual value of the following land and improvements shall be determined using, and in accordance with, the rates prescribed in Schedules "VIII", "IX", "X" and "XI":

- (a) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, conduits and mains of a telecommunications, trolley coach, bus or electrical power corporation, but not including substations,
- (b) the track in place of a railway corporation, whether the track is on a highway, or on a privately held, owned or occupied right of way or other interest in reserve, or elsewhere on reserve,
- (c) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right of way, including pumping equipment, compressor equipment, storage tanks and buildings,
- (d) the right of way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (a) and (c),
- (e) the right of way for track referred to in paragraph (b).

(2) For the purposes of this section, telecommunications does not include cable television.

(3) For the purposes of paragraphs (1)(d) and (e) "right of way" means land and improvements that an interest holder is entitled to use for the operation of those things referred to in paragraphs (1)(a), (b) or (c) that are to be valued under this section, but "right of way" does not include land and improvements in which the interest holder does not have an interest within the meaning of this bylaw.

(4) For the purpose of applying subsection (1)(b), the track in place of a railway corporation is inclusive of all structures, erections and things, other than such buildings, bridges, trestles, viaducts, overpasses and similar things, coal bunkers, corrals, stand pipes, fuel oil storage tanks, oil fuelling equipment, water tanks, station houses, engine houses, roundhouses, turntables, docks, wharves, freight sheds, weigh scales, repair and cleaning shops and equipment, boiler houses, offices, sand towers and equipment, pavement, platforms, yard fencing and lighting, powerhouses, transmission stations or substations, and the separate equipment for each of them, as are necessary for the operation of the railway.

27.1.(1) Notwithstanding section 26, 26.1, and 27, the Assessor shall, by using rates established by regulation under the Assessment Act, R.S.B.C. 1979, c.21, determine the value of the following properties:

- (i) the pole lines, metallic or fibre, optic cables, towers, poles, wires, transformers, pipelines, conduits and mains of a telecommunications, cable television, bus or electrical power corporation;
- (ii) the track in place of a railway corporation, whether the track is on a highway, or on a privately held, owned or occupied right of way, or on band land;
- (iii) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products, or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right-of-way, but not including pumping equipment, compressor equipment, storage tanks and buildings;
- (iv) the right-of-way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipelines referred to in paragraphs (i) and (iii);
- (v) the right-of-way for track referred to in paragraph (ii).

[THE NEXT SECTION IS 33.1]

Occupiers of Railway Land

33.1(1) Where any parcel liable to assessment is land that a railway is the interest holder of, and part of it is leased, that part shall be treated under this bylaw as a separate parcel and a separate entry shall be made on the assessment roll in respect of the land or improvements or both.

(2) Where part of a parcel of land that a railway is the interest holder of is treated as a separate parcel under subsection (1), the remainder of the parcel shall be treated under this bylaw as a

separate parcel and a separate entry made on the assessment roll in respect of the land or improvements or both.

(2.1) The actual value of land or improvements, or both, referred to in subsection (1) or (2) shall be determined under section 26.

(3) Where the whole of any parcel of land that a railway is the interest holder of is liable to assessment and is leased or a part of a parcel is assessed under subsection (1), an interest holder may give written notice, with full particulars of the duration of the lease, to the assessor and request that copies of all assessment and taxation notices issued during the duration of the lease be sent to the lessee, and the assessor shall enter the name and address of the lessee on the assessment roll.

Assessment of Land the Fee of which is in the Crown in Right of Canada

34.(1) This section 34 shall apply where land referred to in subsection (2) or (5) is not liable to assessment elsewhere under this bylaw, the taxation bylaw or any other bylaw of the band.

(2) Land, the fee or legal title of which is in the Crown in Right of Canada, or in some person on behalf of the Crown in Right of Canada, that is held or occupied otherwise than by, or on behalf of, the Crown in Right of Canada, is, with the improvements on it, liable to assessment in accordance with this section.

(3) The land referred to in subsection (2) with the improvements on it shall be entered in the assessment roll in the name of the interest holder whose interest shall be valued at the actual value of the land and improvements determined under section 26.

(4) This section applies, with the necessary changes and so far as it is applicable, to improvements in which some person other than the Crown in Right of Canada has an interest and which are situated on land the fee or legal title of which is in the Crown in Right of Canada, or in some person on behalf of the Crown in Right of Canada.

(5) This section applies, with the necessary changes and so far as it is applicable, to all reserve lands of the band where the fee or legal title of which is in the Crown in Right of Canada and the land is occupied by a person not a member of the band.

(6) As soon as the assessor ascertains that land is held or occupied in the manner referred to in subsection (2), he shall enter the land with improvements on it on a supplementary assessment roll in the name of an interest holder whose interest shall be assessed at the actual value of the land and improvements.

Exempt Land held by Occupier Liable to Assessment

35.(1) Land and improvements, the interest in which is held by or on behalf of a person who is exempted from taxation under this bylaw or any other bylaw of the band and which is held or occupied otherwise than by, or on behalf of that person, are liable to assessment under this section.

(2) The land and improvements referred to in subsection (1) shall be entered in the assessment roll in the name of the interest holder whose interest shall be valued at the actual value of the land and improvements determined under section 26.

(3) This section applies to improvements in which a person who is not exempted from taxation by this bylaw or any other bylaw of the band has an interest, and which are situated on land which is held by or on behalf of a person exempted from taxation by this bylaw or any other bylaw of the band.

Assessment of Interests in Land held by a Municipality or the Crown in Right of the Province of British Columbia

36.(1) Land held or occupied by a municipality or the Crown in Right of the Province of British Columbia, held or occupied by, or on behalf of, a municipality or the Crown in Right of the Province of British Columbia, is, with the improvements on it, liable to assessment under this section, subject to the *Constitution Act*, S.C.

(2) The land referred to in subsection (1) with the improvements on it shall be entered in the assessment roll in the name of an interest holder whose interest shall be valued at the actual value of the land as determined under section 26.

(3) This section applies, with the necessary changes and so far as it is applicable, to improvements in which some person other than a municipality or the Crown in Right of the Province of British Columbia has an interest, situated on land held or occupied by a municipality or the Crown in Right of the Province of British Columbia, or in some person on behalf of a municipality or the Crown in Right of the Province of British Columbia.

Joint Interests & Termination of Interests

36.1 Where land or improvements or both are held or occupied in the manner referred to in sections 34, 35 or 36 by two or more persons, the land or improvements, or both, may be assessed in the name of any of those persons or in the names of any two or more of those persons jointly.

[THE NEXT SECTION IS 38]

Further Assessment of an Improvement on Land

38.(1) A structure, aqueduct, pipe line, tunnel, bridge, dam, reservoir, road, storage tank, transformer, or substation, pole lines, cables, towers, poles, wires, transmission equipment or other improvement, that extends over, under or through land may be separately assessed to the person having an interest in, maintaining, operating or using it, notwithstanding that some other person may have an interest in the land.

(2) Each individual residential building located on a land co-operative or multi dwelling leased parcel shall be separately assessed.

[THE NEXT SECTION IS 40]

Part 5

Boards of Review

Establishment of Boards of Review

40.(1) Notwithstanding any other bylaw, the council shall by resolution appoint boards of review to hear appeals on assessments of land and improvements located on the reserve.

(2) A board of review shall consist of three members, only one of which may be a band member. One member of a board of review shall consist of a person qualified to practice law in the Province of British Columbia and at least one member shall have had experience in the appraisal of real property prior to appointment to the board of review.

(3) The members of a board of review shall be paid their reasonable and necessary travelling and out of pocket expenses incurred in carrying out their duties and in addition shall be paid remuneration equal to the remuneration paid to the members of the Assessment Appeal Board pursuant to sub-section 48 (5) of the British Columbia Assessment Act, R.S.B.C., 1979, c. 21, during their term of office.

(4) Every member of a board of review shall, before entering on his duties, take and subscribe before the band manager or a notary public or a commissioner for taking oaths an oath or affirmation in the form provided in section 1 of Schedule "XII".

(5) A member of the board of review shall be appointed by council for a term of three years commencing on the date of their appointment under sub-section (1) of this section. A member of the board of review shall continue in their office subject to death, resignation, or removal for just cause by a resolution of the band council.

Appeals to Board of Review

41.(1) Where a person is of the opinion that an error or omission exists in the completed assessment roll in that:

- (a) the name of a person has been wrongfully inserted in, or omitted from, the assessment roll,
- (b) land or improvements or both land and improvements within the reserve have been wrongfully entered on, or omitted from the assessment roll,
- (c) land or improvements, or both land and improvements are not assessed at actual value,
- (d) land or improvements or both land and improvements have been improperly classified, or
- (e) an exemption has been improperly allowed or disallowed,

he may personally, or by a written notice signed by him, or by a solicitor, or by an agent authorized by him in writing in the form provided for in Schedule XIV or, if pursuant to section 2 of Schedule

XIV such authorization is not required, authorized by him in writing, together with a fee of \$25.00 per roll entry, payable to the "Osoyoos Indian Band", come before, or notify, the board of review and make his complaint of the error or omission, and may in general terms state his grounds of complaint, and the board of review shall deal with the complaint, and either confirm, or alter, the assessment.

