



Note: The tracking number assigned to your Notification Form is: 100161089 , Date Received on : Mar 16, 2016 4:10:55 PM

Please maintain a record of this tracking number for reference in any future correspondence about your proposal and any related follow-up.

Re:Notification to Habitat Officer / Changes in and about a Stream under Water Regulation

Your Notification to a Habitat Officer under the Water Regulation (Part 7 of the regulation) regarding your proposal to make changes in and about a stream of the kind described in section 44 of the regulation, has been received.

Please Note: Only changes in and about a stream of the kind listed in the Water Regulation (Part 7 "Changes in and About a Stream") can proceed on notification and in accordance with requirements of the regulation including any terms and conditions specified by a Habitat Officer. An approval under the Water Act for the change is otherwise required if the change proposed is not of the kind listed in section 44 of the regulation.

Under the provisions of the regulation, the Habitat Officer has 45 days following receipt by the Ministry of this notification to request additional information from you and to specify additional terms and conditions specific to your proposal, if warranted. A person making a change in and about a stream under this regulation, other than under section 44(1)(o) to (s) or (2), must then make that change in accordance with the regulation and any terms and conditions specified by the Habitat Officer (*including those further described in #1-17 below or as specified subsequently within 45 days of receipt of notification*).

Therefore, if you have *not* heard back from the Habitat Officer *within 45 days* of our receipt of your notification to inform you that additional terms and conditions have been specified with respect to your proposal, you may proceed with the proposed changes in and about a stream but must also comply with the following terms and conditions:

1. *Any work associated with the proposed changes in and about a stream must not cause stream channel instability or increase the risk of sedimentation into the stream.*
2. *During work onsite, erosion and sediment control materials must be available onsite at all times and must be installed if sedimentation is likely to occur into the stream. A contingency plan must be developed outlining the measures to be taken by workers when carrying out any work to control erosion and sediment.*
3. *Soil disturbance must not occur in heavy rain conditions and any soil removed must be placed in a location that ensures that sediment or debris does not enter the stream.*
4. *Within a work area, water that contains sediment must be pumped to a vegetated area away from the stream where it can seep into the ground, or to a settling pond that is sufficiently far from the stream to allow sediment to settle out before the water returns to the stream.*
5. *The disturbance of stream bank vegetation must not occur or be minimized as much as possible.*

6. Any areas that are disturbed during the work (such as exposed soil) must be promptly restored at a minimum to the pre-disturbance condition.

Note: Guidance is provided in the Enhancement Section of the Best Management Practices Instream Works

7. If possible, work must be conducted on, and equipment located and operated from, dry land (no water present) and the worksite must be isolated from flowing water.

8. Any equipment used in conducting work must be in good mechanical condition and, when operating in close proximity to the wetted perimeter of a stream, the operator must prevent entry of any substance, sediment, debris or material (e.g., hydrocarbons, silt) into the stream so as to prevent harm to fish, wildlife or habitat.

9. The original rate of water flow in the stream (existing prior to commencing work) must be maintained upstream and downstream of the worksite during all phases of instream activity associated with the work.

10. When work requires de-watering or isolation of the worksite in the stream, a permit for the salvage of fish and wildlife must be obtained prior to commencing work. All required salvage permits must be obtained from FrontCounter BC : <http://www.frontcounterbc.gov.bc.ca/>. Any salvage must be carried out by a qualified environmental professional (such as an R.P.Bio.).

11. Following de-watering or isolation of the worksite, stream flow must be returned gradually to the de-watered or isolated area within the stream and not in a single sudden rush so as to avoid erosion of the stream channel and sediment delivery to the stream.

12. The stream channel width must not change as a result of the work.

13. Any materials, such as riprap or gabion rock, placed within the stream must be clean and not contain substances that could be harmful to fish, wildlife or habitat.

14. Any areas disturbed as part of the work must be restored as close as possible to their pre-disturbance condition. Any soil exposed at the worksite must be promptly re-vegetated.

15. Subject to section 16 and 17 below, the work must be completed during the "least risk" timing window for the stream in respect of which the changes are proposed. The applicable "least risk" timing window (by region and/or by stream) are specified in the following links (see below) and are designed to protect fish, wildlife or habitat known or suspected to be present in the stream. To determine the "least risk" timing window, please select the relevant region from the map:

<http://www.frontcounterbc.ca/pdf/RegionMap.pdf>

and then determine the applicable "least risk" timing window:

<http://www.env.gov.bc.ca/wld/instreamworks/regionaltimingwindows.htm>

for that region and for the stream where the proposed changes will be made.

