

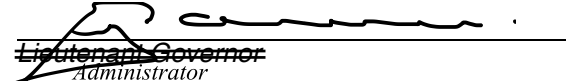
PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 707

, Approved and Ordered

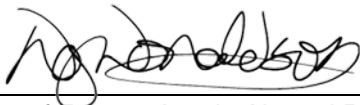
December 17, 2019


~~Lieutenant Governor~~
Administrator

Executive Council Chambers, Victoria

Administrator

On the recommendation of the undersigned, the ~~Lieutenant Governor~~, by and with the advice and consent of the Executive Council, orders that the Water Sustainability Regulation, B.C. Reg. 36/2016, is amended as set out in the attached Schedule.



Minister of Forests, Lands, Natural Resource
Operations and Rural Development



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Water Sustainability Act, S.B.C. 2014, c. 15, ss. 6, 124 and 127

Other: OIC 110/2016

R10358803

SCHEDULE

1 The Water Sustainability Regulation, B.C. Reg. 36/2016, is amended by adding the following sections:

Definitions – mineral exploration

34.2 In this section and sections 34.3 to 34.5:

“**mineral exploration activities**” means activities, described in paragraph (a) of the definition of “mining activity” in section 1 of the *Mines Act*, performed in relation to minerals other than placer minerals;

“**Mines Act permit**” means a permit issued under section 10 of the *Mines Act* in relation to mineral exploration activities or placer mining activities;

“**placer mining activities**” means activities, described in the definition of “mining activity” in section 1 of the *Mines Act*, performed in relation to placer minerals and that involve the processing of less than 2 000 m³ of pay dirt per year.

Exemptions – mineral exploration

- 34.3** (1) Subject to section 34.4 [*rules for exemptions*], a person who holds a *Mines Act* permit is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion and use of water for
- (a) mineral exploration activities or placer mining activities, and
 - (b) a camp that
 - (i) is operated and maintained in relation to activities conducted under the permit, and
 - (ii) provides living quarters for no more than 20 people.
- (2) Subject to section 34.4, a person who is exempt from the requirement to hold a *Mines Act* permit is exempt from the requirement under section 6 (1) [*use of water*] of the Act to hold an authorization for the diversion and use of water for mineral exploration activities if
- (a) the activities are conducted using only mechanical hand drills or mechanical rock saws, and
 - (b) the tools referred to in paragraph (a) are designed to be carried and used by a single person only.

Rules for exemptions

- 34.4** (1) A person who is exempt under section 34.3 [*exemptions – mineral exploration*] must comply with this section.
- (2) A person must not, under section 34.3, divert or use recorded water.
- (3) A person must not, under section 34.3, divert or use unrecorded water from any of the following:
- (a) a stream or aquifer in respect of which there is a water reservation under section 40 [*treaty first nation water reservations*] or 41 [*Nisga’a water reservation*] of the Act;

- (b) a sensitive stream;
 - (c) a point of diversion on a stream if the point of diversion is within the boundaries of a protected area, as defined in section 46;
 - (d) a stream to which a regulation under section 82 [*plan regulations – dedicated agricultural water*] of the Act applies;
 - (e) a stream to which an order under section 86 [*declarations of significant water shortage*] or 87 [*critical environmental flow protection orders*] of the Act applies or an aquifer affected by such an order;
 - (f) a stream or aquifer to which an order under section 88 [*fish population protection orders*] of the Act applies.
- (4) A person who, under section 34.3, diverts or uses water from a stream must not construct, install or place any permanent or semi-permanent works in the stream channel.
- (5) A person who, under section 34.3, diverts or uses water from a stream must
- (a) remove from the stream channel any pump, equipment or material constructed, installed or placed by that person in diverting or using water from the stream,
 - (b) ensure that the intake line or other device for diverting water is equipped with a screen, or otherwise modified, to
 - (i) prevent potential loss of fish due to entrainment or impingement, and
 - (ii) minimize disturbance of, or removal of sand and gravel from, the stream channel, and
 - (c) ensure that
 - (i) any disturbance of a stream channel or of the stable natural materials and vegetation in and about the stream is minimized when gaining access to water from the stream,
 - (ii) any water that is diverted is discharged without causing a significant risk of harm to public safety, the environment, land or other property,
 - (iii) the water supply and works of persons who are lawfully diverting or using water under the Act are not adversely affected, and
 - (iv) the diversion or use of water, whether from a stream or aquifer, does not cause a risk of significant harm to fish, wildlife or the aquatic ecosystem of a stream.

Exception to exemptions

- 34.5** (1) In this section, “**related aquifer**” means an aquifer that an engineer considers is reasonably likely to be hydraulically connected to a stream.
- (2) Despite section 34.3, an engineer may require that an application for an authorization be made for the diversion or use of water for mineral exploration activities or placer mining activities, or for a camp described in section 34.3 (1) (b), if the engineer considers that a diversion or use of water from a stream or related aquifer
- (a) may have a significant adverse impact on

- (i) the stream, including the flow of water within the stream, or
 - (ii) other authorized water users, or
- (b) may have an adverse impact on a cultural heritage resource within the meaning of the *Mineral Tenure Act*.
- (3) If an engineer imposes a requirement under subsection (2), section 34.3 does not apply to the diversion or use of water from the stream or related aquifer for the mineral exploration activities, placer mining activities or camp, as applicable.

2 ***Section 56 is repealed.***