

BRIEFING NOTE FOR INFORMATION

DATE: February 14, 2022

PREPARED FOR: Rick Manwaring, Deputy Minister, Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: *Heritage Conservation Act* permitting to support Lytton recovery efforts

BACKGROUND:

- The Lytton Creek Wildfire destroyed the village of Lytton and adjacent Lytton First Nation reserves on June 30, 2021. The fire destroyed critical infrastructure and approximately 160 residential and commercial properties, displacing residents. Approximately 42% of Lytton's residents did not have insurance, however, regardless of that, insurance policies do not cover archaeological assessments.
- Rebuilding cannot proceed until surface debris and environmental contamination is removed and remediated. Remediation actions are planned to commence in spring 2022, with construction to follow in summer 2022 (anticipated to continue through 2023).
- Although there are only 12 recorded archaeological sites within the Village of Lytton, this reflects the lack of previous assessment. The confluence of the Fraser and Thompson Rivers suggests a rich archaeological history, where many more sites are likely to be present and subject to automatic protection (regardless of whether they have been recorded).
- The Archaeology Branch (the Branch) sits on two recovery committees, which meet weekly. The Kumsheen Heritage Committee (KHC) includes representatives from Lytton First Nation, Nlaka'pamux Nation Tribal Council (NNTC), the Village of Lytton, and EMBC, and is intended to ensure indigenous, local, and Provincial parties are informed of proposed developments, and provide property-specific advice to developers and property owners.
- The KHC is establishing the process by which property owners are informed of their responsibilities under the *Heritage Conservation Act* (HCA), and to develop the HCA permits to support Lytton's rebuild.
 - A community approach to permitting supports consistency on the scope and archaeological methods, and centralises reporting.
 - The HCA s12.2 Heritage Investigation Permit will authorise studies to identify and assess archaeological sites and mitigate impacts from development through systematic data recovery or monitoring.
 - The HCA s12.4 alteration permit only authorises impacts to known sites. Sites can be added to the s12.4 permit without an amendment, following approval by the Branch.
 - The KHC will support the project cycle for both permits.
 - Upon approval by the Branch, multiple archaeologists can work under the permits.
 - Multiple parties can be added as proponents.
 - One individual with the ability and authority to coordinate Lytton's rebuild should hold the permit – they do not need to be an archaeologist.
 - Conditions may be applied to the permit to ensure parties are able to fulfill their responsibilities under the permit (e.g., delegated archaeologists will be responsible for the archaeological studies under their oversight).

DISCUSSION:

Stage 1 – Underway since December 2021: The removal of metals and surface debris that does not involve excavation or purposeful land alterations is proceeding under passive monitoring without an HCA permit. In lieu of permitting, the KHC reviews proposals and provides written direction to private property owners and their contractors, generally within one business day.

If archaeological materials are exposed during surface debris removal, work will stop and move to the next property per a Chance Find Process.

Stage 2 – Anticipated start date, March 8th, 2022: The removal of contaminants and foundations that may involve excavation or incidental land alterations will likely trigger concurrent permitting under the *Environment Management Act* and the HCA.

This stage was going to be initiated by the Village of Lytton's Building Permits, but following recent legal advice, the village determined they would not issue demolition permits. The KHC is revising the process to inform developers and property owners of their responsibilities under the HCA.

This stage will require authorization under the HCA; the KHC is developing the scope, methods, and processes, and the Lytton First Nation has been engaging with other Indigenous Communities in order to obtain letters of support for the HCA permits, in lieu of a referral period.

Stage 3 – Anticipated start date, Summer 2022: The KHC will provide direction regarding the scope and extent of archaeological studies prior to construction.

Stage 4 – Anticipated start date, Summer 2022: The Village of Lytton will determine whether to issue building permits, and whether those permits will contain terms and conditions regarding responsibilities under the HCA.

MINISTRY RESPONSE:

The Archaeology Branch is continuing to work with the Indigenous and local governments, and other Provincial colleagues, to finalise HCA permits and external advice. HCA permitting has not delayed Lytton's rebuild to date.

