



Environmental Appeal Board

Citation: *Kuntsi v. Deputy Regional Manager, Recreational Fisheries & Wildlife Programs*, 2026 BCEAB 37

Appeal No.: EAB-WIL-25-A004

Decision Date: 2026-08-26

Method of Hearing: Conducted by way of written submissions concluding July 14, 2026

Decision Type: Final Decision

Panel: Cynthia Lu, Panel Chair

Appealed Under: *Wildlife Act*, R.S.B.C 1996, c. 488

Between:

Raineri Kuntsi

Appellant

And:

Deputy Regional Manager, Recreational Fisheries & Wildlife Programs

Respondent

Appearing on Behalf of the Parties:

For the Appellant: Self-represented

For the Respondent: Kate A. Hamm, Counsel
Christina Clemente, Counsel

FINAL DECISION

INTRODUCTION

[1] Raineri Kuntsi (the “Appellant”) appeals a decision made by the Deputy Regional Manager, Recreational Fisheries & Wildlife Programs (the “Respondent”), of the Ministry of Water, Land and Resource Stewardship (the “Ministry”) on his application for a permit to be exempt from the motor vehicle restrictions in effect over the Premier Ridge Motor Vehicle Closed Area (“Premier Ridge MVCA”). The Appellant initially appealed a decision made on June 13, 2025; however, the Respondent states the June 13, 2025, decision was issued in error. The Respondent provides a decision dated August 22, 2025, where the June 13, 2025, permit was cancelled and a new Permit CB25-989156 (the “Permit”) was issued. The Appellant appeals the Permit.

[2] The Environmental Appeal Board (the “Board”) has the authority to hear this appeal under section 101.1(5) of the *Wildlife Act*, R.S.B.C 1996, c.488 (the “Act”) which states:

On an appeal, the appeal board may

- (a) send the matter back to the regional manager or director, with directions,
- (b) confirm, reverse or vary the decision being appealed, or
- (c) make any decision that the person whose decision is appealed could have made, and that the board considers appropriate in the circumstances.

[3] The Appellant seeks a permit to exempt him from the motor vehicle restrictions in effect over Premier Ridge MVCA. The Respondent states the appeal ought to be dismissed.

BACKGROUND AND RELEVANT LEGISLATION

[4] The *Motor Vehicle Prohibition Regulation*, B.C. Reg. 18/2024 (the “Regulation”), is a regulation of the Act used to restrict or prohibit public motor vehicle use on Crown land. Section 2 of the *Regulation* establishes restrictions for motor vehicle closed areas (“MVCA”):

Unless permitted by section 9 or 10 or a section of Schedule 1, a person must not use or operate a motor vehicle in an area described in Schedule 1 during the period specified in that schedule for the area.

[5] Section 3 of the *Regulation* establishes restrictions for motor vehicle hunting closed areas (“MVHCA”):

Unless permitted by section 9 or 10 or a section of Schedule 2, a person must not use or operate a motor vehicle for the purpose of hunting or a related

transportation activity in an area described in Schedule 2 during the period specified in that schedule for the area.

[6] A person is defined in the *Act* as:

"person" means a natural person for the purposes of

- (a) issuing a licence or limited entry hunting authorization,
- (b) registration of a trapline, and
- (c) employment as an assistant guide;

[7] Motor vehicle restrictions within a MVCA apply to all persons regulated under the *Act*, including hunters and recreational users. Motor vehicle restrictions within a MVHCA apply to motor vehicle uses for or in support of hunting, but do not apply to other recreational users.

[8] The Premier Ridge MVCA, located in the Kootenay Region, is established under Schedule 1 of the *Regulation*:

Premier Ridge

1 The closure is effective year-round in any portion of M.U. 4-21 outlined in red on Map No. 1-1/24, except that a person may use or operate a motor vehicle

- (a) on private property,
- (b) on a road shown highlighted in green on that map, and
- (c) during the period May 1 to December 31 on a road shown highlighted in yellow on that map.

[9] According to the Premier Ridge MVCA map¹, roads within the MVCA boundary are closed year-round except for the green highlighted road and yellow highlighted road (the "Highlighted Roads").

