



## Information Sheet: Water Rights in British Columbia

(Updated June 26<sup>th</sup> 2006)

### Who owns the water in British Columbia?

British Columbia's [Water Act](#) assigns ownership of surface and ground water to the Crown, on behalf of the residents of the province. Authority to use surface water (the granting of water rights) is obtained by licence or by an approval under the *Water Act*. The *Water Act* gives all property owners equal access to water on a first come, first served basis. Simply having access to surface water does not automatically authorize a right to divert and use water.

### Do I need a water licence or an approval?

Water licences and approvals are issued by the Water Stewardship Division (WSD) of the Ministry of Environment.

The Internet address for WSD is: <http://www.env.gov.bc.ca/wsd/>

With a few exceptions, a water licence or an approval must be granted in order to authorize the diversion and use of surface water in British Columbia. However, it is not an offence to use unrecorded water for domestic needs, mineral prospecting or fire fighting.

### What is unrecorded water?

Unrecorded water is water in a stream that is not licensed or reserved for other purposes, such as to protect fish habitat. Water which is unrecorded is available for licensing in British Columbia.

### For what purposes are surface water licensed?

Water licences and short-term use approvals are issued for a variety of purposes, which include: small domestic, large-scale municipal supply, irrigation and agriculture, industrial and commercial, mining, habitat conservation, power production, storage, and other uses. Definitions of water use purposes can be found on WSD's Internet, under [Apply for a Water Licence](#).

### How is a stream defined?

A stream is a body of surface water which is defined in the *Water Act* as including a natural watercourse or source of water supply, whether usually containing water or not, and a lake, river, creek, spring, ravine, swamp and gulch. Water is considered **ground water** if it lies below the surface of the ground.

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## Are there responsibilities associated with using ground water?

At present a licence is not required to extract ground water. However, the *Water Act* and British Columbia's new [Ground Water Protection Regulation](#) requires that all wells which supply water must be drilled by, or drilled under the supervision of, a qualified well driller who has registered with the Ministry of Environment. Certain professional engineers and geoscientists are also authorized to provide direct supervision to a driller who is not registered. Similar provisions establish requirements for who can install or maintain a well pump. This Regulation is the first phase of an anticipated three phases to be enacted.

WSD's [Ground Water](#) Web page provides extensive material on ground water, which includes: the Ground Water Protection Regulation, requirements for well construction and maintenance, a register for well driller and pump installers, information on wells and aquifers, the observation well network, registration information and the registries for qualified well drillers and qualified well pump installers.

## What is a water licence or an approval?

A water **licence** is a legal document issued by the Water Stewardship Division which specifies the terms and conditions under which a right to use water is granted.

An **approval** is a permit issued to authorize short-term use of water for a period not exceeding one year. An approval may also authorize specific changes in and about streams such as bank protection works, culvert placements and pipeline installations.

WSD's [Changes in and About a Stream](#) Web page provides information on applying for an approval under the *Water Act*.

## What are the conditions of a water licence?

The terms and conditions of a typical water licence include the following:

- the name and location of the stream from which water may be taken or stored,
  - the location of the intake on the stream,
  - the priority date of the licence,
  - the purpose(s) for which the water may be used,
  - the maximum quantity of water which may be used or stored,
  - the time of the year during which the water may be used,
  - the property where the water is to be used and to which the licence is attached,
  - authorization to construct works to divert and convey the water from the stream to the place of use, and
  - other clauses that define the special terms for a particular use.
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## What are water licences attached to?

A water licence belongs, or is appurtenant, to the land, mine or undertaking of the licensee. On the sale or transfer of the land or mine, the water rights automatically passes to the new owner.

The *Water Act* defines an undertaking as a project for the diversion, carriage, use and sale of water or power produced from water the use of which is referred to in the application or licence, and includes all land and other property acquired or to be acquired in connection with the project, and the general scheme for the acquisition, maintenance and operation of the works.

## What is the significance of the water licence priority date?

An important condition of a water licence is its priority date. When more than one licence has been issued for the same stream, the licence with the earliest priority has first right to available supply. The licence with the second earliest priority date has second right, and so on.

For example, a licence with the priority date of April 12, 1978 has a prior right to water over a licence with the priority date of September 15, 1983.

## What are works?

Works are fully defined in the *Water Act*. Works may generally be described as anything placed in a stream to divert or store water or, used to convey water to the place of use. Changes in and about a stream are also considered works.

## Are there any costs associated with obtaining a water licence or an approval?

### Water Licences

Application Fees are charged when you file your application. Refer to [Schedule 1 - Purpose and Application Fees](#). When a water licence is issued, annual water rentals are assessed. WSD Internet site also provides information on [Water Rental Rates](#).

Depending on the amount of annual rental payable, clients are billed in the following manner:

- twice a year if the annual rental is over \$ 100,000;
  - once a year if the annual rental is over \$ 60, but less than \$ 100,000; and
  - once every three years if the annual rental is \$ 60 or less.
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## Approvals

Approval fees are collected once, when you apply. The fee for an approval to make changes in and about a stream is \$130.00 per application.

The fee for an approval which authorizes the short-term use of water consists of two parts:

- an application fee, see [Schedule 1 - Purpose and Application Fees](#) for the appropriate water use purpose; and
  - a rent for the water use purpose (based on the use of water for one year), see [Water Rental Rates](#)
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