



WATER DATA SHARING AGREEMENT

THIS AGREEMENT is made effective the ___ day of _____, 20__

BETWEEN:

Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Environment and Climate Change Strategy (the "**Province**")

AND:

_____ (the "**Data Owner**")

WHEREAS:

- A. The Province maintains a database of water data derived from various sources (the "**Database**") and, as part of its open data policy, gives or intends to give to the public free and unfettered access to, and the right to make unrestricted use of, the water data held in the Database (the "**Accessed Data**");
- B. The Data Owner has gathered certain water data from one or more monitoring sites in British Columbia and, in order to allow this data to be utilized more effectively, wishes to provide this data to the Province (the "**Provided Data**") for the purposes of including it in the Database and making it freely and openly available to the public as part of the Accessed Data; and
- C. The Data Owner and the Province wish to document the terms and conditions relating to the Data Owner's provision of, and the Province's and the public's use of, the Provided Data as set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the Data Owner's ability to participate in the Province's initiative for the disclosure of water data to the public, and other valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party), the parties agree as follows:

1. The Data Owner hereby grants to the Province:
 - (a) a non-exclusive, perpetual, irrevocable, fully prepaid, royalty-free, worldwide license to exercise, in respect of the Provided Data, all of the rights set out in the *Copyright Act* (Canada), including the right to make unrestricted use of and reproduce, modify, publish, distribute and make derivative works from that Provided Data, including for commercial purposes; and
 - (b) the right to sublicense or assign to third-parties any or all of the rights granted to the Province under section 1(a).
2. The Data Owner acknowledges and agrees that the rights granted in section 1 above apply to any and all Provided Data immediately upon the Province's receipt of such data.
3. Any modifications to or derivative works made from the Provided Data by the Province or any third party will be owned by the party making such modifications or derivative works.

4. The parties acknowledge and agree that:
 - (a) the Provided Data is being provided to the Province by the Data Owner "as is and where is", without warranties or representations either express or implied with respect to its accuracy, completeness, merchantability or fitness for a particular purpose, and the Province will, in turn, provide the Provided Data to the public or others as part of the Accessed Data in accordance with the terms of, or on terms substantially similar to, the Province's "Open Government Licence" ("OGL"), as may be amended from time to time (a current copy of the material terms of which is attached as Schedule "A");
 - (b) neither party will be liable to the other for any damages, including any loss of profits, loss of savings or other incidental or consequential damages arising out of the public's use of or inability to use the Provided Data; and
 - (c) the Province will direct any information requests regarding the Provided Data to the Data Owner.

5. The Data Owner warrants, acknowledges and agrees that:
 - (a) it is the sole owner of the Provided Data, it has collected the Provided Data at its monitoring site(s) in British Columbia and in accordance with the law and it has all rights necessary for it to enter into this Agreement and grant the license set out in section 1;
 - (b) to the best of its knowledge, the Provided data does not contain any third party's personal or proprietary information;
 - (c) it is providing the Provided Data to the Province on a voluntary basis, in electronic format (or other format acceptable to the Province), and without cost to the Province;
 - (d) the Province in its sole discretion may, but is not obliged to, incorporate and retain all or any of the Provided Data in the Database, or any other database or data repository maintained by it;
 - (e) the Province may make the Accessed Data, including the Provided Data, available to the public and other parties, including other Canadian and international jurisdictions, through the Province's "B.C. Data Catalogue", or any other data-sharing methods, pursuant to the terms of the OGL or under any other terms or agreements as may be determined by the Province in its sole discretion;
 - (f) the public will have full access to and may make unrestricted use of the Provided Data in perpetuity; and
 - (g) if the Province should require that any author(s) of the Provided Data waive their moral rights in the Provided Data, the Data Owner will make best efforts to assist with obtaining such waiver(s).

6. No partnership, joint venture or agency will be created or will be deemed to be created by this Agreement or any action of the parties under this Agreement.

7. Subject to subsections 4(a) and (b), the Data Owner will save harmless and forever releases and discharges the Province from and against any and all claims, demands, damages, causes of action, losses, costs and expenses of any kind and every nature which can or may arise from or by reason of any act or omission of the Data Owner in relation to or arising from this Agreement or its provision of the Provided Data to the Province.

8. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement.

9. This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

10. Any amendment to the terms and conditions of this Agreement must be in writing and duly executed by both parties.

11. If any provision of this Agreement is found to be invalid, illegal or unenforceable it will be severable from this Agreement and the remaining provisions will not be affected thereby and will be valid, legal and enforceable.

12. Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.

13. This Agreement will be governed by and construed and interpreted in accordance with the laws of British Columbia and the laws of Canada applicable therein.

14. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, and all such counterparts may be delivered by any method agreed to by the parties.

IN WITNESS WHEREOF the parties have executed this Agreement to be made effective as of the date first above written.

SIGNED, SEALED AND DELIVERED on behalf of
Her Majesty the Queen in Right of the Province
of British Columbia by a duly authorized
representative of the Minister of Environment and Climate Change Strategy:

Signature

David Tesch, Executive Director
Knowledge Management Branch

SIGNED, SEALED AND DELIVERED on behalf of
the Data Owner by its authorized signatory:

Signature

Print Name and Title

Schedule "A"
Open Government Licence - British Columbia

Using Information under this licence

1. Use of any Information indicates your acceptance of the terms below.
2. The Information Provider grants you a worldwide, royalty-free, perpetual, non-exclusive licence to use the Information, including for commercial purposes, subject to the terms below.

You are free to:

3. Copy, modify, publish, translate, adapt, distribute or otherwise use the Information in any medium, mode or format for any lawful purpose.

You must, where you do any of the above:

4. Acknowledge the source of the Information by including any attribution statement specified by the Information Provider(s) and, where possible, provide a link to this licence.

If the Information Provider does not provide a specific attribution statement, or if you are using Information from several Information Providers and multiple attributions are not practical for your product or application, you must use the following attribution statement:

Contains information licensed under the Open Government Licence – British Columbia.

5. The terms of this licence are important, and if you fail to comply with any of them, the rights granted to you under this licence, or any similar licence granted by the Information Provider, will end automatically.

Exemptions

6. This licence does not grant you any right to use:
 - a. Personal Information;
 - b. Information or Records not accessible under the Freedom of Information and Protection of Privacy Act (B.C.);
 - c. third party rights the Information Provider is not authorized to licence;
 - d. the names, crests, logos, or other official marks of the Information Provider; and
 - e. Information subject to other intellectual property rights, including patents, trademarks and official marks.

Non-endorsement

7. This licence does not grant you any right to use the Information in a way that suggests any official status or that the Information Provider endorses you or your use of the Information.

No warranty

8. The Information is licensed "as is", and the Information Provider excludes all representations, warranties, obligations, and liabilities, whether express or implied, to the maximum extent permitted by law.

9. The Information Provider is not liable for any errors or omissions in the Information, and will not under any circumstances be liable for any direct, indirect, special, incidental, consequential, or other loss, injury or damage caused by its use or otherwise arising in connection with this licence or the Information, even if specifically advised of the possibility of such loss, injury or damage.

Governing Law

10. This licence is governed by the laws of the province of British Columbia and the applicable laws of Canada.

11. Legal proceedings related to this licence may only be brought in the courts of British Columbia.

Definitions

12. In this licence, the terms below have the following meanings:

"Information" means information resources or Records protected by copyright or other information or Records that is are offered for use under the terms of this licence.

"Information Provider" means Her Majesty the Queen in right of the Province of British Columbia.

"Personal Information" has the meaning set out in Schedule 1 of the Freedom of Information and Protection of Privacy Act (B.C.).

"Records" has the meaning set out in section 29 of the Interpretation Act (B.C.).

"You" means the natural or legal person, or body of persons corporate or incorporate, acquiring rights under this licence.

Versioning

13. This is version 2.0 of the Open Government Licence for Government of British Columbia Information. The Information Provider may make changes to the terms of this licence from time to time and issue a new version of the licence. Your use of the Information will be governed by the terms of the licence in force as of the date you accessed the Information.