Attachment(s): IN 269448 & 268610

PREPARED BY:

Paula Thorogood
A/Director of Operations, Archaeology
Branch
(250) 953-3300

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM	MA	2022-02-14
Program Dir/Mgr.	PT	2022-02-14

BRIEFING NOTE FOR INFORMATION

DATE: January 24, 2022

PREPARED FOR: Matt Austin, Assistant Deputy Minister, Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Gerry MacDougall, A/Assistant Deputy Minister, Ministry of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Response to alleged delays associated with the *Heritage Conservation Act*, impacting Lytton's recovery efforts

BACKGROUND:

- The Archaeology Branch is responsible for administering the Provincial Heritage Register (PHR) of nearly 60,000 archaeological sites and *Heritage Conservation Act* (HCA) permits. Section 12.2 permits are required to inspect for, investigate, or collect materials from, archaeological sites; s.12.4 Alteration permits are required to authorize impacts to archaeological sites.
- Lytton has a rich archaeological history, given its location at the confluence of the Thompson and Fraser Rivers; the recent devastation from the 2021 wildfires and floods, and subsequent recovery efforts pose considerable risks to these sensitive heritage resources. Due in part to the lack of assessment within the village, only 12 protected sites are currently recorded in the PHR, but more are anticipated to be present and subject to automatic protection (regardless of whether they have been entered into the PHR).
- The Archaeology Branch sits on two committees to support Lytton's recovery, which meet weekly:
 - The Land Based Recovery Working Group, struck by the joint Federal/Provincial task force to support Lytton's rebuilding efforts.
 - The Kumsheen Heritage Committee (KHC), which includes representatives from Lytton First Nation (councillors), NNTC (heritage advisor), the Village of Lytton (building permits, re-entry coordinator), EMBC, and JS Held (restoration contractor).
- On January 13, 2022, the Insurance Bureau of Canada (IBC) issued a news release, stating archaeological work and administration of the HCA was causing significant, adverse impacts to the cost and timelines for Lytton's recovery. Media attention and response has impacted relationships with the Village, NNTC, and the Province, and has drawn efforts away from supporting Lytton directly.
- Under normal circumstances, each property would be subject to multiple HCA permits; however, the Archaeology Branch has mapped out a process to streamline authorisations and allow development to occur lawfully and without delay.
- Discussions between the Village of Lytton and EMBC are underway to outline the process by which the village will authorise development and administer incoming funds from third parties.

DISCUSSION:

In the fall of 2021, NNTC and the Village of Lytton both put forward proposals to address recovery activities and heritage concerns – the proposals were reviewed and next steps approved by the KHC. The recovery activities have implications for archaeological sites and for the environment due to the contamination load in surface residue. Four stages were identified:

Stage 1 – Underway since December 2022: The removal of metals and surface debris that does not involve excavation or purposeful land alterations is proceeding under passive monitoring without an HCA permit. In lieu of permitting, the KHC reviews proposals and provides written direction to private property owners and their contractors, generally within one business day.

If archaeological materials are exposed during surface debris removal, work will stop and move to the next property per a Chance Find Process.

Stage 2 – Anticipated start date, April 1st, 2022: The removal of contaminants and foundations that may involve excavation or incidental land alterations will likely trigger concurrent permitting under the *Environment Management Act*, the HCA, and Village of Lytton Building Permit by-law. Contamination clean-up and obstacle removal will be undertaken in the most effective and economical manner possible.

HCA permits to support monitoring of excavation and management of chance finds are currently under development. These permits are a priority and must be in place before spring. To date, HCA administration has not adversely impacted this stage. NNTC's archaeologists are working closely with members of the KHC to develop the permit's scope, methods, and processes.

Stage 3 – Anticipated start date, Summer 2022: Following Stage 2, in the Assess Rebuild stage, the KHC will provide direction regarding the scope and extent of archaeological studies prior to construction, and the Village of Lytton will confirm whether proposed development falls out of the scope of their available funding.

Stage 4 – Anticipated start date, Summer 2022: Following Stage 3, which may only be administrative, the Village of Lytton will determine whether to issue building permits, and whether those permits will contain terms and conditions regarding responsibilities under the HCA.

NEXT STEPS:

Following the stages outlined above, the KHC is finalising the HCA permit applications, and external guidance. The Village of Lytton continues to work with EMBC to outline their approval and funding processes. The Village has six weeks to develop a Project Plan and hire a Qualified Professional; the Archaeology Branch and the KHC will provide support as this develops.

