

Definitions

1 In this Act:

"appeal board" means the Environmental Appeal Board established under the *Environment Management Act*;

"approval" means an approval of the comptroller, regional water manager or engineer under section 8 or 9;

"changes in and about a stream" means

(a) any modification to the nature of a stream including the land, vegetation, natural environment or flow of water within a stream, or

(b) any activity or construction within the stream channel that has or may have an impact on a stream;

"comptroller" means a person employed by the government or a government corporation and designated in writing by the minister as the Comptroller of Water Rights and includes any persons designated in writing by the minister as acting, deputy or assistant comptrollers;

"conditional licence" means a licence that authorizes the construction of works or the diversion and use of water before the issue of a final licence;

"conservation purpose" means the use and storage of water or the construction of works in and about streams for the purpose of conserving fish or wildlife;

"conveying purpose" means the carriage of water for licensees authorized to divert, extract, use or store that water;

"Crown land" means land the fee of which is in the government;

"development district" includes a district within the meaning of the *Drainage, Ditch and Dike Act*, and every other drainage, diking or development district incorporated before January 1, 1965 by or under a statute other than the *Water Act*;

"divert", or a word of similar import, means taking water from a stream and includes causing water to leave the channel of a stream and making a change in or about the channel that permits water to leave it;

"domestic purpose" means the use of water for household requirements, sanitation and fire prevention, the watering of domestic animals and poultry and the irrigation of a garden not exceeding 1 012 m² adjoining and occupied with a dwelling house;

"engineer" means a professional engineer employed by the government or a government corporation and designated in writing by the comptroller as an engineer and includes a regional water manager;

"final licence" means a licence that authorizes the diversion and use of water, and does not authorize the construction of additional works or an extension of the use of water;

"former Act" means any Act of British Columbia, passed before October 31, 1939, containing provisions respecting the diversion and use of water;

"government corporation" means government corporation as defined in the *Financial Administration Act*;

"ground water" means water below the surface of the ground;

"hydraulicking purpose" means the use of the water under head to move earth, sand, gravel or rock, except when the moving is done or proposed to be done in order to get mineral from it;

"improvement district" means, as the context requires, either the public corporate body or the tract of land incorporated under the *Local Government Act* and includes an improvement district constituted under a former Act;

"industrial purpose" means any use of water in British Columbia designated by regulation as a use for industrial purpose, but does not include

- (a) the use of water for any of the other purposes defined in this section, or
- (b) the carriage or supply by a person of water to or for use by any other person;

"irrigation purpose" means the beneficial use of water on cultivated land and hay meadows to nourish crops;

"land improvement purpose" means the diversion or impounding of water to protect property, to facilitate the development of a park or the reclamation, drainage or other improvement of land or to carry out a project of a similar nature;

"licence" means a licence issued under this or a former Act;

"licensee" and **"holder of a licence"** mean an owner of any land, mine or undertaking with respect to which a licence is issued under this or a former Act;

"mine" includes a placer or mineral claim or land held or occupied under the mining laws of British Columbia for the purpose of winning a mineral from it, whether held in fee simple or by virtue of a record, lease, licence or application;

"mineral" includes a precious or base metal and coal;

"mineral trading purpose" means bottling, distributing, using and dealing in water so impregnated with foreign ingredient as to give it medicinal properties, or water of a temperature that gives it a commercial value;

"mining purpose" means the use of water for recovering mineral from the ground or from ore;

"municipality" includes a regional district incorporated under the *Local Government Act*;

"natural boundary" has the same meaning as in the *Land Act*;

"obligation" includes a requirement, restriction, limitation, condition and duty;

"officer" means

- (a) a person or class of persons employed by the government or a government corporation and designated in writing by the comptroller as an officer, or
- (b) a conservation officer defined in section 1 (1) of the *Environment Management Act*;

"order" includes a decision or direction, whether given in writing or otherwise;

"owner" means a person entitled to possession of any land, mine or undertaking in British Columbia, and includes a person who has a substantial interest in the land, mine or undertaking;

"permit" means an authority to flood Crown land or to construct, maintain or operate works on Crown land;

"person" includes a firm, association or syndicate;

"power purpose" means the use of water in the production of electricity or other power;

"regional water manager" means a person employed by the government or a government corporation and designated in writing by the minister as a regional water manager and includes a person designated in writing by the minister as an acting or assistant regional water manager;

"registrar" means the registrar under the *Land Title Act* for the land title district in which the land affected is located;

"regulate" includes allow, commence, stop, limit, open, shut and prohibit;

"right" includes power, authority, benefit, privilege and remedy;

"river improvement purpose" means clearing and improving the bed, channel and banks of a stream to facilitate the driving and booming of timber;

"serve", and words of similar import, include deliver to or send to by registered mail;

"storage" or **"storage purpose"** means the collection, impounding and conservation of water;

