

Terms and Conditions

for *Water Sustainability Act* Changes In and About a Stream as specified by Ministry of Forests, Lands, Natural Resource Operations, and Rural Development (FLNRORD) Habitat Officers, Skeena Region

Context

Under Part 3 of the *Water Sustainability Regulation* (WSR), a person or agency can make Authorized Changes (Section 39 [1], [2], [3], or [5]) in and about a Stream without a Change Approval from the Water Manager. Authorized Changes require notice to be submitted to a Habitat Officer through FrontCounter BC.

The requirements for submitting a notice to a Habitat Officer for an Authorized Change are contained in Section 38 of the WSR. Key points applicable to most Authorized Changes are summarized, in part, below.

The person wishing to make the Authorized Change must:

- Provide a notice, signed by the person or the person's agent, to a Habitat Officer of the particulars of the proposal at least 45 days before beginning the Authorized Change; and
- Obtain from a Habitat Officer a statement of the terms and conditions described in Section 44 (2) on which the Authorized Change can proceed.

If a person who has given notice is not contacted by a Habitat Officer within 45 days after the notice is received by the Habitat Officer, the person may proceed with the Authorized Change that is the subject of the notice.

The WSR gives authority to a Habitat Officer to add specific terms and conditions to ensure the protection of habitat in addition to the conditions of general application. Terms and conditions are described under Section 44 (2) of the WSR. This document contains instream timing windows and other environmental requirements that are required for all applicable Authorized Changes. This document does not supersede the requirements of the *Water Sustainability Act* and associated regulations, the Federal *Fisheries Act* or any other related legislation. The proponent is obligated to comply with all applicable federal, provincial or municipal enactments.

Work Windows

Work windows (i.e., timing windows or windows of least risk) must be applied to all activities in fish Streams as well as tributaries that have a risk of depositing sediment into fish Streams. Work windows are designed to protect the sport fish species known to occur in a Stream. One way fish presence can be confirmed is through a fish inventory database at: <http://www.env.gov.bc.ca/fish/>. Please note that if this database lacks fish records for a particular area, it is not necessarily

equivalent to fish absence. All Streams are assumed to be fish bearing with all possible species, until proven otherwise.

These periods of reduced risk have been prepared using the best information currently available and replace all other Provincial direction regarding timing windows in the Skeena Region. The tables below represent time periods when instream work must be conducted and are followed by a table of species codes identifying the species column.

Skeena Region Reduced Risk Work Windows for Species at Risk *

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Not Specifically Known	Green Sturgeon Red Listed	November 1	April 30
Throughout	Eulachon Blue Listed	June 15	March 15
Throughout	Coastal Tailed Frog Blue Listed	No Reduced Risk Work window	

*Note: A *Qualified Professional* must be consulted to determine whether the project will have any impact on the above Species at Risk. Please refer to the BC Species and Ecosystems Explorer for details.

Skeena Region Reduced Risk Work Windows for the North Coast Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	June 15	July 15
Throughout	CO	July 1	August 31
Throughout	PK	May 15	August 15
Throughout	CH	May 15	August 31
Throughout	SO	June 15	July 31
Throughout	KO	June 15	July 15
Throughout	ST	September 15	November 15
Throughout	RB	September 15	November 15
Throughout	CT	September 1	September 30
Throughout	DV	July 1	August 15
Throughout	BT	July 1	August 1
Throughout	WG	June 1	August 31
Throughout	GR	January 1	February 28
Throughout	BB	September 1	December 31

Skeena Region Reduced Risk Work Windows for the Kalum and Nass Timber Supply Areas of the Kalum Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	June 1	July 25
Throughout	CO	June 15	September 10
Throughout	PK	May 1	August 10
Throughout	CH	May 15	July 25
Throughout	SO	May 15	July 25
Throughout	KO	June 15	July 15
Throughout	ST	September 15	November 15
Throughout	RB	September 15	November 15
Throughout	CT	September 1	September 30
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	BT	July 1	August 1
Throughout	GR	January 1	February 28
Throughout	BB	September 1	December 31

Skeena Region Reduced Risk Work Windows for the Kispiox/Cranberry Timber Supply Area of the Skeena – Stikine Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	June 15	July 31
Throughout	CO	July 1	August 31
Throughout	PK	May 15	August 15
Throughout	CH	May 15	August 31
Throughout	SO	June 15	July 15
Throughout	KO	June 15	July 15
Throughout	ST	October 1	November 30
Throughout	RB	October 1	November 30
Throughout	CT	September 1	November 1
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	BT	July 1	August 1
Throughout	GR	January 1	February 28
Throughout	BB	September 1	December 31