The KHC will continue to meet and develop processes to review incoming requests, and provide property-specific advice, so private property owners, their contractors, and archaeologists can knowledgeably and lawfully proceed with demolition and construction activities, meeting their responsibilities under the relevant legislation.

Attachment(s): IN 268610, dated November 26, 2021

REVIEWED BY:

PREPARED BY:

Paula Thorogood
A/Director
Archaeology Branch
(250) 953-3300

	Initials	Date
DM		
DM, LNRO		
Associate DM		
ADM	MA	Jan 25, 2022
Program Dir/Mgr.	PT	Jan 24, 2022

BRIEFING NOTE FOR INFORMATION

DATE: November 26, 2021

PREPARED FOR: Eamon O'Donoghue, A/Associate Deputy Minister, Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Dave Petersen, Assistant Deputy Minister, Recovery and Funding Projects, Emergency Management BC

ISSUE: Wildfire Recovery in Lytton and the *Heritage Conservation Act*

BACKGROUND:

- Archaeological sites in B.C. on private and Crown lands are automatically protected under the *Heritage Conservation Act* (HCA) and cannot be damaged or altered without an HCA permit.
- Protected sites include those with physical evidence of human occupation or use prior to 1846, burial sites, aboriginal rock art and heritage wrecks; sites are protected whether they are previously recorded or as-yet unknown, intact or disturbed.
- The Archaeology Branch is responsible for administering the Provincial Heritage Register of nearly 60,000 archaeological sites and HCA permits. Section 12.2 permits are required to inspect for, investigate, or collect materials from, archaeological sites; s.12.4 Alteration permits are required to authorize impacts to archaeological sites.
- Lytton has a rich archaeological history, given its location at the confluence of the Thompson and Fraser Rivers; the recent devastation from the 2021 wildfires and subsequent recovery efforts pose considerable risks to these sensitive heritage resources.
- Given the collaborative approach between the Thompson Nicola Regional District, the Village of Lytton, and Provincial colleagues, Lytton-specific HCA permits are being developed to support the extensive wildfire recovery activities within the village, including private properties.
- The Lytton First Nation, a member of the Nlaka'pamux Nation Tribal Council (NNTC), is another major party supporting this initiative.
- The NNTC is developing heritage sensitivity mapping to identify as-yet unrecorded archaeological sites subject to HCA protection which have not been entered into Provincial records yet. NNTC's archaeological firm, A.E.W. LP (AEW), is available to support recovery efforts.
- The Archaeology Branch sits on two committees to support Lytton's recovery:
 - The Land Based Recovery Working Group
 - The Kumsheen Heritage Management Team, which includes representatives from Lytton First Nation (councillors), NNTC (heritage advisor), the Village of Lytton (building permits, re-entry coordinator), EMBC (environment) and JS Held (representing the insured parties).
- Participation in the committees has been affected by the emergency response to 2021's catastrophic floods, which impacted Lytton and the nearby highways.

DISCUSSION:

NNTC and the Village of Lytton both put forward proposals to address recovery activities and heritage concerns. The recovery activities have implications for archaeological sites and for the environment

due to the contamination load in surface residue. The proposals were reviewed and next steps agreed upon in order to allow work to start.

The Village advised that it does not want to issue demolition permits for the work – they are intended as a control measure which is unnecessary at this stage. The Village identified building permits, which include excavation of foundations, as a more appropriate measure that would align with provincial permitting requirements for heritage and environment.

The Archaeology Branch will work with NNTC and Provincial colleagues to develop the required HCA permits for this project. While proponents are under no legal obligation to use AEW, conversations to date indicate an interest to engage local contractors. Further, proponents have indicated that they are eager to pool efforts wherever possible for cost saving and efficiency.

NEXT STEPS:

Next steps have been determined and include:

Stage 1: The removal of metals and surface debris that does not involve excavation or purposeful land alterations may proceed under passive monitoring without an HCA permit. Subject to confirmation of funding, the Village will engage AEW to provide on-site monitors. The Village will provide a schedule and start date to NNTC to organize workers. It was important for all parties that locals be used as much as possible for this first stage.

If archaeological materials are exposed during surface debris removal, work will stop and move to the next property per a Chance Find Process.

Stage 2: The removal of contaminants and foundations that may involve excavation or incidental land alterations will likely trigger concurrent permitting under the *Environment Management Act*, the HCA, and Village of Lytton Building Permit by-law. Contamination clean-up and obstacle removal will be undertaken in the most effective and economical manner possible.

