



# FLETCHER CREEK IMPROVEMENT DISTRICT

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BYLAW NO: 65

TITLE: **Connection Moratorium Bylaw**

## **1 PREAMBLE:**

- 1.1 WHEREAS Section 697, Subsection 2 (f) of the BC Local Government Act (BCLGA) authorizes an improvement district to *“regulate the distribution of water...conveyed by the improvement district.”*
- 1.2 AND WHEREAS Section 707, Subsection (1) of the BCLGA states: *“An improvement district has no obligation to convey or supply water...to any person, land or premises”*
- 1.3 AND WHEREAS Section 707, Subsection (2) of the BCLGA provides a mechanism for appeal *“to the inspector”* of Municipalities, for any limitation of provision of water;
- 1.4 AND WHEREAS Fletcher Creek, as the source of water for Fletcher Creek Improvement District, has annually experienced severe low water levels, sufficient to warrant implementation of water use restrictions;
- 1.5 AND WHEREAS Fletcher Creek Improvement District is currently undertaking a water flow analysis to determine current average water consumption and supply;
- 1.6 AND WHEREAS the impact of additional connections or interconnections on the existing FCID distribution system is unknown at this time;
- 1.7 NOW THEREFORE, the Board of the Fletcher Creek Improvement District, enacts as follows:”

## **2 DEFINITIONS:**

- 2.1 In this bylaw, unless the context otherwise requires:
  - 2.1.1 “FCID” shall mean Fletcher Creek Improvement District.
  - 2.1.2 “Works” shall mean anything capable of, or useful for, diverting, storing, measuring or conveying, conserving, retarding, confining or using water.
  - 2.1.3 “Water” shall mean water conveyed through the works operated or maintained by FCID
  - 2.1.4 “Connection” shall mean the pipeline installation (or curb stop) from FCID’s main to the property served, where such connection is intended to serve the principal residence or household of the property.
  - 2.1.5 “Interconnection” shall mean, anything additional extension made to the water works of the principal connection which are intended to service additional buildings, other than the principal residence. Including, but not limited to, guest cottages, detached garages, workshops, greenhouses, commercial building, rental units or trailers, whether temporary or permanent.

### **3 Moratorium:**

- 3.1 There is a moratorium on any new connections or interconnections. This moratorium disallows any new connections or interconnections to the FCID water distribution system.
- 3.2 Notwithstanding 3.1, this moratorium does not apply to existing properties currently paying annual water taxes to FCID with no existing connection to the FCID water distribution system.
- 3.3 Notwithstanding 3.1 above, the Board of FCID may, in response to an application in accordance with Bylaw 36: Water Distribution Regulations (or subsequent revisions or replacements), may grant a replacement connection or interconnection, if, in the opinion of the Board, the replacement connection or interconnection is designed primarily to:
  - 3.3.1 replace one or more existing connections or interconnections which will be dismantled or disconnected from the water works of FCID;
  - 3.3.2 maintain, or reduce, the existing flow of water to the property.

### **4 Penalties:**

- 4.1 Any property found in violation of this Bylaw may have the water disconnected. And shall be no longer provided water from FCID until the violation has been remedied.
- 4.2 Every person who disobeys or fails to comply with this bylaw shall be, upon summary conviction, deemed guilty of an offence and liable to a fine not exceeding five thousand dollars (\$5,000.00)
- 4.3 In the event that water supply is to be disconnected under this bylaw, FCID is required to provide at least 24 hours written notice to the registered owner of the property before disconnection of the water supply.

### **5 Appeals:**

- 5.1 Any person or property owner to whom supply of water has been discontinued under this bylaw, or has been refused connection or interconnection under this bylaw, has the right to appeal such decision, to the Inspector of Municipalities, in accordance with Section 707 of the BC Local Government Act,
  - 5.1.1 The decision of the Inspector of Municipalities is binding on both FCID and the appellant.
  - 5.1.2 Any appeal of the Inspector's decision must be brought in accordance with the laws of the Province of British Columbia.

### **6 Liability of District:**

- 6.1 FCID does not guarantee, nor is under any obligation to guarantee, a specific pressure of water, nor water of quality or quantity to meet the requirements of individual properties or users.
- 6.2 FCID reserves the right to interrupt water service at any time for the purpose of making repairs or alterations or maintenance to the works.

