



Ministry of Environment and Climate Change Strategy

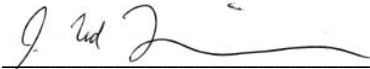
**Ministry of Forests, Lands, Natural Resource
Operations and Rural Development**

NAME OF POLICY:	Final Licences
APPLICATION:	This policy applies when adjudicating an application for a final licence or administering a final licence.
ISSUANCE:	Executive Director, Water Protection and Sustainability Branch, Ministry of Environment and Climate Change Strategy (ENV), and Director, Water Management Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD)
IMPLEMENTATION:	FLNRORD
LEGISLATIVE REFERENCES:	<i>Water Sustainability Act</i> (Ch. 15, S.B.C 2014) [WSA] Water Sustainability Regulation (B.C. Reg. 36/2016) [WSR] Water Sustainability Fees Rentals and Charges Tariffs Regulation (B.C. Reg. 37/2016) [WSFRCTR].
RELATED POLICIES:	Beneficial Use Declaration
RELATIONSHIP TO PREVIOUS POLICIES:	Replaces Issuance of a Final Water Licence and Beneficial Use policy (2009), Issuance of a Final Water Licence and Subdivided Land policy and Issuing a Section 14 Final Water Licence guideline (2005).
POLICY AMENDMENT PROCESS:	Requests for policy amendments are made in writing to the Executive Director, Water Protection and Sustainability Branch, Ministry of Environment and Climate Change Strategy (ENV) and Director, Water Management Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD).

EFFECTIVE DATE: FILE: 76940-00

AMENDMENT NO: PAGE: 1/8

Final Licences Policy For Applicants



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March 6, 2020

Date

April 14, 2020

Date

APPROVED AMENDMENTS:

Effective date	Approval date	Description/Summary of Changes:
May 22, 2020	April 14, 2020	This policy replaces Issuance of a Final Water Licence and Beneficial Use and Issuance of a Final Water Licence and Subdivided Land policies and Issuing a Section 14 Final Water Licence guideline

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1. POLICY STATEMENT

This policy provides guidance to water managers when adjudicating an application to issue a final licence in place of a conditional licence, or an application for abandonment of a final licence, amendment of a final licence, or to cancel water rights associated with a final licence that are not being put to beneficial use.

2. REASON FOR POLICY

An application for a water licence is generally based on an estimate of the volume of water required for a proposed water use; a conditional water licence is granted based on that initial estimate. The final licence provides a mechanism for confirming that works have been completed and that the volume of water initially estimated is being beneficially used once the holder of the conditional licence has had the opportunity to construct the works and establish the beneficial use as set out in the conditional licence. This guidance is intended to support consistent application of this tool across the province.

3. DEFINITIONS

Relevant terms defined under WSA [section 1](#) [definitions]: **authorization, beneficial use, beneficial use declaration, conditional licence, final licence, licence**

Relevant terms defined under WSR [section 1](#) [definitions]: **application**

Apportionment means the division of rights and duties under a water licence under [s. 28 WSA](#) among parcel owners, which occurs when the appurtenant land under a licence is subdivided into more than one new parcel. On subdivision, owners of parcels within the original appurtenancy may have an interest in the water rights granted by the licence.

4. LEGISLATION

The following lists the sections of the WSA and regulations considered most directly relevant to the topic of final licences. This list should not be considered exhaustive, however, as special terms and conditions (included in licences or other applicable circumstances) may draw upon other related sections of the legislation or regulations.

[Section 12](#) of the WSA [*Application and decision maker initiative procedures*] describes application procedures related to applications, including procedures for amendment applications by instrument holders or on the initiative of the relevant decision-maker.

[Section 13](#) of the WSA [*Objections to applications and decision maker initiatives*] details the circumstances under which a decision maker must or may give directions that notice of particular

applications be provided, receive objections and consider hearings for applications, including amendment applications by instrument holders or on the initiative of the relevant decision-maker, particularly amendments for change of works where notice is required.

Section 21 of the WSA [*When final licence may be issued*] provides for a final water licence to be issued, where works have been completed, authorizing the diversion and use of a quantity of water that has been beneficially used for the purpose authorized under a conditional water licence.

Section 26 of the WSA [*Amendment or substitution of authorization, change approval or permit*] lists specific circumstances for amendment and limitations on amendments of authorizations, permits, change approvals or permits over Crown land.

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

Section 30 of the WSA [*Beneficial use*] requires that all persons who divert water must use it beneficially (in addition to efficiently), and must not waste water, and describes beneficial use declarations (BUDs) and their requirements.

Section 31 of the WSA [*Abandonments of rights under an authorization*] enables a decision maker, upon application by the holder or a water authorization, to approve the abandonment of all or part of the rights held under authorization, subject to prescribed terms and conditions and on the terms and conditions the decision maker considers advisable, including requirements for repair, maintenance or removal of works (or related arrangements) or for deactivation or decommissioning of works (or related arrangements).

Section 94 of the WSA [*Suspension and cancellation of rights and permissions*] details the circumstances in which a comptroller or water manager may, on notice, suspend or cancel an instrument such as an authorization, change approval, permit or drilling authorization, in whole or in part and also outlines the procedures for suspensions and cancellations initiated under this section.

