Dear 

Re: Your request for access to information under Part II of the Access to Information And Protection of Privacy Act [Our file #: ENV/017/2014]

On May 23, 2014, the Department of Environment and Conservation received your request for access to the following records/information:

"Which Government Department "has" owned/controlled river, brooks, and ponds in the province in recent years.

Are any of the rivers, brooks, privately owned in the past ten years? Are bar wire fences permits on the edge of a river, brook, or pond? Like within a foot of the normal water flow?

I don't mean something silly like a little drainage ditch flowing through somebody's garden in the Bay.

My Focus is on Virginia River flowing in the East End of metro St. John's."

I am pleased to inform you that your request for access to these records and information has been granted. I shall address the questions you raised in the following itemized list:

Item #1: "Which Government Department "has" owned/controlled river, brooks, and ponds in the province in recent years."

As per the Water Resources Act, SNL 2002, the Department of Environment and Conservation is responsible for the management of the province’s inland waters. As per Section 9 of the Water Resources Act, rights to water bodies in the province are vested in the Crown, unless someone has legally been given water rights. I have enclosed a copy of this section of the Water Resources Act for your information.
Item#2: "2) Are any of the rivers, brooks, privately owned in the past ten years? Are bar wire fences permitted on the edge of a river, brook, or pond? Like within a foot of the normal water flow?"

There are several instances where water rights have been conveyed and allow fences to be erected within a foot of a body of water. In the absence of an express grant, lease, or licence of those Crown lands, that strip of Crown lands not less than 15 meters wide and adjoining the water body is maintained under Section 7 of the *Lands Act*. However, there are circumstances where the minimum strip of Crown lands can be 10 meters. Shoreline reservations and the lands underneath a water body can be applied for and granted under Section 7 of the *Lands Act*. Attached is a copy of Section 7 of the *Lands Act* for your reference.

Prior to 1884 people could be granted land with water rights by the Crown. After 1884 the *Crown Lands Act* of the day changed so that water rights could not be obtained through Crown land acquisition. However, it is important to note that the *Crown Lands Act* and its successors was not retroactive and allows for rare cases where property holders are able to own a portion of a body of water. If someone owns such property granted prior to 1884, they can put up a fence on their property. Crown lands shoreline reservations or lands under a water body can also be conveyed or acquired by other legal means such as transfers of administration and control to the federal government or Quieting of Titles Certificates titles to the waters edge issued by the Supreme Court Newfoundland and Labrador.

Additional information on Crown lands grants, leases, and licences can be found at the Registry of Crown Titles located at the Howley Building, Higgin's Line, St. John's during regular business hours.

Item#3: "My Focus is on Virginia River flowing in the East End of metro St. John's."

I have attached a copy of a grant issued in 1840 to George Henry Emerson. The grant included Virginia Lake and the portion of Virginia River where it outflows to approximately Logy Bay Road. The owners to the present day are legal owners and are entitled to erect a fence on their property.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.
If you have any further questions, please feel free to contact the ATIPP Coordinator at telephone (709) 729-7393 or ellenhaskell@gov.nl.ca.

