
NAME OF POLICY: Diking Authorities for New Dikes

APPLICATION: This policy will guide approvals for new dikes constructed in British Columbia.

ISSUANCE: Director, Water Management Branch, MNRO

IMPLEMENTATION: MNRO and MOE staff, including the Inspector and Deputy Inspectors of dikes.

REFERENCES: *Dike Maintenance Act* Section 2(4)(e)

RELATED POLICIES: n/a

RELATIONSHIP TO PREVIOUS POLICY: This new policy formalizes operational practice.

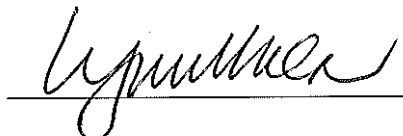
POLICY AMENDMENT: Any formal request for amendment to this policy is to be directed in writing to the Director, Water Management Branch.



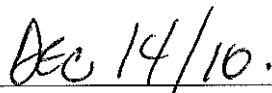
Glen Davidson
Director and CWR
Water Management Branch
Ministry of Natural Resource Operations



Date:



Lynn Kriwoken
Director
Water protection & Sustainability Branch
Ministry of Environment



Date:

EFFECTIVE DATE: December 6, 2010
AMENDMENT NO:

FILE: 35050-00

Diking Authorities for New Dikes

APPROVED AMENDMENTS:		
Effective date	Briefing Note /Approval	Summary of Changes:

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1. POLICY STATEMENT

To protect the public interest and safety of life and property, the construction of new dikes shall only be approved where the local government jurisdiction has:

1. agreed (through a Council, or Board resolution) to become the diking authority and to be fully responsible for operation and maintenance of the new dike; and
2. acquired legal access to the lands on which the new dike is to be constructed.

2. DEFINITIONS

“construction of a new dike” - means the construction of new flood protection dikes and the upgrading of existing orphan dikes to provincial dike standards.

“orphan dikes” - means flood protection dikes that are not being maintained by an owner or diking authority.

Additional relevant terms are defined in the *Dike Maintenance Act*.

3. PREFACE

Two of the essential aspects of British Columbia’s flood protection standards, as set out in the “Guidelines for Management of Flood Protection Works in British Columbia” Ministry of Environment, March, 1999, are:

- 1) implementation by a diking authority of an ongoing, adequately funded dike management program including inspection, patrolling, emergency planning, operation, maintenance and repairs in accordance with an approved Operation and Maintenance (O&M) manual; and
- 2) the diking authority acquiring and maintaining full legal access (land ownership or permanent rights of way) and physical accesses to allow effective operation and maintenance of the dike.

For historical reasons, the approximately 100 diking authorities in BC are comprised of several types of legal entities including municipalities, regional districts, improvement districts, diking districts under the *Drainage Ditch and Dike Act*, strata corporations, rate-payers associations, government agencies, non-government organizations, private corporations and private individuals.

Operational experience over the past few decades has shown that many of these “diking authorities” have had significant difficulties in maintaining an “ongoing, adequately funded dike management program...” and “acquiring and maintaining legal access..” This has been particularly true for those diking authorities that do not have the powers

that are provided to local governments with respect to taxation, emergency response, land use approvals, expropriation, and other regulatory authority.

For more than ten years it has been provincial government practice to require that the diking authority for the new dike must be a local government. Examples include the Resort Municipality of Whistler's Whistler Creek Flood Protection Works; the Fraser Valley Regional District's Elbow Creek dike on the Harrison River and the Wilson Road dike on the Chilliwack River; and the Squamish Lillooet Regional District's dike at Furry Creek.

4. STRATEGIC PRINCIPLES

Local governments are the most appropriate legal entities to assume responsibility for new flood protection structures as demonstrated by the following principles:

- 1) **Emergency Response:** Local governments are legally required to have an emergency management plan under the *Emergency Program Act* and to be the first responder to flooding. Other types of diking authorities have no comparable requirement or responsibility. For those dikes where the local government is responsible for inspection and maintenance of protection works, dike patrols and flood fighting, as well as overall emergency response, the local government can effectively coordinate the flood response.
- 2) **Access to Funds:** Local governments have much greater access to flood protection funds from senior levels of government than other types of diking authorities and are therefore in a better position to sustain adequate operation and maintenance. Examples include access to cost sharing programs for major repairs or upgrades (i.e. Build Canada Fund) and emergency response funds (Disaster Financial Assistance) during and after damaging flood events.
- 3) **Technical and Management Issues:** Technical and project management skills are required to operate and maintain flood protection works. Local governments typically have greater capabilities in this area than other types of diking authorities.
- 4) **Authority to Undertake Instream Work:** When maintenance work involving cleaning out structures and/or stream channels is required local governments are enabled under the *Water Act* regulations, whereas, other types of diking authorities are not.

- 5) **Longevity:** Although jurisdictional boundaries can change, the longevity of local government can be relied on. Other types of diking authorities such as strata councils, management companies and private corporations change with time along with their priorities, making them a less stable entity.

- 6) **Continuity, Communication and Coordination:** Often times there are several decades between larger floods and/or debris flow events. Diking district and strata council members are comprised of volunteers, whose membership typically changes frequently. These individuals are used to dealing with more regular occurring issues and historically have tended to neglect inspection and maintenance once the land development was approved. The Ministry of Natural Resource Operations does not have the resources to track down the individuals responsible when inspection reports are not submitted. Nor does the Ministry of Natural Resource Operations have the resources to undertake the increased need for auditing, monitoring and training to support compliance with dike safety requirements.

- 7) **Legal Access:** Local governments have the full legal powers for land use planning, development approval, and expropriation. It is critical for effective operation and maintenance that the diking authority have either statutory rights of way, or ownership of land to ensure that works are not disturbed and to ensure continued access for inspection, maintenance and dike upgrading over time. Also local governments have extra powers to act and access property under *Emergency Program Act* when an emergency is declared.

- 8) **Amalgamation With Other Services:** Local governments typically provide many, if not all, of locally available public services, including roads, drainage, water, and sewer. Coordination of public service delivery, including taxation, is facilitated by combining the responsibilities within local government. Other types of diking authorities typically only have the dike maintenance responsibility. For example, there are administrative barriers for strata councils and improvement districts to amalgamate services such as water supply and flood protection.

5. POLICY APPLICATION

This policy applies to situations where the Ministry of Natural Resource Operations has received a *Dike Maintenance Act* (DMA) approval application for the construction of a new dike.

6. APPROVAL PROCEDURES

- 6.1 The Ministry of Natural Resource Operations should advise proponents of new dikes, and their respective local government of this policy as early as possible in the development process.
- 6.2 The Ministry of Natural Resource Operations should not issue a DMA approval for a new dike until the local government has both :
- a) passed a Council, or Board resolution agreeing to become the diking authority, and
 - b) acquired the necessary land for dike ownership and maintenance through fee simple ownership, or through the registration of statutory rights of way.