



Ranch Musings columnist David Zirnhelt. (File photo)

RANCH MUSINGS: Groundwater licensing a crisis in the making

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Groundwater licensing is a serious issue. All users of groundwater, other than domestic users, must get an application for a license in to government before March 1, 2022. This deadline has been set under the “new” Water Sustainability Act (WSA) which came into force in 2016.

In case one thinks this is a partisan political issue, remember it was before the NDP was elected as government, it was the BC Liberal government that brought in this modernization of the Water Act.

One of the major aspects of this new law is the requirement that to use groundwater (not surface water which already had this requirement of licensing) a user other than a domestic

(household) user must license the use.

This new WSA removed the old common law right to use water (riparian right) if it was near your residence (on your property). Common law rights to water are replaced by a statutory right (laws created by the provincial legislature which has jurisdiction over water, including groundwater that is within the province)

It has been since the 1990s that local areas experiencing shortages or conflicts over water, could apply to have a licensing area established and ground water rights governed in that area.

The reason this enabling legislation was enacted then was that under Canadian law, unless there was a regulatory regime (acts and regulations) for water, there could not be a restriction on the export of water from the province. This meant that a groundwater well could be pumped for export out of B.C.

There was a real fear that the demand for safe water would create a rush on the use of water for export.

It took years of consultation with stakeholders for government to formulate and create the legislation.

Now we have the legislation and regulations giving effect to much of the WSA. Deadlines for the submission of applications have been extended — most recently from 2019 to 2022.

The water users of concern here are not the households but the “industrial/commercial” users including large hobby farms, commercial ranches with more than a few head of

livestock, suppliers of water to subdivisions, and any other users that need water to process their product.

In April, 2021, “the partnership for water sustainability in B.C.,” published a backgrounder calling for government to do more to avert this pending crisis: the 20,000 users of groundwater will be illegally using water for their businesses.

Only 4,000 of them have put in an application, leaving 16,000 at risk of not securing their rights.

This means that after March, 2022 new applications will take precedence over historical groundwater users.

In times of drought and if the water table is not replenished in a drying climate, there is not protection. Of course, there is no guarantee of water for a license holder, but they will at least be in line for some water if it is there.

The partnership mentioned above reminds us that it is taking three or more years currently to process a groundwater license application.

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They also suggest the way forward is to have a cabinet minister responsible for overseeing the implementation of the WSA and a dedicated, enhanced group of officials processing applications.

They also note that it might just take some adaptation of the strategy to get the job done.

After March 2022, it may well be more expensive to apply for water rights, since much of the cost is waived as an incentive to get people to apply.

After March 2022, traditional users will be forgoing their present rights which will go back into a common pool of water available for application.

Go to Waterbucket eNews for their publication on the emerging crisis around groundwater legislation implementation, April 20, 2021:
<https://waterbucket.ca/wscblog/>.

If you have further concerns, write to the Premier.

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