Sincerely,

JAMIE CHIPPETT
Deputy Minister
 Whereas by a certain Grant or Letter Patent, made and sealed under the Great Seal of our Island of Newfoundland, bearing date of the 20th day of October in the fifteenth year of the Reign of the late Majesty King William the Third, and sealed in the name of Our Sovereign Lord King James Knight-Errant of our Lieut Island, all that certain message and those certain lands, tenements, and hereditaments, formerly called Virginia College, lying and situated at Virginia, called New-St-John, on the Lieut Island, comprising and containing certain acres, aforesaid, and forty acres more or less than being the property of the Crown were given and granted unto John Adams senior and John Adams junior, together with all the right, title, and appurtenances to the same message lands and tenements, hereditaments, and premises belonging thereto and to hold and the same unto them the said John Adams senior and John Adams junior their heirs and assigns for ever. But notwithstanding the above and upon the trusts and conditions in the said Grant or Letters Patent expressed as by reference to the same, so full and entire as above appeared, and whereas in pursuance of the same, John Adams senior and John Adams junior have long since and until unto George Navy Governor of the said Island, appears, as the aforesaid message lands, tenements, hereditaments, and premises, to have and to hold the same unto them the said John Adams senior and assigns, forever and for the pure consideration of one pound of sterling money, to share by the said George Navy Governor in and out some time herefore due and by the said Governor's successors in office of the said Governor's County Court, permanent to a Committee in the said Grant continued by and through which defendants the said Grant shall become void and the said Governors and his
Covdly, Having Certified the same unto His Excellency Henry
Lord, Esquire, Our Governor of Our Said Island and Humbly
Represented unto him that by reason of the Revocation of the late
Grant, and the Assistance thereof by the Said James Denny and
James Comly are unable to make a legal conveyance of the estate
of real estate unto the Said George Henry Emerson and therefor
having learned that the said Grant may be cancelled by the order of the said
George Henry Emerson and the heirs... Now therefore Know ye
By these Presents, the Premises and of our Special Grace
Certain Knowledge and More Motion. We have given and granted
unto the said Present to, for the use heirs and successors fore
and after unto the aforesaid for George Henry Emerson his heirs
and assigns. All that Messuage and three lands Lumber and...
Walled and distant certain called Virginia Cottage being and estate
in Virginia Lake. Near the Island aforesaid together with all
land and tenements and buildings to the same appertaining and
called the same are located and delineated in the plan or diagram
and doth contain nine acres and containing one hundred
and eighty-five rods. On the same more or less together with
with the said property and advantages and appurtenances hereto.
And to the same messuage, lands and buildings and premises
belonging or in any wise appertaining to the same. Nevertheless
out of the present grant to the above heirs and successors all
said land and timber and all rents and other Reises and Lumber and all
under the said lands and buildings or any part thereof.
In force and for the use of the same mentioned in the offices of
Department of Our Supreme Court of our said island without
and therefrom. This is given by the day of the last above, or otherwise
that the same shall the said and of our Office. Provided also
and this present grant is under further condition that the
said Lands shall be held upon tender and subject to and
respective to all such regulations as are now
in force, or which may at any time thereafter be made...
by law for Building Roads, Dikes, Dams, Canals, Bridges, or any Public Works or Improvements within our Said Island of Newfoundland, or any Part thereof and for Subjecting and putting their Said Estates to Rate and Assessment on the Same, for the Purposes aforesaid, or for any of them, and that the Said George Henry Blackett, Esq., at all times hereafter, by quit and clear of Inheritance to our own heirs and successors of all road parts of the Lands aforesaid as they be required for the Purposes aforesaid, or any of them, may, after giving such Compensation as may be by any Law, shall be in force or hereafter to be made in that Respect, may he

Given under the Great Seal of our Island of Newfoundland, this Eighteenth Day of February in the Year of our Lord One thousand eight hundred and forty and in the Third Year of our Reign.

Witness our duty, and shall deliver, Henry Blackett, Esq., our Governor and Commander in Chief, and for the purposes aforesaid, Newfoundland and its dependencies, at St. John's aforesaid.

