

Water Act: Transferring water allocations under a licence

FACTS AT YOUR FINGERTIPS

In Alberta, the province's **Water Act** provides for the transfer of an allocation of water held under a licence, from one parcel of land to another.

The transfer may be in the form of a licensee transferring an allocation of water to another parcel of land, a project owned by the same licensee, or to a project owned by another person.

A licence must be in **good standing** before the Director can consider a transfer application.

Types of transfers

- **Permanent transfer**
Part or all of the water allocation is permanently transferred.
- **Temporary Transfer**
Part or all of the water allocation is transferred on a temporary basis and reverts to the existing licensee after an agreed period of time.

Eligible water allocations

These involve allocated water that has been used under a licence but is no longer required, due to water conservation or other planned reduction in need.

Non-eligible water allocations

- Water licensed for temporary diversion
- A prior transfer licence whose allocation is to revert to the original licence after a specified period of time
- A right to divert for household purposes
- A right to divert water through a registration
- A right to divert water through an approval
- An anticipated right to divert water through a preliminary certificate

How to apply

Application forms are available on Alberta Environment's website and at district offices. Part 1 of the application must be completed by the party making the transfer, Part 2 by the recipient of the transfer.

Completed applications should be sent to an Alberta Environment district office along with:

- Recent certificates of title for all lands involved in the transfer
- Written consent from the owner of any affected lands or undertakings not owned by the party making the transfer or the transfer's recipient
- A detailed plan with layout of the new works including points of diversion, locations of water use, project purpose, detailed description of the water conveyance works /water requirement and an agricultural feasibility report (if irrigation is involved) (See *Guideline for Preparing Agricultural Feasibility Reports for Irrigation Projects*)
- A copy of the licence from which the transfer is to be made

Other requirements

Written permission for rights of way from appropriate authorities, where works affect highways, roads, utilities, or lands owned by others.

Depending on volume, a licence fee may be applicable.

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Other considerations

The licence must be in good standing, and in an area where a water management plan or an Order of the Lieutenant Governor in Council is in place. The Department will consider any existing, potential or cumulative effects the transfer may have on:

- the aquatic environment and any water conservation objectives
- any hydraulic, hydrological and hydrogeological effects
- the allocation of water the licence holder has historically diverted under the licence
- other water users and licence holders, and
- if applicable, the suitability of the land for irrigation, where the water allocation is to be transferred

The Department may refer the transfer request to other agencies that may have an interest in the transfer. All transfer requests require public notice. This may include a public review.

Approvals for construction

Where an application for transfer of a water allocation under a licence is approved, the Director may decide to issue an approval with conditions, for any in-stream construction of works associated with the transfer. The conditions will specify a period of time for construction, upon which completion the approval holder is required to submit a Certificate of Completion.

New licences

These may include conditions requiring water monitoring data, volumes of water diverted, investigation of users impacted by the licensee's diversion, and monitoring of nearby sources. A new licence keeps the same priority number that was assigned to the licence from which the allocation was transferred. Conditions on a new licence may be necessary to mitigate the impact of the transfer on others.

Amending/cancelling existing licences

Depending on the transfer type, the original licence will be amended, where part of an allocation was transferred or in cases of a temporary transfer. The original licence is cancelled if all the allocation was permanently transferred.

Appeals

Decisions on transfer applications can be made (to the Environmental Appeals Board) by the applicant or any directly affected person who submitted a statement of concern during the prescribed notice period.

Water conservation holdback

The Director may withhold up to 10 per cent of the water from a licence being transferred, to protect the aquatic environment or implement a water conservation objective. This holdback applies to permanent and temporary transfers, but only to the volume of water being transferred. The holdback does not apply where a temporary transfer reverts to the original licence.