[10] Section 3(2) of the *Permit Regulation*, B.C. Reg. 253/2000, gives the Respondent authority to issue a permit exempting a person from provisions of the *Regulation*:

A regional manager may issue a permit in accordance with this regulation, on the terms and for the period the regional manager specifies, exempting a person from one or more of the following:

- (a) a provision of the Motor Vehicle Prohibition Regulation; ...

[11] On May 28, 2025, the Appellant applied for an exemption permit on the grounds of physical disability. This type of permit application is commonly referred to as a disabled

¹ Map No. 1-1/24 of the Premier Ridge MVCA

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/161_2024_001

hunting permit. It is not disputed that the Appellant is eligible to apply for a disabled hunting permit. The Appellant sought to access a section of non-highlighted roads within the Premier Ridge MVCA in September for the purposes of elk and deer hunting.

[12] The Respondent denied the Appellant's application to access non-highlighted roads within the Premier Ridge MVCA. However, the Respondent issued the Permit, valid from August 22, 2025, to March 31, 2026, which authorized the Appellant to:

... be assisted by having two hunting companions, on the permit holder's behalf, track, kill and retrieve big game wounded by the permit holder in the **motor vehicle hunting closed areas(s)** described in Appendix C.

... be assisted by having one or more hunting companions, on the permit holder's behalf, track, kill and retrieve big game wounded by the permit holder in **areas without vehicle access restrictions** within the Province.

(emphasis in original)

ISSUE

[13] The Appellant's Permit application did not appear to specify his desired duration for the permit. However, in his Notice of Appeal, the Appellant indicates that he seeks access to the Premier Ridge MVCA for four to five years.

[14] The Respondent submits the Appellant's desired remedy is not available because the Permit expired on March 31, 2026. The Respondent refers to *Larry Hall v. Regional Manager*, 2012 BCEAB 9 (CanLII), to argue that because the permit has expired, there is no longer a "matter" before the Board. Therefore, the Respondent argues, the appeal is moot and should be dismissed.

[15] The Respondent issued the Permit in alignment with Ministry policy to issue this type of permit on an annual basis and with the April 1 to March 31 licence year, as defined in the *Permit Regulation*. However, section 3(2) of the *Permit Regulation* gives the regional manager the ability to issue an exemption permit for a duration longer than one year. Ministry policy cannot fetter the discretion of a decision maker. The *Permit Regulation* does not restrict the duration of the permit to one year, and the Appellant seeks an exemption permit for four to five years. Given the above, I find the appeal is not moot purely on the basis that the Permit has expired and there is still a matter to be decided before the Board. The issue to be decided in this appeal is whether the Appellant, a disabled hunter, should be exempted from the provisions in the *Regulation* that restrict motor vehicle use within the Premier Ridge MVCA.

PARTIES' SUBMISSIONS

Appellant's Submissions

[16] The Appellant submits he has hunted in the Premier Ridge area for 46 years, accessing the area by foot for the past 40 years. The Appellant submits that, in practice, the Premier Ridge MVCA has not been closed to all motor vehicles over the past decades. The Appellant submits photo evidence of roads, road users, road conditions, and motor vehicle tracks along fence lines within the MVCA. The Appellant also submits aerial photographs showing evidence of forestry activities, including previous harvesting and road construction within the MVCA. The Appellant argues that because there is significant motor vehicle traffic associated with other activities within the Premier Ridge MVCA, his driving on a few kilometres of closed roads will not cause additional harm.

[17] One of the Respondent's concerns is that the spread of noxious weeds is an unintended effect of motor vehicle use. The Appellant argues his potential risk of spreading invasive plants in the area is overstated. The Appellant argues numerous other existing activities such as horseback riding, livestock grazing, forestry operations, and range maintenance activities all have equal or greater potential to introduce invasive species to the area.

[18] The Appellant submits that while the Permit provided an exemption for him to access MVHCA's in the Kootenay Region, none of the exempted areas were the specific roads in the Premier Ridge MVCA he applied for. The Appellant asserts he feels strongly about accessing the Premier Ridge MVCA as this is the specific area he has hunted for over 45 years. The Appellant states he cannot hunt high country, an apparent reference to the MVHCA's, and that he is too old to explore new hunting areas.