(2) The council may, by the band manager, its solicitor, or agent authorized by it, or the assessor, make complaint against the assessment roll or any individual entry in the assessment roll on any ground whatever, and the board of review shall deal with the complaint, and either confirm or alter the assessment.

(2.1) Where the complainant is not an interest holder of the property to which the complainant relates, the complainant shall include with the notice of complaint an address to which notices for the complainant may be sent.

(3) Written notice of a complaint about an entry in the assessment roll must be delivered to the assessor not later than January 31 of the year following the year in which the assessment roll is completed.

Board of Review to be Notified

41.1(1) The assessor shall notify the board of review, if:

- (a) because of a change of ownership that occurs after October 31 and before the following January 1 and that is recorded in the records of the land title office, the reserve land register or the band land register before that January 1,
 - (i) land or improvements or both that were not previously liable to taxation become liable to taxation, or
 - (ii) land or improvements or both that were previously liable to taxation cease to be liable to taxation,
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed,
- (c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the home is purchased by the owner of land that has been assessed,
- (d) after October 31 and before the following January 1, land or improvements or both are transferred to or from the British Columbia Hydro and Power Authority and the transfer is recorded in the records of the land title office, the reserve land register or the band land register before that January 1,
- (e) land or improvements or both that are owned by the British Columbia Hydro and Power Authority are held or occupied by another person, and that person's interest commences or terminates after October 31 and before the following January (1),
- (f) land or improvements or both that are owned by British Columbia Railway Company or by its subsidiary are held or occupied by another person, and that person's interest commences or terminates after October 31 and before the following January 1, or

- (g) land or improvements or both that are referred to in sections 34, 35 or 36 are held or occupied by a person other than the person shown on the assessment roll as the interest holder, and that person's interest commences or terminates after October 31 and before the following January 1.

(2) Any matter that the board of review is notified of under subsection (1) shall be treated as an error or omission in the completed assessment roll, and notice of the matter shall be treated by that board as a complaint.

Assessor to Notify Interest Holder

42.(1) Where it appears by the notice of complaint under section 41 that the complaint concerns property in which some person other than the complainant may have an interest from or under which the complainant's interest is derived, the assessor shall within thirty days of receipt of the notice of complaint mail a notice to the interest holder of the property having the prior interest at the address appearing on the assessment roll, giving particulars of the complaint and shall mail a true copy of such notice to the surveyor of taxes.

(2) Upon request from the surveyor of taxes, the assessor shall by further notice within thirty days of receipt of the request from the surveyor of taxes, require the persons referred to in subsection (1) to attend before the board of review at a time and place stated in the further notice, and then the complaint shall be heard and dealt with in the same manner as other complaints.

(3) Where the complaint is against the assessment roll, the requirements of subsection (1) and the provisions of subsection (2) do not apply.

(4) Where the person other than the complainant that may have the interest from or under which the complainant's interest is derived, as referred to in subsection (1), is the Crown in Right of Canada, the requirements of subsection (1) and the provisions of subsection (2) shall not apply in respect of the Crown in Right of Canada.

Notice of Hearing

43. The chairman of the board of review shall within ninety days of receipt of the notice of complaint mail to the person, or his solicitor or agent, as the case may be, who has notified the assessor under section 41, a notice setting out the date, time and place scheduled for the hearing of that person's complaint by the board of review.

Powers of Board of Review

44.(1) The powers of a board of review constituted under this bylaw are:

- (a) to meet at the dates, times and places appointed and to try all complaints delivered to the assessor under this bylaw,

- (b) to investigate the assessment roll and the various assessments made in it, whether complained against or not, and to adjudicate on the assessments in respect of which a complaint is made under this bylaw and all other complaints made pursuant to this bylaw so that the assessments are at actual value,
- (c) to direct amendments to be made in the assessment roll necessary to give effect to its decisions, and
- (d) to confirm the assessment roll, either with or without amendment.

(2) Any member of the board of review may issue a notice in writing to any person to attend as a witness, and any member of the board of review may administer an oath to a person or witness before his evidence is taken.

(3) No increase in the amount of assessment and no change in classification shall be directed under subsection (1) until after five days' notice of the intention to direct the increase or change and of the time and place of holding the adjourned sittings of the board of review at which the direction is to be made, has been given by the assessor to the assessed interest holders of the property on which the assessments are proposed to be increased, or changed as to classification. A party interested, or his solicitor or agent duly authorized under this bylaw, if he appears, shall be heard by the board of review.

(3.1) Subsection (3) does not apply where an increase in the amount of assessment or change in classification is directed under subsection (1) as a result of a complaint that has been tried in accordance with subsection (1)(a).

(4) The members of the board of review shall annually elect one of the members of the board of review as chairperson, who shall preside at the meetings and who may, unless otherwise provided by the board of review, call meetings and regulate procedure.

(5) The board of review shall appoint a secretary, who may or may not be a member of the board of review, and the secretary shall draw up and enter, in a book to be kept for that purpose, the minutes of all meetings of the board of review, and, together with the chairperson or other member presiding, shall sign them as correct.

(6) All questions before the board of review shall be decided by a majority of the members present and the chairperson votes as an ordinary member of the board of review.

(7) A board of review constituted under section 40(1) shall hold its first sitting on a day designated by the surveyor of taxes and shall use its best endeavours to complete its sittings not later than June 30 of the year following the taxation year in which the appeal or complaint was made.

(8) A board of review may adjourn its sittings from day to day and from time to time, and may also adjourn its sittings from place to place.

Costs

45. The board of review may order that the costs of a proceeding before the board shall be paid by or apportioned between the persons affected by the appeal in the manner the board thinks fit, provided that such costs shall not exceed ten percent (10%) of the amount of taxes payable concerning the real property which is the subject of the appeal as determined by the board.

Board of Review sets own Rules

46. All inquiries and hearings before the board of review or a member of it shall be governed by the rules it may adopt and the board of review is not bound by the technical rules of legal evidence.

Hearing of Appeals in Order of Entry on List

47.(1) If there are less than two designated named reserves, the board of review shall proceed with the complaints in the order, as nearly as may be, in which they are entered on the list of complaints compiled by the assessor.

(2) If there are two or more designated named reserves, the board of review shall order the complaints to be presented and proceeded with according to designated named reserves or portions of designated named reserves.

(3) Every order made under subsection (2) shall be posted at the band office and such other places as may be designated by the board of review.

(4) The board of review may grant an adjournment or postponement of the hearing of any complaint.

(5) The onus of proof is on the person bringing the appeal to establish that the assessed value of the property should be different from the value determined by the assessor or any other matter properly before the board of review.

Oaths

48. The members of the board of review may respectively administer oaths in the course of a proceeding or in connection with their official duties.

Action by Board of Review

49. Evidence by affidavit, or written statement, or by the report of any officer appointed by the board of review shall be accepted by the board of review..

Inspection Powers of Board of Review

50. The board of review, or a person authorized by it to make any inquiry or report, may:
- (a) with the consent of the complainant, enter on and inspect any land and improvements,
 - (b) require the attendance of all persons as it considers necessary to summon and examine, and take the testimony of those persons,
 - (c) require the production of all books, plans, papers and documents, and
 - (d) administer oaths, affirmations or declarations.

Inquiry

- 51.(1) Where directed by the board of review, any one member of the board of review may hold an inquiry or conduct a hearing on behalf of the board of review.
- (2) Where only one member of the board of review is directed to hold an inquiry or conduct a hearing pursuant to subsection (1), that one member may not be a band member.

Board of Review Decisions

- 52.(1) The heading of decisions of the board of review shall be:

**Osoyoos Indian Band
Board of Review
Decision**

- (2) The board shall deliver a copy of each decision to the Assessor.
- (3) The assessor shall, upon receipt of a copy of a decision of the board:
- (a) forward a copy to the complainant,
 - (b) forward a copy to any other interest holder of the property which was the subject ... of the appeal;
 - (c) forward a copy to the surveyor of taxes,
 - (d) make any changes to the assessment roll if so directed by the board,
 - (e) attach a copy of the decision to the assessment roll,
 - (f) file a copy of the decision and make the same available for inspection by any interest holder at no cost to the interest holder.

