

# Alberta Water Well Driller User Agreement

**BETWEEN:**

**Her Majesty The Queen in Right of Alberta  
As Represented by the  
Minister of Environment**  
(hereinafter referred to as the Minister)

- and -

an Approval Holder pursuant to the  
*Water Act*, RSA 2000, c.W-3, as amended  
(hereinafter referred to as the Approval Holder)

hereinafter jointly referred to as the “parties”.

## **Background**

**WHEREAS** the Approval Holder is the holder of a valid Approval required in respect of an activity described in Column 2 of Schedule 5 of the *Water (Ministerial) Regulation*, AR 205/98 as amended;

**AND WHEREAS** the Approval Holder is required to provide a drilling report to the Director pursuant to section 41 of the *Water (Ministerial) Regulation*, AR 205/98, as amended, each time the Approval Holder completes a water well;

**AND WHEREAS** the Director has agreed to accept the drilling reports from the Approval Holder in the form and containing the required information through the secure Internet website developed by the Minister, hereinafter referred to as the Online Driller Submission website;

**AND WHEREAS** the Minister and the Approval Holder would both like to ensure that access to the Online Driller Submission website and submission of electronic drilling report forms is accomplished in a secure and controlled manner;

**AND WHEREAS** the parties wish to enter into an Agreement to govern the terms of access to the Online Driller Submission website by the Approval Holder.

**NOW THEREFORE** the parties agree as follows:

## **Definitions**

1. In this Agreement, definitions from the Act apply except where expressly defined in this Agreement:
  - (a) “Act” means the *Water Act*, R.S.A. 2000, c. W-3, as amended, and includes the regulations, as amended made under the *Water Act*;
  - (b) “Agreement” means this document and all policy directives and user manuals that have been or will be issued by the Minister in respect of electronic drilling reports;
  - (c) “Approval” means Approval Number \_\_\_\_\_;
  - (d) “Approval Holder” means the person to whom Approval Number \_\_\_\_\_ has been issued;
  - (e) “Authorized User” means any individual who has received a Username pursuant to this Agreement and is designated by the Approval Holder pursuant to this Agreement;
  - (f) “Groundwater Information System website” means the website that Alberta Environment has provided for the public to view water well drilling reports and associated groundwater information;
  - (g) “Username” means the unique identifier assigned to an Authorized User that allows the Authorized User access to the Online Driller Submission website and;
  - (h) “Online Driller Submission Website” means the secure internet website and forms that enable electronic reporting of the Approval Holder’s drilling reports.

**Minister**

2. The Minister shall provide the Approval Holder with access to the Online Driller Submission website for the purpose of providing drilling reports to the Director subject only to the limitations in this Agreement.
3. The Minister reserves the right to update, change or modify the Online Driller Submission website, at any time, including the Internet address, at his sole discretion.
4. The Minister shall provide the Approval Holder with an electronic drilling report form on the Online Driller Submission website to enable the Approval Holder to complete the drilling report and provide it to the Director.
5. The Minister shall assign a Username and password to each Authorized User for the purpose of obtaining access to the Online Driller Submission website and shall provide that Username and password to the Approval Holder.

6. The Minister may, at any time, adopt or amend policy directives or user manuals that are of an administrative nature that apply to the Online Driller Submission website and shall provide notice to the Approval Holder in accordance with the notice provisions found in this Agreement.
7. The Minister does not warrant that access to the Online Driller Submission website will be uninterrupted or error free.
8. The drilling reports provided by the Approval Holder to the Director through the Online Driller Submission website shall be displayed by the Minister on the Groundwater Information System website exactly as the Approval Holder has submitted them to the Director.

### **Director**

9. The Director may exercise any of the powers and duties of the Minister under this Agreement.
10. The Director acknowledges that the electronic drilling report form provided by the Online Driller Submission website is acceptable to the Director and, when completed, contains the information required by the Director.

### **Approval Holder**

11. The Approval Holder shall use the Online Driller Submission website to provide the Director with drilling reports.
12. The Approval Holder shall designate the Authorized Users to act on behalf of the Approval Holder for the purpose of this Agreement.
13. Only Authorized Users are permitted access to the Online Driller Submission website.
14. The Approval Holder shall maintain accurate and up-to-date records of all Authorized Users and shall provide this information to the Minister immediately upon request.
15. The Approval Holder may only designate as an Authorized User an employee, agent or contractor of the Approval Holder whom the Approval Holder reasonably believes requires access to the Online Driller Submission website in order to fulfill the Approval Holder's obligation to submit drilling reports to the Director.
16. The Approval Holder shall immediately, upon designating an Authorized User, provide a copy of this Agreement to and inform each person designated as an Authorized User of the purposes of the Online Driller Submission website.

