

December 11, 2025

Alberta *Water Act* Amendments: No Bridge Over Troubled Waters

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Matter Commented On: Amendments to the [Water Act](#), RSA 2000, c W-3 as set out in *Bill 7: Water Amendment Act, 2025* (Bill 7)

On October 30th, the governing United Conservative Party of Alberta introduced Bill 7, the *Water Amendment Act, 2025*. Bill 7 passed third reading at the Legislative Assembly on December 2, 2025, and will come into force on proclamation. No amendments were made. This post assesses the Bill's potential impacts on water management in Alberta. Part I of this post provides an overview of water law in Alberta, up to the amendments. Part II sets out the amendments Bill 7 presents and describes them in relation to traditional water management as prescribed by law in the province for over 130 years. Part II primarily takes a legal perspective. Part III then offers analyses of the amendments from an ecological, social, infrastructure, and related impacts and concerns perspective.

I. Overview of Water Rights in Alberta up to the Amendments

Introduction – Water Management Legislation in Alberta – A Look Back

Alberta's water has been managed through legislation for over 130 years, starting with the Dominion of Canada's *North-West Irrigation Act of 1894* (SC 1894, c 30) (NWIA). Prior to the NWIA, surface water rights fell under the common law doctrine of riparian rights, where only owners or occupiers of land that extended to a natural water body or watercourse edge had the right to divert and use water, and then, only for limited purposes. Under common law, owners, or occupiers, of land under which there was groundwater had the right to divert and use as much groundwater as they could capture for any purpose without regard to impacts on the supply for others.

The NWIA claimed ownership of surface water in the Crown and set out a water rights system that abolished most common law surface water rights and permitted statutorily authorized diversion of surface water based on first-in-time-first-in-right (FITFIR). Under FITFIR, in times of water shortage the holder of an earlier dated authorization (i.e., a senior licensee) had the right to divert the entire authorized amount in accordance with the NWIA and an authorization's terms and conditions before any holder of a later dated authorization (i.e., a junior licensee).

Following the transfer of public lands and natural resources from the federal government to the prairie provinces in 1930, Alberta replaced the NWIA with the *Water Resources Act*, [SA 1931, c](#)

71. This Act carried forward the water rights framework of the NWIA and there were no substantive changes to legislated water rights systems in Alberta until 1962, when Legislature extended the claim of Crown ownership of water to include groundwater ([An Act to Amend the Water Resources Act, 1962, c 99, s 2](#)). After this there were no substantive changes to legislated water rights in Alberta until the late 1990's, with the *Water Act*, passed in 1996 and in effect in 1999. Although this Act “modernized” aspects of water management, by for example, introducing water management planning within and among “major river basins”, outlined in the Act, and by providing government more control over water licenses issued after the new Act came into effect, the *Water Act* retained FITFIR and strongly protected legislated water rights issued under prior legislation, what the *Water Act* calls “deemed licenses”.

Besides FITFIR, another core aspect of legislated water rights throughout is that statutorily authorized water rights set out the permitted point of diversion from the water source (POD) and set out the land to which water could be diverted and used, the point of use (POU). The POD and the POU are core to the *appurtenance* of a statutorily authorized water right. Appurtenance is critical as legislated water rights run with the land or undertaking to which they are appurtenant. (see Alberta Government, [Guidelines Regarding Appurtenance](#), 2014).

Water Availability Engagement Initiative

Flash forward from October 2024 to summer 2025, with the Alberta Government, Environmental and Protected Area's (EPA) initiative to review water management under the *Water Act* under the nomenclature of the Water Availability Engagement (WAE) initiative. The EPA [website](#) states that Phase 1, which concluded early this year, “Sought feedback ... to understand challenges within the current water management system and potential solutions for increasing water availability” and that Phase 2 focusses on “Collecting feedback on proposed changes to the *Water Act*” to “enhance the water management system and increase water availability.” Arlene Kwasniak's ABlawg post [“Water Availability Engagement Survey – Available to Whom for What?”](#) reviews and critiques this initiative (the Availability Post). That post concluded that the initiative “is only minorly about water availability, and when it is, it is primarily to increase allocated amounts to licencees and exempted users.” The post pointed out how this could upend the prior allocation water management system that Alberta has used for over 130 years, and would result in “... taking more water from watercourses and water bodies (that) will further reduce amounts available instream. Where water truly is needed to be made available – to restore (instream flow needs) IFNs or at least meet (Water Conservation Objectives) WCOs and (Instream Objectives) IOs – the WAE initiative offers virtually nothing.”

This post will present, consider, and comment on the amendments government in the end proposed following its review of the results of the WAE. In doing so, this post incorporates some of the material from the Availability Post.