Amendment to Assessment Roll

53.(1) The chairperson of the board of review shall ensure that each amendment made under section 45(1)(c) is recorded as an addendum to the assessment roll and that "Board of Review Decision" is printed as a heading on each page of the addendum.

(1.1) Where there is a conflict between the assessment roll and an amendment made under section 45(1)(c), the amendment prevails.

(1.2) The chairperson of the board of review shall ensure that, where an amendment is made under section 44(1)(c), the entry on the assessment roll completed under section 2 is identified by being recorded in the addendum referred to in subsection (1) and by printing "BOR" upon the entry in the addendum in the column headed "(CLASS)".

(2) Upon all amendments made to an assessment roll under section 45(1)(c) being completed, the chairman of the board of review shall identify and confirm the roll by inscribing or endorsing on it or attaching to it a certificate as set out in section 2 of Schedule "XII" signed by the chairman of the board of review.

Orders of Board of Review Obtainable

54. A person may, on payment of a fee of \$20.00, obtain from the Surveyor of Taxes a certified copy of an order of the board of review, but the assessor shall be entitled to receive a certified copy of an order without charge. The Board of Review shall file a copy of all orders made by the Board of Review with the Surveyor of Taxes within ten days of pronouncement.

Part 6

Assessor and Assessment Roll

Powers and Duties

56. The council shall establish and maintain assessments that are uniform in the whole of the reserve in accordance with this bylaw, the taxation bylaw, and the bylaws of the band.

57. In order to establish and maintain assessments that are uniform in the whole of the reserve, the council may:

- (a) authorize employees to perform technical or professional services, other than those required under the assessment bylaw,
- (b) ensure that the general public and band members are adequately informed respecting procedures relating to property assessment in the reserve, and
- (c) exercise and carry out other powers and duties that may be required to establish and maintain assessments that are uniform in the whole of the reserve, or as may be required under any other bylaw or order of the council.

Assessor

58.(1) The council shall appoint an assessor for carrying out the purposes of this bylaw.

(2) The assessor shall be paid remuneration, and shall receive such other benefits and be subject to the terms and conditions of employment, or of a contract of or for service or otherwise, as may be determined by the council.

(3) Without limiting the generality of subsections (1) and (2) but for greater certainty, council may:

- (a) appoint an assessor or assessors pursuant to subsection (1) who is also duly appointed as an assessor pursuant to the *Assessment Authority Act*, or
- (b) obtain such materials, equipment and services in respect of assessment of land or improvements, or both, or any other matter under this bylaw, as council may consider appropriate, from the British Columbia Assessment Authority, pursuant to a contract, or contracts, of or for service or otherwise.

Duties of Assessor

59. The assessor appointed under this bylaw shall:

- (a) perform the duties required of the assessor under this bylaw, the taxation bylaw, and any other bylaw of the band,
- (b) carry out policies consistent with this bylaw, the taxation bylaw and any other bylaw or law respecting assessment and taxation,
- (c) develop and administer a complete system of property assessment consistent with the relevant sections of the *Indian Act* and with this bylaw, the taxation bylaw, and any other bylaw of the band,
- (d) make reports and recommendations to the council respecting any matter that he considers advisable in carrying out the purposes of this bylaw, the taxation bylaw, and any other bylaw of the band,
- (e) ensure the preparation and completion of assessment rolls as required by this bylaw, the taxation bylaw, and any other bylaw of the band, and
- (f) perform such other duties as may be required to effectively implement and administer this bylaw, the taxation bylaw, and any other bylaw of the band, when so directed by the council.

Staff

60.(1) The council may appoint a secretary and other employees as it considers necessary to carry out the purposes of this bylaw, fix their remuneration and designate their functions and duties.

(2) The council or, if authorized by the council by band council resolution, the assessor, may appoint appraisers and other employees necessary to carry out this bylaw, fix their remuneration, designate their functions and duties, and supervise their activities.

Administrative Procedures

60.1 The council may, by band council resolution, establish such administrative procedures, subject to the provisions of this bylaw and the *Indian Act*, as may be required to carry out the provisions of this bylaw effectively.

Part 7

General

Applies Within Reserve

61. This bylaw applies with respect to all property within the reserve.

Property Assessment and Taxation Bylaws

62. The assessor shall do those things required of the assessor under this bylaw and the taxation bylaw.

Schedules Part of Bylaw

63. The following Schedules are attached to and constitute part of this bylaw:

Schedule "I"	-	Improvements Exclusion (Section 1(2))
Schedule "II"	-	Prescribed Vessel Capacity (Section 1(2)(l))
Schedule "III"	-	Fee For True Copy of Assessment Notice (Section 5(5))
Schedule "IV"	-	Classes of Property (Section 26(7))
Schedule "V"	-	Prescribed Manuals (Section 26.1(1))
Schedule "VI"	-	Exemption From Industrial Improvements (Section 26.1(1))
Schedule "VII"	-	Depreciation of Industrial Improvements (Section 26.1(3)(b))
Schedule "VIII"	-	Railway And Pipe Line Corporations Valuation (Section 27(1))
Schedule "IX"	-	Railway, Pipe Line and Electric Power Corporation Rights of Way Valuation (Section 27(1))
Schedule "X"	-	Electrical Power Corporations Valuation (Section 27(1))
Schedule "XI"	-	Telephone and Telegraph Corporations Valuation (Section 27(1))
Schedule "XII"	-	Confirmation of Roll (Sections 40(4) and 47(2))
Schedule "XIII"	-	Assessment Rolls and Notices of Assessment (Sections 2(2), 6(1) and 45)
Schedule "XIV"	-	Authorization of Agent (Sections 15(3) and 41(1))

Council May Extend Time

64. The council may on a case by case basis by band council resolution extend the time by or within which anything is required to be done under this bylaw in respect of the administration of this bylaw in order to permit time for compliance where the Council is satisfied there is adequate evidence of an intent to comply, and anything done by or within such extended time is as valid as if it had been done within the time otherwise provided for in this bylaw.

Amendments

65. Any section of this bylaw may be amended by a bylaw adopted by the council and sent to the minister in accordance with the *Indian Act*.

Tense

66. Where a provision or Schedule of this bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they may from time to time arise without reference to the present tense, future tense or the past tense.

Bylaw Remedial

67.(1) This bylaw shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

(2) Where a liability to assessment or any duty derived from or arising under a bylaw or bylaws which has been superseded or replaced by this bylaw in whole or in part by this bylaw or any provision of this bylaw, the provisions of the Interpretation Act, R.S.C. 1985, c. I-21 shall apply.

Head Notes

68. Head notes, marginal notes and provision headings form no part of this bylaw but shall be construed as being inserted for convenience of reference only.

Notices

69.(1) Except where otherwise specifically provided in this bylaw, where any notice, notification, demand, statement or direction is required or permitted to be delivered or given under this bylaw, such notice, notification, demand, statement or direction shall be sufficient if mailed by registered mail, postage prepaid, or delivered personally to:

- (a) the address of the person set forth in the assessment roll, or
- (b) such other address of which the assessor has received notice.

(2) Any notice, notification, demand, statement or direction shall be conclusively deemed to have been received on the second business day following the mailing thereof.

(3) Where the assessor has not received written notice of the address of a person or his address is not set forth in the assessment roll, the assessor may deliver any notice to that person by mailing any notice to the last known address of the person and proof of such mailing shall be deemed to be sufficient notice on the date of its mailing thereof.

Severance of Sections

70. A finding by a court of competent jurisdiction that a section or provision of this bylaw is void or invalid shall not affect or bear upon the validity or invalidity of any other section or part of this bylaw or this bylaw as a whole.

Use of Forms and Words

71. In this bylaw:

- (a) words signifying the masculine gender include the feminine gender and the neuter gender and, where necessary or the context permits, a person as defined in this bylaw,
- (b) words in the singular include the plural, and words in the plural include the singular, and
- (c) where a word or expression is defined, other parts of speech, and grammatical forms of the same word or expression have corresponding meanings.

Transitional Provisions

72.(1) Notwithstanding anything to the contrary elsewhere contained in this bylaw:

- (a) the assessment roll for the 1995 taxation year shall be compiled and completed by the assessor from all assessments prepared on or before December 31, 1994 by the British Columbia Assessment Authority pursuant to the *Assessment Act* for municipal and provincial purposes that are in respect of any land, or improvements, or both, in the reserve, or from any previous Osoyoos Indian Band assessment or property assessment bylaw, and
- (b) subject to subsection (2), the notice of assessment required to be mailed to each person named in the assessment roll for the 1995 taxation year shall be the notice of assessment mailed to each by the British Columbia Assessment Authority pursuant to the *Assessment Act* for municipal and provincial purposes or from any previous Osoyoos Indian Band assessment or property assessment bylaw,

but in all other respects the provisions of this bylaw shall be of full force and effect for the purposes of any assessment roll created and notice of assessment mailed for the 1995 taxation year.

