

Water Use for Mineral Exploration and Placer Mining under the *Water Sustainability Act*

March 2020 Update

Water Use under the Water Sustainability Act

A water licence or use approval under the [Water Sustainability Act](#) (WSA) is required for most uses of water, whether the water is diverted from a stream or an aquifer. However, WSA [section 6](#) provides some exemptions from this requirement and further exemptions can be prescribed in the regulations.

Allowed use under WSA Section 6

A person may use unrecorded water – water that has not been authorized for use under a water licence or use approval – from a stream or an aquifer without an authorization for “prospecting for a mineral”. This term is defined in the WSA as follows:

“**prospecting for a mineral**” means searching for a mineral

- (a) using hand-held tools in a manner that does not involve mechanical disturbance of the surface, or
- (b) in a prescribed manner.

(Note: “in a prescribed manner” has not been determined)

“Prospecting for a mineral” includes recreational hand panning and placer hand mining because these activities are restricted to the use of hand-held tools. Placer hand mining may be conducted on a placer claim by the holder of a free miner’s certificate. A person may use unrecorded water from a stream or an aquifer without a water licence or use approval for recreational hand panning and placer hand mining. Recreational hand panning is allowed in specified areas of BC under the *Mineral Tenure Act*. See [Information Update No. 2](#) for a more detailed description of recreational hand panning and associated requirements.

Water use under the Water Sustainability Regulation

A person who holds a permit under [section 10](#) of the *Mines Act* to carry out placer mining activities or mineral exploration activities is exempt from the requirement to obtain a water licence or use approval, subject to certain environmental protection and other requirements. The details of the allowance are described in [Sections 34.2–34.5 of the Water Sustainability Regulation](#).

“**Placer mining activities**” include the exploration, development and production of a placer mineral which involves the processing of less than 2 000 m³ pay dirt per year.

“**Mineral exploration activities**” include the exploration or development of a mineral (including coal), sand, gravel or rock, but not placer mineral.

Summary of the Allowance

(Sections 34.2—34.5 of the Water Sustainability Regulation)

- The person must hold a permit under section 10 of the *Mines Act* in relation to the placer mining activity or mineral exploration activity;
- The person may only divert unrecorded water;
- The person must not divert or use unrecorded water from:
 - a stream where there is a treaty water reservation or the Nisga’a water reservation;
 - a sensitive stream designated under section 17, and listed in Schedule B, of the Water Sustainability Regulation;
 - a point of diversion within a protected area, as defined in section 46 of the Regulation; or
 - a stream when a temporary protection order under the Act applies;
- The person must not construct any permanent or semi-permanent works in the stream channel and must remove the works for diverting water from the stream after the placer mining activity or mineral exploration activity is completed;
- The water supply intake must be equipped with a screen, or otherwise modified, to:
 - prevent potential loss of fish due to entrainment or impingement; and,
 - minimize disturbance of, or removal of sand and gravel from, the stream channel;
- The person must ensure that any disturbance of the stream channel and riparian areas are minimized when accessing water from the stream;
- The person must ensure that any water that is diverted is discharged without causing a significant risk of harm to public safety, the environment, land or other property;
- The person must ensure that the water supply and works of persons who are lawfully diverting or using water under the Act are not adversely affected; and,
- The person must ensure that the diversion or use of water does not cause a risk of significant harm to fish, wildlife or the aquatic ecosystem of a stream;
- The person may divert water for a camp up to 20 people associated with a mineral exploration or placer mining activity subject to the above restrictions; and
- The person may divert water for mineral exploration activities using mechanical hand drills and rock saws, whether or not a *Mines Act* permit was required, subject to the above restrictions.

What about existing users of groundwater?

Those beneficially using groundwater when the WSA came into force February 29, 2016 have until March 1, 2022 to submit an application for a water right. Those submitting applications before March 1, 2022 can continue to divert groundwater until a decision is made on their application, are exempt from paying an application fee and can have their date of first use recognized as the water licence priority date.

Obtaining a licence or use approval

If your water use does not meet the requirements of the allowance described above, you will need to apply for a water licence or use approval under the WSA. Applications are submitted through FrontCounter BC and require the payment of associated fees and rentals. Common water use purposes for applications related to mineral exploration and placer mining are “placer mining” and in the case of mineral exploration drilling, “industrial cooling”.

More information on how to apply is available at Front Counter BC at www.frontcounterbc.gov.bc.ca or by calling 1-877-855-3222.

In the event of a discrepancy between this information and the provisions in the *Water Sustainability Act* and Regulations, the provisions in the statute and regulations will apply.