Two Preliminary Points

The first point concerns Government's rather opaque statement in [Meeting Alberta's rising demand for water | alberta.ca](#) (Meeting Document) that “These proposed changes were informed by feedback from Albertans during the government's engagement on water availability, which was

held in two phases from October 2024 to June 2025”. As reported in the Availability Post, the Alberta Wilderness Association (AWA) submitted a [Freedom of Information and Access Request](#) (FOIP) to compel the government to disclose how submissions in Phase 1 of WAE have been used to inform government decisions. The AWA received a response and reported on it in an [Action Alert :Talk to your MLA about Bill 7, the Water Amendment Act](#) (November 18, 2025). On the basis of its review, the AWA’s has stated “The proposed changes are ... not consistent with the public feedback the Government of Alberta received from their Water Availability Engagement, despite their assertions that public consultation informed this Bill” and “The FOIP results also revealed that when making decisions about water management and availability, the public expects environmental protection to be a top priority for government” (emphasis in original).

Regarding the latter, Bill 7 does virtually nothing for environmental protection. As this ABlawg post points out, the Bill instead provides the means for licensees to more fully use their allocations, which will result in less instream water. It does this in part by permitting changes to licenses including reductions or removal of return flow conditions, as well as for what it calls “environmental objectives”, which would include IO, WCO, and minimum flow conditions. These “objectives” in licences require licencees in times of shortage to leave water in a natural water body or water course to protect aquatic environment, tourism, recreation, and other instream uses.

The second point concerns the government’s statement from the Meeting Document that “The *Water Act* hasn’t been meaningfully updated since 1999,” suggesting that the *Water Act* should be updated more often. We simply point out, as set out above, water legislation in Alberta was not meaningfully “updated” for over 100 years, from 1894 to 1999, except for adding groundwater as a Crown owned resource in 1962.

II. Summary of Amendments and Short Comments

This Part of this post briefly sets out key amendments and provides short commentary as appropriate. As mentioned in the introduction, the commentary mainly focusses on legal aspects of amendments. The next Part (III) contains further commentary that covers more scientific and empirical evidence based environmental, social, infrastructure, and related implications and concerns regarding the amendments.

- ***Consolidation of the Peace/Slave River Basin with the Athabasca River Basin***

Amendment: Simple changes to the definition section of the *Water Act* remove the references to the Athabasca River Basin, and the Peace/Slave River Basin, and consolidate them as the Peace-Athabasca-Slave River Basin (Bill 7, s 2(a)).

Comment: As set out in the Alberta Government’s [Facts About Water](#) (2010), a water basin is “an area of land that catches precipitation and drains to a water body such as a marsh, lake, stream, or river” (at 9). The *Water Act*, prior to amendments, lists seven major river basins in Alberta (s 1(1)(ff)). The Act prohibits allocation transfers that cross a major river basin boundary unless authorized by a special Act of the legislature (s 47). This amendment enables transfers of water between these two basins, since post-amendment they are one, without a special Act of Legislature.

It should be noted that the Peace/Slave basin converges/drains in Slave Lake, and the Athabasca basin into the Athabasca River, and so are geomorphically separate basins, no matter how their descriptions might be altered by amended legislative language. The next section of the Post sets out some of the potential risks and impacts of what are in reality inter-basin transfers notwithstanding the amendment.

- *Defining “return flow”.*

Amendment: Section zz.1 is added to the definition section:

(zz.1) “return flow” means an amount of water returned by a licensee to a source of water or to the environment following a diversion of water;

Comment: Although return flow plays a critical role in water management in calculating how much water is in a watercourse or water body at any point in time, the term was not defined in the *Water Act*. So, a definition is welcome, but not this definition. Return flow would universally be understood, we venture, to be limited to water returned to the source of the allocation, whether through surface runoff, or infiltration to groundwater, or directly through canals leading to a natural water source or directly to a natural water source (e.g. see Aralakshmi Vajja, Rajesh Nune, and Anju Gaur, [Estimation and Analysis of Return Flows: A Case Study, 2013](#), Journal of Hydrologic Engineering 18(10):1282-1288). By enabling ‘return flows’ to include water returned to “the environment” the amendment broadens the concept immensely to include, for example, evaporation losses. This eviscerates the traditional understanding of ‘return flows’ and opens the door to abuse, for example, with respect to the prospect of return flow credits.

