

The Saskatchewan Watershed Authority Act, 2005

being

Chapter S-35.03* of the *Statutes of Saskatchewan, 2005*
(effective May 27, 2005) as amended by the *Statutes of
Saskatchewan, 2006, c.34.*

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

PART I		PART V	
Short Title and Interpretation		Crown Ownership	
1	Short title	38	Water vested in Crown
2	Interpretation	39	Property in water not transferred by grant of land
PART II		40	Right of diversion not vested in owner
Saskatchewan Watershed Authority		41	Existing rights preserved
3	Corporation continued	42	Framework Agreement implications
4	Membership	PART VI	
5	Mandate and purposes	Corporation's Works	
6	General powers	DIVISION I	
7	Crown agent	Reservoirs and Reservoir Development Areas	
8	Responsible to minister	43	Interpretation of Part
9	Head office	44	Regulations and powers of the corporation re reservoir development areas, special flood hazard areas
10	Capacity to contract	45	Restrictions in designated areas or proposed designated areas
11	Common seal	46	Bylaws
12	Liability in tort	DIVISION 2	
PART III		Works Owned by the Corporation	
Administration		47	Power to construct works outside municipalities, on provincial highways, etc.
13	Board of directors	48	Power to construct works inside municipalities
14	Officers	49	Power to enter on adjoining lands
15	Remuneration and reimbursement	PART VII	
16	Staff and consultants	Water Management	
17	Superannuation and benefits	DIVISION 1	
18	Supplies and additional staff	Water Rights	
19	Advisory committees	50	Water rights licence
20	Acquisition and disposal of property	51	Application for licence
21	Acquisition of securities	52	Refusals
22	Acquisition of extra-provincial powers	53	Cancellation, amendment or suspension of licence
23	Expropriation	54	Cancellation of grant of right to use water
24	Acquisition by purchase	55	Prohibitions in relation to water
25	Bonding	56	Exceptions
26	Use of property	57	Diversion and use of water prohibited
PART IV		58	Civil action for diversion of certain surface water
Financial Matters		DIVISION 2	
27	Appropriation	Approval for Works	
28	Revenues pursuant to <i>The Water Power Act</i>	59	Approval for works required
29	Borrowing powers of Minister of Finance	60	Material to be filed with application for approval
30	Borrowing power of corporation	61	Publication of notice
31	Temporary borrowing	62	Approval for construction or operation of works and orders in relation to works
32	Charge on revenue	63	Replacement of certain licences
33	Guarantee by Saskatchewan	64	Registration of approval
34	Investments	65	Easements
35	Fiscal year		
36	Audit		
37	Annual report		

66	Non-application of sections 64 and 65
67	Public highways
68	Inspection of works
69	Cancellation, amendment or suspension of approval
70	Compensation if approval cancelled for public interest
DIVISION 3	
Ground Water	
71	Purposes of Division
72	Application of Division
73	Certain Acts not affected
74	Registration with the corporation
75	Investigation, well drilling and use of ground water subject to regulations
76	Powers of inspection
77	Safety and control of wells
78	Regulations
DIVISION 4	
Complaints re Drainage Works	
79	Interpretation of Division
80	Request for corporation's assistance to resolve complaint
81	Filing of formal complaint
82	Notice of formal complaint and investigation
83	Order relating to decisions
83.1	Enforcement of orders made pursuant to <i>The Saskatchewan Watershed Authority Act</i>
84	Right of appeal
85	Failure to comply with order
86	Recovery of corporation's costs
87	Appeal to Court of Queen's Bench
88	Mediation of damage claim
PART VIII	
Enforcement, Offences and Penalties	
89	Powers of entry re duties and powers of corporation
90	Offence and penalty
91	Limitation period on prosecutions
92	Powers to enforce rates, etc.
93	Powers of entry re removal of illegal dam or works

PART IX	
General	
94	Other licences and approvals not affected
95	Immunity
96	Inspection of records
97	Crown bound
PART X	
Regulations	
98	Regulations
PART XI	
Repeal and Transitional	
99	R.S.S. 1978, c.G-8 repealed
100	S.S. 2002, c.S-35.02 repealed
101	Employee transfers
102	Transitional – Saskatchewan Watershed Authority
103	Transitional re orders and agreements
PART XII	
Consequential Amendments	
104	S.S. 1984-85-86, c.B-7.1, section 2 amended
105	R.S.S. 1978, c.C-27 amended
106	S.S. 2002, c.E-10.21, section 65 amended
107	S.S. 1996, c.I-14.1, section 13 amended
108	S.S. 1979, c.M-11.1, section 81 amended
109	R.S.S. 1978, c.M-30, section 6 amended
110	S.S. 1983, c.N-5.1 amended
111	S.S. 1986, c.P-1.1, section 27 amended
112	R.S.S. 1978, c.P-31 amended
113	S.S. 2004, c.P-46-1, section 7 amended
114	S.S. 1989-90, c.R-26.1 amended
115	R.S.S. 1978, c.T-2, section 27 amended
116	S.S. 1993, c.T-20.1, section 2 amended
117	S.S. 1983-84, c.U-11 amended
118	S.S. 1980-81, c.W-1.1, section 75 amended
119	R.S.S. 1978, c.W-4, section 11 amended
120	S.S. 1983-84, c.W-4.01 amended
121	R.S.S. 1978, c.W-6 amended
122	R.S.S. 1978, c.W-11 amended
PART XIII	
Coming into Force	
123	Coming into force

CHAPTER S-35.03

An Act respecting Water Rights and the Saskatchewan Watershed Authority, and making consequential amendments to certain Acts

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Saskatchewan Watershed Authority Act, 2005*.