(2) The notice of assessment referred to in paragraph (1)(b) may include the words:

"Your property is within a Osoyoos Indian Band Reserve. This is your Assessment for the purposes of any Osoyoos Indian Band Property Assessment Bylaw in force for the 1995 taxation year",

or such other words of like intent or meaning as legal counsel for the band and the British Columbia Assessment Authority may agree to.

(3) The assessor or the council may at any time mail to each person named in the assessment roll either with the person's notice of assessment or separately, a letter, notice, brochure or other

information in respect of the implementation and basic nature of the Band's property taxation regime.

Power to Round Values

73. The assessor may round the actual values for land and improvements determined under sections 27, 28 and 29 of this bylaw for each property class

- (a) down to the nearest \$100, where the value determined is greater than \$101 and less than \$99,999, and
- (b) down to the nearest \$1,000, where the value determined is \$100,000 or greater.

Coming Into Force

74. This bylaw shall come into force and effect upon approval by the minister.

[The next section is section 80]

Part 8

Stated Cases and Appeals on Matters of Law

80.(1) At any stage of the proceeding before it, the board of review may submit, in the form of a stated case for the opinion of a court of competent jurisdiction ("the court") a question of law arising in the appeal and, in such instance, shall suspend the proceedings and reserve its decision until the opinion of the final appellate court has been given and then the board shall decide the appeal in accordance with the opinion of the court.

(2) A person affected by a decision of the board on appeal, including the band upon resolution of the council, the surveyor of taxes, or the assessor, may require the board to submit a case for the opinion of a court of competent jurisdiction on a question of law only, by delivering, within twenty-one (21) day after receipt of the decision of the board:

- (a) a written request to the board to state a case; and,
- (b) a copy of the person's written request to the board to all persons affected by the decision of the board.

(3) The board shall, within 21 days after receipt of a notice given under subsection (2), submit the case in writing to the court.

(4) The costs of and incidental to a stated case shall be at the discretion of the court.

(5) Where a case is stated, the board shall promptly file the case, together with a certified copy of the evidence dealing with the question of law taken during the appeal, in the court registry and it shall be brought on for hearing within one month from the date on which the stated case is filed.

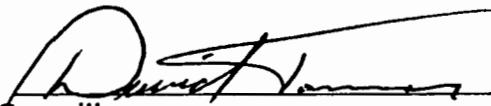
(6) The court shall hear and determine the question and shall give its opinion with 2 months of the hearing and cause it to be remitted to the board. In the alternative, the court may send the case back to the board for amendment in which case the board shall make such amendments as may be directed by the court and return the case to the court for its opinion.


(7) An appeal on a question of law may be taken by a person affected from the decision of the court to an appellate court of competent jurisdiction upon leave for such appeal being granted by an appellate court of competent jurisdiction.


(8) Upon receipt of the opinion of the court or the appellate court on a stated case or on an appeal, the board shall, if the opinion of the court is at variance with the decision of the board, direct the assessor to make such amendments to the assessment roll as may be necessary to give full force and effect to the opinion of the court or the appellate court.

APPROVED AND PASSED at a duly convened meeting of the Band Council of the Osoyoos Indian Band held at the Osoyoos Indian Band Administration Office, Oliver, British Columbia, this 22 day of December, 1995.


Chief


Councillor


Councillor


Councillor

Councillor

Councillor

SCHEDULES

TO THE

PROPERTY ASSESSMENT BYLAW

SCHEDULE "I"

Improvements Exclusion (Section 1(2))

1. The following categories and types of things, which are deemed to be included in the definition of "improvements" by section 1(2) of this bylaw are excluded from the definition of "improvements" in that section, but any foundations associated with them are not excluded:

- (a) portable elements of communications, security and fire protection systems,
- (b) bucket elevators,
- (c) fans, motors, piping other than piping used to supply fuel, or other equipment that is used to control or provide the temperature, irrigation or atmosphere within a dry kiln, steam chest, greenhouse, cooling tower, controlled atmosphere warehouse or cold storage warehouse, described in subsection (2)(b) of this bylaw,
- (d) coolers or freezers that are:
 - (i) of a modular walk-in-type, and
 - (ii) located within a building or structure,
- (e) portable lighting or portable lighting plants,
- (f) those pumps, motors, travelling screens, travelling cranes and hoists, filters, chlorinators, skimmers, aerators and similar things that are in water or sewer systems,
- (g) in the case of rail car and truck dumpers, lifts for marine vessels, platform scales, hoppers, stacker-reclaimers, conveyors, screw conveyors and travelling cranes, their moving parts and all controls related to their moving parts,
- (h) casings for screw conveyors or bucket elevators,
- (i) those catwalks or tending platforms that are principally mounted on or are supported either by the improvements exempted by this regulation or by production machinery,
- (j) idler arms for conveyors,
- (k) chip or hog blow lines,
- (l) J-bar or tray sorters, excluding any enclosure and associated framing,
- (m) turbines, generators and related controls,
- (n) those chairs, tows or gondolas that are supported by towers including the cables that support the chairs, tows or gondolas,
- (o) haul roads within active mine pits,
- (p) subject to paragraph (c), piping in a plant that is within property classified for assessment purposes as Class 4 or 5, other than that portion of the piping which supplies or moves:
 - (i) water that is used for drinking, cooking or personal hygiene,
 - (ii) water to the beginning of a plant process for use in that process,
 - (iii) materials that are used for fire protection,

- (iv) fuel or steam that is used for heating or power production,
- (v) materials to the point where major processing of the materials begins,
- (vi) industrial or non-industrial waste, or
- (vii) materials that have been refined, manufactured or otherwise processed in the plant and which are not subject to any further refinement, manufacturing or other processing in that plant,
- (q) casings or piping in oil or gas wells,
- (r) electrical distribution equipment and materials, not including the load break switch or circuit breaker referred to in subparagraph (ii), that are located:
 - (i) within properties classified for assessment purposes as Class 4, 5 or 6, and
 - (ii) between a medium voltage break switch, or a medium voltage circuit breaker, and production machinery, where "medium voltage" is 601 volts to and including 15 kilovolts and the load break switch or circuit breaker is located, as determined by the current flow, immediately before a distribution transformer that serves the production machinery,
- (s) portable power or generating facilities,
- (t) the following vessels:
 - (i) cyclones, dust and particulate collectors or separators, power and recovery boilers, furnaces used in industrial processes, rotary dryers, rotary kilns, rotary mixers, compressor tanks, evaporators, heat exchangers, electrolytic cells, electrolytic tanks, stripping or scrubbing vessels or expansion tanks,
 - (ii) those flotation cells, crushers, grinding mills, dewatering filters, primary and secondary leach filters, aeration columns, carbon columns, heavy media separators, and flotation columns that are used in the mining industry,
 - (iii) those rotary modularizers, absorption towers, cottrell treaters, humidifying towers, spray towers, glover towers, hot treaters, mist eliminators, melting pots, scrubbers and acidifiers that are used in the smelting industry,
 - (iv) those cat cracker columns, desalter, atmospheric columns, vacuum columns, rectifier columns, fractionator columns, reactors, distillation towers, reformer stacks, asphalt oxidizers, hydrotreater units, reformer units, platformer units, crude units, alkylation units, fluid cat cracker units, isomerization units, rerefined oil process units, blending or shipping kettles, oxidation towers, gas or oil separator towers, emulsion treater towers, condensate accumulators, contractor towers, reboilers, stills, instrument air receivers, treater pressure filters, treater zeolite softeners, water treater towers, condensate receivers, sulfreen reactors, converters, reflux accumulators, water wash towers, methanol towers, methanol degassers, methanol strippers, instrument air receivers, dehydrator towers, separator towers, demethanizer towers, deethanizer towers, depropanizer towers, debutanizer towers, refrigerant receivers, refrigerant blowcases and condensers, except cooling condensers, that are used in the petroleum and gas industry,

- (v) those resin blenders, batch or continuous digester vessels, bleaching towers, demineralizers, water softeners, chlorine or chlorine dioxide generators, air receivers, steaming vessels (TMP) deaerators, impregnation vessels, oxygen reactors, repulpers, oxygen drum washers, preheaters, brown stock decker washers and brown stock steam vessels that are used in the forest industry,
- (vi) those distillation towers, graphite cells, synthesizer towers, cooler vessels, solution treaters, hydrogenator treaters, rotary pebble mills, prilling towers, degasser eliminators, vacuum dryers, methanator units, extractor units, reboilers, converters, still columns, kettles, untreated chlorate dryers, deaerator systems and steam drums that are used in the chemical industry,
- (vii) those spas, hot-tubs and swimming pools that are free standing.