Respondent's Submissions

[19] The Respondent submits the Ministry uses two types of vehicle closures established under the *Regulation* to manage motor vehicle use within wildlife management units. The Respondent submits MVCAs restrict motor vehicle use of hunters and recreational users. In contrast, MVHCAs restrict hunting vehicle traffic, but do not limit other recreational uses of motor vehicles.

[20] The Respondent states that the decision to deny the Appellant motor vehicle access to the Premier Ridge MVCA came after weighing the potential impacts to wildlife and habitat against the Ministry's duty to accommodate the Appellant as a disabled hunter. According to the Ministry's disabled hunting policy, an applicant with a physical disability may be accommodated by the issuance of a permit to do any combination of the following: be assisted by one or more hunting companions to track, kill, and retrieve big game; access a restricted area with a motor vehicle; shoot from a motor vehicle; or be

assisted by one or more hunting companions to shoot, track, kill, and retrieve big game on the permit holder's behalf.

[21] The Respondent submits there is a duty to accommodate a disabled hunter to the point of undue hardship. The Respondent refers to the Ministry's disabled hunting policy, which explains "undue hardship" as:

In the context of these permits, the Province's duty to accommodate individuals with disabilities can be met by ensuring everyone has the opportunity to participate in the regulated activities. The Province is required to accommodate to a point of "undue hardship" – a strict standard that is only reached when a value, such as protection of the environment, outweighs the goal of equal participation.

[22] The Respondent submits the Premier Ridge MVCA was established in 1984 as refuge for wildlife populations from motorized activity in high quality habitat areas. The Respondent submits the Premier Ridge MVCA is high value sheep and elk winter range, and the vehicle restrictions are in place to protect habitat, reduce harassment of overwintering ungulates, and address concerns related to invasive species. The Respondent submits another reason for the closure is to allow for the natural rehabilitation of smaller roads and side trails.

[23] The Respondent further submits that the conservation risks meant that granting the Appellant's permit application would not be in balance with the protection of the environmental values in the Premier Ridge MVCA without causing the Province undue hardship.

[24] In this appeal, the Respondent submits the expert opinion of Ms. Allana Oestreich (the "Expert Opinion"). Ms. Oestreich is a Professional Agrologist and works in the role of Senior Habitat Biologist with the Ministry. The Expert Opinion was not before the Respondent when the decision was made on the Permit. In summary, the Expert Opinion states:

Allowing motor vehicle access within the Premier Ridge MVCA would substantially undermine the intended refuge function (secure habitat/ fragmentation/ connectivity), increase disturbance and displacement of wildlife, increase potential for invasive plant spread, increase access for predators, increase human wildlife conflict, reduce habitat effectiveness across multiple species and increase cumulative impacts. I have assessed the overall risk to MVCA objectives as HIGH (likelihood: high; magnitude: moderate-high; cumulative-effects significance: high).

...

Given the high ecological value of Premier Ridge and its inclusion in the connectivity corridor, seasonal habitat, and the already elevated cumulative pressures in the surrounding landscape, even limited or seasonal motorized access would meaningfully undermine the MVCA's purpose.

[25] The Expert Opinion names several values of significance within the Premier Ridge MVCA including a red-listed ecological community, red and blue listed animal species, ungulate winter range, elk habitat, and the importance of the area as a legal wildlife corridor. The Expert Opinion also identifies concerns regarding the threat of spread of invasive species. The Respondent argues the Expert Opinion supports the values considered when the decision was made on the Permit.

[26] The Respondent submits the appeal ought to be dismissed as the decision was reasonable and the Appellant's needs as a disabled hunter were sufficiently accommodated in the Permit.

Appellant's Reply Submissions

[27] In his reply submissions, the Appellant argues the studies used to support the Expert Opinion are not from British Columbia and the Expert Opinion provides generalizations not facts. The Appellant asserts the elk herds on the south end of Premier Ridge are resident elk that regularly travel up and down the ridge and therefore are accustomed to motorized traffic.