For projects proposed to take place outside these timing windows, please see section 16 and 17 below

16. In addition to the "least risk" timing windows specified in section 15 above, work may be carried out during the following times provided these requirements are met when the changes are carried out:

i. If the stream channel is naturally dry (no flow) or frozen to the bottom at the worksite and the instream work / activity associated with the proposed change will not adversely impact fish, wildlife or habitat (e.g. not result in any substance, sediment, debris or other material entering or leaching into the stream that would adversely affect fish, wildlife or their habitat),

ii. In the construction of a winter crossing, the stream channel is frozen to the bottom at the worksite and related work does not adversely impact the stream channel (including stream bed and banks), or fish, wildlife or habitat, or impede their passage (in both directions) in the stream.

17. If your work is proposed outside of the "least risk" timing window (as described in section 15 above), you must retain a qualified environmental professional (such as an R.P. Bio.). The professional will be responsible for providing a written technical rationale that assesses and addresses the risks of the proposed changes in and about a stream, including proposing site specific mitigation (e.g. an Erosion Control Plan that identifies contingency measures and emergency procedures related to the proposal) and onsite monitoring of their implementation. This document must be submitted to the Habitat Officer via Front Counter B.C. with reference to your file number (shown on top of this document).

In proceeding outside the "least risk" timing window in accordance with recommendations by your qualified environmental professional, you must comply with any measures specified by that professional to prevent impacts on the stream channel (including stream bed and banks) or fish, wildlife or their habitat, as well as any Habitat Officer terms and conditions specified in the confirmation of receipt of your original Notification

In summary, you must meet the terms and conditions described above, as well as any additional terms and conditions specified by the Habitat Officer in respect of your proposal within 45 days of the Ministry's receipt of your notification, if any were specified. In addition, you must also meet any other requirements of the regulation, as are described in Part 7 of the Water Regulation (found at <http://www.bclaws.ca/>)

Also, for assistance to the public, the Province has developed clear guidance/practices, also referred to as best management practices, for working around water and for designing and implementing different types of changes in and about a stream, particularly in respect of instream works. This information in combination with the terms and conditions described above, if followed, will help ensure that your changes in and about a stream will be compliant with the regulation and related legislation, as well as minimizing impacts on the environment (including related fish, wildlife and habitats) in the stream and stream channel.

Follow the links and website directions (see below) to review the provincial guidance/practices provided for your proposed works. Please be advised that these documents may contain information which may be the subject of change due to amendments to the federal Fisheries Act and/or to related processes by Fisheries and Oceans Canada (DFO). Current up-to-date information on DFO process and legislation can be found at : <http://www.dfo-mpo.gc.ca/pnw-ppw/index-eng.html>

Province of BC Guidance / Practices:

Best Management Practices (BMP's) for Instream Works. When using this guide go to the list of "Guidebook Chapters" and select the appropriated chapters to match the specific activities relevant to your proposal for changes in and about a stream.

*Region specific BMP's for Instream Works links directly to other specific BMP pages for particular streams and regions (e.g. Shuswap and Mara foreshore guidelines): <http://www.env.gov.bc.ca/wld/instreamworks/index.htm#>

*User's Guide to Working In and Around Water : http://www.env.gov.bc.ca/wsd/water_rights/cabinet/working_around_water.pdf

*http://www.env.gov.bc.ca/wsd/water_rights/licence_application/section9/index.htm

Final Note: It is the responsibility of persons intending to carry out changes in and about a stream, as described under Part 7 of the Water Regulation:

* To ensure that all sections of the Notification form are properly completed;

* To comply with federal, provincial and municipal enactments, including but not limited to the *Fisheries Act* (Canada), *Wildlife Act* (BC) or the *Navigation Protection Act* (Canada), as well as local government bylaws and regulations, as may be applicable to proposed changes and related works or activities; and

* To obtain the approval of the landowner for proposed changes and related works or activities intended to take place on private or Crown land, before proceeding.

Please be advised that, in the event of non-compliance with the requirements of the regulation (including habitat officer terms and conditions), it is the responsibility of persons carrying out changes in and about a stream:

* To report non-compliance with the regulation within 72 hours and then to take measures to remedy the non-compliance, as may be specified by a Water Act Engineer, as well as to comply with any additional terms and conditions specified by the Habitat Officer; and

* To report habitat damage within 72 hours to a Habitat Officer and then to restore and repair the habitat to its natural state or as directed by the Habitat Officer.

For information, the Ministry may undertake review and inspection of specific changes in and about a stream and related works and activities to confirm compliance with:

* The requirements of the regulation

* Habitat Officer terms and conditions,

* Any site specific measures and mitigations specified by a qualified environmental professional for in-stream projects carried out outside accepted "least risk" timing windows, and

* Any other applicable enactments

In cases of demonstrated non-compliance with legal requirements, compliance and enforcement actions may subsequently be undertaken by the Ministry where circumstances warrant.

For further information, please consult the Ministry websites listed above, as well as:

http://www.env.gov.bc.ca/wsd/water_rights/licence_application/section9/

Please contact FrontCounter B.C. with any questions regarding these requirements

Thank You

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Kristina Robbins, Habitat Officer South Coast Region

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