

Resort in Court over Burial Site

By Glenn Bohn

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GULF ISLANDS - A resort on South Pender Island has been charged with illegally damaging an ancient aboriginal burial site two years ago when the resort was renovated and expanded.

Poets Cove Seaside Resort and Spa -- formerly known as the Bedwell Harbour Resort and Marina -- faces two charges under the rarely used B.C. Heritage Conservation Act.

Stan Lowe, a prosecutor and spokesman for other provincial Crown prosecutors, said the alleged offences occurred in December 2002 and January 2003. Victoria developer Bill James and the two companies that own Poets Cove are charged with "unlawfully damaging a burial place that has historical or archeological value."

A second charge alleges the companies and James "did excavate a site which contained materials or other physical evidence of human habitation or use before 1846" -- contrary to the provincial law that is supposed to protect archeological sites.

Rob Morales is a lawyer and chief negotiator for the Hul'qumi'num treaty group, which represents aboriginal or native Indian groups in Cowichan, Chemainus, Ladysmith and the Gulf Islands. He said he and others went to South Pender Island about two years ago after an elder heard that a large aboriginal midden had been disturbed. A midden is an ancient refuse heap, where aboriginal tools and other artifacts are found.

Morales alleged that midden materials were removed to make way for a new pool, then used for a roadbed.

"You could see human bones in the midden material," he said, referring to materials in the road bed. "This is an issue of respect and our elders were concerned."

The aboriginal group filed a complaint to the RCMP, whose subsequent investigation led to approval of charges by the B.C. Attorney-General Ministry and a first court appearance Thursday in Victoria Provincial Court.

The companies named in the charges are Poets Cove at Bedwell Harbour Limited Partnership and Bedwell Harbour Hotel Ltd.

If a judge convicts a company of violating the B.C. Heritage Conservation Act, those companies are each subject to a maximum fine of \$1 million.

An individual faces a maximum fine of \$50,000 or two years in prison. Lowe, the provincial prosecutor, said charges under the Heritage Conservation Act are rare and an expert in government he consulted could recall only one previous prosecution.

Poets Cove project manager Bill Roberts said Thursday he was surprised by the charges, because the company had tried to cooperate with the first nations group and government. He said he did not know how the company would plead.

Two years ago, when the aboriginal group publicly complained that an ancient village and burial site had been destroyed, James said the company had satisfied every government agency, even to the point of hiring an archeologist.

At that time James told the Times Colonist newspaper in Victoria that police left the company with little alternative but to shut down construction, which he said cost the company as much as \$100,000 a day.