SCHEDULE "II"

Prescribed Vessel Capacity (Section 1(2)(l))

1. The prescribed capacity for the purpose of paragraph (l) of section 1(2) of this bylaw is:
 - (a) for vessels in wineries, 20,000 or more gallons, and
 - (b) for vessels not in wineries,
 - (i) if aboveground:
 - (A) 5,000 or more gallons, or
 - (B) 800 or more cubic feet, and
 - (ii) if underground:
 - (A) 3,975 or more gallons, or
 - (B) 635 or more cubic feet.

SCHEDULE "III"

Fee for True Copy of Assessment Notice (Section 5(5))

1. The fee, referred to in section 5(5) of this bylaw for a true copy of an assessment notice shall be \$10 per parcel of land referred to in the assessment notice.

Class 2 - Utilities

2. Class 2 property shall include only land or improvements, or both, used or held for the purposes of, or for purposes ancillary to, the business of:

- (a) transportation by railway,
- (b) transportation, transmission or distribution by pipe line,
- (c) communication by telegraph or telephone, including transmission of messages by means of electric currents or signals for compensation,
- (d) generation, transmission or distribution of electricity, or
- (e) receiving, transmission and distribution of closed circuit television,

but does not include that part of land or improvements or both:

- (f) included in Classes 1, 4 or 8,
- (g) used as an office, retail sales outlet, administration building or purpose ancillary thereto, or
- (h) used for a purpose other than a purpose defined in paragraphs (a) to (e) of this Class.

Class 3 - Forest Land

3. Class 3 property shall include only land the highest and best use of which is forest land.

Class 4 - Major Industry

4. Class 4 property shall include only property referred to in section 26.1(2) of this bylaw, that is to say:

- (a) land used in conjunction with the operation of industrial improvements, and
- (b) industrial improvements.

Class 5 - Light Industry

5. Class 5 property shall include only land or improvements, or both, used or held for the purpose of extracting, processing, manufacturing or transporting of products, and for the storage of these products as an ancillary to or in conjunction with such extraction, processing, manufacture or transportation, but does not include those lands or improvements, or both:

- (a) included in Class 2 or 4,
- (b) used principally as an outlet for the sale of a finished product to a purchaser for purposes of his own consumption or use and not for resale in either the form in which it was purchased or any other form, and
- (c) used for processing, manufacturing or storage of food or non-alcoholic beverages.

Class 6 - Business And Other

6. Class 6 property shall include all land and improvements not included in Classes 1 to 5 and 7 to 9.

Class 7 - Managed Forest Land

7. Class 7 property shall include only land for which the highest and best use is managed forest land.

Class 8 - Recreational Property/Non-Profit Organization

8. (1) Class 8 property shall include only:

(a) land, but not improvements on that land, used solely as an outdoor recreational facility for the following activities or uses:

- (i) golf
- (ii) skiing;
- (iii) tennis
- (iv) ball games of any kind;
- (v) lawn bowling;
- (vi) public swimming pool;
- (vii) motor car racing;
- (viii) trap shooting;
- (ix) archery;
- (x) ice skating
- (xi) waterslides;
- (xii) museums;
- (xiii) amusement parks;
- (xiv) Horse racing;
- (xvii) rifle shooting;
- (xviii) roller skating;
- (xix) marinas;
- (xx) parks and gardens open to the public;
- (xxi) hang gliding;

(b) that part of any land and improvements used or set aside for use as a place of public worship or as a meeting hall for a non-profit fraternal organization of persons of either or both sexes, together with the facilities necessarily incidental to that use, for at least 150 days in the year ending on June 30, of the calendar year preceding the calendar year for which the assessment roll is being prepared, not condition any day in which the land and improvements so

- (i) any purpose by an organization that is neither a religious organization nor a non-profit fraternal organization,
- (ii) entertainment where there is an admission charge, or
- (iii) the sale or consumption, or both, of alcoholic beverages.

Class 9 - Farm

9. Class 9 property shall include only land for which the highest and best use is farming or agricultural use.

10. Where a property falls into two or more prescribed classes the assessor shall determine the share of the actual value of the property attributable to each class and assess the property according to the proportion each share constitutes of the total actual value.

SCHEDULE "V"

Prescribed Manuals (Section 26.1(1))

Manual For Determining Costs of Industrial Improvement

1. Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual as deposited with the office of the Assessment Commissioner of the British Columbia Assessment Authority as of November 30 in any year are prescribed for the purposes of the definition of "cost of industrial improvement" in section 26.1(1) of this bylaw.

Other manual

2. The Marshall Valuation Service, as compiled by Marshall and Swift, is prescribed for the purpose of defining the "cost of industrial improvement" in section 26.1(1) of this bylaw to the extent directed in Volumes 1 and 2 of the British Columbia Assessment Authority Major Industrial Properties Manual.

SCHEDULE "VI"

Exemption From Industrial Improvements (Section 26.1(1))

1. The industrial improvements in plants or classes of plants described in column 1 of the following Table that have less than the capacities set out opposite them in column 2 are exempt from the definition of "industrial improvements" in section 26.1(1) of this bylaw.

Column 1 Plant	Column 2 Capacity
1. Placer mines	500 m ³ pay dirt per day
2. Mines, other than coal mines or placer mines	75 tonnes milling capacity per day or no milling capacity
3. Natural gas	2,850,000 m ³ per day
4. Sawmills that manufacture lumber and other wood products from raw logs	15 million fbm per year based on 480 shifts a year of 8 hours each shift
5. Remanufacturing plants, not part of a sawmill, which manufacture lumber or other wood products from rough lumber or cants, but not raw logs	24 million fbm per year based on 480 shifts a year of 8 hours each shift
6. Chemical plants	5,000 tonnes per year
7. Building, refitting or repairing ships	750 tonnes light displacement weight retrieval capacity or no retrieval capacity

SCHEDULE "VII"

Depreciation of Industrial Improvements (Section 26.1(3)(b))

Interpretation

1. The following definitions apply herein:

"bylaw" means this bylaw,

"chronological age" means the number of years determined by subtracting:

- (a) the year in which the plant first commenced operation, or
- (b) in the case of an industrial improvement or part of an industrial improvement that was constructed or installed after the plant commenced operation, the year in which the construction or installation of the industrial improvement or part of it was completed

from the year in which the new assessment roll is completed,

"effective age" means the number of years determined by:

- (a) calculating the total cost of the industrial improvement,
- (b) multiplying the chronological age of each part of the industrial improvement by the cost of that part to give the weighted age of that part,
- (c) adding the weighted age of all of the parts of the industrial improvement, and
- (d) dividing the sum of the weighted ages by the total cost of the industrial improvements and rounding the quotient up to the next whole year to yield the effective age.

Determining Depreciation

- 2.(1) Subject to the other provisions of this bylaw, for the purposes of section 26.1 of this bylaw, depreciation of an industrial improvement shall be applied in accordance with the following formula:

depreciation = annual depreciation rate age

where:

- (a) "annual depreciation rate" is the percentage rate set out in the Table below in this Schedule for the category of plant of which the industrial improvement is a part, and

- (b) "age" is the chronological age or, where parts of an industrial improvement have different chronological ages, the effective age of the industrial improvement.

Maximum Depreciation

3. If the depreciation determined under section 2 of this Schedule for an industrial improvement is equal to or in excess of 80%, the depreciation shall be deemed to be 80%.

Closure Allowances

- 4.(1) If the assessor determines:

- (a) that a plant is closed on or before October 31 of any year and an interest holder of the plant or a senior executive officer of the corporation that holds, owns or occupies the plant confirms in writing that the closure is permanent, or
- (b) that a plant has been closed for a minimum of three consecutive years immediately preceding October 31 in any year and an interest holder of the plant or a senior executive officer of the corporation that has an interest in the plant confirms in writing the fact that the plant is closed and the duration of that closure,

the depreciation applicable to industrial improvements that are part of the plant shall, for the purposes of the assessment roll in the succeeding year, be deemed to be an amount sufficient to reduce the actual value of the industrial improvements to 10% of the cost of those industrial improvements.

- (2) If the assessor determines that:

- (a) a separate industrial improvement within a plant is permanently closed or shut down on or before September 30 in any year and an interest holder or plant manager of the plant confirms in writing that the closure or shut down is permanent, or
- (b) a separate industrial improvement within a plant has been closed or shut down for a minimum of three consecutive years immediately preceding September 30 in any year and an interest holder or plant manager confirms in writing the fact that the industrial improvement is closed or shut down and duration of that closure or shut down,

the depreciation applicable to that industrial improvement shall, for the purpose of the assessment roll in the succeeding year, be deemed to be an amount sufficient to reduce the actual value of the industrial improvement to 10% of the cost of that improvement.

