



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
Le Bistouletto

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AUTHORIZATION FOR INDIRECT COLLECTION OF PERSONAL INFORMATION

**MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS & RURAL
DEVELOPMENT**

Michael McEvoy, Information and Privacy Commissioner

November 27, 2018

SUMMARY

Under s. 42(1)(i) of the *Freedom of Information and Protection of Privacy Act* (FIPPA), the Commissioner grants authorization for the Ministry of Forests, Lands, Natural Resource Operations and Rural Development to indirectly collect the personal information of holders of water licences, use and change approvals, and permits as defined under the *Water Sustainability Act* (WSA), for the purpose of administering the province's water rights system.

BACKGROUND

Section 27 of FIPPA requires that public bodies collect personal information directly from the individual the information is about, with specific exceptions. Section 42(1)(i) of FIPPA gives the Commissioner the authority to permit public bodies to collect personal information from other sources. The Ministry of Forests, Lands, Natural Resource Operations and Rural Development has requested authorization to indirectly collect personal information under s. 42(1)(i) of FIPPA.

The Ministry is requesting authorization to indirectly collect the name and contact information of persons who become holders of water licences, use or change approvals, or permits as defined in the WSA through a conveyance or other disposition of the land, mine or undertaking.

According to the Ministry, there are approximately 1000 transfers of ownership of land, mines or undertakings per year that have associated water rights and obligations. Water licences, which generally do not expire, grant a right to divert, use and store water from a defined source. Use approvals also grant a right to divert and use water but are limited to a term of 24 months and can either require that water be used on an appurtenant land, mine or undertaking or may not impose this requirement. Change approvals authorize a change to land in or around a stream. Permits allow use of crown land for works such as pipes or for flooding to create water storage. All of these are subject to terms and conditions, including the payment of fees to the Ministry.

Water licences, use and change approvals, and permits transfer to new owners upon transfer of ownership (e.g. sale, inheritance, or apportionment of a land parcel). Where ownership has transferred, the rights and obligations under the licence, use or change approval, or permit transfers to the new owner.

The WSA requires owners or their representatives to notify the Ministry if they are conveying or otherwise disposing of land, a mine or an undertaking, to which a water licence, use or change approval, or permit is appurtenant. When Ministry staff receive this notice, staff check the Land Titles Registry or other registries for the name and contact information of the new owner to ensure that water rental statements and other information about the licence, use or change approval, or permit are sent to the new owner.

However, this notice is often not provided, and the Ministry only learns of the transaction when water rental invoices are returned as undeliverable. The Ministry must then determine the identity and contact information of the new water licence, use or change approval, or permit holder in order to send the invoice and other information. This can include information related to public safety where the licence, use or change approval, or permit relate to a dam. However, the Ministry currently lacks the authority under FIPPA to indirectly collect this information.

DISCUSSION

The question that I must decide is whether to authorize the Ministry to collect the personal information of landowners who become holders of a water licence, use approval, change approval or permit from sources other than the individuals the information is about.

I. MINISTRY'S SUBMISSION

The Ministry submits that it has the authority to collect the personal information of water licence, use approval, change approval or permit holders under s. 26(c) of FIPPA as the information relates directly to and is necessary for a program or activity of the public body. In this case, it is the administration of the province's water rights system, including

the collection of fees payable and the delivery of information regarding obligations and responsibilities associated with the license, approval or permit.

When the Ministry becomes aware that ownership of land, a mine or undertaking to which a water licence, use or change approval, or permit is appurtenant, has been transferred without notice to the Ministry, it must be able to contact the new owner who becomes the licence, approval or permit holder.

To do this the Ministry must access publically available sources of information to indirectly collect the new water licence, use or change approval, or permit holder's:

1. full name(s);
2. mailing address;
3. telephone number; and
4. if available, email address.

These sources include records and information made available by the Land Title and Survey Authority of British Columbia, the BC Assessment Authority, and Crown Land Registry.

II. Reasons for Granting Authorization

In previous decisions by my office when considering whether to grant an authorization for indirect collection under s. 42(1)(i)¹, the following questions have been considered:

1. Has a clear and sufficiently compelling public interest or objective been identified that cannot reasonably be accomplished through direct collection of personal information?
2. Is the requested departure from FIPPA's rule of direct collection clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used?

I will consider these same questions in this application.

With respect to the first question, the Ministry needs to know the name and contact information of owners who become holders of water licences, use or change approvals, and permits to administer the province's water rights system under the *Water Sustainability Act*. The Ministry is unable to directly collect this information from the new licence, approval or permit holder(s) as it does not know to whom the licences were transferred.

With respect to the second question, I find that Ministry's requested departure from FIPPA's general rule of direct collection is clearly justified when judged against the low

¹ Authorization for Indirect Collection of Personal Information by the Ministry of Health, March 30, 2012; Auth (s. 42) 01-01, April 19, 2001. Page 14

sensitivity of the personal information to be collected. Although this authorization pertains to the manner of collection and not to the disclosure of information, it is worth noting that in the context of responding to an access request s. 22 of FIPPA says that the disclosure of information about a permit or licence does not constitute an unreasonable invasion of personal privacy. I also recognize the beneficial purpose of administering the water rights system, including public safety in the case of dams, and of contacting individuals who may not otherwise be aware of the rights and obligations associated with their water licence, use or change approval or permit.

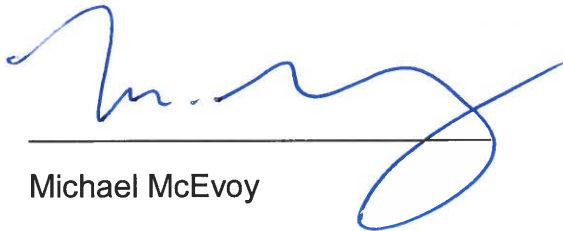
AUTHORIZATION

For the reasons noted above, under s. 42(1)(i) of FIPPA, I authorize the Ministry to indirectly collect the name and contact information of holders of water licences, use or change approvals, and permits, as defined under the WSA, from:

- the Land Title and Survey Authority of British Columbia
- government registries or databases of crown land leases, tenures, licences of occupation or other similar interests in Crown land.

This authorization will expire on the sooner of the coming into effect of an enactment which authorizes the Ministry to indirectly collect this information or December 31, 2021.

November 27, 2018



Michael McEvoy

Information and Privacy Commissioner
for British Columbia