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## CONDITIONAL WATER LICENCE

The licensee is hereby authorized to divert and use water as follows:

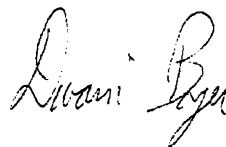
- (a) The stream on which the rights are authorized is Fosthall Creek, tributary of Upper Arrow Lake.
- (b) The point of diversion on Fosthall Creek is denoted as PD76062, and is located as shown on the attached plan.
- (c) The date from which this licence shall have precedence is 13<sup>th</sup> July, 2007.
- (d) The purposes for which this licence is issued are Power (general), which is to be generated with the Fosthall Creek Generating Station; and Conservation (use of water).
- (e) The maximum quantity of water which may be diverted and used under this licence is 17.8 cubic meters per second for Power (general). A maximum flow 11.0 cubic meters per second of this diverted volume may be used for Conservation (use of water) purpose.
- (f) Water may be diverted and used throughout the whole year subject to the licensee maintaining a minimum flow immediately downstream of the point of diversion of 0.9 cubic meters per second from January to March; 1.4 cubic meters per second from April to August; 1.8 cubic meters per second in September; 2.3 cubic meters per second in October and November; 1.4 cubic meters per second in December; or a minimum flow as ordered under clause (l) by the Engineer under the *Water Act* ("the Engineer") or the Regional Water Manager. The re-diversion of water under Conservation (Use of Water) to the spawning and rearing channel may be altered to meet Best Management Practices for fish production
- (g) The land upon which the water is to be used for Power (general) and Conservation (use of water) is District Lot 862 under tenure on Crown Lands file 4404348, and upon which a powerhouse and an engineered spawning and rearing channel are situated. The licence is appurtenant to said land.
- (h) The authorized works for the Fosthall Creek Generating Station are:
  - 1. diversion structure and intake;
  - 2. penstock;
  - 3. powerhouse, tailrace and switchyard;
  - 4. transmission line for the Fosthall Creek Generating Station; and
  - 5. spawning and rearing channel

which shall be located approximately as shown on the attached plan.

- (i) Before commencing construction of the works authorized under clause (h) of this licence, the licensee must to the satisfaction of the Engineer or the Regional Water Manager:
  - 1. retain a Professional Engineer registered in the province of British Columbia (the "Independent Engineer") who will provide services to the Engineer or Regional Water Manager for the regulation of construction of the works as outlined in Schedule A of this licence;
  - 2. retain a person with professional qualifications (the "Environmental Monitor") who will provide services to the Engineer or the Regional Water Manager for the monitoring of environmental impacts during the construction of works as outlined in Schedule B of this licence;

3. submit, the following:
    - a) plans that show the general arrangement of the works;
    - b) criteria for the design of the works;
    - c) criteria for the operation of the works;
    - d) a schedule for the construction of the works; and
    - e) a Construction Environmental Management Plan (CEMP) for the management and mitigation of construction impacts;
  4. obtain Leave to Commence Construction (LCC) in writing from the Engineer or Regional Water Manager.
- (j) Before undertaking construction of any component of works for which LCC is issued under (i) 4., the licensee must:
1. ensure that the design drawings for the works to be constructed are signed and sealed by a professional engineer registered in the province of British Columbia (the "Design Engineer");
  2. ensure that a professional engineer registered in the province of British Columbia (the "Construction Engineer") supervises the construction of the works; and
  3. obtain written confirmation from the Independent Engineer that the actual construction of that component work may proceed.
- (k) Before commencing operation of the works authorized under clause (h), the licensee must:
1. submit a report for acceptance by the Engineer or the Regional Water Manager on the parameters and procedures for the operation of the works; and
  2. obtain leave to commence the diversion and use of water authorized in this licence in writing from the Engineer or the Regional Water Manager.
- (l) The licensee must operate the works authorized under clause (h) above in accordance with procedures ordered by the Engineer or the Regional Water Manager, including any order for the regulation of the diversion, rate of diversion and use of water as may be required for the preservation of fish and wildlife.
- (m) The licensee must:
1. prepare an Operational Environmental Monitoring Plan suitable to determine the nature of any impacts on fish and wildlife, which includes pre-diversion data with respect to fish abundance and allows for statistically supportable quantification of impact to baseline conditions over time to the satisfaction of the Engineer or the Regional Water Manager;
  2. implement the program including the pre-construction period data and baseline monitoring to the satisfaction of the Engineer or the Regional Water Manager;
  3. continue the program for five years following the commencement of operation of the works or to the satisfaction of the Engineer or the Regional Water Manager; and
  4. at the completion of the monitoring program, prepare a report that identifies the nature of any impacts on fish habitat and wildlife and implement the appropriate mitigation and/or compensation to the satisfaction of the Engineer or the Regional Water Manager.
- (n) The construction of said works authorized under clause (h) shall be completed and the water beneficially used prior to December 31<sup>st</sup>, 2012.