An HCA s.12.2 Heritage Investigation permit to support monitoring and chance finds is currently under development. This permit is a priority and must be in place before spring.

Stage 3: Rebuilding plans will be formalized over winter/spring to support summer construction; authorization under the HCA will be required to support development within archaeological sites. The proposed HCA permit will provide for multiple archaeological firms and different proponents to sign on, as landowners and developers obtain approvals for their rebuilds.

Attachment(s): N/A

PREPARED BY:

Paula Thorogood
Operations Manager
Archaeology Branch
(250) 953-3300

REVIEWED BY:

	Initials	Date
DM		
DM, LNRO		
Associate DM	EO	Nov 29, 2021
ADM	MA	Nov 26, 2021
Program Dir/Mgr.	JR	Nov 26/2021

BRIEFING NOTE FOR INFORMATION

DATE: February 9, 2022

PREPARED FOR: Honourable Katrine Conroy, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Transition period update for existing use groundwater users

BACKGROUND:

- The *Water Sustainability Act* (WSA) transition period for existing use groundwater (EUGW) is scheduled to close March 1, 2022. By March 1, 2022, those who were using groundwater from a well or dugout on or before February 29, 2016, for non-domestic purposes, such as irrigation, commercial or industrial use, must apply for a water licence. As of February 9, 4867 applications have been received from an anticipated 20,000.
- There is a concentrated effort to ensure existing groundwater users are aware of the March 1 deadline and consequences of not applying. This includes mailing out 180,000 flyers, directly calling expected users, release of information bulletins, social media, and a radio interview.
- To provide more direct support, workshops are being delivered to help users with their applications. Many of these are being organized by Ministry of Agriculture, Food and Fisheries. Others are being delivered on an ad hoc basis.
- Preparations are being made to ensure that there are sufficient staff available to support applicants in the run up to the deadline.

DISCUSSION:

Government enacted the WSA to improve water security for British Columbians, improve the ability to manage for environmental values, and as a means of reconciliation. A key to meeting the objectives of the WSA is successfully transitioning existing users into the new regulatory regime. A process was provided to recognize historical use with reduced costs and streamlined processes.

At the current intake rate, we are on track to receive approximately 6000 applications. As the March 1 deadline approaches staff are taking steps to ensure the increased application rate is supported. In anticipation of an additional surge in applications, staff overtime has been pre-approved and a roster has been assembled to ensure applicants will have support as needed. This includes preparing for any Information Technology system issues that may occur through to midnight on March 1.

Deadline processes have been developed to provide for a smooth transition of the system and set out criteria to recognize applications that qualify for the transition period.

To prepare for the post-transition period starting on March 2, 2022 a compliance plan is being finalized that follows the existing Natural Resource Sector (NRS) Compliance Management Framework. This plan will guide government response to the expected high degree of non-compliance. Actions taken regarding compliance verification and any enforcement will need to be scaled to the available resourcing.

NEXT STEPS:

- Continue to support users with applications to March 1, 2022.
- Prepare systems for change to post-transition period.
- Complete and roll-out compliance plan and messaging.

PREPARED BY:

Ted White
Director
Water Management Branch
(778) 698-3981

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM	DM	Feb 10/22
ED	LP	Feb 10/22
Program Dir/Mgr.	TW	Feb 9/22

BRIEFING NOTE FOR INFORMATION

DATE: February 14, 2022

PREPARED FOR: Honourable Katrine Conroy, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Enabling s.7 agreement implementation for key forestry decisions through changes to the *Forest and Range Practices Act*

BACKGROUND:

- On November 25, 2021 amendments to the *Forest and Range Practices Act* (FRPA) were passed through the *Forests Statutes Amendment Act, 2021* (Bill 23), including provisions enabling implementation of agreements entered into under section 7 of the Declaration Act ('s.7 agreements') for key forestry decisions.
- Under s.7 of the Declaration Act, the Province can enter into negotiations and agreement with an Indigenous Governing Body (IGB) for: (i) joint exercise of a statutory decision-making authority, or (ii) obtaining consent from an IGB prior to the exercise of a statutory power of decision.
- Amendments enabling implementation of s.7 agreements in Bill 23 were developed in response to a proposal from the First Nations Leadership Council (FNLC) for Declaration Act alignment received by FLNRORD in March 2021.
- The FNLC proposal sought to establish a single overarching provision authorizing implementation of s.7 agreements across all of FRPA. Bill 23 takes a more targeted approach, enabling implementation of s.7 agreements for specific statutory decisions in relation to the new Forest Landscape Planning (FLP) regime.

