



**Ministry of Environment and Climate Change Strategy  
and  
Ministry of Forests, Lands, Natural Resource  
Operations and Rural Development**

<b>NAME OF POLICY:</b>	Beneficial Use Declaration
<b>APPLICATION:</b>	This policy applies to water licence authorizations activities where the use of beneficial use declarations may be appropriate.
<b>ISSUANCE:</b>	Executive Director, Water Protection and Sustainability Branch, Ministry of Environment, and Director, Water Management Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development
<b>IMPLEMENTATION:</b>	Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) and the Ministry of Environment and Climate Change Strategy (ENV)
<b>LEGISLATIVE REFERENCES:</b>	<i>Water Sustainability Act</i> (Ch. 15, S.B.C 2014) [ <a href="#">WSA</a> ] Water Sustainability Regulation (B.C. Reg. 36/2016) [ <a href="#">WSR</a> ] Water Sustainability Fees, Rentals and Charges Tariff Regulation (B.C. Reg. 37/2016) [ <a href="#">WSFRCTR</a> ]
<b>RELATED POLICIES:</b>	Amendments under the <i>Water Sustainability Act</i> , Water Authorization Abandonment, Cancellation or Suspension Guidelines under the <i>Water Sustainability Act</i> , Apportioning of Water Rights, Amendments of Unused Water Licences, Final Licences  Guidelines: When to Conduct Field Inspections
<b>RELATIONSHIP TO PREVIOUS POLICIES:</b>	Updates the former Beneficial Use Declaration (2015) policy to align with the <i>Water Sustainability Act</i>
<b>POLICY AMENDMENT PROCESS:</b>	Requests for policy amendments are made in writing to the Executive Director, Water Protection and Sustainability Branch, ENV and Director, Water Management Branch, FLNRORD

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Date

<b>APPROVED AMENDMENTS:</b>		
Effective date	Briefing Note /Approval	Summary of Changes:
June 1, 2009	BN 105976, May 19, 2009	Changes made are as a result of updating water policies. Updates to this policy include: the addition of related legislation; new procedures, and providing the Beneficial Use Declaration that is currently in use.
December 1, 2013	BN 198568, October 2, 2013	Policy amended in order to provide the current water management agencies of the Ministry of Forests, Lands and natural Resource Operations and the Ministry of Environment.
December 4, 2015	Approved by PLC July 20, 2015	BUD form is updated and simplified based on recommendations of the Water Licence Amendment Lean Project.
October 23, 2019	Approved by PLC September 10, 2019	Updated to reflect the changes to the WSA and additional procedures for the policy. Beneficial Use Declaration Form further streamlined and clarified, and a cover letter template included.

## Table of Contents

1.	POLICY STATEMENT.....	4
2.	DEFINITIONS .....	4
3.	REASON FOR POLICY.....	4
4.	LEGISLATION.....	4
5.	PROCEDURES.....	5
5.1	Circumstances for determining beneficial use .....	5
5.2	Use of Beneficial Use Declaration .....	6
5.2.1	For amending, cancelling, abandoning water licences or issuing final licences .....	6
5.2.2	For water allocation decisions.....	6
5.2.3	For promoting water conservation .....	7
5.3	A Beneficial Use Declaration Order .....	7
5.3.1	Contents of the BUD Cover Letter.....	7
5.3.2	Contents of a BUD Form .....	7
5.4	Determining beneficial use for other types of uses .....	8
5.5	Directions for information on beneficial use are not appealable .....	8
5.6	Other methods to determine beneficial use .....	8
6.	ATTACHMENTS .....	9

## 1. POLICY STATEMENT

This policy provides guidance for requesting or directing a licensee to submit a Beneficial Use Declaration (BUD) as part of a review into whether a licensee is making beneficial use of the rights authorized by the licence, as well as providing guidance for determining beneficial use. Recipients of a direction (order) from the comptroller, a water manager or an engineer to submit a BUD must respond to the BUD order and their declarations may be used by a decision maker as information regarding the extent of beneficial use, whether authorized works are operational and, where warranted, as evidence to propose or consider possible amendments or changes to the licence or to support additional compliance and enforcement measures.

