

Schedule – Water Sustainability Act Administration

1.0 DEFINITIONS AND INTERPRETATION

Words and expressions used but not defined in this schedule, unless the context specifies otherwise, have the same meaning as in the MOU.

“Designated Provision” means the provisions of the *Water Sustainability Act (WSA)*, other than Specified Provisions, for which members of the Commission have authority as a result of Commission employees being designated under that Act.

“FLNRORD” means the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.

“MOU” means the Memorandum of Understanding between FLNRORD and the Commission.

“Oil and Gas Activity” has the same meaning as defined in the *Oil and Gas Activities Act (OGAA)*.

“Related Activity” has the same meaning as defined in the OGAA.

“Specified Provision” means the specified provisions of the *Water Sustainability Act* defined in the OGAA.

“WSA” means *Water Sustainability Act*.

2.0 PURPOSE

The purpose of this Schedule of the MOU is to:

- Coordinate the parties’ regulatory activities related to the receipt of applications and subsequent management of rights and permissions of specified and designated provisions to promote consistency and alignment with provincial water management objectives;
- Consult with each other in the development of legislation, policies and other documents related to the above authorities which may reasonably be expected to affect both parties;
- Ensure information and data relevant to the above, that must be used by both parties, is made available in a form and manner that is effective and efficient for both; and
- Clarify the roles and responsibilities of each party in relation to the above.

3.0 BACKGROUND

FLNRORD is the lead ministry for the province’s water program and is responsible for delivery of legislation, policies, standards, and programs for its authorities under the WSA. The Minister of FLNRORD has the authority to designate Water Managers and Assistant Water Managers under the WSA. The Comptroller has the authority to designate engineers, officers and dam safety officers under the WSA.

The Ministry of Environment and Climate Change Strategy (ENV) is responsible for the development of legislation, policies, science and standards that support implementation of the WSA.

As the single-window regulator of oil and gas activities in BC, the Commission, under specified enactments, is the statutory decision maker for a range of statutes in the natural resource sector including Sections 10 (use approvals), Section 11 (changes in and about a stream), and Section 24 (permits over Crown land) of the WSA.

In the interests of expanding the single window approach, a number of Commission staff were designated as Regional Water Managers and Assistant Regional Water Managers under the *Water Act* in March 2013 to enable the Commission to receive and adjudicate water licence applications from oil and gas companies. At this time, the Commission and FLNRORD also established a MOU clarifying the roles and responsibilities of the parties with respect to these designations. Treasury Board approved provision of revenue from water licence application fees for these licences to the Commission to support their administration.

On February 29, 2016, the WSA was brought into force replacing the *Water Act*. Commission staff were again designated as Water Managers and Assistant Water Managers under the new statute. In February 2017, FLNRORD and the Commission began work to establish a dam safety role in the Commission as part of the provincial dam safety program. As a result of this, a staff person was designated as a Dam Safety Officer to further support the single window, the issuance of water licences by the Commission, and ongoing needs related to dams and dam safety.

4.0 LEGISLATION, OPERATIONAL POLICIES AND SUPPORTING DOCUMENTS

The parties will make available to each other for review draft legislative policy, operational policies and supporting documents related to the administration of the specified and designated provisions and will address comments received, as appropriate, with updated versions of the documents. The same process will apply to both new policy and documents, and amendments to existing policy and documents.

The parties will endeavor to be consistent in the administration of the WSA, regulations, policies, and supporting documents.

These documents include, but may not be limited to:

FLNRORD Generated Documents

- Draft legislative policy.
- WSA policies and guidance documents.
- Application forms and processes, including manuals.

Commission Generated Documents

- WSA application forms and manuals.
- Licence/permit reporting requirements.
- Policies applicable to any of the above.

5.0 ADMINISTRATION OF WATER LICENCES AND RELATED AUTHORITIES INCLUDING DAM SAFETY

1. The Commission will recommend staff for designation as Water Managers, Assistant Water Managers, Engineers, Officers and Dam Safety Officers under the WSA, considering the qualifications for these designations as determined by FLNRORD.
2. FLNRORD will designate Commission staff as Water Managers, Assistant Water Managers, Engineers, Officers, Habitat Officers, or Dam Safety Officers under the WSA based on the Commission's recommendations and a review of the individuals' qualifications. FLNRORD will ensure that Commission staff who are designated have access to any ministry-organized training required to receive or maintain the designation.
3. The Commission will ensure its' staff receive the above training in a timely manner and continue to participate in any training, communities of practice, or other activities required to maintain their designations.
4. Reference to the Commission in 4 - 10 is a reference to the relevant Commission staff designated under the WSA.
5. The Commission will receive and adjudicate water licence applications where the proposed use of the water is for an oil and gas activity, a related activity, a geothermal project or an oil and gas project regulated by the National Energy Board (NEB) from parties:
 - (a) who hold or have applied for an OGAA permit or authorization,
 - (b) who hold a certificate of public convenience and necessity from the NEB, or
 - (c) who hold a geothermal well authorization.
6. The Commission will receive and adjudicate water licence applications and any associated WSA authorizations whose primary business is to supply water or water logistics services to activities authorized under 5 (a), (b), or (c).
7. In cases where it is unclear which agency should receive and adjudicate a water licence application or administer a licence, the parties agree to review the circumstances of these cases together, including the land tenure, water use purpose(s), and any other relevant permits or activities, and come to an agreement.
8. For receipt of water licence applications and subsequent issuance and management of rights and permissions granted under the WSA, including those rights and permissions granted under specified provisions, the Commission is responsible for the following, as applicable:
 - a) Any required referrals, notifications, or consultations, including First Nations consultation;
 - b) All relevant provisions under the WSA required to carry out the work of the Commission as it relates to the WSA. The following provisions are either excluded or limited to the parties listed in 5 or 6 and/or sources where the rights and permissions holders are only parties listed in 5 or 6:
 - i. Section 19 – Excluded
 - ii. Section 22 – Limited
 - iii. Sections 25-28 – Limited
 - iv. Section 36 – Limited
 - v. Section 37 – Limited
 - c) All relevant provisions in the WSA regulations for which the Commission has the required staff designations.
9. The Commission may take over some or all of the administration of a water licence issued by FLNRORD to a party meeting the criteria identified in 6 above. This will be determined on a case by case basis by mutual agreement between FLNRORD and the

