



Environmental Appeal Board

Fourth Floor, 747 Fort Street, Victoria BC V8W 3E9

Tel: (250) 387-3464

www.bceab.ca

Fax: (250) 356-9923

info@bceab.ca

How to Appeal Under the Water Users' Communities Act

This information sheet explains how to file an appeal under the [Water Users' Communities Act](#) (the "Act"). The requirements can be found there, in [section 22 of the Administrative Tribunals Act](#), and in the Board's [Rule 5](#). Rule 5 describes how appeals can be filed and when the filing is effective.

What decisions may be appealed?

[Section 100.1\(1\)\(b\) of the Act](#) says that the decisions that are appealable under section 105 of the *Water Sustainability Act* can also be appealed under the Act.

[Section 105 of the Water Sustainability Act](#) allows appeals of certain orders made by the comptroller, a water manager or a water engineer. These orders must result from an exercise of discretion. In the Act, the comptroller is able to do the following:

- issue certificates of incorporation to incorporate up to six water licence holders into a water users' community, with a name the Comptroller considers appropriate;
- appoint a first manager of a water users' community;
- confirm or amend an assessment roll issued by a water users' community, which sets out how and how much each member of the community must to the community;
- amend or recall and replace the certificate of incorporation for a water users' community; and
- cancel a certificate of incorporation and dispose of the community's assets in a way they think is equitable.

The Act does not list any orders that can be made by a water manager or water engineer, although the comptroller can delegate decision-making to others.

Who may appeal the decision?

Under section 105 of the *Water Sustainability Act*, the following people can appeal:

- people named in an appealable order;
- owners of lands that are or are likely to be physically affected by the order;
- owners of works that are subject of the order; or
- people who hold or have applied for authorizations, or who are riparian owners, and who think their rights are or will be prejudiced by the order.

How do I start an appeal?

To start an appeal, you must deliver a notice of appeal to the Board's office **within 30 days** of being notified of the decision you wish to appeal. A notice of appeal has been created as [Form 1](#). If you do not use Form 1, your notice of appeal **MUST** include:

1. your name, address, and telephone number;
2. the name and daytime/business telephone number of your representative, if you are represented;
3. a postal or email address for delivery of all official letters and documents;
4. information to identify the decision being appealed, such as the name of the decision-maker, the date of the decision, and what the decision is about;
5. a description of why you think the decision should be changed;
6. a description of what result you want from the Board when it decides the appeal;
7. a signature by you or your representative; and
8. a cheque, bank draft or money order for \$25 for each decision being appealed, payable to the Minister of Finance. The Board does not have the discretion to waive this appeal fee.

You should also include your email address, the email address of your representative (if any), the date you were notified of the decision, and a copy of each decision you are appealing.

You can send the notice of appeal to the Board by mail, courier, facsimile, email, or hand delivery. The Board's office is open 8:30 am to 4:30 pm, Monday to Friday, excluding public holidays. If the notice of appeal is sent by facsimile or email, the \$25 appeal fee can follow by mail. However you send the notice of appeal, the notice of appeal **must** be received by the Board within 30 days of when you were notified about the decision being made. The Board has no power to extend the time to appeal.

What happens if the notice of appeal is not complete?

If you do not satisfy all of the requirements described above, the Board will send a letter to let you know. The Board will not proceed with the appeal unless those deficiencies are fixed or explained.

An appeal may not act as a stay

Generally, when an appeal is filed the appealed decision remains effective. If you want to ensure the decision is not effective, you must ask the Board to “stay” the decision. For more information, see the Information Sheet, [“Stays Pending a Decision on an Appeal”](#).