- *Redefining “water” to include precipitation*

Amendment: The pre-amendment definition is replaced by the following:

(fff) “water” means

- (i) all water on or under the surface of the ground, whether in liquid or solid state, and
- (ii) precipitation that is intercepted above the ground and captured by works;

Comment: Subparagraph (fff)(ii) is added to the definition by the amendment. Prior to this, the ownership of precipitation was not addressed in the *Water Act* (see Arlene Kwasniak and Daniel Hursh “[Right to Rainwater, a Cloudy Issue](#)” (2009) 26 Windsor Rev Legal & Soc Issues 105), since in Alberta the Crown only specifically claims ownership of water as defined in the *Water Act* as “all water on or under the surface of the ground”. The Availability Post sets out some of the legal and practical issues with the Crown simply declaring ownership of precipitation. The Crown doing so in Bill 7 is reminiscent of its claiming ownership of groundwater in 1962 by amendment to the *Water Resources Act*.

Questions include: Is there a taking of a private right? Is Crown ownership better potentially for environmental reasons than private ownership? Why does the amendment limit Crown ownership to precipitation that is “intercepted above the ground and captured by works”? What about precipitation before it is captured, who owns it? Before capture it is not “water” for the purposes of the *Water Act*. Can government regulate precipitation prior to it falling under the definition of “water”? These questions cannot be explored here, but we hope that regulations will be promulgated that reasonably regulate the use of privately captured water with or without licence.

- *Defining and setting the stage for regulating water for reuse*

Amendments:

Section 1 (fff) is added:

- (hhh.1) “water for reuse means a water-based liquid that
- (i) is prescribed in the regulations as eligible to be considered water for reuse,
 - (ii) arises from a diversion of water, under a licence, that did not result from wastage of water, and
 - (iii) is supplied by the licensee to another person for reuse;

Section 54(1)(a), which concerns amendments that a licensee may apply for is amended to clarify, with respect to changes to POU or POD:

- (1.2) An amendment under subsection (1)(b)(v) or (vi) must not authorize a diversion of water for a purpose different from that specified in the licence.

Reuse amendments would be under section 54(1)(b)(vii), (viii), or (ix) and not under (v) or (vi).

Section 54(1)(b) is amended to enable a licensee to apply to amend a licence:

- (vii) to reduce the return flow requirement for the purpose of enabling water for reuse, where reuse is, in the opinion of the Director, beneficial to the aquatic environment,
- (viii) to add or amend a term or condition identifying a location from which the licensee may supply water for reuse, and

- (ix) to add or amend a term or condition respecting the management of return flow and the supply of water for reuse,

As well, as noted later, the Director is authorized to add monitoring, reporting, and inspection requirements regarding water for reuse to licenses.

Comment: Insofar as what is usually called “wastewater reuse” reduces reliance on new freshwater allocations, water reuse can be a positive addition to our water management systems. Obviously, reuse of wastewater requires strict environmental regulation, and it is hoped that Alberta’s environmental laws accommodate or will accommodate this requirement.

Arlene Kwasniak’s 2007 publication “[Waste Not Want Not: A Comparative Analysis and Critique of Legal Rights to Use and Re-Use Produced Water - Lessons for Alberta](#)” (10 U. Denver. Water L. Rev. 357 (2007)) raises many issues regarding reusing water from licensed allocations, as well as reuse of saline water, which is exempt from the Alberta *Water Act* licencing provisions. The *Water Act* amendments partly clarify the policy direction the GOA has adopted regarding reuse of water that has already been diverted and used from licensed allocations. However, it is significant that, in permitting reuse and building a water management framework around reuse, the amendments significantly change how water legislation has governed water allocation and use for the last 130 years.

For one, water licenses traditionally are for a specified purpose or purposes and do not contemplate reuse of wastewater. The amendments do not specify that water for reuse must be used for the same purpose as originally in a licence, but the implication is that it does not need to be used for the same purpose. As discussed below, the licensee that possesses the water for reuse cannot use it themselves, so the purpose of their own water licence would not seem to apply to the water for reuse. Under the amendment, that person has to provide the water for reuse to someone else, and there does not seem to be a requirement that the recipient has a licence under the *Water Act*. If there were such a requirement, there would likely be a limitation on the purpose of use. As well, section 54(1) (a) (1.2) specifies that a licensee cannot change the purpose of an allocation by changing the POU or POD. By application of the statutory interpretation principle *expressio unius est exclusio alterius*, the legal maxim meaning ‘the expression of one thing is the exclusion of another,’ an amendment to permit reuse does not carry with it any requirement that water for reuse be used for the same purpose as the original diversion.

Second, under the unamended legislation, return flow requirements or expectations may directly or indirectly reduce the potential for any reuse, by the licence holder or anyone else. However, the amendments permit changes to return flow to accommodate reuse. Obviously, this could mean less water for the aquatic environment and other users. This is further discussed in Part III.