Section 10 of the WSR [*Applications for final licence*] sets out the information required in an application for a final licence.

Schedule 1 of the WSRCTR sets out fees relevant to an application for a final licence.

5. PROCEDURES

5.1 Issuing a final licence

This section applies to adjudicating an application for a final licence in place of a conditional licence.

5.1.1 When a final licence can be issued

Section 21 WSA sets out when a final licence can be issued in place of a conditional licence. A final licence can be issued where the licensee has completed the works set out in the conditional licence, or where the period for completing the works expires and, the decision maker determines that any uncompleted works are not required and the licensee is making beneficial use of water as authorized in the conditional water licence.

In addition to confirming the volume of water, the final licence enables a decision-maker to confirm the location and nature of works that have been built, the water use purpose, the appurtenant land that is benefiting from irrigation and any other terms and conditions on the conditional licence. Once confirmed, this information, including any ongoing terms and conditions in the conditional licence will form the basis of the final licence.

A decision to issue a final licence is appealable.

5.1.2 Date of precedence

A final licence has the same date of precedence as the conditional licence which it replaces.

5.1.3 Application for a final licence

An application for a final licence may be made by the applicant under s. 12(1) WSA or the action may be initiated by the decision maker under s. 12(6) WSA.

A holder of a conditional licence must contact their local [FrontCounter BC office](#) to initiate an application for a final licence. Online applications are not available.

There is no requirement for the holder of a conditional licence or a decision maker to apply for a final licence.

The fee for an application for a final licence is based on the fee for amendments in Schedule 1 of the Water Sustainability Fees Rentals and Charges Tariff Regulation as provided in s. 2(1)(d) WSFRCTR.

5.1.4 Notification

Section 12 WSA applies to final licence applications made by the licensee, including related notification. Section 13 (13) WSA sets out notification requirements for a final licence application initiated by a decision maker.

5.1.5 Beneficial use

A final licence may be issued where works have been completed and beneficial use can be demonstrated, as authorized in the conditional water licence.

The determination of beneficial use by the decision maker may be based on:

- Information provided by the licensee in the application for the final licence, including on works built, their locations and any deviations from those authorized, a drawing showing final works;
- Information provided by the licensee in a beneficial use declaration;
- Information obtained during a site inspection;
- An assessment of aerial photography or satellite imagery; or
- An assessment of other relevant information.

In cases where it has been determined by the decision maker that the quantity of water being put to beneficial use is less than the licensed quantity, a final licence may be issued for the actual quantity being beneficially used, as determined by the decision maker.

A final licence is never issued to increase the quantity of water authorized to be used. If the amount of water being used is greater than that provided in the conditional licence the licensee should be directed to cease using water in excess of the authorized volume and to file an application for the additional volume of water.

Refer to [Beneficial Use Declaration](#) policy for related information.

5.1.6 Amendments

If there are existing works which are not authorized in the conditional licence and which differ significantly from those authorized (e.g. are not related works necessarily required to those authorized), or are proposed in the application for a final licence, or if there has been a change in water use purpose or another significant change from the conditional licence is proposed, an amendment to the conditional licence may be completed under s. 26 WSA. This may be undertaken concurrently with the application for a final licence.

An amendment is not required if the works described in the conditional licence were not completed and the decision maker determines that the works that were not completed are not required.

5.1.7 Subdivided land

If the land to which an application for a final licence is appurtenant consists of more than one parcel owned by different persons, the rights associated with the licence may require apportioning prior to the issuance of any final licence(s).

5.2 Administering a final license

This section applies after a final licence has been issued.

5.2.1 Cancellation of rights

S. 94(1) WSA provides the authority to initiate a proposal to suspend or cancel water rights associated with an authorization, including final licence, as well as other permissions, in particular circumstances. For example, where there is evidence that the holder of a final licence has failed to make beneficial use of the water for three successive years, the decision maker has discretion to initiate that process.

5.2.2 Abandonment

The abandonment of a final licence or rights associated with a final licence under s. 31 WSA requires an application by the authorization holder(s) and a decision on the application by a decision maker. Under s.31 WSA, a decision maker decides whether to approve the abandonment of all or part of the rights, subject to terms and conditions considered advisable by the decision maker in the circumstances, including requirements for repair, maintenance or removal of works (or related arrangements) or for deactivation or decommissioning of works (or related arrangements).

5.2.3 Amendments

A final licence may be amended in accordance with s. 26 WSA. By definition, a final licence does not authorize the construction of works. Therefore, if new works are proposed by amendment application, a conditional licence might be issued in substitution to allow for new works to be constructed. The conditional licence would have the same date of precedence as the final licence.

As with a conditional licence, a final licence may not be amended to increase or decrease the volume of water authorized to be diverted, unless the change is to correct an administrative error (e.g. if there is evidence to establish that the quantity was erroneously estimated at the time of licensing – s.26(1)(i) WSA).

If it is determined that the amount of water being used is greater than that provided in the final licence the licensee should be requested or directed to cease using water in excess of the authorized volume and to file an application for an authorization for the additional volume of water.