Interpretation

2 In this Act:

- (a) **“conservation programs”** includes:
 - (i) waterfowl conservation programs, including programs related to the preservation, rehabilitation, management and development of waterfowl breeding habitat, including wetlands nesting and upland nesting habitat;
 - (ii) programs related to the preservation, management and development of other wildlife habitat; and
 - (iii) water conservation programs;
- (b) **“corporation”** means the Saskatchewan Watershed Authority;
- (c) **“Crown”** means the Crown in right of Saskatchewan;
- (d) **“divert”** includes take, remove and impound by means of any works;
- (e) **“domestic purposes”** means household and sanitary purposes, the watering of stock, the spraying of crops and the watering of noncommercial lawns and gardens adjoining private residences, but does not include the sale or barter of water;
- (f) **“drainage”** means any action taken or intended for the removal or lessening of the amount of water from land and includes the deepening, straightening, widening and diversion of the course of a stream, creek or other watercourse and the construction of dykes;
- (g) **“drilling”** includes boring, digging, driving and jetting;
- (h) **“Framework Agreement”** means:
 - (i) the Saskatchewan Treaty Land Entitlement Framework Agreement dated September 22, 1992 and entered into by Her Majesty in right of Canada, the Crown and certain Indian bands with respect to the settlement of the outstanding treaty land entitlement claims of the Indian bands; or

- (ii) any agreement entered into by Her Majesty in right of Canada, the Crown and an Indian band with respect to the settlement of the outstanding treaty land entitlement claim of that Indian band on the same or substantially the same terms as the agreement mentioned in subclause (i);
- (i) **“ground water”** means water beneath the surface of land;
- (j) **“Indian band”** means a band as defined in the *Indian Act* (Canada) and includes the council of a band;
- (k) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (l) **“owner”**, except in section 63, includes a person who is in possession of, or has the right to immediate possession of, land as a lessee, purchaser under an agreement for sale or licensee;
- (m) **“person”** includes:
- (i) a conservation and development area authority;
 - (ii) the board of directors of an irrigation district; and
 - (iii) the board of directors of a watershed association;
- (n) **“prescribed”** means prescribed in the regulations;
- (o) **“surface water”** means water that is above the surface of land and in a river, stream, lake, creek, spring, ravine, coulee, canyon, lagoon, swamp, marsh or other watercourse or water body;
- (p) **“water”** means ground water or surface water;
- (q) **“water rights licence”** means a water rights licence issued by the corporation pursuant to section 50;
- (r) **“well”** means an opening made by drilling into the ground for the purpose of obtaining ground water or scientific data on ground water, whether water is obtained or not;
- (s) **“well driller”** means a person who drills or reconditions a well;
- (t) **“works”** includes dykes, dams, weirs, floodgates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, wells, well casings and associated appurtenances, headworks, flumes, aqueducts, pipes, pumps, measuring weirs or any other contrivance for carrying or conducting water or any other works the construction of which is authorized pursuant to this Act, but does not include any prescribed works.

PART II

Saskatchewan Watershed Authority**Corporation continued**

3(1) The Saskatchewan Watershed Authority, continued as a corporation pursuant to *The Saskatchewan Watershed Authority Act*, is continued.

(2) The corporation is a Treasury Board Crown corporation within the meaning of *The Crown Corporations Act, 1993*.

2005, c.S-35.03, s.3.

Membership

4 The corporation consists of the person or persons appointed by the Lieutenant Governor in Council.

2005, c.S-35.03, s.4.

Mandate and purposes

5 The mandate and purposes of the corporation are the following:

(a) to manage, administer, develop, control and protect the water, watersheds and related land resources of Saskatchewan;

(b) to promote the economical and efficient use, distribution and conservation of the water, watersheds and related land resources of Saskatchewan;

(c) to maintain and enhance the quality and availability of the water, watersheds and related land resources of Saskatchewan for domestic, agricultural, industrial, recreational and other purposes;

(d) to promote and co-ordinate the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan;

(e) to promote, undertake and co-ordinate research, investigations, surveys, studies, programs and activities relating to the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan;

(f) to promote, undertake and co-ordinate conservation programs in Saskatchewan.

2005, c.S-35.03, s.5.

General powers

6(1) In carrying out its mandate and fulfilling its purposes, the corporation may:

(a) regulate and control the flow of water in any lake, river, reservoir or other water body in Saskatchewan;

(b) receive and consider applications for, and issue, water rights licences and approvals to construct, extend, alter or operate works, and establish the terms and conditions of those licences and approvals;

- (c) promote, undertake and co-ordinate research, investigations, surveys, studies, programs and activities relating to:
- (i) the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan; or
 - (ii) conservation programs;
- (d) subject to any prescribed restriction, enter into any agreement with any person, government, agency, organization, association, institution or body within or outside Saskatchewan for any purpose relating to:
- (i) the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan; or
 - (ii) conservation programs;
- (e) enter into agreements with the Her Majesty in right of Canada and Indian bands relating to the management, administration, development, conservation, protection and control of any water, watershed and related land resources in Saskatchewan, including agreements for the creation of co-management boards and the delegation to those boards of any of the powers of the corporation with respect to those matters;
- (f) collect, process and store basic data on the quality, quantity, source, use, cost and other aspects of:
- (i) water, watersheds and the related land resources of Saskatchewan; or
 - (ii) conservation programs;
- (g) co-ordinate, develop and promote policies and programs relating to the planning, development and use of interprovincial and international waters and of any water use plan or proposed project within or outside Saskatchewan that may have implications for the planning, development and use of the water, watersheds and related land resources of Saskatchewan;
- (h) consult with the Prairie Provinces Water Board and other similar organizations respecting all matters that:
- (i) come within the purview of those organizations; and
 - (ii) affect the planning, development and use of water, watersheds or related land resources of Saskatchewan;
- (i) subject to subsection (2), make grants to any person, agency, organization, association, institution or body, on any terms and conditions that the corporation considers appropriate, for any purpose relating to:
- (i) the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan; or
 - (ii) conservation programs;