## 2. DEFINITIONS

Relevant terms defined under [Section 1 \[definitions\]](#) of the *Water Sustainability Act* (WSA): **authorization, beneficial use, beneficial use declaration, change approval, comptroller, decision maker, drilling authorization, engineer, licence, officer, permit, use approval, water manager, works.**

Relevant terms defined under [Section 1 \[definitions\]](#) of the *Water Sustainability Regulation* (WSR): **Act, licensee.**

## 3. REASON FOR POLICY

The WSA requires any person who diverts water under the authority of the WSA to make beneficial use of the water diverted. To confirm beneficial use, a decision maker (comptroller, water manager or engineer) may request or require a licensee to submit a signed BUD. The licensee is often the most knowledgeable about the actual extent of water use under their existing water licence, as well as about the state of authorized works. Requiring licensees to submit a signed BUD can be an efficient means to gather the information on beneficial use and may often eliminate the necessity of a site inspection.

Water management staff may also conduct site inspections in order to determine beneficial use of water and to determine the location, nature and state of constructed works.

## 4. LEGISLATION

The following lists WSA and WSR related legislative sections considered most directly relevant to the topic of beneficial use declarations.

[Section 21 WSA](#) [When final licence may be issued] provides for the granting of a final licence, when the works have been constructed and beneficial use of water has been established.

[Section 26 WSA](#) [Amendment or substitution of authorization, change approval or permit] provides a detailed list of what amendments can be made to an authorization, change approval and/or associated permit(s) and authority to carry out other amendments as needed, including to extend the time set for making beneficial use of water and for the construction of works.

[Section 28 WSA](#) [Apportionment of rights under licences] outlines how water rights under licenses or permits will be apportioned (usually) when land is subdivided into various parcels of land.

[Section 30 WSA](#) [Beneficial use] requires a person to make beneficial use of the water diverted and a licensee to submit a signed BUD, including any other information required, when directed to do so by the decision maker.

[Section 94 WSA](#) [Suspension and cancellation of rights and permissions] details the circumstances in which a comptroller or water manager may consider suspending or cancelling an authorization, change approval, permit or drilling authorization, in whole or in part, including if the authorization holder fails to make beneficial use of the water, fails to construct authorized works, fails to comply with the Act, regulations, orders or terms or conditions, makes a material misstatement or misrepresentation in a BUD, or fails to comply with an order to respond to the BUD.

[Section 106 WSA](#) [General offences] provides a detailed list of general offences, including if a person fails to: make beneficial use of the water diverted, fails to submit a BUD at the time directed to do so, or fails to provide information related to beneficial use as and when directed.

[Section 10 WSR](#) [Applications for final licence] the information requirements for applications for a final licence, including on the quantity of water beneficially used and regarding the works constructed.

[Section 15 WSR](#) [Evidence – date of first use] details the information requirements for authorization applicants and transitioning groundwater users of evidence of the date of first use of groundwater, including the quantity of water beneficially used.

## **5. PROCEDURES**

### **5.1 Circumstances for determining beneficial use**

Any person who diverts water under the authority of the WSA must make beneficial use of that water as well as comply with the terms and conditions outlined in their licence. More specifically, there are several circumstances where a statutory decision maker may need to determine beneficial use of water, including:

- Making decisions regarding final licence applications;
- Making decisions regarding possible suspension or cancellation of water rights;

- To gather information to assess the extent of existing authorized demand and residual flow;
- To assess the amount of water required for the environmental flow needs of a stream particularly for almost or fully recorded systems or related circumstances where the adequacy of residual flow may be in question due to existing authorized demand;
- To gather information as evidence to support a possible decision to refuse a new authorization application; and
- When making decisions regarding apportioning of water rights.

A decision maker has discretion to use the tools available to obtain information needed to make administratively fair decisions.

## **5.2 Use of Beneficial Use Declaration**

A decision maker may use BUDs to determine the nature and extent of a licensee's beneficial use, including on the state of authorized works.

If during the process of determining the nature and extent of beneficial use of water, a licensee discloses that beneficial use of their water rights, whether in whole or in part, has not yet been made, then a decision maker may use his or her discretion to decide whether to allow a licensee additional time to construct works or to make beneficial use of water if the licensee has a solid proposal for making beneficial use of the water in a timely manner.

### **5.2.1 For amending, cancelling, abandoning water licences or issuing final licences**

The BUD can be an important tool for gathering information to inform possible steps that might be taken in respect of cancellation, abandonment or amendment (including apportionments) of water licences, because licensees are required to provide information about their past water use and state whether they have complied with the terms and conditions of their licence. For example, the BUD may be used when:

- The applicant has failed to provide sufficient information to support an amendment application, or
- A decision maker is considering a possible order such as an apportionment of water rights and requires information about the beneficial use of water and status of works constructed.