- (3) Subsection (2) applies only with respect to a complete industrial improvement and shall not be applied to a part of an industrial improvement.

- (4) If a previously closed plant or industrial improvement is reopened or reactivated, this section ceases to apply for the purposes of the assessment roll in the succeeding year and depreciation shall be determined in accordance with sections 2. and 3.

TABLE

INDUSTRIAL IMPROVEMENT DEPRECIATION RATES (By Category as listed in Section 26.1)	
Category	Annual Rate of Depreciation
(a) mining, extracting, beneficiating or milling of metallic or non-metallic ore	6.5
(b) mining, breaking, washing, grading or beneficiating of coal	4
(c) producing of aluminium	3
(d) smelting or refining of metal from ore or ore concentrate	3
(e) producing, manufacturing, processing or refining of petroleum or natural gas products	3
(f) manufacturing of lumber or other sawmill and planing mill products	4
(g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products	4
(h) manufacturing of gypsum board	3
(i) manufacturing of pulp, paper or linerboard	3
(j) manufacturing of chemicals	4
(k) manufacturing of chemical fertilizer	3
(l) manufacturing of synthetic resin or the compounding of synthetic resins into moulding compounds	3
(m) manufacturing of cement	3
(n) manufacturing of insulation	3
(o) manufacturing of sheet glass or glass bottles	3
(p) building, refitting or repairing ships	5
(q)(i) loading of cargo onto seagoing ships or barges, including associated cargo storage and loading facilities	5.0
(ii) the maritime structure of a grain terminal operation including piers, wharves, shipping galleries and loading gallery towers used to transport grain from a grain elevator to seagoing ships or barges, but excluding those things included in paragraph (q)(iii)	5.0
(iii) grain elevators and associated structures	2.5

SCHEDULE "VIII"

Railway & Pipe Line Corporations Valuation (Section 27(1))

Application

1. This schedule shall be used for determinations of value for the purposes of assessment for the 1995 and subsequent taxation years.

[there is no section 2]

Railway Corporations Track in Place

3.(1) In this section a reference to:

- (a) "Class 1 track" means track in place comprising a trackage system that carries an annual gross tonnage of 25 million tons or more,
- (b) "Class 2 track" means track in place comprising a trackage system that carries an annual gross tonnage of 15 million tons but under 25 million tons,
- (c) "Class 3 track" means track in place comprising a trackage system that carries an annual gross tonnage of 5 million tons but under 15 million tons,
- (d) "Class 4 track" means:
 - (i) track in place comprising a trackage system that carries an annual gross tonnage of 500,000 tons but under 5 million gross tons, or
 - (ii) track in place of a siding, spur or wye not classed as Class 5 track,
- (e) "Class 5 track" means:
 - (i) track in place comprising a trackage system of any gauge that carries an annual gross tonnage of under 500,000 tons, or
 - (ii) track in place of a siding, spur or wye associated with a trackage system that carries an annual gross tonnage of under 500,000 tons, or
 - (iii) track in place of a siding, spur or wye which is not in use on October 31 in the year preceding the year for which the assessment roll or revised assessment roll is prepared, was unused for the immediately preceding year, and is not usable in any other trackage system, and
- (f) "Class 6 track" means track in place comprising a trackage system where the gauge of the track is not more than 90% of that which is standard for trackage systems in Classes 1 to 4.
- (g) "Class 7 track" means track in place that is unusable for commercial railway traffic on a line or on a siding or spur of a line in respect of which formal approval for

abandonment has been received and a copy of the "Certificate of Abandonment" has been provided to the Assessment Commissioner,

- (h) "Class 11" means, in the case where a fibre optic cable is jointly owned, occupied or used by a railway corporation and a telecommunications corporation, and is buried within the rail right-of-way, an addition to the rate for that portion of the cable which is the interest of the railway corporation, and
- (i) "Class 12" means, in the case where a fibre optic cable is jointly owned, occupied or used by a railway corporation and a telecommunications corporation, and is placed at or above ground level within the rail right-of-way, an addition to the rate for that portion of the cable which is the interest of the railway corporation.

(2) The actual value of the track in place of a railway corporation shall be determined using the following rates:

- (a) for Class 1 track, \$131,961 for each kilometre of track in place,
- (b) for Class 2 track, \$112,222 for each kilometre of track in place,
- (c) for Class 3 track, \$76,060 for each kilometre of track in place,
- (d) for Class 4 track, \$66,364 for each kilometre of track in place,
- (e) for Class 5 track, \$12,827 for each kilometre of track in place,
- (f) for Class 6 track, \$52,222 for each kilometre of track in place,
- (g) for Class 7 track, salvage value,
- (h) for Class 11, buried fibre optic cable, \$7,734 per kilometre,
- (i) for Class 12, fibre optic cable at or above ground, \$3,109 per kilometre.

Pipe Line Corporations, Pipe Lines

4. The actual value of pipe lines referred to in section 27(1)(c) of this bylaw shall, except where section 5 of this Schedule applies, be determined by applying the rates set out in Schedule below.

Pipe Line Corporations, Special Cases

5.(1) Where, in respect of a pipe line referred to in section 27(1)(c) of this bylaw, the pipe line would, if valued under section 26 of this bylaw and in that reference to section 27 of this bylaw, have no value, the actual value of the pipe line shall be determined using a rate of one dollar.

(2) Where operations of a pipe line have been suspended for a period of one year or more, 10% of the rate set out in the Table below in this Schedule for the pipe size shall be used.

(3) Where a pipe line is placed directly on the ground and, except for extraordinary stream or ravine crossings, is without man-made foundations to this bylaw, it shall be valued at 50% of the rate set out in the Table below in this Schedule if:

- (a) the length of that section of the pipe line is 20 km or over, and
- (b) the diameter of the pipe, throughout the section, is not more than 168 mm.

Railway, Pipe Line & Electric Power Corporations

TABLE	
Outside diameter of Pipe in millimetres	Rate per kilometre
under 76	\$ 14,927
76 or more and under 88	\$ 16,036
88 or more and under 114	\$ 19,264
114 or more and under 141	\$ 28,844
141 or more and under 168	\$ 30,963
168 or more and under 219	\$ 35,300
219 or more and under 273	\$ 45,990
273 or more and under 323	\$ 71,608
323 or more and under 355	\$109,025
355 or more and under 406	\$119,716
406 or more and under 457	\$163,590
457 or more and under 508	\$238,425
508 or more and under 558	\$244,788
558 or more and under 609	\$265,152
609 or more and under 660	\$339,987
660 or more and under 711	\$360,260
711 or more and under 762	\$386,986
762 or more and under 863	\$407,359
863 or more and under 914	\$457,586
914 or more and under 965	\$484,313
965 or more and under 1016	\$571,958
1016 or more and under 1066	\$657,484
1066 or more and under 1219	\$717,393
1219 or more and under 1422	\$879,873
1422 and more	\$1,019,862

SCHEDULE "IX"

Railway, Pipe Line & Electric Power Corporation Rights of Way Valuation (Section 27(1))

Interpretation

1. In this Schedule "gathering pipe lines" means pipe lines for the transportation of:
 - (a) natural gas from the final point of well-head preparation to the intake-valve at the scrubbing, processing or refining plant, or
 - (b) petroleum or petroleum products from the delivery-valve to the intake-valve at the refining, processing or storage facilities which precede transfer of the oil to a transportation pipeline.

Application

2. This schedule shall be used for determinations of value for the purposes of assessment for the 1995 and subsequent taxation years.

Determination of Value

3. The actual value of the rights of way for the items listed in Column 1 shall be determined using the rates set out opposite them in Column 2:

Column 1	Column 2
For track in place of a railway corporation	\$3,642 per acre
For pipe lines of a pipe line corporation other than gathering pipe lines	\$1,723 per acre
Gathering pipelines of a pipeline corporation	\$145 per acre
Transmission lines of an electrical power corporation	\$1,723 per acre
Metallic or fibre optics cables of a telecommunications corporation	\$1,723 per acre

SCHEDULE "X"

Electrical Power Corporations Valuation (Section 27(1))

Interpretation

1. In this Schedule:

"circuit kilometre" means one kilometre of electrical transmission or distribution circuitry including all necessary conductors, insulators and supporting structures required to provide a complete circuit or double circuit,

"distribution line" means the overhead and underground portion of an electrical power corporation's power line system which carries electric power from the distribution substation to those customers served at the secondary voltage of up to 347/600 volts or at a primary voltage of up to 19.9/34.5 kv,

"transmission line" means all portions of an electrical power corporation's power line system other than distribution lines.

Application

2. This schedule shall be used for determinations of value for the purposes of assessment for the 1995 and subsequent taxation years.