- (j) subject to subsection (3), make loans to any person, agency, organization, association, institution or body, on any terms and conditions that the corporation considers appropriate, for any purpose relating to:
 - (i) the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan; or
 - (ii) conservation programs;
 - (k) accept contributions or receive moneys from any source for any purpose relating to:
 - (i) the management, administration, development, conservation, protection and control of the water, watersheds and related land resources of Saskatchewan; or
 - (ii) conservation programs;
 - (l) collect:
 - (i) any prescribed fees, levies, rates or charges for the use of water, for issuing a licence, approval or other authorization or for obtaining a service or program that can be accessed only pursuant to this Act; and
 - (ii) any prescribed penalties and interest in relation to the fees, levies, rates or charges prescribed pursuant to subclause (i);
 - (m) subject to subsections 20(3) and 21(3), sell, lease, convey or otherwise dispose of and convert into money any of its real or personal property that the corporation considers no longer necessary for its purposes;
 - (n) manage, insure, maintain, repair, alter or improve any of its property, and construct or erect any buildings, structures or other improvements;
 - (o) participate in, undertake and carry out programs designed to encourage the maintenance and improvement of works;
 - (p) provide technical, engineering, management or other advice, assistance or training to any person, agency, organization, association, institution or body;
 - (q) advertise and disseminate information to the public in any manner that it considers appropriate concerning its operations and the uses of water or works;
 - (r) carry out or engage in any other function or activity assigned to the corporation by the Lieutenant Governor in Council; and
 - (s) do all those things that the corporation considers necessary, incidental or conducive to carrying out its mandate and fulfilling its purposes.
- (2) The corporation shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to clause (1)(i) in any fiscal year of the corporation that is greater than \$100,000.
- (3) The corporation shall obtain the approval of the Lieutenant Governor in Council before making any loan pursuant to clause (1)(j) in any fiscal year of the corporation that is greater than \$250,000.

Crown agent

7(1) The corporation is for all its purposes an agent of the Crown, and the corporation's powers pursuant to this Act may be exercised only as an agent of the Crown.

(2) All property of the corporation, all moneys acquired, administered, possessed or received from any source and all profits earned by the corporation are the property of the Crown and are, for all purposes, including taxation of whatever nature and description, deemed to be the property of the Crown.

2005, c.S-35.03, s.7.

Responsible to minister

8 The corporation is responsible to the minister for the performance of its duties and the exercise of its powers pursuant to this Act.

2005, c.S-35.03, s.8.

Head office

9 The head office of the corporation is to be at any location in Saskatchewan that the Lieutenant Governor in Council may designate.

2005, c.S-35.03, s.9.

Capacity to contract

10(1) The corporation has the capacity to contract and to sue and be sued in its corporate name with respect to any right or obligation acquired or incurred by it on behalf of the Crown as if the right or obligation had been acquired or incurred on its own behalf.

(2) The corporation may, on behalf of the Crown, contract in its corporate name without specific reference to the Crown.

2005, c.S-35.03, s.10.

Common seal

11 The corporation shall have a common seal.

2005, c.S-35.03, s.11.

Liability in tort

12 The corporation may:

- (a) sue with respect to any tort; and
- (b) be sued with respect to liabilities in tort to the extent to which the Crown is subject pursuant to *The Proceedings against the Crown Act*.

2005, c.S-35.03, s.12.

PART III

Administration**Board of directors**

13(1) A board of directors of the corporation, consisting of those persons who are appointed to constitute the corporation pursuant to section 4, shall manage the affairs and business of the corporation.

(2) Subject to subsections (3) and (4), a person appointed pursuant to section 4:

(a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and

(b) is eligible for re-appointment.

(3) No member of the board shall hold office for more than two consecutive terms.

(4) If a member of the board dies or resigns, the person ceases to be a member of the board on the date of death or on the date on which the resignation is received by the board, as the case may be.

(5) If the office of a person appointed pursuant to section 4 becomes vacant, the Lieutenant Governor in Council may:

(a) appoint a person for the remainder of the term of the person who vacated the office; or

(b) appoint a person for the term mentioned in subsection (2).

(6) A vacancy in the membership of the board does not impair the power of the remaining members of the board to act.

2005, c.S-35.03, s.13.

Officers

14(1) The Lieutenant Governor in Council shall appoint one member of the board as chairperson of the board and may appoint another member of the board as vice-chairperson of the board.

(2) The chairperson shall:

(a) preside over all meetings of the board; and

(b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.

2005, c.S-35.03, s.14.

Remuneration and reimbursement

15 The Lieutenant Governor in Council shall fix the remuneration and rate of reimbursement for expenses of members of the board.

2005, c.S-35.03, s.15.

Staff and consultants

16(1) Notwithstanding *The Public Service Act, 1998*, the corporation may:

- (a) employ any officers and employees that it considers necessary to meet its mandate and purposes or to exercise its powers; and
 - (b) determine the respective duties and powers, the conditions of employment and the remuneration of those officers and employees.
- (2) The corporation has control over and shall supervise its officers and employees.
- (3) The corporation shall pay to its officers and employees the remuneration determined pursuant to subsection (1).
- (4) The corporation may:
- (a) appoint or engage any professional, administrative, technical and clerical personnel that it may require to meet its mandate and purposes or exercise its powers; and
 - (b) determine the salaries and other remuneration of the personnel appointed or engaged pursuant to clause (a).

2005, c.S-35.03, s.16.

Superannuation and benefits

17(1) *The Public Service Superannuation Act, The Superannuation (Supplementary Provisions) Act* and *The Public Employees Pension Plan Act* apply, with any necessary modification, to the employees of the corporation.

- (2) The corporation may establish or provide for the following for the benefit of the employees of the corporation and the dependants of those employees:
- (a) a group insurance program;
 - (b) any other employee benefit program.

2005, c.S-35.03, s.17.

Supplies and additional staff

18 The minister may provide the corporation with any supplies and the services of any employees under the minister's administration that the minister considers to be required for the corporation to carry out its powers and duties pursuant to this Act.

2005, c.S-35.03, s.18.

Advisory committees

19(1) For the purposes of advising on any of the activities of the corporation, the corporation may appoint one or more advisory committees for a specific period and for a specific purpose.

- (2) The corporation shall obtain the approval of the Lieutenant Governor in Council before appointing an advisory committee for a period longer than one year.

2005, c.S-35.03, s.19.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

Acquisition and disposal of property

20(1) Subject to subsection (3), the corporation may:

- (a) acquire by purchase, lease or otherwise, any property that the corporation considers necessary for the efficient operation of its business; and
 - (b) sell, lease or otherwise dispose of any of the corporation's property in any manner that the corporation considers appropriate.
- (2) The corporation may:
- (a) purchase property by means of deferred payments; and
 - (b) give security on the property purchased for the purchase price, or the unpaid balance of the purchase price, with interest.
- (3) If the purchase price or sale price of real property included in one transaction entered into by the corporation exceeds \$250,000, the corporation shall obtain the approval of the Lieutenant Governor in Council before acquiring or disposing of the real property.

2005, c.S-35.03, s.20.

Acquisition of securities

21(1) In this section, "**incorporated company**" includes:

- (a) a municipality;
 - (b) an irrigation district established pursuant to *The Irrigation Act, 1996*; and
 - (c) any other corporation that is incorporated or registered pursuant to an Act.
- (2) Subject to subsection (6), the corporation may acquire, by any means that it considers appropriate, shares, bonds, debentures or other securities of any incorporated company.
- (3) Subject to the approval of the Lieutenant Governor in Council, the corporation may dispose of the shares, bonds, debentures or securities acquired pursuant to subsection (2) by any means that it considers appropriate.
- (4) The corporation may appoint any person that it considers appropriate to be the corporation's representative at any meeting of any class of holders of shares, bonds, debentures or securities or creditors with respect to any shares, bonds, debentures or securities acquired by the corporation pursuant to this section.
- (5) The person appointed pursuant to subsection (4) may exercise, on behalf of the corporation, all the powers that the corporation could exercise if it were an individual holder of shares, bonds, debentures or securities or a creditor of the incorporated company.
- (6) If the purchase price of any shares, bonds, debentures or other securities proposed to be acquired pursuant to subsection (2) exceeds \$250,000, the corporation shall obtain the approval of the Lieutenant Governor in Council before making the purchase.

2005, c.S-35.03, s.21.

Acquisition of extra-provincial powers

22(1) The corporation may:

- (a) subject to the approval of the Lieutenant Governor in Council, incorporate any other corporations for any purpose that, in the opinion of the corporation, will directly or indirectly benefit the corporation; and
 - (b) accept, directly or through subsidiary corporations, extra-provincial powers and rights and exercise its powers beyond the boundaries of Saskatchewan to the extent permitted by the laws in force where those powers are sought to be exercised.
- (2) Notwithstanding *The Business Corporations Act*, if the corporation has incorporated or continued another corporation pursuant to that Act, the articles of that other corporation are deemed to provide, after its incorporation or continuance pursuant to that Act, that the business that the other corporation may carry on is restricted to the powers and purposes of the corporation.

2005, c.S-35.03, s.22.

Expropriation

23(1) Subject to subsection (4) and to the prior approval of the Lieutenant Governor in Council, the corporation may, without the consent of the owner or of any interested person, enter on, take possession of, expropriate and use any land, building, plant, machinery, apparatus or equipment that, in the opinion of the corporation, is necessary for the purposes of the corporation.

(2) Subject to subsection (3), *The Expropriation Procedure Act* applies to any expropriation made pursuant to subsection (1) or (5).

(3) If any building, plant, machinery, apparatus or equipment that is not affixed to or part of the land on which it is located is expropriated pursuant to subsection (1), the compensation payable for the building, plant, machinery, apparatus or equipment is required to be based on its fair replacement value when that value is required to be calculated:

- (a) making a reasonable deduction for depreciation, deterioration, wear and tear and obsolescence related to the building, plant, machinery, apparatus or equipment; and
 - (b) excluding any value for franchise rights, goodwill or future earnings related to the building, plant, machinery, apparatus or equipment.
- (4) The corporation may acquire any land, lease of land or easement on or with respect to land that it considers necessary for the purposes of constructing, maintaining and operating any works, including any lines for the carriage, storage, treatment, distribution or other handling of water in connection with those works.
- (5) For the purposes mentioned in subsection (4), the corporation may, without the consent of the owner or any other person interested in them, enter on, take possession of, expropriate and use:
- (a) the land described in that subsection; and
 - (b) those rights in or with respect to the land described in that subsection that the corporation considers advisable.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(6) Notwithstanding subsection (1), if the corporation wishes to expropriate an easement on or with respect to land for any of the purposes mentioned in subsection (4), the corporation is not required to obtain the approval of the Lieutenant Governor in Council.

(7) The corporation may exercise the powers mentioned in subsections (1) and (5) without:

- (a) any prerequisite or preliminary action or proceeding; or
- (b) any sanction or authority other than this Act.

(8) The powers mentioned in subsections (1) and (5) are deemed to include the right to take, acquire and possess, for any period that the corporation considers proper, whether pursuant to an agreement with the owner or other interested person or without their consent, those lands or those rights in or with respect to the lands that the corporation considers necessary.

2005, c.S-35.03, s.23.

Acquisition by purchase

24(1) If the corporation desires to acquire land by purchase for any of the purposes mentioned in subsection 23(4), the corporation may acquire the land:

- (a) by transfer from the registered owner pursuant to *The Land Titles Act, 2000*; or
- (b) by proceeding pursuant to section 23.

(2) If the corporation desires to acquire an easement on or with respect to land for any of the purposes mentioned in subsection 23(4), it may acquire the easement:

- (a) by agreement;
- (b) in accordance with *The Public Utilities Easements Act*; or
- (c) by proceeding in accordance with section 23.

(3) An easement acquired by the corporation pursuant to this section is deemed to include a right of way over land consisting of the following rights:

- (a) the right of the corporation to use the land for the purpose for which it was acquired with any apparatus and equipment that the corporation considers necessary;
- (b) the right of entry on the land by the employees or agents of the corporation for the purposes for which it was acquired with any apparatus and equipment that the corporation considers necessary;
- (c) the right to inspect, repair, replace, maintain and remove the apparatus and equipment mentioned in clauses (a) and (b) or any works constructed, maintained or operated by the corporation on the land.

2005, c.S-35.03, s.24.

Bonding

25 All employees of the corporation who, in the course of their employment, receive or disburse cash, and any other officers or employees of the corporation respecting whom the corporation may consider it advisable, are required to be bonded in those sums that may be required by the corporation for duly accounting for money or goods that come into their hands or under their control.

2005, c.S-35.03, s.25.

Use of property

26 The corporation may use any land, building, plant, machinery, apparatus or equipment belonging to it for any revenue-producing purpose that it considers proper if the corporation is not using that land, building, plant, machinery, apparatus or equipment for the purpose of doing any thing within the corporation's powers and purposes for which:

- (a) that land may have been acquired; or
- (b) that building, plant, machinery, apparatus or equipment may have been acquired, constructed or installed.

2005, c.S-35.03, s.26.

PART IV**Financial Matters****Appropriation**

27 The Minister of Finance shall pay to the corporation out of the general revenue fund any moneys appropriated by the Legislature for the purposes of the corporation in the amounts and at the times requested by the corporation and agreed to by the Minister of Finance.

2005, c.S-35.03, s.27.

Revenues pursuant to *The Water Power Act*

28 The corporation shall transfer to the Minister of Finance for deposit in the general revenue fund that portion, specified by the Lieutenant Governor in Council, of revenues of the corporation derived from rentals, royalties, fees, rates or other charges collected by the corporation pursuant to *The Water Power Act*.

2005, c.S-35.03, s.28.

Borrowing powers of Minister of Finance

29(1) The Minister of Finance may advance moneys to the corporation out of the general revenue fund for the purposes of the corporation in the amounts, at the times, and on the terms and conditions that the Lieutenant Governor in Council may determine.

(2) In order to provide the moneys mentioned in subsection (1), the Lieutenant Governor in Council may authorize the Minister of Finance to borrow on the credit of the Government of Saskatchewan in accordance with *The Financial Administration Act, 1993*.

2005, c.S-35.03, s.29.

Borrowing power of corporation

30(1) Subject to the approval of the Lieutenant Governor in Council, the corporation may borrow from time to time any sums of money that the corporation requires for its purposes, including:

- (a) the repayment, renewal or refunding from time to time of the whole or any part of any moneys borrowed or securities issued by the corporation pursuant to this Act;
 - (b) the repayment in whole or in part of advances made by the Minister of Finance to the corporation;
 - (c) the payment in whole or in part of any other liability or indebtedness of the corporation;
 - (d) the funding of any expenditure of the corporation in carrying out any of its purposes; and
 - (e) the repayment in whole or in part of any temporary borrowing of the corporation, if the borrowing is related to carrying out any of its powers.
- (2) For the purpose of exercising the borrowing powers mentioned in subsection (1), the corporation may issue any bonds, debentures or other securities, bearing any rate of interest and being payable as to principal and interest at any time or times, in any manner, in any place in Canada or elsewhere and in the currency of any country that the corporation, with the approval of the Lieutenant Governor in Council, may determine.
- (3) The corporation may issue the bonds, debentures and other securities mentioned in subsection (2) in any amounts that will realize the net sums required for the purposes of the corporation.
- (4) A recital or declaration in the resolution or minutes of the corporation authorizing the issue of the securities, to the effect that the amount of those securities authorized is necessary to realize the net sums required for the purposes of the corporation, is conclusive evidence of that fact.
- (5) Subject to the approval of the Lieutenant Governor in Council, the corporation may, on any terms and conditions that it considers advisable:
- (a) sell or otherwise dispose of any bonds, debentures or other securities mentioned in subsection (2); and
 - (b) charge, pledge, hypothecate, deposit or otherwise deal with those securities as collateral security.
- (6) The Minister of Finance shall:
- (a) negotiate all borrowings to be made pursuant to this section; and
 - (b) arrange all details and transact and execute all matters and things that may be required during the conduct of negotiations.

- (7) The corporation may:
- (a) treat any securities dealt with as collateral security pursuant to subsection (5) as unissued, when:
 - (i) the securities are redelivered to the corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which they may have been given as collateral; or
 - (ii) the corporation again becomes entitled to the securities; and
 - (b) subject to the approval of the Lieutenant Governor in Council:
 - (i) issue, reissue, charge, pledge, hypothecate, deposit, deal with as collateral security, sell or otherwise dispose of those securities on any terms and conditions that the corporation considers advisable; or
 - (ii) cancel and issue fresh securities to the same amount and in the same form in lieu of the unissued securities with the same consequences.
- (8) On the issue or reissue of securities pursuant to subsection (7), a person entitled to the securities has the same rights and remedies as if the securities had not been previously issued.
- (9) Subject to the approval of the Lieutenant Governor in Council, the corporation may, by resolution or minute, determine the form and manner in which bonds, debentures or other securities issued pursuant to this section are to be executed.
- (10) The corporation may, by resolution or minute, provide that:
- (a) the seal of the corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any bonds, debentures or other securities to which it is to be affixed; and
 - (b) any signature on any bonds, debentures or other securities and on any coupons attached to those securities may be engraved, lithographed, printed or otherwise mechanically reproduced on those securities.
- (11) If the seal of the corporation or any signature is mechanically reproduced pursuant to subsection (10):
- (a) the seal of the corporation is of the same force and effect as if manually affixed; and
 - (b) notwithstanding that any person whose signature is reproduced has ceased to hold office before the date of issue of the security, the signature is for all purposes valid and binding on the corporation.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

Temporary borrowing

31(1) Subject to the approval of the Lieutenant Governor in Council, the corporation may borrow, by way of temporary loans from any bank, credit union or person, any moneys, on any terms and conditions and for any purpose that the corporation may determine:

- (a) by way of bank overdraft or line of credit;
- (b) by the pledging, as security for those temporary loans, of notes, bonds, debentures or other securities of the corporation pending their sale or in lieu of selling them; or
- (c) in any other manner that the corporation may determine.

(2) The corporation may execute any cheques, promissory notes or other instruments that may be necessary or desirable in connection with the borrowing of moneys and the obtaining of advances by way of temporary loans pursuant to subsection (1) in any manner that the corporation may determine.

2005, c.S-35.03, s.31.

Charge on revenue

32 All interest and instalments of principal and all sinking fund and other debt service charges with respect to the securities mentioned in sections 29 to 31 are a first charge on the corporation's revenues.

2005, c.S-35.03, s.32.

Guarantee by Saskatchewan

33(1) The Lieutenant Governor in Council, on any terms and conditions that the Lieutenant Governor in Council considers advisable, may guarantee the payment of:

- (a) the principal, interest and premium, if any, of any bonds, debentures or other securities issued by the corporation;
- (b) any loans, temporary or otherwise, raised by the corporation; and
- (c) any indebtedness or liability for the payment of moneys incurred by the corporation or to which the corporation may be or become subject.

(2) Any guarantee made pursuant to subsection (1) is required to be in a form and manner that the Lieutenant Governor in Council may approve.

(3) The Minister of Finance, or any other officer of the Department of Finance who may be designated by the Lieutenant Governor in Council, shall sign a guarantee made pursuant to subsection (1) and, on the guarantee being so signed, the Government of Saskatchewan is liable, according to the tenor of the guarantee, for the payment of:

- (a) the principal, interest and premium, if any, of any bonds, debentures or other securities;
- (b) the loans, temporary or otherwise; and
- (c) the indebtedness or liability for the payment of moneys.

(4) Any guarantee signed in accordance with subsection (3) is conclusive evidence of compliance with the terms and conditions of this section.

(5) The Lieutenant Governor in Council may make any arrangements that may be necessary for supplying the money required to implement any guarantee made pursuant to this section and to advance the amount necessary for that purpose out of the general revenue fund.

2005, c.S-35.03, s.33.

Investments

34(1) The corporation may, from time to time:

(a) invest any part of the capital or operating moneys of the corporation in any security or class of securities authorized for investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and

(b) dispose of the investments in any manner, on any terms and conditions and in any amount the corporation considers expedient.

(2) Subject to the approval of Treasury Board, the corporation may:

(a) set up reserves for depreciation, obsolescence, replacements, contingencies and other purposes; and

(b) create and manage a sinking fund for the repayment of moneys borrowed by the corporation pursuant to section 30.

2005, c.S-35.03, s.34.

Fiscal year

35 The fiscal year of the corporation is the period commencing on April 1 in one year and ending on March 31 of the following year.

2005, c.S-35.03, s.35.

Audit

36 The Provincial Auditor or any other auditor or firm of auditors that the Lieutenant Governor in Council may appoint shall audit the records, accounts and financial statements of the corporation:

(a) annually; and

(b) at any other times that the Lieutenant Governor in Council may require.

2005, c.S-35.03, s.36.

Annual report

37(1) In each fiscal year, the corporation shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister:

(a) a report of the corporation on its business for the preceding fiscal year; and

(b) a financial statement showing the business of the corporation for the preceding fiscal year, in any form that may be required by Treasury Board.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(2) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly each report and financial statement received by the minister pursuant to subsection (1).

2005, c.S-35.03, s.37.

PART V

Crown Ownership

Water vested in Crown

38(1) The property in and the right to the use of all ground water and surface water is, and is deemed always to have been, vested in the Crown.

(2) The right to the use of all or any ground water and all or any surface water may be established only pursuant to this Act.

2005, c.S-35.03, s.38.

Property in water not transferred by grant of land

39(1) Subject to subsections (2) and (5), the Crown shall not make any grant of lands or of any estate in lands in terms that vest in the grantee:

- (a) any exclusive or other property or interest in, or any exclusive right or privilege with respect to:
 - (i) any river, stream, watercourse, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other water body; or
 - (ii) the water contained or flowing in a water body described in subclause (i); or
 - (b) any exclusive or perpetual property, interest or privilege in the land forming the bed or shore of any water body described in clause (a).
- (2) Subsection (1) does not apply to:
- (a) a grant made pursuant to an agreement or undertaking existing on April 1, 1931;
 - (b) a grant made pursuant to either or both of *The Provincial Lands Act* and *The Forest Resources Management Act* of a leasehold interest in all or any portion of land forming the bed or shore of a water body if the grant is for a purpose related to a Crown disposition as defined in *The Crown Minerals Act*;
 - (c) a grant made pursuant to section 42 for the purposes of the Framework Agreement; or
 - (d) a grant made for the purpose of assisting Her Majesty in right of Canada to satisfy or discharge any obligations or undertakings of Her Majesty in right of Canada to Indian bands in Saskatchewan.
- (3) Subsection (1) does not affect the right of the Crown pursuant to any other Act to dispose of minerals in, on or under lands forming the bed or shore of any water body described in clause (1)(a).

