



APPLICATION FOR WATER LICENCE CONSENT REGULATION

Enacted under the *Water (QAYε) Management and Protection Law*, section 24

TNReg 16/2016

Enacted on April 5, 2016

Hegus [SIGNATURE]

Clint Williams

Hegus [NAME]

DEPOSITED IN THE REGISTRY OF
LAWS

ON 14,04,16
(day/month/year)

Signature of Law Clerk

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Authority

1. This Regulation is made pursuant to the *Water (QAYε) Management and Protection Law*, including under 24.

Definitions

2. (1) In this Regulation,

“Application” means the “Application for Consent” set out in Schedule A of this Regulation;

“Certificate of Consent” means the certificate set out in Schedule B of this Regulation, granted to the applicant by the Executive Council indicating that the Tla’amin Nation has given its consent to the applicant to apply to the province of British Columbia for a Water Licence and that the provisions of the Law leading to the consent have been complied with;

“Heritage Site” has the same meaning as in the *Tla’amin Final Agreement*;

“Law” means the *Water (QAYε) Management and Protection Law*;

“Tla’amin Corporation” has the same meaning as in the *Tla’amin Final Agreement*; and

“Water Licence” means a licence issued under the *Water Act* (British Columbia).

- (2) Unless otherwise expressly provided in this Regulation, the terms used in this Regulation have the same meaning as in the Law or in the *Interpretation Law*.
- (3) Only those defined terms that are capitalized in section 2(1) of this Regulation, section 3 of the Law, or in the *Interpretation Law* are presented capitalized in the text of this Regulation, and all other defined terms are presented in lower case.

Form and content of an Application for Consent to apply to the province of British Columbia for a Water Licence

3. An applicant may apply to the Tla’amin Nation for consent to make an application to British Columbia for a Water Licence by submitting an Application form, set out in Schedule A of this Regulation, to the Water Manager.
4. An Application must be signed by the applicant or applicant’s agent and must include details of the Water Licence for which the applicant is seeking consent, including the following information:
 - (a) the full name of the applicant, a mailing address and a telephone number where the applicant or the applicant’s agent may be contacted;
 - (b) the official name or a clear description of the proposed reservoir or source of supply or reservoir and source of supply;
 - (c) the stream or body of water, if any, to which the proposed source of supply discharges or is immediately tributary;
 - (d) the purpose for which the water is to be used;

- (e) the quantity of water proposed to be diverted or stored, or diverted and stored, or the amount of power to be generated;
 - (f) the legal description of the land, operation or location where the water is to be used;
 - (g) the applicant's title to or interest in the land, operation or location where the water is to be used;
 - (h) the area of the land to be irrigated, if applicable;
 - (i) the location of the point of diversion or storage, or diversion and storage, relative to some other known point;
 - (j) details of the proposed works and the legal description of all lands on which it is proposed to construct works, or that will be affected by flooding; and
 - (k) an accurate, labeled drawing showing the land, operation or location where water is proposed to be used, the approximate location of the proposed works and any land that may be physically affected.
5. The applicant must also demonstrate that the proposed use or activity is consistent with water conservation measures and confirm that the proposed volume of flow and associated activities comply with Tla'amin laws and policies, including respecting zoning and land use.

Application fee

6. An applicant must pay the application fee set out in Schedule C, if any.

Review of an Application for Consent

7. Upon receipt of a completed Application, the Water Manager must
- (a) refer the Application to Tla'amin Public Works, the Tla'amin Fish Hatchery, the Lands Manager, and any other individual or entity as directed by the Executive Council or as otherwise prescribed, for review and comment,
 - (b) confirm that the proposed use of the volume of flow and associated activities comply with Tla'amin laws and policies, including respecting zoning and land use, and
 - (c) confirm that the proposed use or activity is consistent with water conservation measures.

Water Manager may request additional information

8. The Water Manager may request from an applicant, or from any other person, such additional plans, reports, or other relevant material or information that the Water Manager considers is reasonably required in order to review or evaluate the Application.
9. The applicant must, as soon as reasonably practicable after receiving a request under section 8 of this Regulation, provide the requested materials or information to the Water Manager.

No referral where contrary to Tla'amin Law

10. The Water Manager must not refer an Application to the Executive Council for consideration if, in exercising the rights under the proposed Water Licence, the applicant would violate Tla'amin law, including in
- (a) diverting and using water,
 - (b) storing water,
 - (c) constructing, maintaining and operating a work or works, or
 - (d) altering or improving a stream or other watercourse.
11. Where, in accordance with section 10 of this Regulation, the Water Manager does not refer an Application to the Executive Council, the Water Manager must notify the applicant, in writing, that the Application will not be forwarded to the Executive Council for consideration, and the reasons for the decision.
12. Where the Water Manager notifies an applicant under section 11 of this Regulation, the applicant may, within twenty-one (21) business days of receiving the notice, modify the Application in order to address the issues identified by the Water Manager, and where all issues are addressed the Water Manager must proceed with processing the Application.