Electrical Power Distribution - Line Classification

3.(1) In this section a reference to:

- (a) "Class 1 electric power distribution lines" means the distribution lines of an electrical power corporation in a municipality that has a population, as of the 1981 Census of Canada, of 30,000 persons or greater, and has a parcel density of not less than 0.5 per acre,
- (b) "Class 2 electric power distribution lines" means the distribution lines of an electrical power corporation in a municipality, other than those referred to in Class 1,
- (c) "Class 3 electric power distribution lines" means the distribution lines of an electrical power corporation outside a municipality, and

- (d) "Class 4 electric power distribution lines" means the additional conductors, insulators and supporting structures which have been installed on the towers or poles of a previously constructed line.
- (2) Subject to section 5, the actual value of electrical power distribution lines of an electrical power corporation shall be determined using the following rates
 - (a) Class 1, \$26 141 per circuit kilometre;
 - (b) Class 2, \$18 874 per circuit kilometre;
 - (c) Class 3, \$13 889 per circuit kilometre;
 - (d) Class 4, \$ 4 785 per circuit kilometre.

Electrical power transmission line classifications

- 4.(1) In this section a reference to:
 - (a) "Class 1" means an electrical transmission line rated at 69 kilovolts or less,
 - (b) "Class 2" means an electrical transmission line utilizing wood or concrete poles and rated from 132 to 170 kilovolts,
 - (c) "Class 3" means an electrical transmission line with a rating of 230 kilovolts and having heavy duty double circuits and metal poles,
 - (d) "Class 4" means an electrical transmission line with a rating of 230 kilovolts and having double circuits and metal poles,
 - (e) "Class 5" means an electrical transmission line with a rating of 230 kilovolts and having heavy duty double circuits and metal towers,
 - (f) "Class 6" means an electrical transmission line with a rating of 230 kilovolts and having double circuits and metal towers,
 - (g) "Class 7" means an electrical transmission line with a rating of 230 kilovolts and having wood or concrete poles,
 - (h) "Class 8" means an electrical transmission line with ratings from 287 to 360 kilovolts having a single circuit and wood or concrete poles,
 - (i) "Class 9" means an electrical transmission line with ratings from 230 to 360 kilovolts having a single circuit and metal towers,
 - (j) "Class 10" means an electrical transmission line with a rating of 500 kilovolts and having metal towers,
 - (k) "Class 11" means submarine electrical transmission line with a rating of 500 kilovolts A.C.,
 - (l) "Class 12" means submarine electrical transmission line with a rating of 230 kilovolts D.C., and
 - (m) "Class 13" means submarine electrical transmission line with a rating from 132 kilovolts to 138 kilovolts A.C.
- (2) Subject to section 5 of this schedule, the actual value of electrical power distribution lines of an electric power corporation shall be determined using the following rates:
 - (a) Class 1, \$ 35 882 per circuit kilometre;
 - (b) Class 2, \$ 44 932 per circuit kilometre;
 - (c) Class 3, \$ 648 961 per circuit kilometre;
 - (d) Class 4, \$ 462 499 per circuit kilometre;
 - (e) Class 5, \$ 468 897 per circuit kilometre;

- (f) Class 6, \$ 339 562 per circuit kilometre;
- (g) Class 7, \$ 67 363 per circuit kilometre;
- (h) Class 8, \$ 78 051 per circuit kilometre;
- (i) Class 9, \$ 249 622 per circuit kilometre;
- (j) Class 10, \$ 294 775 per circuit kilometre;
- (k) Class 11, \$4 992 834 per circuit kilometre;
- (l) Class 12, \$ 173 560 per circuit kilometre;
- (m) Class 13, \$ 251 022 per circuit kilometre;

Electrical Power Corporation - Special Cases

5. Where, in respect to an electrical power transmission line or an electrical power distribution line which remains in place but for any reason has not been utilized for a period of one year or more, the actual value shall be determined by applying 10% of the rate prescribed for its class

SCHEDULE "XI"

Telecommunications Corporations Valuation (Section 27(1))

Interpretation

1. The following definitions apply herein:

"access line" means an individual capacity line circuit including associated cables, towers, poles and wires directly connecting a subscriber with a central telephone office;

"B.C.R." means the British Columbia Railway Company;

"B.N.R." means the Burlington Northern Railway Company;

"Cantel" means Rogers Cantel Inc.;

"C.N.R." means the Canadian National Railway Company;

"fibre optics cable" means the portion of a fibre optics system between a transmitting and receiving unit and the next transmitting and receiving unit in that system, but does not include an access line;

"fibre optics system" means a system of cables together with the lines, towers, poles and wires associated with those cables used for communications by means of light guide, optical wave guide or other fibre optic technology;

"October 31" means October 31 in the year preceding the year for which the assessment roll or revised assessment roll is completed.

Application

2. This Schedule shall be used for determinations of value for the purposes of assessment for the 1995 and subsequent taxation years.

Telephone Corporation Pole Lines, Etc.

3. The actual value of the pole lines, cables, towers, poles and wires of a telephone corporation shall be determined using the rate of \$373 per access line.

Fibre Optics cable

4.(1) In this section

- (a) "Class 1 fibre optics cable" means a cable owned by B.C. Tel and buried within a conduit,
- (b) "Class 2 fibre optics cable" means Unitel's portion of a cable jointly owned by Unitel and C.N.R. which is buried within the rail right of way,
- (c) "Class 3 fibre optics cable" means Unitel's portion of a cable jointly owned by Unitel and C.N.R. which is placed at or above ground level within the rail right of way,
- (d) "Class 4 fibre optics cable" means a cable owned by Unitel which is located primarily within an existing communications duct and runs between Matsqui Test Centre and the Aldergrove microwave site,
- (e) "Class 5 fibre optics cable" means a cable owned by Unitel, located primarily within an existing communications duct, and which runs either between a Test Centre and a railyard or between a Test Centre and a Test Centre,
- (f) "Class 6 fibre optics cable" means a cable jointly owned by B.C. Tel and Teleglobe Canada, which is installed below ground level at an average depth within the system of less than five feet,
- (g) "Class 7 fibre optics cable" means a cable jointly owned by B.C. Tel and Teleglobe Canada, of which 80% or more is installed at or above ground level,
- (h) "Class 8 fibre optics cable" means each telecommunications corporation's (Rogers Cable, Rogers Cantel and Unitel) portion of a cable jointly owned by each telecommunications corporation, and installed below ground level in a C.N.R. Right of Way,
- (i) "Class 9 fibre optics cable" means a submerged submarine cable owned by Teleglobe Canada,
- (j) "Class 10 fibre optics cable" means a cable not valued by any other rate,
- (k) "Class 11 fibre optics cable" means Rogers Cantel's portion of a cable jointly owned by Rogers, Rogers Cantel and Unitel, and installed in a B.N.R. Right of Way between the Vancouver Test Centre and the Burnaby Test Centre,
- (l) "Class 12 fibre optics cable" means Unitel's portion of a cable jointly owned by Rogers Cable, Rogers Cantel and Unitel, and installed in a B.N.R. Right of Way between the Vancouver Test Centre and the Burnaby Test Centre,
- (m) "Class 13 fibre optics cable" means cable owned by Westel and installed in a B.C.R. Right of Way from Lone Butte to 100 Mile House,
- (n) "Class 14 fibre optics cable" means cable owned by Westel and installed in the Municipality of Prince George,
- (o) "Class 15 fibre optics cable" means Unitel's portion of a cable jointly owned by Unitel and Cantel and installed between the Aldergrove microwave site and the British Columbia/Washington border,
- (p) "Class 16 fibre optics cable" means Cantel's portion of a cable jointly owned by Unitel and Cantel and installed between the Aldergrove microwave site and the British Columbia/Washington border,
- (q) "Class 17 fibre optics cable" means cable owned by Unitel and installed between the Burnaby microwave site and Teleglobe's head office in Burnaby,

- (2) The actual value of a fibre optics cable shall be determined using the following rates:

Class 1, \$123,768 per kilometre
Class 2, \$ 10,571 per kilometre
Class 3, \$ 5,947 per kilometre,
Class 4, \$ 18,709 per kilometre,
Class 5, \$ 14,671 per kilometre,
Class 6, \$ 49,529 per kilometre,
Class 7, \$ 12,797 per kilometre,
Class 8, \$ 14,216 per kilometre,
Class 9 \$ 58,779 per kilometre,
Class 10, \$ 32,000 per kilometre,
Class 11, \$ 4,520 per kilometre,
Class 12, \$ 65,568 per kilometre,
Class 13, \$ 14,578 per kilometre,
Class 14, \$ 21,570 per kilometre,
Class 15, \$ 60,825 per kilometre,
Class 16, \$ 9,687 per kilometre.
Class 17, \$ 261,642 per kilometre.