(4) Subsection (1) does not affect the right of the Crown pursuant to this Act or any other Act to grant to any holder of a mineral claim the rights to deposit tailings, slimes or other waste products of mining operations:

- (a) into any water body lying within an area of land that has been set aside as a tailings disposal area; or
- (b) on the lands forming the bed or shore of any water body lying within an area of land that has been set aside as a tailings disposal area.

(5) In accordance with any agreement between Her Majesty in right of Canada and the Crown but subject to subsection (6), the Lieutenant Governor in Council may transfer to Her Majesty in right of Canada the administration and control of that portion of land forming the bed and shore of a water body described in clause (1)(a) that Her Majesty in right of Canada requires to construct, as set out in the agreement, a public wharf and other facilities or works incidental to the wharf.

(6) Every agreement and transfer made pursuant to subsection (5) is subject to the condition that when the land transferred is no longer required by Her Majesty in right of Canada for the purpose specified in the agreement, or Her Majesty in right of Canada wishes to dispose of the land:

- (a) the land shall revert to the Crown; and
- (b) within a reasonable period and at the request of the Crown, Her Majesty in right of Canada shall decommission the wharf and any other facilities or works that Her Majesty in right of Canada has constructed on the land, and reclaim the land to the satisfaction of the Crown.

2005, c.S-35.03, s.39.

Right of diversion not vested in owner

40 Unless acquired by a grant made pursuant to an agreement or undertaking existing on April 1, 1931, no riparian owner or any other person by length of use or otherwise shall acquire any right to the permanent diversion or to the exclusive use of surface water other than a right acquired, conferred or continued pursuant to this Act or the regulations.

2005, c.S-35.03, s.40.

Existing rights preserved

41(1) Subject to section 63, any right, privilege or authority granted to any person, or any right, privilege or authority of any person preserved or recognized, pursuant to any Act or former Act or Act or former Act of the Parliament of Canada and existing on the day on which this Act comes into force that entitles the person to divert, use or store water or to use or occupy lands owned by the Crown in connection with the diversion, use or storage of water remains in full force and effect unless and until it is amended, cancelled or suspended by the corporation pursuant to this Act.

(2) Any works being operated pursuant to any Act or former Act or Act or former Act of the Parliament of Canada or regulations pursuant to any of those Acts at the coming into force of this Act may continue to be operated in accordance with the terms and conditions prescribed by that Act or those regulations with respect to those operations unless and until the authority for those operations is amended, cancelled or suspended pursuant to this Act.

2005, c.S-35.03, s.41.

Framework Agreement implications

42 Notwithstanding any provision of this Act or any other Act:

- (a) the Crown may transfer to Her Majesty in right of Canada the property in and the right to the use of all water that is wholly situated within an Indian reserve that has been set apart pursuant to the terms of the Framework Agreement;
- (b) the Crown may transfer to Her Majesty in right of Canada the land or any portion of the land forming the bed or shore of any surface water that is wholly situated within or that is adjacent to an Indian reserve that has been set apart pursuant to the terms of the Framework Agreement;
- (c) an Indian band shall have the right to place a dock, wharf or pier on the land forming the bed or shore of any surface water at any location that is adjacent to an Indian reserve that has been set apart pursuant to the terms of the Framework Agreement;
- (d) subject to clause (e), an Indian band has common law riparian rights with respect to the use and occupation of any land that has been set apart as an Indian reserve pursuant to the terms of the Framework Agreement and that is adjacent to any surface water; and
- (e) common law riparian rights mentioned in clause (d) do not include the ownership of the land forming the bed or shore of any surface water that is adjacent to an Indian reserve mentioned in clause (d).

2005, c.S-35.03, s.42.

PART VI

Corporation's Works

DIVISION I

Reservoirs and Reservoir Development Areas

Interpretation of Part

43 In this Part:

- (a) **“flood”** means the temporary covering by water of land, or all or a portion of buildings or structures, that is caused by the overflow of a watercourse or standing water body;
- (b) **“flood control works”** means water control works used for the purpose of preventing or controlling floods;
- (c) **“flood proofing”** means the use of devices, equipment, construction, materials, measures or practices to protect buildings, structures or land from damage due to flooding;

- (d) **“land use district”** means an area of land that:
- (i) is within a reservoir development area or special flood hazard area; and
 - (ii) is designated in the regulations as a land use district within which specified uses and limitations on uses are imposed;
- (e) **“reservoir”** means a water body, whether on private or public land, that is created or effected as a result of the construction and maintenance of works, and includes a river, stream, lake, creek, watercourse or previously existing water body that is enlarged, reduced or otherwise affected by the construction and maintenance of works;
- (f) **“reservoir development area”** means an area that is prescribed as a reservoir development area and includes, unless otherwise dealt with pursuant to this Act, a reservoir development area designated pursuant to:
- (i) *The Water Resources Management Act* as that Act existed on the day before the coming into force of *The Environmental Management and Protection Act*;
 - (ii) *The Environmental Management and Protection Act* as that Act existed on the day before the coming into force of *The Environmental Management and Protection Act, 2002*; or
 - (iii) any other former Act concerning reservoir development areas;
- (g) **“special flood hazard area”** means an area that is prescribed as a special flood hazard area because of severe or frequent floods in the area.

2005, c.S-35.03, s.43.