Third, licences specify POD and POU, where POD is typically from a natural source of water, and the POU indicates the appurtenance of the licence. The amendments overhaul these traditions. The amendments concerning water for reuse permit a change of POD and POU. The impact of such changes is discussed in Part III.

Fourth, as alluded to above, section (hhh.1) (iii) limits the use of water for reuse to that supplied to a person other than the licence holder. So presumably, a licence holder cannot increase their own supply by re-using water that has already been diverted and used. The amendments only permit such a person to provide and apparently “sell” (in scare quotes since water for reuse like all water technically belongs to the Crown) such water to someone else. Then, as suggested above, the recipient can use the water for other than the original licensed purposes. Thus, the reuse provisions enable, and even encourage (because of the potential for personal profit) the privatization of a public resource.

Finally, “water for reuse” is defined to not include water that resulted from “wastage of water”. It is difficult to understand what this could possibly mean. “Water reuse” typically means treated wastewater. How does “wastewater” differ from water that results from “wastage of water”? It would be hoped that legislation would not be so confusing. Perhaps the legislation is trying to discourage the new reuse provisions from being interpreted to enable a licensee to skirt the more demanding temporary transfer requirements, but if so, the legislation could be clearer and more direct.

- ***More amendments to potentially increase licensee use of an allocation by changes to POU and POD, return flow requirements, and permitting changes to/removal of an “established environmental objective”.***

Amendments To Change and Increase POU and POD:

Section 54(1)(b)(v) is amended to enable a licensee to apply to amend a licence to change the POU or add a POU not only to another point on the same land specified in the licence or a plan attached to it (s 54(1)(b)(v)(A)), as permitted under the unamended Act, but also where:

- (B) the use is associated with, and is an extension of, the land specified in the licence or in the plan attached to the licence, or
- (C) the use is associated with, and is an extension of, the project or undertaking specified in the licence or in the plan attached to the licence,

Section 54(1)(b)(vi) is similarly amended to enable a licensee to apply to amend a licence to change the POD or add a POD not only to another point from the same source of water and from the same land specified in the licence or a plan attached to it (s 54(1)(b)(vi)(A)), but also where:

- (B) the new point is associated with, and is an extension of, the land specified in the licence or in the plan attached to the licence, or
- (C) the new point is associated with, and is an extension of, the project or undertaking

specified in the licence or in the plan attached to the licence,

Comment: It is obvious that permitting allocated water to be applied to land not specified in a licence (or an attached plan) but is only associated with and an “extension” of such land amounts to saying that appurtenance can be changed by licence amendment. This is especially so since it enables a licensee to *add* such land to a POU while keeping the original POU. Prior to such an amendment, a new licence would be required, or a transfer of a licence. This departs from a key feature of water allocation law in Alberta for the last 130 years.

Similarly, permitting a change to the POD to not only a diversion point on land specified in a licence (or an attached plan) but also to one that is only associated with and an “extension” of such land amounts to a significant change in water allocation law. This is especially so since it enables a licensee to *add* such land to a POD, while keeping the original POD. Prior to the amendment, a new licence would be required to change or add a diversion point to land other than the land where the original diversion point was located, or a transfer of a licence would be needed.

What does “associated with” mean, and what land counts as an “extension of” other land? If a well is on a section of land (640 acres, or 1 square mile) does the next section over count as an extension of that land? If so, these provisions could, for example, enable a licensee to use an allocation a couple of miles away from the original use, or to add a water diversion point a couple of miles away from the original POD. And in both cases, since POD and POU can be added to land not specified in the original licence (or attached plan), the licensee can increase its consumptive use, subject to any return flow conditions, (discussed below) provided it does not exceed the gross allocation.

Amendments To Change Return Flow Requirements

In addition to giving the licensee the right to apply for an amendment to reduce return flow to facilitate reuse set out above, (s 54(1)(b)(iv)), the amendments permit the Director to generally initiate an amendment to reduce return flow after giving notice to the licensee and an opportunity to object (54(1) (c.1)(iii)). The power is:

- (iii) to reduce a return flow requirement if, in the opinion of the Director, water has been conserved and the return flow requirement is outdated.

Numerous licenses speak to return flow, and it would be pushing the limits of reason to think that these requirements or expectations were not material in determining whether and on what conditions a licence should be granted, and in assessing water availability for use and for instream flows at a given point in time. Return flow conditions have been present in our water management for many decades and the ability to amend such conditions brings with it a new policy approach that in effect permits increasing the quantity of water available in allocations and thus amounts taken from water sources and available for instream needs, or junior licensees. The limitations on the power – that in the Director’s opinion water has been “conserved” and the return flow requirement is “outdated” are vague, and any half-way defensible interpretation of these terms by

the Director would in all likelihood pass muster with a reviewing court. Besides it is somewhat ironic that a licensee by such an amendment could use *conserved* water instead of returning it to the source, since traditionally the point of water conservation is to *use less*.