### **7 READINGS:**

- 7.1 INTRODUCED and given first reading by the Trustees on the      of July, 2018
- 7.2 RECONSIDERED and given second reading by the Trustees on the      of
- 7.3 RECONSIDERED and finally passed by the Trustees on the      of

### **SIGNING:**

I hereby certify that this is a true copy of Bylaw No. 65



# FLETCHER CREEK IMPROVEMENT DISTRICT

RR2, Site 3, Comp 38  
Kaslo, BC V0G 1M0

Website: [www.fletchercreekwater.com](http://www.fletchercreekwater.com)  
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## Report on Moratorium on New Connections

Recently there has been much discussion on the Moratorium on New Connections. Accordingly, I have read through all the minutes of both Regular and Annual General Meetings in an effort to ascertain whether there has been a motion passed enacting such a moratorium. In summary, there has been:

1. Firstly, at the Feb 12, 2007 Regular Meeting, the minutes read: “[the board] **placed a moratorium on all new hook-up connections as the system is now at its maximum**”;
2. Secondly, at the Apr 24, 2013 Regular Meeting, the minutes read: “**Elle [Andrewert] made the following motion: ‘The moratorium on any new water connections will remain in place.’ Seconded by Gillian [Froese]. Unanimously Carried.**”

When I was first questioned about the moratorium, I was directed to the Feb 12, 2007 minutes. And while these minutes state a decision was made, it doesn’t state the decision in the standard format of “*Moved by X, seconded by Y, that Z. Vote Results*”. Therefore it could be argued that the “decision” is not valid. However, the wording of other “decisions” made during that meeting is consistent with the minute taking of that time.

Furthermore, there have been a number of times when the issue has been questioned and reiterated at both Regular meetings and numerous AGMs. Each of those minutes (excluding the Apr 24, 2013) do not have a specific motion recorded, but the minutes, as written, are later approved. If there was a dispute as to the authenticity, or validity, of the Feb 12, 2007 “decision”, then there was ample opportunity for the minutes to be called into question and/or amended.

I suspect that the specific motion at the Apr 24, 2013 meeting may well have been a response to the question being raised at the Apr 09, 2013 AGM.

It has been suggested that, as an Improvement District, our mandate is to provide water to our residents, and that the prohibition of new connections is a failure to fulfill that mandate.

Our Letters Patent stipulates: “*The objective of the improvement district shall be the acquisition, maintenance and operation of works for waterworks and irrigation purposes and all matters incidental thereto.*”

It is the Board’s duty to ascertain what is the best method to acquire, maintain and operate the system. Is it the Board’s assessment, that FCID has a duty to provide every property within the district access to water? Is the access to be unfettered by lifting the moratorium? Is the moratorium a failure of duty or an upholding of duty?

Given the recent questioning of the moratorium, I recommend that the Board, once again debate and decide, with a motion, the status of the moratorium on new connections.

Dan Knight, Secretary Treasurer, submitted at the June 13, 2018 meeting.

6. Annual Honoraria

Chairperson	\$500
Trustees	50
Maintenance 1	500
Maintenance 2	250
Telephone 1	75
Telephone 2	75

Secretary/Treasurer - minimum \$500/year, \$12/hour, thereafter.

**Moved** by Anne Tellam, seconded by Cal Wanvig, "that the Honoraria be accepted as presented". Carried.

7. New Business

Bob Whelan mentioned that there is concern regarding secondary connections on one lot and the amount of water being used for the secondary connections. There was discussion on quantity of water and other property owners having prior rights on the creek.

**Moved** by Cal Wanvig, seconded by Bruce Milner, "that all requests for second connections be put on hold until water flow on creek can be measured". *Carried*

**Moved** by Doris Morris, seconded by Bruce Milner, "that a moratorium be put on any hook-ups to the system until further investigations on quantity of water have been performed." *Carried*

The phone persons were asked to call the Trustees for their meetings.

Bruce Milner mentioned that a trail for hiking, fishing, etc. had been developed further up the creek.

**Moved** by Meg Milner, "that the meeting be adjourned".

The meeting was adjourned at 5:30 p.m.

FLETCHER CREEK  
IMPROVEMENT DISTRICT

1998  
RR-2, S-3, C-38  
KASLO, BC VOG 1MO

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**TRUSTEE MEETING**  
Wednesday, February 18, 1998

**Convened:** 7:00 pm at the home of Fred Richinger

**Present:**

Pat Gibbings	Steve Scott
Stu Gibbings	Anne Tellam
David Herreshoff	Jake van Smeden
Bill Morris	Pete White
Fred Richinger	

1. Minutes of the December 4, 1997 Trustee meeting were read.  
It was **MOVED by Jake, SECONDED by Stu that the minutes be approved as read. CARRIED.**
2. Pat reported that 1998 taxes from 9 water users have been received to date, the current bank balance is \$4344.51, and that 20% of the Class B Patronage Shares have been transferred to the T-Bill Savings Account. It was agreed that a T5 for interest received be filed and that the monies in the District's Class B Patronage Shares be listed as an asset. In preparation for the Annual Meeting, a statement of Receipts and Disbursements was circulated and the 1998 budget as submitted with Bylaw #33 should be reviewed.

