Project Planning: Applying for an International River Improvement Licence

Context

This Project Planning document provides an overview of **International River Improvement licences** and outlines the key requirements for the licence as well as some tips and suggestions to support applicants in providing a timely and complete application.

Do you need an International River Improvement licence?

If you check one or more of the boxes below, you may need an International River Improvement licence. Contact ECCC's National Hydrological Service for additional information.

- ☐ Your project involves an "improvement" such as a dam, obstruction, canal, reservoir, pipeline or other work on an international river.
- ☐ Your project increases, decreases, or alters the natural flow (flow rate and water level) of an international river.
- ☐ Your project interferes with, alters, or affects the actual or potential use of the water outside Canada.

Overview of permit

The *International River Improvements Act* (IRIA) ensures that the development and use of Canada's water resources in international river basins is in the national interest and meets Canada's obligations under the *Boundary Waters Treaty*. Under section 4 of the IRIA, no person shall construct, operate or maintain an international river improvement unless the person holds a valid licence under the Act.

International River Improvement licences are issued by Environment and Climate Change Canada (ECCC) under the authority of the *International River Improvements Regulations* (the Regulations), enacted under the IRIA. The Regulations allow for the granting of licenses for a period of up to 50 years.

Applicability

The IRIA provides for the licensing of an "international river improvement" which is defined as a dam, obstruction, canal, reservoir, pipeline or other work the purpose or effect of which is:

1. To increase, decrease or alter the natural flow of an international river, and
2. To interfere with, alter or affect the actual or potential use of the international river outside Canada.

The IRIA does not apply to an international river improvement built under the authority of an act of the Parliament of Canada[1], situated within "boundary waters" as defined in the Boundary Waters Treaty of 1909[2], or constructed, operated or maintained solely for domestic, sanitary or irrigation purposes or other similar consumptive uses.

The Regulations allow for exceptions to the application of the Act on the basis of:

1. The insignificant effect as defined under paragraph 3(1)(a)[3] of the Regulations; or
2. The temporary nature of the work as described in paragraph 3(1)(b)[4] of the Regulations

In the case where the improvement constitutes an exception under subsection 3(1) of the Regulation, the applicant must notify the Minister in writing and send the requisite information referred to in paragraphs 6(a) to (e) of the Regulations.

Application Process, Requirements, and Timelines

Application Process

Applications for an International River Improvement licence can be submitted to ECCC's National Hydrological Service. The National Hydrological Service can also be contacted to determine whether a licence is needed for your project, or to determine whether your project falls under the exceptions under subsection 3(1).

Information and Other Requirements

The applicant must apply for a licence under the IRIA by writing to the Minister and supplying the required information referred to in subsections 6(a) to (h) and 7(a) and (b) of the Regulations including, but not limited to, the following:

- The name and a clear description of the international river on which an international river improvement is to be made;
- Details of how the improvement affects the level or flow of water at the Canadian border;
- A brief economic analysis of the direct and indirect benefits, and of the costs of making the improvement and the costs that will result from it; and
- Any other details that demonstrate that the improvement work is compatible with the harmonious development of the resources and economy of Canada.

Any application for a licence shall be accompanied by:

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[1] For example: projects in Yukon that were originally licensed under the *Yukon Waters Act*.
[2] For example: the Moses-Saunders power dam project.
[3] Paragraph 3(1)(a) of the Regulations: "The improvement has or will have in its operation an effect of less than 3 cm on the level or less than 0.3 m3/s on the flow of water at the Canadian boundary".
[4] Paragraph 3(1)(b) of the Regulations: "If the improvement is of a temporary nature, to be operated for a period not exceeding two years."

- Details of any agreement that would apply if there was a proposal to sell the improvement outside Canada, any part of the Canadian share of downstream power resulting from a proposed international river improvement; and
- A copy of the licence for the project issued by the appropriate provincial authority.

Timelines

For applicants requiring multiple regulatory approvals, including decisions under the *Impact Assessment Act*, timely and complete applications may allow applicants to consider permit, licence or other authorization requirements during project planning, create opportunities for integrated consultations, increase certainty on timing of permit decisions, and avoid delays.

The licensing process under the IRIA includes the following steps and estimated timelines:

1. **Application review** (about 2 months): ECCC performs the initial review of the application and request additional information from the applicant if needed and sends out the letter of acknowledgement.
2. **Project review and consultations** (9 to 24 months or longer): ECCC proceeds to the technical review of the application, Indigenous consultation, communication with Other Government Departments (Transport Canada, Fisheries and Oceans Canada, Natural Resources Canada, etc.), communication with IJC consultation (US interests), communication with P&Ts.
3. **Licence preparation** (about 1 month): ECCC coordinates with the legal services and Other Government Departments to draft the licence, including the terms and conditions.
4. **Licence issuance** (about 2 months): This time is dedicated to Licence signature and issuance.

Tips and Best Practices

Tip: Take advantage of impact assessment requirements and timelines

For applicants also undertaking an assessment under the *Impact Assessment Act*, it is recommended to apply for an International River Improvement licence prior to, or at the same time as, the assessment. For efficiency, it is recommended to include the International River Improvement licence requirements (such as the assessment of the impact of the project on the flows and water levels at the Canadian border) in the project impact assessment. This is usually done by including details of relevant IRIA requirements into the Tailored Impact Statement Guidelines (TISG) or Environmental Impact Statement (EIS) guidelines.

Contact Information

For further details or assistance, reach out to the National Hydrological Service.