- Commission. Where the Commission takes over administration it will be responsible for applying the provisions in 7 (b) as applicable;
10. The parties will maintain a suitable process for collecting any applicable fees under the WSA and the *Financial Administration Act*;
 11. The Commission will provide a list of water licence applications received and adjudicated by the Commission to the FLNRORD, Water Revenue Unit no less frequently than once per year. FLNRORD, Water Revenue Unit will transfer application fees for those water licence applications to the Commission annually;
 12. For dams regulated by the Commission, the Commission is responsible for responding to dam incidents and, when required, activating the Dam Emergency Response Plan;
 13. FrontCounter BC will provide support to clients with their applications and will provide basic application processing services to the Commission;
 14. FrontCounter BC and the Commission will develop and maintain procedures to ensure that applications submitted are identified and transferred to the Commission (refer to Appendix A for detailed operational processes. These will be updated regularly to reflect current process and will not require formal sign off unless fundamental changes are being made Appendix A);
 15. FLNRORD will ensure that their various Regional and District offices are apprised of the MOU and this Schedule on WSA, which may involve all regions of the Province; and
 16. The parties will include specified information, in a common information management system for storing and administering information on WSA authorizations. For water licences and dams, this is currently the eLicensing Water Management application.

6.0 COMMUNICATION AND INFORMATION SHARING

- Specified spatial information and reports related to water licences, use approvals, change approvals, permits over Crown land (PCL) and dams will be accessible to all parties.
- The parties will ensure timely and accurate information on water authorizations and dam safety is made available to the public.
- In the event of an appeal of a decision made by the Commission to the Environmental Appeal Board, the Commission will support the Environmental Appeal Board hearing process including the participation of Commission employees as required. FLNRORD will provide policies, procedures, and advice to the Commission to help prepare for an appeal hearing.
- The Commission will participate on the ENV/FLNRORD Water Policy and Legislation Committee to assist, in part, with implementing relevant provisions of this Schedule.
- In addition to regular meetings of the above Committee, the parties will meet as necessary to implement this Schedule.

KSA

This Memorandum of Understanding (MOU) is effective as of 30 Jun, 2018.

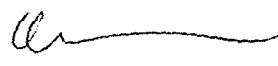


Ken Paulson
Chief Operating Officer

Oil and Gas Commission

30 Jun 2018

Date

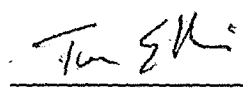


Kevin Kriese
Assistant Deputy Minister, North Area

Ministry of Forests, Lands, Natural Resource
Operations and Rural Development

December 19, 2017

Date



Tom Ethier
Assistant Deputy Minister,
Resource Stewardship Division

Ministry of Forests, Lands, Natural Resource
Operations and Rural Development

Jan 11, 2018

Date

APPENDIX A

Operational processes between FLNRORD and the Commission for administration of water licence applications are described below and will be updated from time to time as required.

This Appendix replaces Letter of Agreement dated July 9, 2015 between FLNRORD and the Commission.

1. Applicants will enter water licence applications into virtual FrontCounter BC using the electronic application. The application may or may not be flagged as linked to a Commission project.
2. FrontCounter BC will:
 - a) Receive and review the application in virtual FrontCounter BC for completeness and confer with the Commission as necessary;
 - b) Complete the required background checks, registry checks and status on the application;
 - c) Move the application and payment information into eLicensing through virtual FrontCounter BC;
 - d) Send the draft acceptance letter with the accompanying information to the Commission (for surface water: Commission Water Officer; for groundwater: Water Information Technician);
 - e) Provide an email notification to the Commission Water Officer that a water licence application has been accepted and moved into eLicensing; and
 - f) Complete the above-noted tasks within 15 business days upon receiving the application or, notify the Commission with a brief explanation why the tasks cannot be completed in this timeframe.
3. The Commission will follow the FLNRORD provincial process for getting the water licences and dams captured spatially.
 - a) A plat and spatial data edit request sent to FLNRORD Geospatial Services including a completed request form (see below):

Edit Type:	POD, Works (pipe, dam, etc.)
Plat Required:	Yes / No
License Number:	C12345
File Number:	70012345
Water District / Precinct:	
POD / GW Number (include coordinates):	
PCL Number (If necessary):	
Sketch Map (with locational base data – TRIM/NTS/Imagery- displaying POD at water source & associated works as they will exist on the ground)	Include attachment with request

If available - Georeferenced Spatial Data (shape, kml, kmz - Note a shape file requires: .shp, .shx, .sbx, .sbn, .dbf, .prj)	Include attachment with request
--	---------------------------------

- b) FLNRORD Geospatial Services will complete edit and send plat document for review of spatial location and accuracy of POD and associated works; and
- c) Edit will be replicated to the BCGW.

The Commission and FLNRORD will explore the option of the Commission taking on PLATS and adding/updating spatial information in the data warehouse.