**Acceptance of the Treasurer's Report was MOVED by David, SECONDED by Stu. CARRIED.**

3. **Bylaws**  
A lengthy discussion on the need for a set of Bylaws which are understandable, stating what we want and to be able to back it up ensued.

It was then **MOVED by David, SECONDED by Jake that Pat and Stu revise several Bylaws for consideration at the next Trustee meeting. CARRIED.**

4. **Request for Water Hook-up**  
Fred noted that a verbal request from Bob Whelan was made for a hook-up for Mr. Baumgardner.  
A lengthy discussion followed on this, particularly on lifting the moratorium on any hook-ups to the system passed at the April 1995 Annual Meeting. Stu reported that he and Jake measured a leakage of 10,000 gallons a day.

It was then ***MOVED by David, SECONDED by Steve that the moratorium on primary hook-ups be lifted, up to a maximum of 60 (presently 51), and that the moratorium on second connections remain in effect; this motion to be ratified at the Annual Meeting. CARRIED.***

It was agreed that a letter be mailed to Mr. Baumgardner requesting a written request for a hook-up.

5. Liability Insurance

Jake reported that our liability insurance would be approximately \$750.00 - \$800.00 a year. A definite quote from the insurance broker will be presented at the Annual Meeting.

6. Annual Meeting

A short Trustee meeting will be held prior to the Annual Meeting, set for Sunday, April 26, 1998 at 3:00 pm at the Richinger's.

Anne will check when the notices of the Annual Meeting have to be sent prior to the meeting and set up a Trustee meeting prior to that date. An agenda for the Annual Meeting will be prepared for Trustee approval.

Doris Morris has been asked to contact people who may wish to put their names forward as a Trustee. Anne will contact Doris to let her know who the Trustees are whose term will expire this year.

7. Stu reported that he found no problems on reviewing of the proposed forest development plan by Jeff Mattes as there is only a small cut on Woodbury Creek.

Jake reported that Meadow Creek Cedar are planning to clear some blow down on Fletcher Creek. Stu would like to see it before the clearing is done.

8. Maintenance

Bill reported that the water system is working well, that VSA has put cement curbs where damage to the water system was made. He estimated the damage would cost about \$500.00 to repair.

9. ***MOVED by David that the meeting be adjourned at 9:00 pm.***

## NEW CONNECTION MORATORIUM- Review by Kevin Jersey

- Diane Schreiber advised that the Connection Moratorium was never meant to be permanent (Board Member 2001 to 2006, 2009 to 2011)
- Water Use Study of 1998 – not available – presented at AGM resulting in a lifting of the moratorium on new connections but moratorium on interconnections.
- AGM 1999 moratorium on second connections was lifted.
- AGM 2001 suggestion that moratorium on second connections would be revisited
- BOARD 5 SEP 2001 mention of reviewing terminology of “interconnection” and “second connection”. No mention of same in following year.
- AGM 2007 – Laurie assumed position of CHAIR advised that 7 FEB Board meeting a moratorium was placed on all new connections. DEFINITION – New Connection is to the main system line. Interconnection is a connection off the main residence line to another dwelling or outlet.
- BOARD 12 FEB 2007 – moratorium on all “new hook-up connections”
- BOARD 24 APR 2007 – moratorium on all hook-up connections (not interconnections)
- BOARD 9 OCT 2007 – new connection approved “FROESE”
- AGM 2008 – reference to moratorium and hand written “interconnection”
- BOARD – June 2017 – need to have flow meter to determine water usage not exceeding license and address moratorium
- BOARD July 2017 – need to have flow meter to determine water usage not exceeding license and address moratorium

## Current Water Usage (License permits a maximum of 60,000 gallons per day)

- Flow meter 7 days ending 15 August 266,810 or 38,115 gallons per day
- Flow meter 12 days ending 20 August 419,445 or 34,953 gallons per day
- Flow meter 14 days ending 22 August 476,273 or 34,019 gallons per day
- All readings include downstream leakage

## Water Shortage Options available to the Board

1. Access emergency water supply from Kootenay Lake
2. Access water from Comstock belonging to Scarlett Family
3. Designated irrigation days and restricted hours
4. Prohibit all irrigation