Amendments to Amend an “Established Environmental Objective”

Section 54(1) (c.1(i) enables the Director (with notice to licensee and an opportunity to object):

- (i) to amend a term or condition of the licence pertaining to an established environmental objective if, in the opinion of the Director,
 - (A) the term or condition is outdated,
 - (B) the amendment enables greater access to the licensed allocation, and
 - (C) the amendment benefits the licensee,

The amendments do not define what an “environmental objective” is, but presumably it means instream objectives (IO) for older licences and water conservation objectives (WCO) for post *Water Act* licences, and minimum flow conditions, where these occur in pre-*Water Act* licences. Since these conditions were placed on licences to help protect instream flow and aquatic environments, it is almost scandalous that a condition of the Director being able to remove or reduce such a condition is that there will be no negative impact on the aquatic environment. But there is no such condition. Also, “outdated” is not defined and open to interpretation. Caselaw makes it clear that courts will normally defer to statutory delegates, such as a Director, when they interpret the legislation they administer, e.g. *Canada (Minister of Citizenship and Immigration) v. Vavilov* ([2019 SCC 65](#)).

- **Permitting “lower- risk transfers between major river basins” without a special Act of Legislature**

Amendments:

- 47(1)** In this section, “lower-risk transfer” means a transfer of water that
- (a) is between 2 adjacent major river basins,
 - (b) in the opinion of the Director, will not result in the transfer of an invasive species as defined in the *Fisheries (Alberta) Act*,
 - (c) does not exceed a rate of diversion of
 - (i) 0.1 cubic metres per second, or a lower rate if prescribed in the regulations, in the case of a transfer from the Milk River Basin or the Beaver River Basin,

- (ii) 1.0 cubic metre per second, or a lower rate if prescribed in the regulations, in the case of a transfer from the Hay River Basin, or
- (iii) 4.0 cubic metres per second, or a lower rate if prescribed in the regulations, in the case of a transfer from any other major river basin,

and

- (d) meets all further criteria, conditions or limitations prescribed in the regulations.

(2) A licence may not be issued that authorizes the transfer of water between major river basins unless the licence is specifically authorized by

- (a) a special Act of the Legislature, or

- (b) the Minister in accordance with subsection (3).

(3) The Minister may, by order, authorize the Director to issue a licence authorizing a lower-risk transfer.

Public review

48(1) Before a Bill to amend section 46 or 47 or to enact a special Act described in those sections is introduced in the Legislative Assembly, the Minister must consult with the public, in a form and manner satisfactory to the Minister, with respect to the Bill.

(2) Before making an order under section 47(3) the Minister may consult with the public, in a form and manner satisfactory to the Minister, with respect to the proposed order

Comment: Prior to this amendment, any inter-basin transfer required a special Act of Legislature. There is good reason for this, as indicated in Part III of this post. The amendments permit “lower-risk transfers” with only the public consultation the Minister orders. They do not mention Indigenous consultation. Note that the amendment does not say that the transfer must be *low risk*; it only must be *lower-risk*, which, though defined, is open-ended. Lower risk than what? Does *lower-risk* include a transfer with just less risk than a completely unacceptable risky transfer?

There are some criteria, including in the opinion of the Director, that it won’t result in the transfer of an invasive species as defined in the provincial [Fisheries Act](#). The Schedule to this Act lists specific invasive fish, plants, and other than fish or plants. What if a Director finds something else, something not listed, unacceptable about such a transfer? Under the amendments it seems that even if they do, the Director must permit it unless regulations speak to such a consideration.

- *Adding Director's ability to add specific terms to licences.*

Amendments:

Sections 54 and 18 are amended relating to the Director's ability to add terms relating to measurement, monitoring, reporting or inspection requirements. Section 54(1)(a)(iii) is pre-amendment in the *Water Act* but does not apply to deemed licences -- licences in existence when the *Water Act* was proclaimed in 1999. Section 54(1)(a)(iii.1) is new, and it concerns adding such conditions in respect of new reuse provisions in licenses. The sections enable a Director to:

- (ii) to add or amend a term or condition that relates to a measurement, monitoring, reporting or inspection requirement for the use or diversion of water,
- (iii.1) to add or amend a term or condition that relates to a monitoring, reporting or inspection requirement for water for reuse,

As well, section 18 is amended to enable the Director to amend a deemed licence to add monitoring, reporting, and inspection requirements generally for diversions and in respect of water for reuse. Currently section 18(2)(b) could effectively prevent the utility of such amendment as it permits the holder of a deemed licence to continue to exercise licence rights under its terms and conditions, even if terms and conditions are inconsistent with the *Water Act*. The amendment reads:

- (2.1)** Notwithstanding subsection (2)(b), the Director may, under section 54(1)(a)(iii) or (iii.1), add or amend a term or condition of a deemed licence that relates to
- (a) a measurement, monitoring, reporting or inspection requirement for the use or diversion of water, or
 - (b) a monitoring, reporting or inspection requirement for water for reuse.

