

Information Sheet: Water Licence Holders Rights and Obligations

(Updated June 2006)

What rights do I have as a water licence holder?

Water licences 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/>

British Columbia's *Water Act* provides the holder of a water licence rights to:

- ❑ divert and use a specified quantity of water from a stream for a designated purpose on a specified parcel of land at the time of year designated;
- ❑ construct, maintain and operate works;
- ❑ receive six months written notice from anyone proposing to alter or interfere with the authorized works;
- ❑ file an objection if they feel their rights would be affected by a subsequent water licence being granted upstream;
- ❑ pursue the expropriation of any privately-owned land reasonably required for the construction, maintenance, improvement and operation of the works or for flooding as authorized under a licence; and
- ❑ pursue the expropriation of any land necessary to help prevent pollution of the diverted water if a licence authorizes the use and diversion of water for domestic or waterworks purposes.

However, negotiation with private landowners generally takes less time than expropriation and is often far less expensive. A licensee must provide compensation for any land expropriated. The fact sheet [A Water Licensees' Right to Expropriate Land](#) provides more information.

Occupying Crown land

A **Permit to Occupy Crown Land** (PCL) may also be issued by WSD, if the works authorized by your water licence will affect Crown land.

A PCL provides the right to construct, operate, maintain works or to flood Crown land without being in trespass under the *Land Act*. However, a PCL does not grant tenure on Crown land. WSD can be contacted for information on obtaining Crown land tenure.

Occupying Crown land

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 date has first right to the 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.

Land Use Activities

Land management and resource use activities that may impact on water users, water quantity or quality, or structures located in or near streams should be brought to the attention of specialists with WSD for review. Staff will identify where there may be conflicts with existing and proposed uses of water and identify licensees whose rights may be affected.

How are my rights protected?

It is an offence under the *Water Act* to carry out the following activities:

- willfully hinder or interrupt a licensee in the lawful exercise of a right granted under the *Water Act* or a licence;
- willfully destroy, injure or interfere with the works of a licensee without lawful authority;
- connect to the works of a licensee without authority under the *Water Act*;
- divert water from a stream without authority; or
- construct, maintain, operate or use works without authority.

Can I change my water licence?

Provided that other licensees are not adversely affected, the WSD may grant an amendment to:

- authorize additional or other works;
 - transfer the water rights to another property;
 - divide and reassign water rights to land within the original appurtenancy of the licence;
 - change the purpose for which the water is used; or
 - extend the time to make use of water or to complete construction of works.
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What are my obligations to maintain my water licence in good standing?

In British Columbia, the authority to use water as well as the conditions of water use are provided under the [Water Act](#) and the accompanying [Water Regulation](#).

In addition, to the provisions of the *Water Act*, a water licence holder (**a licensee**), must also adhere to the conditions which are specified in the licence document.

A licensee must use the water as prescribed in the licence and construct authorized works within the time specified. Non-compliance with the conditions of the licence can cause the licence to be cancelled.

A licensee is also responsible for damage resulting from works constructed, operated or maintained or from a defect, insufficiency or failure of the works, whether the licence is in good standing, abandoned, suspended or cancelled.

When directed by the Regional Water Manager and/or the Comptroller of Water Rights, a licensee must keep records of the diversion and use of water. Records must be produced for inspection when required. Any licensee may be requested to complete a Beneficial Use Declaration to provide a detailed summary of how the water licence is being used.

A licensee must pay a **water rental** invoice by a specified date to avoid penalty charges or the cancellation of the licence. Refer to WSD's Internet page for information on [Water Rental Rates](#).

Depending on the annual rental payable, clients are billed water rentals:

- 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.

Are there any other responsibilities that I have as a licensee?

The Regional Water Manager or the Comptroller of Water Rights should be notified if:

- any change of mailing address is made;
 - the land to which the licence applies is sold, planned to be subdivided, or subdivided;
 - works authorized under the licence are to be altered; or
 - water is being used for a purpose other than that authorized under the licence.
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Additional Considerations

A licensee should also be aware of the following:

- ❑ A licence may be suspended or cancelled for many reasons, such as not making beneficial use of the water, not paying rentals, or not following the terms and conditions of the licence.
 - ❑ A water licence will not prevent resource extraction activities such as logging or mining in a licensee's watershed.
 - ❑ A water licence does not assure that the water is or will remain potable. The Ministry of Health recommends that all surface water be treated by filtration, disinfection or both.
 - ❑ A water licence does not assure that water will always be available. The licence authorizes the diversion and use of a specified quantity of water if it is available.
 - ❑ Early priority licences are not always the highest (furthest upstream) intakes on the stream. In many situations, licences with early priority dates have their water intakes, lower down a stream, in valley bottoms, which historically have been developed first.
 - ❑ A water licence does not allow the licensee to trespass on **private** land to construct, maintain or operate works. Permission **must** be obtained from landowners, preferably in writing, for the construction of works on private lands. The landowner can withdraw this permission anytime.
 - ❑ However, as a last resort the *Water Act* provides for the expropriation of land required for the placement and maintenance of the works authorized by a water licence. The expropriation process includes arbitration where the affected landowner(s) are entitled to receive compensation. Refer to the brochure titled [A Water Licensees' Right to Expropriate Land](#) for more details.
 - ❑ If the land is sold, any written agreement providing for access could be nullified. It is **recommended** that a **registered easement** or statutory right-of-way be obtained for works on private lands.
 - ❑ A conditional water licence is not inferior to a final water licence. A conditional water licence authorizes the construction of works. A final water licence is issued only after the works have been surveyed, the actual quantity of water used has been determined, and the location of water use has been verified. Typically a conditional licence is adequate and final licenses are seldom issued.
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