17. The Approval Holder shall use best efforts to ensure all Authorized Users comply with the provisions of this Agreement.
18. In the event of a breach of this Agreement by an Authorized User, the Approval Holder shall immediately suspend or terminate the Authorized User's access to the Online Driller Submission website and notify the Minister immediately of the breach and suspension or termination.
19. The Approval Holder is responsible for the security of all Usernames and passwords to the Online Driller Submission website.
20. Usernames and passwords shall not be transferred between Authorized Users without first obtaining the approval of the Minister or his designate.
21. The Approval Holder shall immediately notify the Minister when an Authorized User no longer requires access to the Online Driller Submission website so that the Username and password may be terminated or altered by the Minister.
22. The Approval Holder shall at all times designate an employee, a contractor, or an agent to administer this Agreement on the Approval Holder's behalf.

### **Costs**

23. The Approval Holder is responsible for all costs respecting the provision, operation and maintenance of the computer hardware and software, any changes to the format or content of computer print or screen displays, computer programs and the access arrangements that may be necessary to access the Online Driller Submission website.

### **Acknowledgements**

24. The Approval Holder acknowledges and agrees that all use of the Online Driller Submission website is at its own risk and that the website is provided on an as is and as available basis.
25. The Approval Holder acknowledges and agrees that it is bound by the terms and conditions contained on the Online Driller Submission website, as amended from time to time.
26. The Approval Holder acknowledges and agrees that any and all software and documentation that forms part of the Online Driller Submission website is protected by applicable intellectual property law, remains the sole property of the Minister and is supplied subject to the terms and conditions of this Agreement. Does this make sense to say this when Telus is involved – I am not sure what part Telus might own.

27. The Approval Holder acknowledges and agrees that the drilling reports provided to the Director shall be displayed to the public on an as is basis by the Minister on the Groundwater Information System website.

### **Security**

28. The Approval Holder shall not and shall ensure that its employees, agents, contractors and Authorized Users shall not:

- a. attempt to access, modify, reverse engineer, de-compile or disassemble the computer programs used by the Minister in respect of the Online Driller Submission website;
- b. test, examine or challenge the security arrangements or reveal details of any security mechanism included in the hardware or computer programs used by the Minister to provide the electronic drilling report forms and Online Driller Submission website;
- c. take any action which is or could reasonably be seen to be detrimental to the electronic drilling report forms and Online Driller Submission website; or
- d. alter the format or content of a print or screen display utilized for reporting to the Director through the electronic drilling report forms and the Online Driller Submission website.

29. The Approval Holder shall notify the Minister immediately of any breach of security of the Online Driller Submission website described in clause 28 or any other breach of this Agreement.

30. The Approval Holder shall pursue all legal remedies available to remedy any breach described in clause 28 or any other breach of this Agreement.

### **Suspension, Interruption or Termination of Access**

31. The Minister, or his designate, may immediately and without notice to the Approval Holder or Authorized User suspend any Approval Holder or Authorized User's access to the Online Driller Submission website at anytime if the Minister reasonably believes that the Approval Holder or Authorized User has either not complied with or there is an imminent threat of noncompliance with the provisions of this Agreement.

32. If the Minister, or his designate, suspends access, the Minister, or his designate will determine within 30 days whether the Approval Holder has, to his satisfaction, remedied the breach or threat of breach and has used best efforts to ensure compliance with this Agreement. If the Minister is so satisfied he will grant access to the Approval Holder and/or Authorized User within 60 days of the suspension. If however in the opinion of the Minister, the breach or threat of breach has not been remedied to the Minister's

satisfaction by the Approval Holder or the Approval Holder has not used its best efforts to ensure continued compliance with this Agreement, the Minister may immediately terminate this Agreement with written notice to the Approval Holder.

33. In the event the Minister or his designate suspends or terminates access to the Online Driller Submission website pursuant to this Agreement, the Minister shall provide to the Approval Holder written reasons why the access was suspended or terminated.
34. The Minister may interrupt the Approval Holder or Authorized User's access to the Online Driller Submission website at any time, in the event of any of the following circumstances occurring:
  - a. a security breach by another authorized user or third party, including other subscribers or users of the Online Driller Submission website;
  - b. a software, hardware or other system failure or malfunction;
  - c. a requirement to service or upgrade the software, hardware or related equipment;  
or
  - d. any other event of similar nature.
35. If the Minister is of the view interruption of access is required for the purpose of effectively rectifying a situation, the Minister will make best efforts to resume provision of access to the Online Driller Submission website as soon as reasonably practical.