- (o) The licensee must submit to the Engineer or the Regional Water Manager, and as directed by the Engineer or the Regional Water Manager, within six months of receiving the leave to commence the diversion and use of water, the drawings of record that show the works as they were constructed.
- (p) This licence is issued pursuant to the provisions of the *Water Act* to ensure compliance with that statute, which makes it an offence to divert or use water from a stream in British Columbia without proper authorization. It is the responsibility of the licensee to ensure that all activities conducted under this authorization are carried out with regard to the rights of third parties, and comply with other applicable legislation that may be in force.
- (q) This licence is issued for a term of forty (40) years from the date of issuance of this licence.



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Dwain Boyer, P. Eng.  
Assistant Regional Water Manager  
Water Stewardship Division  
Ministry of Environment

## **SCHEDULE A**

### **Guide for Waterpower Projects**

#### **Scope of Information and Reports by the Independent Engineer**

##### **A. Preamble**

Fosthall Creek Power Ltd. (the "Licensee") is proceeding with the construction of the Fosthall Creek Waterpower Project (the "Project"). The Project, located on Fosthall Creek, is authorized by Conditional Water Licence C116274 (the "Licence"), which forms part of this document. The works of the Project are described under clause (h) of the licence.

The Licensee is required under clause (l)1. of the Licence to retain an Independent Engineer who will provide information and reports under the direction of the Engineer under the *Water Act* (the "Engineer") or the Regional Water Manager regarding the design and construction of the works. The Licensee is also required to retain an Environmental Monitor as set out in the Licence.

The information and reports to be provided by the Independent Engineer to the Engineer under the *Water Act* or Regional Water Manager, and the Independent Engineer's relationship with the Licensee, Design Engineer, Construction Engineer and Environmental Monitor are described in this document.

##### **B. Regulation of the Construction of Works**

The Engineer or the Regional Water Manager has the power to regulate the construction of works, which regulation may consider the following:

- 1) The criteria for the design and construction of works to protect the public and the environment.
- 2) The criteria for the operation of the works to protect the interests of licensees, riparian owners and owners of land adjacent to the works, and protect the environment from adverse effects.
- 3) The construction activities that may adversely affect the public, the environment and the interests of licensees, riparian owners and owners of land adjacent to the works.

If the Engineer or the Regional Water Manager has determined that the construction of works may be hazardous to the public and the environment, or the interests of licensees, riparian owners and owners of land adjacent to the works may be adversely affected, the Engineer or the Regional Water Manager may issue an order that directs the Licensee to change the manner in which the works are constructed to remove the hazard and adverse effect.

### **C. Information and Reports**

The Licensee is required under clause (i) of the Licence to submit to the Engineer or the Regional Water Manager the following:

- a. plans that show the general arrangement of the works;
- b. criteria for the design of the works;
- c. criteria for the operation of the works;
- d. schedule for the construction of the works;
- e. a construction environmental management plan (CEMP) for the management and mitigation of construction impacts.

The Licensee is also required under clause (j) to ensure that the design drawings for the works to be constructed are signed and sealed by a professional engineer registered in the province of British Columbia (the "Design Engineer").