For additional information on use of the BUD, refer to policies on water licence amendments, cancellations, abandonments, apportionments, unused water licences, and issuance of final water licences listed under RELATED POLICIES (page 1).

### **5.2.2 For water allocation decisions**

The BUD may also be used as a tool to assess the extent of water use for an entire water source by having some or all licensees on the source complete the form. This information about existing authorized diversion and use will inform water licensing decisions.

### **5.2.3 For promoting water conservation**

In addition to the BUD, under section 30 (4) and (5) of the WSA, the licensee may be required to provide the results of a water conservation audit carried out in accordance with and meeting regulation requirements. The decision maker may then order the licensee to take measures to meet the level of efficiency of water use and conservation of water specified in the order.

## **5.3 A Beneficial Use Declaration Order**

A BUD Order in which a decision maker directs a licensee to submit a signed BUD, should typically include the following components:

- A cover letter (see information requirements in section 5.3.1)
- A Beneficial Use Declaration form (see information requirements in section 5.3.2)
- A copy of the licence and plat/site drawing
- If applicable, a plan or map that shows any subdivided area(s) against the original appurtenancy

### **5.3.1 Contents of the BUD Cover Letter**

The cover letter for the BUD should typically contain, but is not limited to, the following information:

- Details of the relevant water licence, which may include the appurtenant land, purpose of water use and quantity licensed
- The Plan number that subdivided the licence's appurtenancy, if applicable
- Names of all property owners who own all or part of the appurtenant land described in the licence and the legal descriptions of their parcels
- Time limit for responding to the letter and completing and returning the BUD; and
- A preliminary recommendation of how the licence may be apportioned, as well as inviting submission of relevant information (optional if related to subdivided property)

A possible template cover letter for consideration of the statutory decision maker is included in Section 6: Attachments. When sending out a BUD form and cover letter, it is useful to track the deadlines for response set out in the cover letter (for example, 30 days).

### **5.3.2 Contents of a BUD Form**

A BUD requires the licensee to submit accurate information about whether the licensee has, during the 3 years preceding the date of declaration,

- made beneficial use of the quantity of water authorized to be diverted under the licence, and
- complied with all other terms and conditions of the licence.

A BUD must also include any other information, or consents required to verify the other information, required by the decision maker and to be in the form required by the decision maker. As such, a decision maker may require the licensee to provide additional information to inform the decision-making process, including:

- The actual volume and purpose of water being beneficially used;
- When the water was used last;
- Additional information of water use such as acres being irrigated or number of livestock supported;
- Whether the works have been constructed and what types of works have been installed;
- A plan showing the location of all works and place of use, if changes have been made since the original authorization; and
- Whether other sources of water are being used

Section 6: Attachments provides a Beneficial Use Declaration form for consideration by statutory decision makers.

#### **5.4 Determining beneficial use for other types of uses**

A decision maker may require other authorized users of water to provide information on the quantity of water a person has beneficially used in accordance with s. 30 (6) of the WSA. This includes holders of use approvals, individuals who divert, store or use water under regulation, and individuals who divert, store or use water as described in s. 6 (2) (b) or (3) or as authorized by s. 6 (4) of the WSA.

Beneficial use declarations have also regularly been used by statutory decision makers to gather information about hydroelectric power production each year, including to determine billing by Water Revenue under s. 18 of the WSFRCT. This work and the specialized templates for this work are managed by staff in the FLNRORD Water Management Branch under the Comptroller of Water Rights.

#### **5.5 Directions for information on beneficial use are not appealable**

In accordance with s. 30 (9) of the WSA, any direction provided by a statutory decision maker to submit a BUD is final and may not be appealed.

#### **5.6 Other methods to determine beneficial use**

While the BUD is often the most effective means of determining the actual extent of water use, as well as the state of authorized works, there are several other field-based or office-based methods available to determine beneficial use of water, and methods to determine whether the licensee has met the terms and conditions of their licence, such as:



- Traditional surveying methods utilizing transit/theodolite;
- Compass and hip chain;
- GPS survey;
- Interpretation of air photos, automated spatial aerial overlays, and an inspection of the site (where appropriate to confirm current conditions, including the state of authorized works); or
- Submission by the licensee of as-built drawings, prepared and signed by a qualified surveyor or engineer, which shows the works constructed and the location and extent of beneficial use, including the most recent date of use

## **6. ATTACHMENTS**

Template 1 Beneficial Use Declaration Form

Template 2 Example cover letter for BUD (Generic)

(Note: A template cover letter for BUD use with apportionments is available with the Apportioning of Water Rights Policy.)