"store", in relation to water, means collect, impound and conserve;

"stream" includes a natural watercourse or source of water supply, whether usually containing water or not, ground water, and a lake, river, creek, spring, ravine, swamp and gulch;

"stream channel" means the bed of a stream and the banks of a stream, whether above or below the natural boundary and whether usually containing water or not, including all side channels;

"toll" means a fee, charge, rate or rental set, demanded or charged by a municipality, improvement district or development district for a service rendered or made available to any extent by means of works for storing, conveying or distributing water, electricity, garbage or sewage, or for extinguishing fire, and includes a charge for the use or benefit of works constructed under authority of a licence for river improvement purpose or for a service rendered or made available by the holder of that licence;

"undertaking", in relation to an application or licence, means a project for the diversion, carriage, use and sale of water or power produced from water the use of which is referred to in the application or licence, and includes all land and other property acquired or to be acquired in connection with the project, and the general scheme for the acquisition, maintenance and operation of the works;

"unrecorded water" means water the right to the use of which is not held under a licence or under a special or private Act;

"water users' community" means any public corporate body incorporated under section 51, and includes a water users' community formed under a former Act;

"waterworks purpose" means the carriage or supply of water by a municipality, improvement district, development district or person for the use of the residents of an area in British Columbia;

"works" means

(a) anything capable of or used for

(i) diverting, storing, measuring, conserving, conveying, retarding, confining or using water,

(ii) producing, measuring, transmitting or using electricity, or

(iii) collecting, conveying or disposing of sewage or garbage or preventing or extinguishing fires,

(b) booms and piles placed in a stream,

(c) obstructions placed in or removed from streams or the banks or beds of streams, and

(d) changes in and about a stream,

and includes access roads to any of them.

Vesting water in government

2 (1) The property in and the right to the use and flow of all the water at any time in a stream in British Columbia are for all purposes vested in the government, except only in so far as private rights have been established under licences issued or approvals given under this or a former Act.

(2) No right to divert or use water may be acquired by prescription.

Application of Act to ground water

3 The Lieutenant Governor in Council may, by regulation, fix a day on which this Act begins to apply to ground water in a part of British Columbia the Lieutenant Governor in Council designates.

Prohibition

4 Except for a purpose defined in section 1 of this Act, a person who is not registered under the *Water Protection Act* must not divert, extract, use or store any water from a stream.

Rights acquired under licences

5 A licence entitles its holder to do the following in a manner provided in the licence:

(a) divert and use beneficially, for the purpose and during or within the time stipulated, the quantity of water specified in the licence;

(b) store water;

(c) construct, maintain and operate the works authorized under the licence and necessary for the proper diversion, storage, carriage, distribution and use of the water or the power produced from it;

(d) alter or improve a stream or channel for any purpose;

(e) construct fences, screens and fish or game guards across streams for the purpose of conserving fish or wildlife.

Rights subject to Act

6 The exercise of every right held under a licence is always subject to this Act and the regulations, the terms of the

licence, the orders of the comptroller and the engineer and the rights of all licensees whose rights have precedence.

Who may acquire licences

7 A licence for any one, 2 or 3 of the purposes defined in section 1 may be issued by the comptroller or the regional water manager to any of the following:

- (a) an owner of land or a mine;
- (b) a holder of a certificate of convenience and necessity issued under the *Public Utilities Act*, R.S.B.C. 1960, c. 323, or under the *Water Utility Act*;
- (c) a municipality, improvement district, water users' community or development district;
- (d) the Crown as represented by a minister appointed by the Governor General or the Lieutenant Governor;
- (e) a commission, board or person having charge of the administration of any land, mine or other property owned or controlled by a ministry, department, branch or other subdivision of the government of Canada or of British Columbia;
- (f) the Greater Vancouver Water District or the Greater Nanaimo Water District, or any other water district incorporated by an Act of the Legislature;
- (g) the British Columbia Hydro and Power Authority.

Short term use of water

8 (1) If diversion or use of water is required for a term not exceeding 12 months, the comptroller or a regional water manager may, without issuing a licence, grant an approval in writing, approving the diversion or use, or both, of the water on the conditions the comptroller or regional water manager considers advisable, but the diversion or use, or both, are subject to the same provisions as if the approval were a licence.

(2) Even though a licence has not been issued, a person is not prohibited from diverting or using water in accordance with an approval given under this section.

Changes in and about a stream

9 (1) The comptroller, a regional water manager or an engineer may grant an approval in writing authorizing on the conditions he or she considers advisable

- (a) a person to make changes in and about a stream,
- (b) a minister of the Crown, either in right of Canada or of British Columbia, to make changes in and about a stream, or
- (c) a municipality to exercise the authorities referred to in section 555 of the *Local Government Act*.

(2) A minister or other person or a municipality may only make changes in and about a stream in accordance with an approval under this section or in accordance with the regulations or a licence or order under this Act.