These submissions by the licensee are the basis for the regulation of the construction of the works.

The Independent Engineer is directed to review the submissions and provide the Engineer or the Regional Water Manager with reports as follows:

- 1) Compare the plans showing the general arrangement of the works to the works described by the Licence and describe any differences.
- 2) Assess the criteria for the design of the works to determine if works constructed to these criteria will be a hazard to the public and the environment.
- 3) Assess the criteria for the operation of the works to determine if works operated to these criteria will protect the interests of licensees, riparian owners and owners of land adjacent to the works, and protect the environment from adverse impacts.
- 4) Assess the schedule for the construction of the works to determine if there are any practical matters in relation to the conditions in the Licence and the CEMP; and the interests of the public, licensees, riparian owners and owners of land adjacent to the works that the Engineer or Regional Water Manager should consider in the regulation of the works.
- 5) Assess the design drawings for the construction of the works to determine if they are in accordance with the criteria for the design and operation of the works, and they are signed and sealed by the Design Engineer.
- 6) Assess the schedule for the construction of the works and the design drawings for the construction of the works to determine the frequency of the submission by the Licensee of the reports on the progress of construction.
- 7) Review the reports submitted by the Licensee on the progress of the construction of the works to determine if any of the construction activities should be adjusted to reduce the future hazard posed by the works on the public and the environment.
- 8) Summarize any outstanding matters that would make the works a hazard to the public and the environment when the Licensee submits a schedule for testing the works.

The Independent Engineer will prepare a recommendation report for the Engineer or the Regional Water Manager on the review of items 1) to 4) above for the issuance of Leaves to Commence Construction.

The Independent Engineer will prepare a recommendation report for the Engineer or Regional Water Manager, copy to the Licensee, Design Engineer and the Construction Engineer, on the review of items 5) and if the actual construction of a particular component of the project may proceed.

The Engineer or Regional Water Manager may direct the Independent Engineer to provide additional information and reports as may be required for the regulation of the construction of the works.

The Independent Engineer will discuss and clarify with the Design Engineer and the Construction Engineer any matters that may need further action. If the Independent Engineer is unable to resolve such matters, the Independent Engineer must immediately notify the Engineer or the Regional Water Manager. The Engineer or Regional Water Manager will contact the Licensee, and resolve the matter.

#### **D. Environmental Monitor**

The Licensee is required to retain a person (the "Environmental Monitor") to observe and report on the activities of constructing the works in relation to the requirements under the construction environmental management plan (the "CEMP"). The Independent Engineer will be provided a copy of the report by the Environmental Monitor.

The Independent Engineer will review the reports by the Environmental Monitor and advise the Engineer or the Regional Water Manager in a written report if the construction activities are adversely affecting the environment and the interests of licensees, riparian owners and owners of land adjacent to the works.

The Independent Engineer and the Environmental Monitor will communicate with each other during the construction of the works to coordinate their activities to provide information to the Engineer or the Regional Water Manager for proper regulation of the construction of the works.

#### **E. Leave to Commence Construction**

The Licensee may divide the construction of the works into phases. Before the Engineer or the Regional Water Manager grants leave to commence construction of any phase of the works, the Engineer or the Regional Water Manager must be satisfied that the Licensee has met the requirements under clause (l) of the licence.

The Independent Engineer will provide the Engineer or the Regional Water Manager with information and reports as set out in Section C. above for each phase in the construction of the works. The information and reports are to be provided in a timely manner in accordance with the schedule for the construction of the works.

Based on information submitted by the Independent Engineer, the Engineer or the Regional Water Manager may issue a leave to commence construction for a particular phase of the

Name: \_\_\_\_\_  
Licensee

Date: \_\_\_\_\_

## **SCHEDULE B**

### **Guide for Waterpower Projects**

#### **Scope of Information and Reports by the Environmental Monitor**

##### **A. Preamble**

Fosthall Creek Power Ltd. (the "Licensee") is proceeding with the construction of the Fosthall Creek Waterpower Project (the "Project"). The Project, located on Fosthall Creek, is authorized by Conditional Water Licence C116274 (the "Licence"), which forms part of this document. The works of the Project are described under clause (h) of the licence.

