



# Province of British Columbia

## *Water Act*

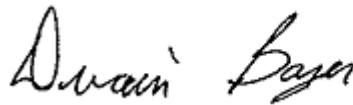
### CONDITIONAL WATER LICENCE

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

- a) The stream on which the rights are granted is Fosthall Creek, tributary of Upper Arrow Lake.
- b) The point of diversion on Fosthall Creek is denoted as PD76062, and located as shown on the attached plan.
- c) The date from which this licence shall have precedence is July 13, 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 metres per second for power (general). A maximum flow of 2.0 cubic metres 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 metres per second from January to March; 1.4 cubic metres per second from April to August; 1.8 cubic metres per second in September; 2.3 cubic metres per second in October and November; 1.4 cubic metres per second in December; or a minimum flow as ordered under clause (m) by the Engineer under the Water Act ("the Engineer") or the Regional Water Manager. The re-diversion of water under the purpose 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 Lots 862 and 7678, Kootenay District, under tenure on Crown Lands file 4404348 and 4404862, and upon which a powerhouse and an engineered spawning and rearing channel are situated. The licence is appurtenant to said land.
- h) The works authorized 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 channelwhich shall be located approximately as shown on the attached plan.

- i) The construction of the said works authorized under Clause (h) shall be completed and the water beneficially used prior to December 31, 2019.
- j) Before commencing construction of the works authorized under clause (h) of this licence, the licensee must to the satisfaction of the Engineer or 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 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 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.
- k) Before undertaking construction of any component of works for which LCC issued under (j) 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.
- l) Before commencing operation of the works authorized under clause (h) the licensee must:
  - (1) submit a report for acceptance by an Engineer or the Regional Water Manager on the parameters and procedures for the operation of the works authorized under clause (h); and
  - (2) obtain leave to commence the diversion and use of water authorized in this licence, in writing, from the Engineer or Regional Water Manager.
- m) The licensee must operate the works authorized under clause (h) above in accordance with procedures ordered by the Engineer or 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.
- n) The licensee must:
  - (1) prepare an operational environmental monitoring plan suitable to determine the nature of any impacts on fish and wildlife, which incorporates 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 monitoring program such that effects of the project are measured to the satisfaction of an Engineer or 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 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 activities to the satisfaction of the Engineer or Regional Water Manager.
- o) The licensee must submit to the Engineer or Regional Water Manager, as directed, and 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) The term is 40 years from July 20, 2009, the original date of issuance of this licence.
  - r) This Licence is issued in substitution of Conditional Water Licence 129568.



Dwain Boyer, P.Eng.  
Assistant Regional Water Manager