

# MEMORANDUM



**Date:** January 29, 2015  
**To:** Joe Mitchell  
**cc:** Jeremy Clowes, Scott Shepherd  
**From:** Graeme Hayward  
**File:** 0655.0170.11  
**Subject:** Tech Memo #3 - Peachland Creek Water Treatment Plant Summary of Approvals

The applicable environmental regulatory requirements are summarized below. Based on the scope of work for construction of the Peachland Creek Water Treatment Plant, this project is not anticipated to trigger a formal environmental assessment under the BC Environmental Assessment Act or the Canadian Environmental Assessment Act, 2012.

## MUNICIPAL

**District of Peachland – Development Permit(s)** – None applicable.

**RDCO – Aquatic Development Permit** – It appears that a portion of the project areas is located within an RDCO Aquatic Development Permit Area (outside of the District of Peachland boundaries). However, the following exemption likely applies to this project: *“The activity involves in-stream and associated riparian water management works conducted by water purveyors (i.e. by Irrigation Districts) under the auspices of the Regional Water Manager as defined under the Water Act provided the works are addressed under relevant Provincial permitting and is conducted in a manner consistent with the Development Permit Guidelines”* (RDCO – Brent Road and Trepanier OCP).

## PROVINCIAL

**Section 9 Water Act Approval/Notification** - Section 9 of the BC Water Act requires that a person may only make “changes in and about a stream” under an Approval or Notification, in accordance with Part 7 of the Water Regulation. Prior to commencing construction an application and supporting documentation must be submitted to FrontCounter BC for review and approval. The Ministry of Forests, Lands, and Natural Resource Operations typically processes a Notification application in 45 days and an Approval application in 140 days.

**Riparian Areas Regulation (RAR)** – The provincial Riparian Areas Regulation (enabled by Section 12 of the Fish Protection Act) requires that a local government ensures that its bylaws and permits under Part 26 of the Local Government Act provide a level of protection that is comparable to or exceeds that of the Riparian Areas Regulation. The District of Peachland Development Permit process likely meets the requirements under RAR.

**Heritage Conservation Act** – Archaeological sites are protected by the Heritage Conservation Act. **A search of the BC Integrated Lands and Resource Registry did not reveal any archaeological records in the vicinity of the project site.** In the event that archaeological remains are found, all ground disturbances must be halted. The Archaeological Branch should be contacted as soon as

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possible to document the discovery and address options for mitigation. Site Alteration Permits are issued under section 12 of the Heritage Conservation Act when the Branch has reviewed and approved an Application for Alteration Permit. The site permit authorizes the removal of residual archaeological deposits once the inspection and investigation are completed.

**FEDERAL**

***Migratory Birds Convention Act*** - Most migrating birds found in Canada are protected under the Migratory Birds Convention Act. The Act is administered by the Wildlife Enforcement Division of Environment Canada in cooperation with provincial governments. The removal of any trees, vegetation, or ground cover will have to comply with specified timing windows to reduce risks to nesting birds in order to maintain compliance with the Migratory Birds Convention Act. **The general least risk activity timing window for birds is from August 1 to March 31.** If this is not feasible, then an active nest survey completed by a qualified professional must be undertaken following the protocols identified by the Canadian Wildlife Service. Construction activities are typically not permitted to commence until chicks have fledged (have developed wing muscles and feathers necessary for flight) and are able to leave their nest.

***Species at Risk Act*** - The federal Species at Risk Act provides protection to species at risk included on Schedule 1 under the Act and their critical habitat, both of which are found on federal lands. It also provides protection to aquatic species and migratory birds (covered by the Migratory Birds Convention Act), wherever they are found.

***Fisheries Act*** - Project review is only required if the proposed project is anticipated to reduce the ability of fish habitat to directly or indirectly support the life processes of fish or result in the mortality of fish. **The Fisheries Act is unlikely to be triggered with the implementation of appropriate environmental mitigation measures.**

**FIRST NATIONS**

The project site is located within Westbank First Nation's Traditional Territory and within a "Statement of Intent" area registered through the BC Treaty Commission.

The Province and Federal Government are legally obligated to consult and accommodate (where required) First Nations on land and resource decisions that could impact their Aboriginal Interests. The Province will carry out consultation prior to issuing any approvals for the project.

**URBAN SYSTEMS LTD.**

A handwritten signature in blue ink, appearing to read "Graeme Hayward".

Graeme Hayward  
Environmental Planner