The Licensee is required under clause (i) 3) of the Licence to prepare an construction environmental management plan (the "CEMP") for the management and mitigation of construction impacts, which plan is to be to the satisfaction of the Engineer under the Water Act (the "Engineer") or the Regional Water Manager.

The Licensee is required under clause (i)2. of the Licence to retain a person with professional qualifications (the "Environmental Monitor") who will monitor environmental impacts from the construction of works. The monitor will also provide information and reports under the direction of the Engineer or Regional Water Manager on compliance of the construction with the CEMP. The Licensee is also required to retain an independent Engineer as set out in the Licence.

The CEMP are the provisions that meet the collective requirements of (list the provincial and federal agencies that contributed to the development of the CEMP) and the Engineer or Regional Water Manager to mitigate the effects of the construction activities.

The information and reports by the Environmental Monitor will be provided to (list the provincial and federal agencies that contributed to the development of the CEMP) and the Engineer. Each agency will take action on the information and reports provided by the Environmental Monitor in accordance with the jurisdiction of the agency.

##### **B. Regulation of the Construction of Works**

The Engineer or the Regional Water Manager has the power to regulate the construction of works, which regulation may consider the construction activities that may adversely affect the public, the environment and the interests of licensees, riparian owners and owners of land adjacent to the works.

If the Engineer or the Regional Water Manager has determined that the construction activities may be hazardous to the interests of licensees, riparian owners and owners of land adjacent to the works and the environment, the Engineer or the Regional Water Manager may issue an order that directs the Licensee to change the manner in which the works are constructed to remove the hazardous condition.



### **C. Information and Reports**

The Environmental Monitor is responsible for observing the methods of construction and preparing information and reports on the compliance of the construction activities with the CEMP.

The information and the reports to be provided by the Environmental Monitor to (list the provincial and federal agencies that contributed to the development of the CEMP) and the Engineer or Regional Water Manager and must include the following:

1. Review the CEMP and develop a work plan that sets out the following:
  - The frequency of inspecting the construction activities.
  - The manner in which notice is to be given to the parties for a construction activity that is not in compliance with the CEMP.
  - A process for escalating enforcement of compliance of construction activities with the CEMP.
  - The format and frequency for the preparation of reports on the compliance of the construction activities with the CEMP.
2. Reports on meetings with the Licensee and the Construction Engineer to develop a strategy to communicate to the workers on the construction site the following:
  - the requirements of the CEMP,
  - the potential environmental impacts, and
  - the authority of the Environmental Monitor.
3. Reports on matters that arise during the construction and testing of the works that are not described in the CEMP. If cannot be resolved by discussion with the licensee and the Construction Engineer, obtain direction from the Engineer or Regional Water Manager and (list the provincial and federal agencies that contributed to the development of the EMP) for the mitigation of these matters.
4. Provide any other information or advice required by the Engineer or Regional Water Manager and (list the provincial and federal agencies that contributed to the development of the CEMP) that is required to ensure that the construction and commissioning of the works is in accordance with the CEMP.

### **D. Independent Engineer**

The Licensee is required under clause (1)1. of the Licence to retain an Independent Engineer who will provide information and reports under the direction of the Engineer or Regional Water Manager regarding the design and construction of the works.

The Independent Engineer and the Environmental Monitor will communicate with each other during the construction of the works to coordinate their activities to provide information to the Engineer or Regional Water Manager for proper regulation of the construction of the works.

**E. Delegation of Duties of Environmental Monitor**

When the Environmental Monitor is unable to personally observe and report on the construction activities, the persons who have the same authority as the Environmental Monitor to observe and report on construction activities are:

- 1. Name 1
- 2. Name 2

**F. Testing the Operation**

When the Licensee submits a schedule for testing the operation of the works, the Environmental Monitor will inspect the site and report to **(list the provincial and federal agencies that contributed to the development of the CEMP)** and the Engineer or Regional Water Manager on any matters that would make the works a hazard to the public and the environment.