Comment: The amendment could have made it clearer that amendments made under sections 54(1)(a)(iii) and (iii.1) *prevail over* any inconsistent terms or conditions of deemed licences. But potential ambiguity aside, these are welcome amendments as, if effective, they will assist the government in determining actual use of allocations and not just the gross amount of allocations, as well as determining the state of water supply from time to time.

- *Amalgamations*

Section 36(2) of the unamended Act requires the Director to assign an amalgamated licence the highest priority of the licences that were amalgamated (*Water Act*, s 56(2)). The amendments repeal that section to add an alternative so that original priorities be retained in the amalgamated licence. New section 36(2) reads:

- (2) When amalgamating licenses under subsection (1), the Director must
- (a) specify in the resulting licence each original allocation of water and assign the priority number that applied to that allocation under its original licence to the corresponding amount in the resulting licence, or
 - (b) if requested by the licensee, assign to the resulting licence the numerically highest priority number of all the amalgamated licences.

Comment: On its face the amendment could make amalgamations friendlier to junior licencees if section 36(2)(a) is applied since the priorities of lower priority licences would not be raised. But there could be administrative complexities in administrating more than one priority in one licence.

- ***Reopening Registrations – more manipulating priorities and facilitating maximum use***

Amendments and Comment:

The Registration provisions of the *Water Act* were designed to legitimize some larger diversions under the *domestic purposes* exemption in the *Water Resources Act* (ss 1(g), 4(20 and 4(3)). The domestic purposes exemption authorized owners or occupiers of riparian land or land overlaying groundwater to continue their diversions for domestic purposes without a licence. The problem was that although “domestic purposes” was defined, it was not quantified. The *Water Act* addressed the lack of quantification in two ways. First, it provided a licence exemption for “household use” for riparian and groundwater users for purposes of “human consumption, sanitation, fire prevention and watering animals, gardens, lawns and trees” but limited such use to 1,250 cubic metres per year. The household use exemption has first priority (ss 1(1)(y) and 21-23). Second, it created the categories of a “traditional agricultural use” (TAU) and an “exempted agricultural use” (EAU) for the larger domestic purposes users of water for livestock raising or pesticide application on January 1, 1999 as a part of a “farm unit” as defined by the regulations, and exempted such uses from the licence requirement, up to 6250 cubic metres of water per year, or the amount specified in an approved water management plan, whichever is greater (ss 1(1)(y)(ccc), 24, and s73(3)). This agriculture use exemption applies to both private landowners or occupiers of riparian land or land overlaying groundwater (s 73(1)) and to “a person who occupies unpatented Crown land that adjoins a river, stream, lake, natural watercourse or other natural water body or occupies land under which groundwater exists” (s73(2)). Examples of occupiers of unpatented Crown land presumably could include livestock grazing lessees, licensees, or permit holders, Crown land agricultural lease lessees, and possibly agricultural operators on other Crown lands, such as under forestry, or energy and mineral dispositions.

The unamended *Water Act* enables EAUs, whether related to private land (s 73(1)) or unpatented Crown land (s 73(2)) to be registered by January 1, 2001. If registered the use became a TAU and had a priority of date of first use. However, if not registered, although the exemption applied, it was an EAU with no priority (ss 19, 24, and Pt 4, Div 4).

The amendments, nearly 25 years after the period to register an EAU closed, enable the Director to resurrect the registration provisions in section 73:

(c) by adding the following after subsection (4):

(4.1) The Minister may, by order, specify a period during which applications may be made under subsection (2) to register a diversion of water that was not effected previously.

Thus, the amendments enable changes to registrations' priorities otherwise established by January 1, 2001, but only with respect to EAU on unpatented Crown land, so presumably for grazing dispositions, and other agricultural operations on Crown land.

The amendments also permit registered TAUs on unpatented Crown land to apply to add an additional source of water – POD - in new section 73(1.1):

(1.1) The Director may, on application by a registrant of a registration effected under section 73(2), amend the registration to add an additional source of water for the diversion if the total volume diverted does not exceed the maximum specified in section 73(3).