Telegraph Corporations, Pole Lines, Etc.

5. The actual value of the pole lines, cables, towers, poles and wires of a telegraph corporation, which are not fibre optics cables shall be determined at the rate of \$1,500 per kilometer.

Telecommunications Corporation, Metallic Cable

6. The actual value of the metallic cable of a telecommunications corporation shall be determined using the following rates:

- (a) \$29,343 per kilometre, for cable below ground;
- (b) \$16,944 per kilometre, for submarine cable;
- (c) \$1 per kilometre for cable out of service.

Rate For Abandoned Telecommunications Cable

7. Where, in respect of a telecommunications cable referred to in section 27(1) of this bylaw,
- (a) a senior executive of the corporation gives the assessor a letter certifying that the cable has been properly abandoned, and
 - (b) the telecommunications cable would, if evaluated under section 26 of this bylaw and in that reference to section 27 of this bylaw, have no value,
- the actual value of the telecommunications cable shall be determined using a rate of one dollar.

Cables under construction

8. Where a fibre optics cable, of a telecommunications corporation referred to in section 27 (1) (a) of this bylaw is under construction, the assessor shall determine the percentage complete as of October 31 and the actual value of the line shall be determined by applying the percentage complete to the rate prescribed for that class.

SCHEDULE "XII"

Confirmation Of Roll (Sections 40(4) and 47(2))

1. Every member of the board of review, before entering on his duties, shall take and subscribe before the band manager or a notary public or a commissioner for taking oaths the following oath or affirmation:

"I, _____, do solemnly swear [or affirm] that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the board of review which may be brought before me for hearing and decision as a member of the board of review."

2. For the purposes of section 47 of the bylaw, the certificate by which a board of review shall identify and confirm the assessment roll shall be in form 1 or 2 of the following forms, as appropriate:

FORM 1

This roll comprising the gross assessed values of properties within the reserve of the Osoyoos Indian Band is hereby confirmed by the board of review and, except as may be amended upon further appeal or by means of an entry in a supplementary assessment roll, is hereby certified to be the assessment roll for the year 19__.

Dated at _____, in the Province of British Columbia this ____ day of _____, 19__.

FORM 2

This supplementary roll comprising the gross assessed values of properties within the reserve of the Osoyoos Indian Band is hereby confirmed by the board of review and, except as may be amended upon further appeal or by means of an entry in a revised or further supplementary assessment roll, is hereby certified to be a supplementary assessment roll for the year 19__.

Dated at _____, in the Province of British Columbia this ____ day of _____, 19__.

SCHEDULE "XIII"

Assessment Rolls And Notices of Assessment (Sections 2(2), 6(1) and 45)

Assessment Rolls

1. An assessment roll shall be prepared in microfiche, paper form or electronic form.
- 1.1 A notice of assessment shall be prepared in paper form or in electronic form.
- 1.2(1) An assessment roll and notice of assessment shall contain the following particulars:
 - (a) the name and last known address of the person assessed,
 - (b) a short description of the land,
 - (c) the classification of:
 - (i) the land, and
 - (ii) the improvements,
 - (d) the actual value by classification of:
 - (i) the land, and
 - (ii) the improvements,
 - (e) the total assessed value for:
 - (i) general purposes, and
 - (ii) other than general purposes,
 - (f) the total assessed value of exemptions, if any, from taxation for:
 - (i) general purposes, and
 - (ii) other than general purposes,
 - (g) the total net taxable value for:
 - (i) general purposes, and
 - (ii) other than general purposes,
 - (h) a statement on the notice of assessment as to the method of submitting a complaint and the date by which the complaint must be delivered to the assessor,
 - (i) such other information not inconsistent with the bylaw as the council may require.
- (2) Where one or more notices of assessment are prepared in electronic form for the same person, subsection (1) is complied with if the statement and information referred to in paragraphs (h) and (i) of that subsection are prepared and sent to that person in paper form.
- 1.3 Notwithstanding section 1.2(e), (f) and (g) of this Schedule, separate values for general purposes and other than general purposes need not be shown if the values are the same.
- 1.4 Information concerning a single parcel may be recorded in more than one entry in the assessment roll or in more than one assessment notice if:
 - (a) each roll entry and notice clearly identifies the other entries which relate to that parcel, and

- (b) the actual value, assessed value and exemptions from taxation for that parcel are the total of the respective amounts shown in the individual entries.

1.5 Where there is a conflict between an entry identified as "amended" and any other entry on the original assessment roll, the entry identified as "amended" prevails.

1.6 The assessor shall complete the following Statutory Declaration and attach it to the completed assessment roll:

"I, _____, of _____, in the Province of British Columbia, do solemnly declare that:

- (a) I am assessor for the Osoyoos Indian Band,
(b) the assessment roll for the reserve lands of the Osoyoos Indian Band for the year 19____ has been completed in accordance with the Osoyoos Indian Band Assessment Bylaw and sets out the assessed value of the land and improvements within the reserve lands of the Osoyoos Indian Band in accordance with the assessment bylaw, and the name or names of the interest holders in respect of each parcel and all other information required to be entered and set out by the assessment bylaw has been entered and set out,
and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me at _____,)
this _____ day of _____,)
19____) _____
_____)

2(1) A notice of the intention of the board of review to direct an increase in the amount of assessment or a change in classification under section 45 of this bylaw shall be mailed or delivered to the assessed interest holder at the address shown on the assessment roll.

(2) The notice shall show the following:

- (a) the name and last known address of the person assessed,
(b) a short description of the land,
(c) the amount to which it is intended to increase the assessed values,
(d) the classification into which it is intended to place the property,
(e) the time and place of holding the adjourned sitting of the board of review at which the direction is to be made,

and such other information not inconsistent with this bylaw or other applicable bylaws as the council may require.

SCHEDULE XIV

Osoyoos Indian Band Authorization of Agent (Section 15(3) and 41(1))

1. The authorization of an agent by an interest holder of property for the purposes set out in sections 15 and 41 of this bylaw shall be in the form of the following Schedule below.
2. The authorization of agent form is required for all property classes.

TO: THE ASSESSOR,
ASSESSMENT AREA NAME _____ AREA NO. ____

I, Name _____
Address _____
Phone Number _____

BEING THE OWNER OF THE FOLLOWING PROPERTY:

Civic Address _____
Legal Description _____
Assessment Roll No. _____
(if more than one property, attach list with owner's signature)

HEREBY APPOINT: (Agent's Name) _____
(Agent's Address) _____
(Agent's Phone Number) _____

as my agent for purposes of:
(check one or more of the following)

a review of the assessment to determine whether or not to appeal

an appeal of the assessment to the Board of Review

an appeal of the assessment to a court of competent jurisdiction

the following enumerated purposes:

1. _____
2. _____
3. _____

for the 19__ Assessment Roll only, and for no other purposes. Understanding the duty of the Assessor regarding the confidentiality of information received by the Assessor in relation to my property under sections 14 and 15 of the Osoyoos Indian Band Assessment Bylaw, I authorize the Assessor to deliver to the above named agent copies of:
(check one or more of the following)

Field Cards or other office records detailing the physical inventory of the property.

Office records detailing the method of valuation of the above property. This may include costing information or details relating to income, expenses, vacancy or capitalization rate.

Income and Expense Statements returned by the current owner to the Assessment Authority, copies of which have not been retained by the current owner.

It is understood and agreed that if the agent uses any of the above mentioned information for any other purpose either in this year or future years, the Assessor is not responsible or liable by reason of such use.

The agent is hereby authorized and shall provide to the Assessor all information he has gathered in his function relevant to the above mentioned appeal.

Nothing in this appointment precludes the Assessor from dealing directly with the owner.

Signature of Interest Holder Date

I agree to abide by the above terms and conditions of appointment.

Signature of Agent Date

Band Council Resolution

of the

Osoyoos Indian Band

Whereas:

The Band Council of the Osoyoos Indian Band deems it advisable and in the best interests of the band to engage in the taxation for local purposes of land, or interests in land, in the reserve lands of the Osoyoos Indian Band, including rights to occupy, possess or use land in the reserve lands of the Osoyoos Indian Band.

Now Therefore Be It Hereby Resolved:

That the Property Assessment Bylaw be and is hereby enacted for the purpose of engaging in the assessment and taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve, pursuant to the provisions of the *Indian Act* and in particular pursuant to the provisions of subsection 83(1) of the *Indian Act*,

and,

Upon approval by the Minister of Indian Affairs, the Property Assessment Bylaw shall come into full force and effect.

APPROVED AND PASSED at a duly convened meeting of the Band Council of the Osoyoos Indian Band held at the Osoyoos Indian Band Administration Office, Oliver, British Columbia, this 22 day of December, 1995.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor