

Fact Sheet:

Yukon Water Resource Officers

This Fact Sheet provides an overview of the role of the Water Resource Officer and the enforcement approach used to secure compliance with the *Waters Act* (Yukon)

Water Resource Officer Responsibility and Roles

Water Resource Officers within Environment Yukon and Natural Resource Officers within the Department of Energy, Mines and Resources are responsible for enforcing the territorial *Waters Act*. In undertaking his or her duties, a Resource Officer will specifically focus on compliance and enforcement of the following:

- Use of waters (Section 6 of the *Waters Act*);
- The deposit of waste to waters (Section 7 of the *Waters Act*);
- Use of waters or deposit of waste to waters without a licence (Section 4 of the *Waters Regulation* in combination with Column 2 of the Schedules under the *Waters Regulation*); and
- Compliance with the terms and conditions of water use licences, waste deposit licences, and any other statutory instruments granted or issued under the *Waters Act*.

Enforcement Objectives

A Water Resource Officer's primary enforcement objective under the *Waters Act*¹ is to verify that parties using waters or depositing waste to waters are in compliance with the legislation. In the event that there is non-compliance, a Water Resource Officer is to respond in a manner proportionate to the nature and gravity of the offence, emphasizing protection of the public health and the environment, specifically "waters" as defined in the *Waters Act*.

¹ From this point forward, any reference to the *Waters Act* S.Y. 2003, c. 19 includes reference to the *Waters Regulation*, O.I.C. 2003/58 and relevant statutory instruments granted under either piece of legislation.

A Water Resource Officer's secondary enforcement objective is to help the Water Resources Branch administer the *Waters Act*, including educating the public about the Act and encouraging the public to report suspected violations.

Enforcement Options

A range of enforcement responses are available for violations of the *Waters Act*. A single violation may invoke a single response or a combination of responses. There is no specific response for a prescribed situation because it depends on the circumstances of each violation. Nevertheless, a graduated response to more severe responses, such as prosecution, will be followed in the case of failure to respond to warnings and directions.

Education and Request for Voluntary Compliance

Depending on severity of the violation, a Water Resource Officer will use his or her discretion when considering education and a request for voluntary compliance. This is one of the initial steps to get a violator back into compliance.

Warnings

A verbal warning, written warning, or letter of non-compliance may also be the initial response for a minor violation of the *Waters Act* if the Water Resource Officer believes that it is required to ensure that the violation does not reoccur. Both verbal and written warnings must be followed up and if the violator is still not in compliance, any of the other responses to the violation may be pursued. A verbal or written warning may be given at the Water Resource Officer's discretion.

Warnings must give the violator the following information:

- a) the nature of the violation;
- b) a request for voluntary compliance;
- c) the steps required to remedy the situation;
- d) a deadline for achieving compliance; and
- e) notice that further action will be taken by the Water Resource Officer if there is non-compliance with the requirements of the warnings or licence.

Copies of warnings will be placed on the violator's file and may be referred to in subsequent licencing procedures and interventions.

Water Resource Officer's (Inspectors) Direction

Where an 'Inspector' believes that an activity is a contravention of Section 6 or 7 of the *Waters Act*, or that there may be a failure of work related to use of water,

and that a danger to the environment, public or property is likely or may result from that use, deposit or failure, an 'Inspector' may issue a Direction to take action or cease the activity.

To ensure procedural fairness, the Direction is read over with the violator prior to it being issued. The Water Resource Officer also explains that the Direction may be appealed by requesting a formal appeal from the Minister of Environment. An appeal would enable the Minister to review the validity of the Direction. Once the Minister has reviewed the Direction, the following options are available as a final decision: the Minister may let the Direction stand, alter the Direction, or revoke the Direction.

If a person contravenes or fails to comply with the Direction, then the Water Resource Officer may take action and/or recover associated costs as a debt due to the Government of Yukon.

Only where the Water Resource Officer is clear on what measures are needed to "prevent the use, deposit, or failure from occurring or to counteract, mitigate, or remedy the adverse effects" shall a Direction be issued.

Prosecution

Prosecution will generally be the response where the following criteria apply:

- The violation results, or could likely result, in serious and/or significant harm or risk of harm to human life, health or the environment.
- The alleged violator deliberately provided false or misleading information or test results to an authority under the *Waters Act*.
- The alleged violator hindered or obstructed a Water Resource Officer in his or her duties.
- The alleged violator concealed or attempted to conceal information regarding an offence.
- The alleged violator failed to take all reasonable measures to comply with an 'Inspectors' Direction issued under the *Waters Act*.

For additional information about the duties and obligations of a *Waters Act* Resource Officer contact the Water Resources Branch at (867) 667-3171 (1-800-661-0408-3171).

Prepared October 2009