Skeena Region Reduced Risk Work Windows for the Cassiar Timber Supply Area of the Skeena – Stikine Cassiar Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	May 1	July 31
Throughout	CO	April 1	August 15
Throughout	PK	March 15	July 31
Throughout	CH	April 1	September 15
Throughout	SO	April 1	May 31
Throughout	ST	October 1	November 30
Throughout	RB	October 1	November 30
Throughout	CT	September 1	November 1
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	GR	January 1	February 28
Throughout	BT	July 1	August 1
Throughout	BB	September 1	December 31
Teslin Lake	BW Red Listed	April 30	September 15
Atlin Lake, Teslin Lake, Swan Lake	LC Blue Listed	April 30	September 15

Skeena Region Reduced Risk Work Windows for the Bulkley Timber Supply Area of the Skeena - Stikine Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	June 1	August 15
Throughout	CO	June 1	August 15
Throughout	PK	June 1	August 15
Throughout	SO	June 1	July 15
Throughout	ST	October 1	December 31
Throughout	RB	October 1	December 31
Throughout	CT	September 1	November 1
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	BT	July 1	August 1
Throughout	GR	January 1	February 28
Throughout	BB	September 1	December 31
Babine River	ST, RB, CT	October 1	December 31
Babine River	DV, BT	July 1	August 1
Copper (Zymoetz) River	ST, RB, CT	October 1	December 31
Copper (Zymoetz) River	DV, BT	July 1	August 1

Skeena Region Reduced Risk Work Windows for the Morice Timber Supply Area of the Nadina Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	June 15	July 31
Throughout	CO	July 1	August 31
Throughout	PK	May 15	August 15
Throughout	CH	May 15	August 31
Throughout	SO	June 15	July 15
Throughout	KO	June 15	July 15
Throughout	ST	October 1	December 31
Throughout	RB	October 1	December 31
Throughout	CT	September 1	November 1
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	BT	July 1	August 1

Skeena Region Reduced Risk Work Windows for the Lakes District Nadina Forest District.

Location	Species	Reduced Risk Work Window	
		Start date	Finish date
Throughout	CM	May 15	August 31
Throughout	CO	May 15	July 31
Throughout	SO	May 15	August 31
Throughout	KO	June 15	July 15
Throughout	ST	October 1	November 30
Throughout	RB	October 1	November 30
Throughout	CT	September 1	November 1
Throughout	DV	July 1	August 15
Throughout	WG	June 1	August 31
Throughout	BT	July 1	August 1
Throughout	BB	Sept 1	December 31

Species Codes:

CH	chinook	SO	sockeye	CT	cutthroat trout	BB	burbot
CO	salmon	KO	salmon	DV	dolly varden	GR	arctic grayling
PK	coho salmon	ST	kokanee	W	whitefish	B	broad
C	pink salmon	RB	steelhead	G	general	W	whitefish
M	chum salmon		rainbow trout	BT	bull trout	LS	least Cisco

Notwithstanding the above information, if either of the following conditions is met, the work window is not applicable:

- If the stream channel is naturally dry (no flow) or frozen to the bottom at the worksite and the instream activity will not adversely impact fish habitat (e.g. result in the introduction of sediment into fish habitat).
- If construction of a winter crossing is proposed and such works does not adversely impact the stream channel (including stream banks), water quality, fish habitat or fish passage.

If your work is proposed outside the work window, and neither of the above conditions apply, you must retain a qualified 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, and onsite monitoring of their implementation. This document must be submitted to the Habitat Officer through FrontCounter BC with reference to your file number. 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.

The instream work window for beaver dam removal will correspond to the reduced risk work windows. Opening plugged culverts or removing beaver dams and draining ponds between October 1 and March 31 can result in mortalities of both beavers and fish, and will not normally be accepted. Special circumstances may warrant dam removal during this time. Requests to modify or remove beaver dams, or unplug culverts outside the work window must be accompanied by a detailed request directed to a Habitat Officer. Such request will be dealt with on a case-by-case basis, and approval **may** be given.

Beavers may only be removed by the registered trapline holder or contract problem beaver trappers (contact BC Trappers Association, c/o Trappers International [250-561-1602]). A permit issued by the Fish, Wildlife Science and Allocation Section Head is required to remove beaver outside the trapping season.

Best Management Practices (BMP's)

The province of British Columbia provides guidance in planning and carrying out your proposed development activities so that they comply with applicable legislation, regulations and policies; and meet provincial and federal standards of performance.

Knowing what legal obligations and standards apply to your project will assist you in choosing the Best Management Practices (BMPs) for conducting your project activities. This information can be obtained at: <http://www.env.gov.bc.ca/wld/instreamworks/index.htm>.

General Terms and Conditions

The following is a list of general terms and conditions that must be met when undertaking changes in and about a Stream in the Skeena Region. As noted above, a Habitat Officer may also designate further terms and conditions in response to applications submitted under the *Water Sustainability Act*.