Referral to the Executive Council

13. Where the Water Manager has
- (a) received a completed Application,
 - (b) received the application fee, if required,
 - (c) received such additional materials or information requested under section 8 of this Regulation, and
 - (d) completed the requirements under section 7 of this Regulation,
- the Water Manager must, subject to section 10 of this Regulation, refer the Application to the Executive Council.

Executive Council required considerations

14. In determining whether to approve an Application, the Executive Council must consider
- (a) whether the Application is consistent with the following goals of the Tla'amin Nation:
 - (i) promoting sustainability and water conservation;
 - (ii) promoting a healthy and safe community with clean air, water, land, forest and marine resources for present and future generations; and
 - (iii) promoting land and resources decision-making based in the best of traditional and technical knowledge;

- (b) whether the applicant has the ability or has made arrangements for suitable infrastructure to safely and effectively deliver water; and
- (c) whether the issuance of a Water Licence will have an adverse effect on:
 - (i) natural stream flow regimes and characteristics,
 - (ii) a community watershed,
 - (iii) traditional and cultural uses of community watersheds,
 - (iv) a protected stream,
 - (v) fish stocks,
 - (vi) fish and fish-related habitat,
 - (vii) an allocated fish species,
 - (viii) a designated migratory bird population,
 - (ix) potable water,
 - (x) an area identified as unsuitable for lands and resources development due to cultural or other reasons,
 - (xi) a Heritage Site,
 - (xii) a designated Tla'amin cultural reserve area,
 - (xiii) a designated enhanced riparian reserve,
 - (xiv) traditional harvesting practices, and
 - (xv) other designated protected areas.

No approval in certain circumstances

- 15.** The Executive Council must not approve the Application if issuance of the Water Licence would be inconsistent with a plan, agreement, or Tla'amin policy or guideline, including respecting
- (a) fishing,
 - (b) Migratory Birds,
 - (c) habitat restoration,
 - (d) restoring flow in the Theodosia Watershed and Inlet,
 - (e) restoring stream channels that have been impacted by landslides,
 - (f) extending salmon enhancement work to Theodosia Inlet in a salmonid rearing facility, or
 - (g) undertaking salmon enhancement and habitat restoration.

Decision by the Executive Council

16. The Executive Council must, as soon as practicable after receiving the Application from the Water Manager,
 - (a) review the Application, taking into consideration the matters required under the Law and any other factors considered appropriate by the Executive Council, and
 - (b) decide whether or not to approve the Application.
17. Without limiting its general authority, the Executive Council may reject or approve an Application, including approving an Application subject to specified terms and conditions, including those set out in regulations established pursuant to the Law.

Notice of decision

18. The Executive Council must, as soon as practicable after making a decision, notify the applicant, in writing, or direct the Water Manager to notify the Applicant, in writing, of the decision and provide reasons where the Application is refused.
19. If the Executive Council rejects the Application, the Executive Council may approve an Application that is modified and re-submitted by the Applicant, if the modified Application addresses the issues identified by the Executive Council and meets the requirements of the Law and this Regulation.
20. Where the Executive Council makes the decision to approve an Application, the Water Manager will provide the applicant with a Certificate of Consent in the form set out in Schedule B.

Commencement

21. This Regulation comes into force on April 5, 2016.

Application
Number: _____

TLA'AMIN NATION APPLICATION FOR CONSENT



SCHEDULE A

Water (Kaya) Management and Protection Law

APPLICATION FOR CONSENT FOR A WATER LICENCE

1. Applicant Information:

Last Name: _____	Given Name: _____	
Nickname (if relevant): _____		
Citizenship #: _____	Status Card #: _____	
Mailing Address: _____	Date of Birth: _____	
_____	Phone: _____	
_____	Email Address: _____	
<input type="checkbox"/> a Tla'amin Citizen	<input type="checkbox"/> a Tla'amin Public Institution	<input type="checkbox"/> a Tla'amin Corporation
<input type="checkbox"/> Other	If Other, please indicate: _____	

2. Agent:

Are you an Agent submitting this application on behalf of your client?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, is a Letter of Agency Attached to this Application?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Agent Information:	
Last Name: _____	Given Name: _____
Mailing Address: _____	Phone: _____
_____	Email Address: _____

3. Place of Use:

Land Description (Enter the full description of the property where the use of water is proposed): _____ _____ _____ _____
Include an accurate, labeled drawing showing the land or location where water is proposed to be used, the approximate location of the proposed works and any land that may be physically affected.

TLA'AMIN NATION APPLICATION FOR CONSENT



4. Purpose(s) and Quantity(ies):

Indicate the purpose or purposes for which the use of water is requested and the total quantity:

Domestic: If the purpose is domestic, enter the number of dwellings on the land and the total quantity, in gallons per day, to be used.