DISCUSSION:

s.13; s.16



s.13; s.16

PREPARED BY:

Ariel Taylor
Director, Indigenous Relations
(250) 883-3374

REVIEWED BY:

	Initials	Date
DM	RM	Feb 16/22
DM, LNRO		
Associate DM		
ADM	SBerg A/ADM	Feb 14/22
Program Dir/Mgr.	RPollard	Feb 10/22

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MEETING BULLETS

DATE: February 15, 2022

PREPARED FOR: Rick Manwaring, Deputy Minister of Forests, Lands, Natural Resource Operations and Rural Development
Eamon O'Donoghue, Associate Deputy Minister of Forests, Lands, Natural Resource Operations and Rural Development

REGARDING: Meeting with Emergency Management BC, regarding flood strategy and diking

SUMMARY:

- FLNR has established an internal team to support the delivery of cross-ministry flood recovery initiatives and to lead the development of flood policy recommendations to feed up through the Disaster Recovery and Resilience Secretariat to DMC-DREM and the Cabinet Working Group on Disaster Recovery or Environment and Land Use Committee.
- Flood recovery activities will be led by Allan Johnsrude and will include
 - Resource roads assessment and planning, supporting rural and First Nations community access
 - Coordination with EMBC's community recovery teams
 - Coordination of community economic recovery supports.
 - Supporting delivery of debris management.
- Flood policy activities will be led by Laura Plante and will include
 - Working with the First Nations Emergency Planning Secretariat on developing the BC Flood Strategy
 - Coordination through the Disaster Recovery and Resilience Secretariat to present cabinet options related to flood governance, increased flood resilience (build back better), engagement with local governments and First Nations, and funding strategies
 - Engagement with Washington State through IGRS on next steps for the Nooksack River International Task Force.
- Funding through the Indigenous Funding Program will be sought in 2022/23 to support First Nations engagement.
- Additional staff and operating resources will be needed for FLNR to be able to effectively manage all aspect of flood recovery, and policy development while maintaining existing programs for dike safety, river forecasting, authorizations, and engagement.



s.13

BRIEFING NOTE FOR INFORMATION

DATE: February 9, 2022

PREPARED FOR: Rick Manwaring, Deputy Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Identifying a source of timber volume to support a BC Timber Sales Value-Added Program

BACKGROUND:

- The Intentions Paper (*Modernizing Forest Policy in British Columbia*, June 2021) commits BC Timber Sales (BCTS) to improve the Category 2 registrant (Cat 2) program and strengthen the value-added sector.
- BCTS commits 10 percent of its rationalized apportionment¹ volume (approximately 1.0 million m³) in a typical year to the Cat 2 program. Cat 2 is a program within BCTS where bidder eligibility is limited to registrants with timber processing facilities. BCTS' objectives for offering Cat 2 Timber Sale Licences (TSL) are:
 - provide open access to public timber for non-tenured or insufficiently tenured timber processing facilities,
 - promote local employment, and
 - support the value-added sector of British Columbia.
- Provincially, declining timber supplies and increasing alienation of the timber harvesting land base (THLB) through land use decisions are severely constraining options to secure the necessary timber for the Market Pricing System (MPS) mandate (Category 1) and additional timber volume for a proposed enhancements of the Cat 2 value-added program.
- Due to the restricted pool of potential bidders, Cat 2 sales do not contribute to MPS.
- BCTS is under significant pressure to maintain its operating areas and to deliver volume to support the MPS.
- World leading experts in auction theory that helped designed MPS determined that auctioning a representative sample of approximately 20% of the provincial public timber supply is sufficient to provide reasonable estimates of value for the remaining 80%.
- The value-added sector currently accesses volume from BCTS under both the Cat 1 and Cat 2 as BCTS offers all sales, not restricted to Cat 2, to all registrants in both categories

s.13; s.16; s.17

¹means the apportionment level against which BCTS sales targets are planned and measured. Rationalized apportionment is approved annually by the BCTS Executive Director





s.13; s.16; s.17

BRIEFING NOTE FOR INFORMATION

DATE: February 24, 2022

PREPARED FOR: Honourable Minister Katrine Conroy, Minister of Forests, Lands, Natural Resource Operations and Rural Development;