By His Majesty's Command,


"Plan of the Bay"
Newfoundland No. 267

Victoria by the Grace of God of the United Kingdom of G

Ireland

Queen Defender of the Faith

To all to whom these presents shall come greeting

Whereas by a certain grant or letters patent made and issued under the
Great Seal of our Island of Newfoundland bearing date 27th day of October
in the fifth year of the Reign of His late Majesty King William the
Fourth and vested in the name of Sir Thomas John Cochrane Knight then of
Governor of our said Island, All that certain Messuage and those certain
Lands, Tenements and Hereditaments commonly called Virginia Cottage lying
and situate at Virginia Lake near St. John's in our said Island
comprising and containing about six hundred and forty acres more or less
than being the property of the Crown were given and granted unto James
Simms, Esquire and James Crowdy, Esquire together with all the rights,
privileges and appurtenances to the same Messuage, Lands, Tenements,
Hereditaments and promises belonging to have and to hold the same unto
them the said James Simms and James Crowdy their Heirs and assigns for
?????? but Nevertheless to the uses and upon the trusts and conditions in
the said Grant or letters Patent expressed as by reference to the same
will more fully and at large appear. And whereas in pursuance of the
provisions and trusts of the said in part recited Grant the Said James
Simms and James Crowdy have bargained and hold Unto George Henry Emerson
of St. John's aforesaid Esquire all the Aforesaid Messuage, Lands, Tenements, Hereditaments and Provisions to have and to hold the source unto him his Heirs and assigns ?????? at and for the price consideration or sum of Eight hundred pounds sterling money to them by the said George Henry Emerson in hand some time heretofore duly paid and received by them the said James Simms and James Crowdy under and by virtue of the said Grant or Letters Patent. And whereas the said Grant hath not been Registered in the office of the Registry of our Supreme Court pursuant to a condition in the said Grant contained by and through which default the said Grant hath become void and the said James Simms and James Crowdy having certified the same unto His Excellency Henry Prescott Esquire our Governor of Our Said Island and humbly represented unto him that by reason of the Non Registry of the said Grant and the avoidance thereof they the Said James Simms and James Crowdy are unable to make a legal conveyance of the Estate aforesaid unto the said George Henry Emerson and have humbly prayed that the Said Grant my be received by ??? unto the said George Henry Emerson and his Heirs. Now, therefore, know ye that in consideration of the Promises and of our special Grace, certain knowledge and Mere Motion, we have given and granted and by these Presents do for us our Heirs and successors given and Grant unto the aforesaid George Henry Emerson, Esquire, his Heirs and assigns All that Messuage and these Lands, Tenements and Hereditaments commonly called Virginia Cottage lying and situate at Virginia Lake near St. John's aforesaid together with all houses and outhouse and buildings to the same appertaining and at the same are described and delineated in the plan or diagram to these presents annexed and comprising and containing six hundred and eighty five acres be the same more or less together also with all the rights,
privileges, advantages and appurtenances which ?? to the same Messuage, Tenements, Hereditaments and promises belonging or in any wise appertaining Reserving Nevertheless out of this present Grant to ?? our Heirs and successors all gold and silver and all coals and other mines and minerals in or under the said Lands and Tenements or any part thereof. To have and to hold the same (except as before excepted) unto him the said George Henry Emerson his Heirs and assigns forever. Provided always and this present Grant is upon condition that the same Grant be Registered in the office of Registry of our Supreme Court of our aforesaid Island within six months. Next after the day of the date hereof as otherwise that the same shall be void and of ??? Effect. Provided also and this present Grant is upon further condition that the said Lands shall be holden upon under and subject to such regulations as are now in force or which may at any time hereafter be made by Law for the improvement and continuation of Lands within our said Island of Newfoundland and subject to all such regulations as are now in force or which may at any time hereafter be made by law for making Roads, Sewers, Drains, Canals, Bridges or other public works or improvements within our said Island of Newfoundland or any part therefore and for subjecting any Lands therein situate to Rates and assessments or other duties or services for the purposes aforesaid or for any of them. And that the said George Henry Emerson shall at all times peaceably quit and deliver us possession to ??? our Heirs and successors of all such parts of the Lands aforesaid or any of them upon receiving such compensation (if any) as by any Law now in force or hereafter to be made in that respect may be provided.
Given under the Great Seal of our Island of Newfoundland this Eighth day of February in the year of our Lord one thousand and eight hundred and forty and in the Third Year of our Reign.

Witness our trusty and well beloved Henry Prescott Esq C.D. our Governor and Commander in Chief in and over our said Island of Newfoundland and its ??????? at St. John's aforesaid.

By His Excellency Command

James Crowdy