The additional source could apparently apply to a surface water source or a groundwater source, as there is nothing in the amendments that suggests otherwise. Thus, the amendments again enable greater consumption of water by users, up to the permitted maximum, but again, only to TAU on unpatented Crown land.

- *Various disclosure related amendments*

Amendments and Comment:

A number of amendments add disclosure requirements, viz:

- Adding section 33.1 to require documents including agreements relevant to temporary assignments;
- Adding section 50.1 to require documents including agreements relevant to transfers of allocations;
- Adding section 54.1 enabling the Director to make information available to the public on monitoring, measuring, and reporting, for temporary licences, in accordance with the regulations;
- Adding section 81.1 to require documents including agreements relevant to transfers.

Because water is a Crown/public resource, it is welcome that information relevant to the diversion and use of a public resource be disclosed and made public. However, there are at least questions to be raised regarding disclosure of contractual information on, for example, consideration, regarding assignments and transfers.

- *Regulated timelines*

Amendments and Comments:

The Bill amends sections 169(2)(b) of the *Water Act* to authorize regulations

- (i.1) respecting time periods for reviewing applications and issuing decisions under this Act;
- (i.2) respecting limitations on requests for additional information from applicants under this Act;

Prior to this amendment, there was no regulatory potential to limit the time a decision maker could take to get information to make decisions (Bill 7, s 7), or to review and direct decisions including on transfers, amendments, and licensing (Bill 7, ss 9, 15 and 21). This approach destabilizes informed decision-making and risks unwarranted consequences for the aquatic environment and other water users.

III. Ecological, Social, Infrastructure, and Related Impacts and Concerns

Alberta's Bill 7 represents the most significant potential shift in the province's water law in generations. As outlined in the previous discussion, the amendments facilitate changes to points of diversion (POD) and points of use (POU), streamline water transfers, and allow for switching between surface and groundwater sources. When applied to already over-allocated rivers and in the face of climate and land-use change, however, these changes risk exacerbating water scarcity, potentially catastrophically undermining aquatic health, and compromising the water security of municipalities and Indigenous communities.

Exacerbating Scarcity in a Closed Basin

The most immediate concern is the potential for increased consumptive use in stressed basins like the South Saskatchewan River Basin (SSRB). The SSRB is closed to new licenses because [existing allocations already surpass reliable water supplies in dry years](#). By making it easier to use full allocations, change POD and POU, and transfer water (even to more consumptive uses), the amendments risk mobilizing licenses that have not been fully utilized as of yet. [Given the potential overallocation of the SSRB if all licenses are utilized](#), these amendments to the *Water Act* could result in extremely challenging management situations and dangerous impacts to overall river flows, [similar to what we have seen in recent years with increasing drought](#).

In addition to the potential increase in usage, the *Water Act* amendments enable license amendments to proceed without a publicly available, basin-wide assessment demonstrating there is enough water to accommodate this potential increase in gross diversions. This approach directly impacts junior license holders during shortages, as their rights are subordinate under the FITFIR system. Furthermore, the process fails to adequately address the critical water rights of Indigenous nations or provide a clear pathway to meet [often-compromised instream flow needs](#) (IFNs), and [interprovincial water requirements](#).

The current FITFIR licensing system has historically marginalized inherent First Nations water rights. Historically, access to surface water was provided, but not licensed, for First Nations. However, in recent years, [the province has begun to assign junior water licenses](#) to interested Nations. This is problematic when considering the fact that [agricultural water license \(Traditional](#)

[Agricultural Use](#)) holders have been able to back date their license to the period of their initial use, while First Nations are not being extended the same allowance. This creates a fundamental tension, as the provincial system administers water as a resource under its jurisdiction, while First Nations assert their own sovereignty and inherent rights to the same waters.

The amendments in Bill 7 have the potential to significantly impact this already complex regulatory landscape. While the full implications depend on the yet-to-be-released details of new regulations, key areas of concern for First Nations include provisions that may expedite water license transfers and create more flexible trading mechanisms. Without robust safeguards, such a market-based approach could further entrench existing inequities by allowing established license-holders to profit from a public resource, while First Nations who often lack initial/senior allocations are priced out of securing water for future economic and community needs. Furthermore, proposals to streamline approvals must be scrutinized as to whether they dilute the duty to consult and accommodate, a critical constitutional process that must be fulfilled before any decision that could adversely impact asserted Aboriginal and Treaty rights.

Ecological Impacts of Amendments

The Bill's flexibility introduces the potential for substantive ecological risks. Facilitating interbasin transfers can create vectors for [invasive species and pathogen movement](#), disrupting native aquatic ecosystems. Organisms like [zebra mussels, spiny waterflea, and whirling disease can be transported](#) in water, sediment, or on equipment used for water transfers/movement. Once established, these invasives can outcompete native species, alter food webs, and cause irreversible damage to ecosystem structure and function. The financial cost of controlling such invasions [can be substantial and even then often with limited success](#).