## **Limitation of Liability**

36. The Minister shall not be liable to the Approval Holder or to any other party for any losses, claims, damages, actions, causes of actions, costs or expenses of any nature, including economic loss, that result either directly or indirectly from access to or interruption, suspension or termination of access to, or any reliance upon the Online Driller Submission website, including but not limited to:
- a. accuracy of the Online Driller Submission website and drilling reports displayed on the Groundwater Information System website;
  - b. the completeness of the Online Driller Submission website and drilling reports displayed on the Groundwater Information System website;
  - c. the use of the Online Driller Submission website and drilling reports displayed on the Groundwater Information System website by third parties;
  - d. the interpretation of the Online Driller Submission website and drilling reports displayed on the Groundwater Information System website; and
  - e. the availability of the Online Driller Submission website and drilling reports displayed on the Groundwater Information System website.
37. The Minister, the Minister's employees or agents shall not be liable for any direct, indirect, special, incidental, consequential or punitive damages or any other damages or losses whatsoever including, without limitation, damages for loss of profits, goodwill, opportunity, earnings, use or data, arising directly or indirectly from or related to this Agreement or the Online Driller Submission website, regardless of the cause of action, including but not limited to damages or losses arising from or in any way related to the following:
- a. performance of the internet;
  - b. the content or accuracy of any material information or data viewed, downloaded or accessed or transmitted over or through the Online Driller Submission website;
  - c. delays, errors, interruptions, mistakes, omissions, non delivery, incorrect delivery, viruses or defects in the transmission of any information, material or data over or through the Online Driller Submission website.

## **Indemnity**

38. Each party shall hold harmless the other party, the other party's employees, and agents from any and all third party claims, demands or actions for which it is legally responsible

including those arising out of negligence or willful acts by the responsible party, its employees, elected or appointed representatives or agents.

39. The Approval Holder agrees to hold harmless the Minister from any and all losses, claims, damages, actions, causes of actions, costs and expenses of whatever nature that result from:
- a. any omission or improper act of the Approval Holder or Authorized User with respect to access to the Online Driller Submission website or any alteration or destruction of data, formats or programs rendering the same meaningless, misleading, useless or ineffective, or any negligent or intentional reporting of false or inaccurate data of the Approval Holder, Authorized User or Third Party;
  - b. improper use of a Username by any persons including Authorized Users; and
  - c. improper collection, use or disclosure of any information.

### **Disclosure of Drilling Reports**

40. The Approval Holder acknowledges and agrees that the Minister has the right to disclose the drilling reports provided to the Director by the Approval Holder through the Online Driller Submissions website to the public including, but not limited to, on the Groundwater Information System website.

### **Relationship between Parties**

41. Nothing in this Agreement shall create, or be deemed to create, a principal-agency relationship between the Approval Holder and the Minister.

### **Minister's Designate**

42. The Minister designates Robert L. Stone, Director of Monitoring and Evaluation, Alberta Environment, and any successor or designate of the Director of Monitoring and Evaluation, to act on his behalf with respect to the administration of this Agreement.

### **Term**

43. This Agreement shall terminate upon:

- (a) termination provisions of this Agreement;
- (b) cancellation or suspension of the Approval; or,
- (c) expiration of the term of the Approval;

whichever occurs first.



**Survival of Terms**

44. The following clauses shall survive termination or cancellation of this Agreement:

- (a) indemnification and limitation of liability;
- (b) legislation concerning disclosures;
- (c) proprietary rights;
- (d) access to records; and
- (e) security clause.

**Notice**

45. Any notice under this Agreement shall be deemed to be given to the other party if in writing and personally delivered by registered mail, facsimile transmission, or e-mail to the addresses as follows:

**The Minister**

Alberta Environment

Director of Monitoring and Enforcement

c/o Groundwater Data Coordinator  
11<sup>th</sup> Floor, 9820 – 106 Street  
Edmonton, Alberta T5K 2J6

Phone: (780) 427-2612

Fax: (780) 427-1214

e-mail: gwinfo@gov.ab.ca

**The Approval Holder**

Phone:

Fax:

e-mail:

**Assignment**

46. The Approval Holder shall not assign any of its rights, obligations or interests in this Agreement without first obtaining the written authorization of the Director

**General**

- 47. This Agreement shall be governed by the laws of the Province of Alberta. The Parties agree that any action taken pursuant to this Agreement must be conducted in the Courts of the Province of Alberta.
- 48. The rights, remedies and privileges of the Minister and the Director under this Agreement are in addition to any other rights, remedies and privileges obtained under any other law or the Approval.
- 49. The rights, remedies and privileges of the Minister under this Agreement are cumulative and any one or more may be exercised.
- 50. If any portion of this Agreement is deemed to be illegal or invalid, then that portion of the Agreement shall be deemed to have been severed from the remainder of the Agreement and the remainder of the Agreement shall be enforceable.
- 51. The headings in this Agreement are for convenience only and shall not affect the interpretation of the provisions of this Agreement.
- 52. This Agreement is binding upon the parties and their successors.
- 53. The parties shall not amend this Agreement except by written agreement.

**IN WITNESS WHEREOF THE PARTIES HAVE DULY EXECUTED THIS AGREEMENT:**

**HER MAJESTY THE QUEEN in  
Right of Alberta as Represented  
By the Minister of Environment**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**APPROVAL HOLDER**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date