DISCUSSION AND ANALYSIS

[28] The Appellant's core argument appears to be that despite the Premier Ridge MVCA restrictions, there is significant motor vehicle activity in the area. Therefore, the Appellant argues, his desired motor vehicle use over a few kilometers of road within the closed area should be permitted as it would not create additional risks or harm to the environment.

[29] The presence of motor vehicle activity within the Premier Ridge MVCA is not disputed. The Highlighted Roads allow for year-round or seasonal motor vehicle use. It is not clear from the Appellant's submissions whether some of the photographs submitted include portions of the Highlighted Roads. In addition to the Highlighted Roads, the Respondent confirms there is an active grazing licence and timber harvesting licence within the Premier Ridge MVCA. Forestry and range licensees are regulated under the *Forest and Range Practices Act*, S.B.C. 2002, c. 69, a legislative scheme separate from the *Wildlife Act*.

[30] A decision to approve or deny the Appellant's permit application is not based on a comparative assessment of who else may have access to the MVCA under separate legislative schemes. Nor is a decision on the Appellant's application based on a relative assessment of the Appellant's potential impact on the conservation values compared to the impact of other permitted users/uses. A decision on the permit application comes from the assessment of the relevant facts and legal considerations unique to the application.

[31] The Respondent submits, in making the decision, he reviewed the rationale for the closure and the applicable supporting literature and drew on his education and professional experience to determine that granting the permit requested by the Appellant would result in undue hardship to the Province. The Expert Opinion supports the Respondent's findings.

[32] In appeals before the Board, the general rule is that the burden or responsibility for proving a fact is on the person who asserts it. The fact is to be proved on a "balance of probabilities." The Appellant has not submitted convincing evidence to explain how or why the presence of motorized vehicle users, regulated under separate legislative schemes, are relevant to a disabled hunting permit application under the *Act*. Additionally, the Appellant has not submitted convincing evidence to explain why the presence of *Forest and Range Practices Act* licensee road users should logically or legally support his ability to use a motor vehicle within the MVCA as a person regulated under the *Act* and *Regulation*. Further, the Appellant has not submitted convincing evidence to explain why environmental risks associated with non-motorized uses such as horseback riding should logically or legally support the evaluation of his application for motor vehicle use within the Premier Ridge MVCA.

[33] The Appellant asserts the elk herds found in the area are resident elk accustomed to motor vehicle traffic. The Appellant does not submit additional evidence to support this claim, which has not been tendered or accepted as expert evidence. Further, even if this assertion were accepted as true, the Appellant has not explained why this would justify additional motor vehicle exposure when reducing the harassment of overwintering ungulates is one of explicit motivations for the establishment of the Premier Ridge MVCA.

[34] The Respondent submits the Permit adequately accommodates the Appellant's needs as a disabled hunter. The Permit exempted the Appellant from motor vehicle restrictions in all MVHCA's across the Kootenay Region and allowed the Appellant to hunt in those MVHCA's with the assistance of two hunting companions. Additionally, the Permit allowed for the Appellant to be assisted by one or more hunting companions in all areas of the province with no motor vehicle restrictions.

[35] The Appellant argues the Permit does not adequately accommodate him as he cannot hunt high country and is too old to explore new hunting areas. The Appellant's submissions are unclear on whether high country refers to MVHCAs and on the reasons he cannot hunt in those areas with the assistance of hunting companions. While I can appreciate the value of local knowledge and experience for hunting, I do not find the Appellant's arguments to establish that his lack of knowledge or experience in hunting other areas should outweigh the conservation values and environmental considerations described in the rationale and purpose for the Premier Ridge MVCA. The Appellant has not submitted convincing evidence to show that the Permit fails to accommodate him as a disabled hunter.

[36] Finally, I have considered the Appellant's request for an exemption permit spanning four to five years. I find the Appellant has not provided sufficient evidence to convince me that an exemption permit authorizing access to the Premier Ridge MVCA should be granted for any length of time.

DECISION

[37] I have considered the parties' submissions and the available evidence, whether or not they have been specifically referenced above. I do not find sufficient evidence to disturb the Respondent's decision, therefore, I dismiss the appeal.

"Cynthia Lu"

Cynthia Lu, Panel Chair
Environmental Appeal Board