While the *Water Act* regrettably omitted independent scientific oversight as a requirement, the amendments to bypass legislative discussion entirely, instead concentrating the decision making process behind closed doors, represents an even greater retreat from transparency. This approach ignores the precautionary principle in environmental management and creates an unacceptable risk of introducing invasive species into new watersheds. The potential for a single transfer to inadvertently introduce an invasive species that permanently degrades a river ecosystem underscores the critical need for robust, science-based risk assessments as a non-negotiable prerequisite for any interbasin transfer approval.

In Bill 7, there is one edge case where the *Water Act* allows flexibility to draw from both surface water and groundwater. This is within the context of traditional agricultural use registrations under section 73. As set out in Part II, these amendments apply only to agricultural users on unpatented Crown land who were already diverting water, as of January 1, 1999. Such registrations may relate either to land adjoining a surface-water body or to land overlying groundwater, and a new provision in section 77(1.1) permits the Director to amend one of these registrations to add an additional source of water. This could allow for both a surface and a groundwater source to be provisioned, provided the total registered diversion volume does not exceed the limit of 6,250 cubic metres. This is a unique, highly specific exception that does not apply to regular water licences. This flexibility could lead to greater use of the exemption, and additional strain on water sources. It is important that this flexibility not be extended any further as shifts to water sources

could have ecological and [water quality impacts](#) if not undertaken with appropriate scientific oversight.

Alignment with Infrastructure Mandates

The “updates” align with the [mandate letter for the Associate Minister of Water](#), which emphasizes “building new water storage and management infrastructure”. This push for new reservoirs and storage capacity occurs as the significant negative ecological [impacts of flow regulation](#) are widely recognized. [Scientific literature](#) has extensively documented how dams fragment rivers, alter sediment transport, and disrupt natural flow regimes critical for ecosystem health. The mass removal of dams elsewhere signals a global shift toward river restoration, a trend Alberta’s renewed focus on retention infrastructure appears to ignore. While a fine balance of flood protection, water availability in dry periods, and power generation needs to be found, it appears that the ecological impacts of flow regulation are not being fully considered in the direction being charted by the current Government of Alberta. As well, the amendments align with [irrigation expansion in the SSRB](#) that will lead to the permanent loss of intact native grasslands to irrigated farmland, by permitting consideration of amendments to irrigation district licences to reduce or remove return flow considerations as well as environmental objectives and conditions.

Persistent Challenges and Climate Change

For municipalities, the amendments offer little new security or assistance. The continuation of the FITFIR system provides no additional support for water-limited communities, aside from provisions for water reuse. These communities [remain reliant on the good graces of senior license holders or neighbouring communities](#) during droughts, a precarious position, unless they have substantial water licenses accessible to them already. The implications of decreasing water availability on urban growth and change needs to be considered and included in amendments to the allocation system, especially as there is an [increasing rate of urban growth and urbanization](#) prevalent across the province.

Notably, the Bill is silent on accounting for these predicted climate and hydrological changes. There is no requirement for transfer approvals to consider projected declines in streamflow or groundwater recharge, creating a dangerous governance vacuum. Furthermore, the amendments do not address community concerns about water access and sovereignty, especially during periods of low flows, leaving longstanding social equity issues unaddressed.

Finally, from a scientific perspective, the ease of amending POD and POU weakens the principle of appurtenance. This can lead to inefficient “water mining,” where water is moved to locations or uses with higher economic value but greater net consumptive loss, further stressing the source watershed without a rigorous assessment of cumulative, basin-wide impacts.

In summary, while Bill 7 seemingly aims to provide administrative and water rights holders flexibility, it does so by increasing consumptive pressure on Alberta’s over-allocated and vulnerable water systems. The amendments prioritize short-term economic gains over the long-term ecological integrity of rivers, the protection of Indigenous water rights, and future municipal water security. In effect, they overturn well over a century of water rights law with limited

oversight, scientific input, or assessment of impacts. While the introduction of wording around water reuse has the potential to be a step in the right direction, it also has the potential to be detrimental in its current form, as outlined above. This, along with the other amendments outlined and discussed in previous sections, have the risk of being ineffective or worse, damaging to aquatic environments in the province.

This post may be cited as: Arlene Kwasniak, David C Barrett, Kerry Black, “Alberta *Water Act* Amendments: No Bridge Over Troubled Waters” (11 December 2025), online: ABlawg, http://ablawg.ca/wp-content/uploads/2025/12/Blog_AK,DB,KB_WaterActBill7.pdf

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