- (a) ***Minimize the amount of time the work site is in a disturbed state by completing work as quickly as possible, while considering worker safety and minimizing environmental risk,***
- (b) ***The minimum instream flow or the minimum flow of water that must remain in the stream while the change is being made,***
- The natural rate of water flow must be maintained upstream and downstream of the worksite during all phases of instream activity.
- (c) ***The removal of material from the stream or stream channel in connection with the change,***
- In fish Streams, the permanent removal of stable, naturally occurring material from the stream or stream channel is not permitted.
 - The channel width of the Stream must not change.
 - In non-fish Streams, the permanent or temporary removal of stable, naturally occurring material must be minimized and completed only as necessary to make the change in accordance with Part 3 of the WSR.
 - The removal of material must not lead to Stream channel instability or increase the risk of sediment delivery to the watercourse.
 - Any spoil materials must be placed in a location which ensures that sediment or debris does not enter the watercourse.
 - The placement or removal of culverts must be in accordance with Part 3 of the WSR and/or the *Fish Stream Crossing Guidebook* (September 2012).
- (d) ***The addition of substance, sediment, debris or material to the stream or stream channel in connection with the change,***
- Instream activities must be conducted in the dry or the worksite must be isolated from water flowing in the stream channel.
 - All equipment must be located and operated in the dry.
 - Equipment used in close proximity to the wetted perimeter must be free of deleterious material (e.g., hydrocarbons) and in good mechanical condition (e.g., no fuel or hydraulic leaks). All refueling and servicing must be completed outside of the Riparian Management Area. All machinery operating near a stream must have a spill kit.

- Measures must be taken to ensure that no harmful material (e.g., fuel and other hydrocarbons, soil, road fill, or sediment), which could adversely impact water quality or the aquatic ecosystem can enter the wetted perimeter as a result of the project activities.
- Erosion and sediment control structures are to be available onsite and utilized as necessary. A contingency plan should be developed which outlines workers roles and responsibilities.
- Do not work when the combinations of operations and weather conditions is likely to contribute to sediment production to the Stream (i.e., operations resulting in exposed soils during periods of moderate or heavy rainfall).
- Within the work area, standing water that contains sediment must be pumped to a vegetated area or settling pond that is sufficiently far from the Stream to allow for suspended fine particles to settle or be filtered out, prior to reintroducing Stream flow to the work area. The return water must not cause erosion that result in sediment delivery to the Stream.
- Any materials, such as riprap or gabion rock, placed within the Stream channel must be free of silt, overburden, or other substances deleterious to aquatic life. Rock used as riprap must be angular in shape and suitably sized to resist movement by stream flows. Rock placement should be designed to minimize the potential for failure of riprap bank protection and displacement of riprap to the stream bed.
- If approved, beaver dam removal must occur slowly, a bit at a time, in order to minimize scouring and the addition of silt to downstream areas. Water flowing through a dam breach should normally not exceed 0.2 square metres in area (i.e., a typical breach could measure 1.0 metre x 20 centimetres in size). All material removed from a beaver dam must be side-cast in such a manner that it cannot re-enter the stream.

(e) The salvage or protection of fish or wildlife while the change is being made or after the change has been made,

- If dewatering of the worksite is necessary, fish salvage must occur on a fish-bearing stream prior to commencing works. Prior to commencing salvage activities, a fish salvage permit must be obtained from FrontCounter BC.
- If an area is de-watered as a result of beaver dam removal or modification and results in the stranding of fish, then these fish must be salvaged and returned to the stream.
- Measures must be taken to ensure that equipment (e.g. screened water pump intakes) does not harm aquatic life.
- Proponents are responsible for complying with the BC Wildlife Act, and must not disturb wildlife and/or their residences (e.g. beaver lodges, eagle, osprey, and heron nests) within the project area.

(f) The protection of natural materials and vegetation that contribute to the aquatic ecosystem or stream channel stability,

- Avoid disturbance to natural materials (e.g. embedded logs) and vegetation that contribute to the aquatic ecosystem or stream channel stability. Trees on the work site or clearing width

adjacent to streams must be felled away from the stream to the fullest extent possible. The tree(s) and all resultant debris must be removed from the channel concurrently with felling.

(g) The restoration of the work site after the change has been made.

- Complete restoration activities (including erosion control), as required, that will lead to natural pre-disturbance conditions. This includes natural vegetation seeding and tree planting.
- Any disturbed areas must be restored to function as they did in their pre-disturbance condition. This includes natural vegetation seeding and tree planting.
- Stream flow is to be returned gradually to the worksite and not in a single sudden rush to avoid erosion that would result in sediment delivery to the stream.

(h) It is the responsibility of persons intending to carry out changes in and about a Stream, as described under Part 3 of the Water Sustainability Regulation:

- To ensure that all sections of the Notice form are properly completed;
- To comply with federal, provincial and municipal enactments, including but not limited to the *Water Sustainability Act* (and its regulations), *Fisheries Act*, *Wildlife Act*, or the *Navigation Protection Act*, as well as local government bylaws and regulations, as may be applicable to proposed changes and related works or activities; and
- To obtain the written consent of the landowner for proposed changes and related works or activities intended to take place on private land or premises or to use any privately owned works, before proceeding.