Irrigation: For irrigation purposes, specify the number of acres to be irrigated.

Stockwatering: For industrial (stockwatering) purpose, specify the number of head and type of livestock (e.g. beef or dairy cattle, hogs, sheep, etc.)

Other: If the purpose(s) for which the use of water is requested is not domestic, irrigation or stockwatering, identify the purpose(s). For each purpose, identify the quantity to be used and units (e.g. gallons per day)

5. Period of Projected Use

- Two years or less Two to five years Five to ten years
 Ten to twenty-five years More than twenty-five years

6. Source of Water

Name of Source: Name of the source of water. If the source is unnamed, indicated "unnamed".

If creek, brook or river, width of source at diversion point: If creek, brook or river, indicate the width of the source at the point at which the water to be used will be diverted.

Flows into: Name the water body (stream, lake, etc.) to which the source is tributary. If the source seeps into the ground and does not flow into any other streams at any time, specify "ground"

TLA'AMIN NATION APPLICATION FOR CONSENT



7. Works

List Works: Works such as intakes, diversion structures, pumps, tanks, sumps, pipelines, ditches, troughs, reservoirs, irrigation systems, etc. to be constructed to divert and convey or store water at the place of use.

8. Other Lands physically affected by works

If the proposed works will affect lands other than your own, include the legal description of the land affected.

9. Consistent with Tla'amin laws and conservation measures

Detail whether the proposed use or activity is consistent with water conservation measures, and whether the proposed volume of flow and associated activities comply with Tla'amin laws and policies.

TLA'AMIN NATION APPLICATION FOR CONSENT



10. Legal

The applicant hereby acknowledges that:

- (a) They are responsible to inform themselves and comply with the Tla'amin Final Agreement, *Water (Kaya) Management and Protection Law*, regulations, harvesting documents, provincial and federal laws, and any direction or conditions that may be issued by the Director of Lands and Resources;
- (b) If they fail to comply with any of the aforementioned laws, regulations, documents, directions or conditions, they understand that their Certificate of Consent may be suspended or revoked; and
- (c) The Applicant shall indemnify and save harmless the Tla'amin Nation from and against all actions, suits, claims, demands, loss, damages, expenses and costs, including solicitor/client costs, made by any person against the Tla'amin Nation, the Tla'amin Government, or Tla'amin staff, in whatever manner, in respect of any legal charges, loss, damage, injury or death, arising out of or in connection with, directly or indirectly, the Certificate of Consent for a water permit or any activities authorized or carried out under it.

11. Signature

I hereby certify that the information provided by me in this application is true and I acknowledge that I will follow the laws, regulations, protocols, documents, directions and conditions mentioned in this application.

Print Name

Signature of Applicant

Date of Application (DD/MM/YY)

FOR OFFICE USE ONLY	
Date Application Received: _____	Approved: <u> </u> Y / N
Tla'amin Processing Official: _____	
If Application is Approved:	
Issuance Date: _____	Expiration Date: _____
Conditions: _____	
If Application is Refused:	
Reason for Refusal: _____	

SCHEDULE B

Water (Kaya) Management and Protection Law

CERTIFICATE OF CONSENT FOR A WATER LICENCE

Under section 20(1) of the *Water (Kaya) Management and Protection Law*, I certify that the consent of the Executive Council was given on _____ *(date)* _____ to

_____ *(Applicant)* _____ to apply to British Columbia for a water licence for *(water volume/flow)* _____ for the purposes of _____ *(approved use or activity)* _____

This consent is subject to the following conditions:

(Tla'amin official)



ORDER OF THE EXECUTIVE COUNCIL OF THE TLA'AMIN NATION

Executive Council Order No.: TNO-EC 24/2016
Approved and Ordered: April 5, 2016

Order

The Executive Council hereby enacts the following regulation under the authority of the *Water (QAYε) Management and Protection Law* to take effect on the Effective Date:

- Application for Water Licence Consent Regulation

Authority

This Executive Council Order is made under the authority of the *Water (QAYε) Management and Protection Law*, and in accordance with the *Order of the Legislative Assembly of the Tla'amin Nation TNO-LA 01/2016* (respecting the Tla'amin Nation Effective Date Period Procedures).

*Signed by the Hegus on behalf of the
Executive Council of the Tla'amin Nation*

(Note: This portion is for administrative purposes only and is not part of the Order)

Authority under which the Order is made:

Law: *Water (QAYe) Management and Protection Law*

Other (please specify): Final Agreement and the *Order of the Legislative Assembly of the Tla'amin Nation TNO-LA 01/2016* (respecting the Tla'amin Nation Effective Date Period Procedures).

DEPOSITED IN THE TLA'AMIN
REGISTRY

ON 14/04/16
(day/month/year)

Judith King
Signature of Law Clerk