ISSUE: Existing Use Groundwater – post deadline options

BACKGROUND:

- The Water Sustainability Act (WSA) came into force in 2016. The associated Water Sustainability Regulation (WSR) requires that non-domestic existing groundwater users (EUGW) apply for a licence by March 1, 2022. EUGW applicants who apply before the deadline receive recognition of their date of first use (DOFU), can continue using water while they await a decision, do not pay application fees, and usually do not need to submit additional studies to support their application.
- EUGW users who miss the deadline will not receive DOFU recognition, must cease diverting water on March 2, 2022, cannot resume using groundwater until they apply for and receive a new water licence, must pay application fees, and may be required to submit additional (often costly) studies.
- Since 2016, government has made significant outreach efforts to communicate the new requirements and encourage EUGW users to apply, including but not limited to advertising, direct correspondence, media products, and application assistance.
- The original deadline for EUGW applicants was March 1, 2019, but was extended to March 1, 2022, due to low application turnout.
- As of February 23, 2022, 6,122 applications of the anticipated 20,000 applications (31%) have been submitted.
 - 1,538 applications were submitted in the month of February. That represents 25% of all applications
 - The rate of applications coming in continues to increase with 168 submitted on February 23, 2022.
 - Submitted applications will result in over \$1M in back rental revenue to government
 - Ministry staff are supporting client enquiries of over 200 per day. Staff capacity is currently meeting client call demands and more staff will be added if needed

DISCUSSION:

It is likely that on March 2, 2022, there will still be many existing groundwater users who have not applied.

In 2021, the ministry considered policy options that would increase the number of applications. Options included extending the March 1 deadline, providing exemptions for small volume users and or types of use in regions where ground water is not constrained. The decision was made to not

adjust the deadline or provide exemptions as previous deadline extensions were believed to be part of the reason for the slow rate of application and further delay would prevent government from improving management of water in BC.

Through the fall and winter of 2021/22, the ministry increased communication outreach and support to ensure existing ground water users were aware of the risk of not applying by the deadline. To some extent the outreach has resulted in increased applications and demonstrated that a significant number of applicants can complete the process and were waiting for the deadline.

s.13; s.16

KEY MESSAGES:

Leading up to March 1 it will be important to continue to encourage existing users to complete their application in order to secure their rights. Following March 1, Ministry staff will analyse the applications received. If there is a significant number of unlicensed users, the following key messages will be considered

- Water is a precious and limited resource. Groundwater licensing ensures there is a fair and transparent process in place for determining who uses the water, including during water shortages. Licensing groundwater helps protect aquifers and streams as well as the businesses and livelihoods that depend on reliable access to groundwater

- Over the past year we have reached to all groundwater users to ensure that they were aware of the requirements and to support them to complete their applications.
- As of March 1, over [6,000] existing ground water users have applied and secured their rights. This is an important step to making sure we are managing this precious resource.
- We know that there may be existing groundwater users who were not able to complete their application for legitimate reasons. The past years wildfire and flood events have placed a significant strain on many British Columbians.
- Ministry staff will be focusing on supporting unlicensed users to come into compliance. If a user was not able to meet the March 1 deadline, they can still apply as a new user. Ministry staff will be making every effort to support these applicants to come into compliance with the WSA.
- Over the coming weeks we will analyse the applications we have received and determine if there is a need to review how WSA groundwater management objectives can be met in a way that brings more users into compliance. Once we know more about who has not completed the application, government may consider a quick licensing process as part of a deadline extension in order to support those applicants that had genuine difficulty in completing the application. A quick licensing process could be designed to address the specific barriers that some applicants may have faced in meeting the deadline.
- Government may also consider overall ground water management to determine if there is a need for a different approach for managing small volume users in areas where there is no risk of water shortages. Government would need to analyse applications submitted and determine if there are still significant barriers for groundwater users to apply. This would be significant change from the current approach to water management and could only be done if there is a clear understanding of future water supply, climate change and the need to protect the rights of users who did complete their application on time.

Compiled BY:

David Muter
ADM Resource Stewardship Division
(250) 217-5385

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM	DM	February 25, 2022
Program Dir/Mgr.		