The Environmental Monitor will observe the testing of the operation of the works to determine if the operation poses a hazard to the public and the environment, and submit to the Engineer or Regional Water Manager a report on the outcome of the monitoring.

**G. Authority to Stop Construction Activities**

The plan prepared by the Environmental Monitor for escalating the enforcement of compliance of construction activities with the CEMP includes a provision that the Environmental Monitor may direct the Construction Engineer to stop a construction activity.

The authority of the Environmental Monitor to stop a construction activity pertains only to those matters under the jurisdiction of **(list the provincial and federal agencies that contributed to the development of the CEMP)**.

An order to stop a construction activity that affects the interests of licensees, riparian owners and owners of land adjacent to the works may only be given by the Engineer or the Regional Water Manager.

**H. Acceptance**

The information and reports to be provided by the Environmental Monitor to the Engineer or the Regional Water Manager as set out above is acceptable to:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Environmental Monitor

AND

The Licensee agrees to retain the Environmental Monitor to provide the information and reports to the Engineer or Regional Water Manager as set out above.

project, subject to the Independent Engineer reviewing design drawings and giving consent for construction to proceed.

**F. Undertaking and Monitoring of Construction**

The Independent Engineer will review the design drawings for the construction of the works, and prepare a report as set out in Section C before giving consent that construction may be undertaken. The Independent Engineer will identify in the report to the Engineer or the Regional Water Manager, the components within each phase of the construction of the works that are critical for regulating the construction of the works to protect the public and the environment, and the interests of licensees, riparian owners and owners of land adjacent to the works, and protect the environment from adverse effects. A cover letter, with a copy to the Licensee, Design Engineer and the Construction Engineer, would make recommendation if construction of that particular component of works may be undertaken, and this would be sufficient for the Construction Engineer to proceed with construction.

The Independent Engineer will schedule site inspections to verify that the conditions for the construction of the critical components are in accordance with the construction plans, and provide the Engineer or the Regional Water Manager with a report on the outcome of the inspection.

**G. Testing the Operation**

The Independent Engineer will monitor the testing of the operation of the works to determine if the operation poses a hazard to the public and the environment, and submit to the Engineer or the Regional Water Manager a report on the outcome of the monitoring.

**H. Acceptance**

The information and reports to be provided by the Independent Engineer to the Engineer or the Regional Water Manager as set out above is acceptable to:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Independent Engineer

AND

The Licensee agrees to retain the Independent Engineer to provide the information and reports to the Engineer or Regional Water Manager as set out above.

Name: \_\_\_\_\_  
Licensee

Date: \_\_\_\_\_

**ORDER**

Section 18 (1) (e) *Water Act*

**File: 4004287**

**IN THE MATTER OF** Conditional Water Licence 116274 authorizing the diversion and use of water from Fosthall Creek a tributary of Upper Arrow Lake, for power (general) purpose which is to be generated with the Fosthall Creek Generating Station; and conservation (use of water) purpose.

**HAVING DETERMINED THAT** that the maximum flow for the conservation purpose quantity was stated incorrectly on the licence document and being satisfied that no person's rights will be injuriously affected, I hereby amend clause (e) of said licence to read as follows:

- (e) The maximum quantity of water which may be diverted and used under this licence is 17.8 cubic metres per second for Power (general). Maximum flow 2.0 cubic metres per second of this diverted volume may be used for Conservation (use of water) purpose.

**DATED** at Nelson, British Columbia, this 22nd day of December, 2009.



Dwain Boyer, P. Eng.  
Assistant Regional Water Manager  
Water Stewardship Division  
Ministry of Environment

# WATER LICENCE DISPOSITION RECORD

AS OF Jan 25, 2013

WATER LICENCE NO. C116274

HAS BEEN

RECORDED AS ABANDONED

RECORDED AS EXPIRED

SUPERSEDED BY C129568

\_\_\_\_\_  
\_\_\_\_\_

FILE #: 4004287

CAN THIS FILE BE CLOSED? NO

NOTATION BY: Mawne

DATE: Jan 6, 2014