**Regulations and powers of the corporation re reservoir development areas,
special flood hazard areas**

44(1) The Lieutenant Governor in Council may make regulations:

- (a) designating all or any portion of the area adjacent to or surrounding a reservoir as a reservoir development area if the Lieutenant Governor in Council considers that designation to be necessary in order to ensure all or any of the following:
 - (i) that the water in the reservoir will be used in the most efficient manner;
 - (ii) that the reservoir will be operated in a safe and efficient manner;
 - (iii) that the land in the reservoir development area will be used in a manner that reduces as much as is practicable any damage that may be caused to the land, or any buildings or other structures on the land, by flooding, periodic water action, bank slides, erosion or silt;
 - (iv) that the land in the reservoir development area will be used and developed in an orderly and safe manner for recreation, public access or other purposes;

- (b) designating all or any portion of the area adjacent to or surrounding a watercourse or standing water body as a special flood hazard area if the Lieutenant Governor in Council considers that designation to be necessary in order to ensure all or any of the following:
 - (i) the protection of life, health and the public interest;
 - (ii) the elimination and prevention of uses, developments, actions and practices that may increase flood levels and dangers;
 - (iii) the minimization of public expenditures associated with floods;
 - (iv) the protection of purchasers and owners of property;
 - (v) that the use of those areas is compatible with the flood hazard;
 - (c) respecting the use and control of any reservoir development area or special flood hazard area, including all or any of the following matters:
 - (i) the establishment of a new land use district;
 - (ii) the elimination of a land use district;
 - (iii) the addition or elimination of permitted uses or limitations on permitted uses for a land use district;
 - (d) respecting the use and control of land within any land use district of any reservoir development area or special flood hazard area, including all or any of the following matters:
 - (i) the subdivision of land and the use of land for residential, commercial or any other purpose;
 - (ii) the use and standard of buildings, structures, flood control works and flood proofing erected, placed, constructed, reconstructed, altered or repaired;
 - (iii) the percentage of land that may be built upon and the size of yards, courts, parking facilities and other open spaces;
 - (iv) the maintenance by owners of buildings, structures, flood control works, flood proofing and land in accordance with minimum standards;
 - (v) the display of advertisements and the nature, kind, size and description of any advertisement displayed;
 - (vi) a system of building permits, the terms and conditions pursuant to which any building permits may be issued, reinstated, suspended or revoked and the form of building permits and applications for permits;
 - (e) respecting the protection of the habitat of wild animals and birds, waterfowl sanctuaries and afforested or improved lands in any reservoir development area or special flood hazard area.
- (2) With respect to special flood hazard areas, the corporation may:
- (a) advise the public about the flood hazard; and
 - (b) provide technical assistance to municipalities in the development and implementation of plans for the management and use of special flood hazard areas.

- (3) The corporation shall:
- (a) give notice of the corporation's intention to submit for enactment by the Lieutenant Governor in Council any regulations to be made pursuant to clause (1)(a), (b) or (c) in a newspaper published or circulating in the area affected by the regulations; and
 - (b) in the notice mentioned in clause (a):
 - (i) set forth a description of the area affected by the regulations;
 - (ii) state the place where and the hours during which the regulations may be inspected by any interested person; and
 - (iii) state the time and place fixed for consideration by the corporation, or the corporation's representatives, of written comments on the regulations.
- (4) Before submitting any regulations to the Lieutenant Governor in Council for enactment pursuant to subsection (1), the corporation shall inform or consult with the council of any municipality that is wholly or partly within the proposed reservoir development area or special flood hazard area concerning the proposed regulations.
- (5) Regulations made pursuant to subsection (1) may provide for the suspension, in whole or in part, within the reservoir development area or special flood hazard area designated in the regulations, of a zoning or building bylaw or other bylaw relating to any matter with respect to which the Lieutenant Governor in Council is authorized by subsection (1) to make regulations.

2005, c.S-35.03, s.44.

Restrictions in designated areas or proposed designated areas

- 45(1) If the corporation has given a notice of intention pursuant to subsection 44(3) with respect to an existing or potential reservoir development area or special flood hazard area, no person, without the written approval of the corporation, shall, within that reservoir development area or special flood hazard area:
- (a) construct, locate or structurally alter a building or other structure; or
 - (b) change the purpose for which land is being used on the day on which the notice of intention is published in a newspaper.
- (2) The prohibition mentioned in subsection (1) applies for:
- (a) three months commencing on the day that notice of intention is given in the case of a reservoir development area; or
 - (b) six months commencing on the day that notice of intention is given in the case of a special flood hazard area.
- (3) A person who is affected by the prohibition in subsection (1) may apply to the corporation for approval to undertake the activities mentioned in subsection (1).
- (4) If an application is made pursuant to subsection (3), the corporation shall make a decision on the application in accordance with the proposed regulations with respect to which the notice of intention was given.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(5) A person whose property is wholly or partly within a reservoir development area or special flood hazard area may appeal to the Saskatchewan Municipal Board if that person:

(a) alleges that another person acting for or on behalf of the corporation has, in a particular case, misapplied the reservoir development area regulations or the special flood hazard area regulations with respect to the area; or

(b) claims that compliance with a regulation with respect to a specific site would involve practical difficulties or unnecessary hardships by reason of the shape or topographical features of the site.

(6) The council of a municipality that is wholly or partly within a reservoir development area or special flood hazard area may appeal to the Saskatchewan Municipal Board if it:

(a) alleges that a person acting for or on behalf of the corporation has, in a particular case, misapplied the reservoir development area regulations or the special flood hazard area regulations with respect to the area;

(b) claims that development resulting from compliance with the regulations would conflict with or be incompatible with existing development in the community; or

(c) claims that compliance with the regulations would result in development at a place where the community does not desire that development occur.

(7) The Lieutenant Governor in Council may make regulations respecting the procedure for appeals pursuant to this section to the Saskatchewan Municipal Board.

(8) Property is deemed not to be injuriously affected by a regulation made pursuant to section 44 or this section.

2005, c.S-35.03, s.45.

Bylaws

46 Notwithstanding any other Act, a municipality affected by a reservoir development area or special flood hazard area may, subject to the approval of the corporation, make bylaws:

(a) for any or all of the purposes described in clause 44(1)(d);

(b) respecting the establishment of and the powers of an appeal board for the purpose of hearing appeals pursuant to the bylaws;

(c) prescribing the decisions that may be appealed to the appeal board and the procedures for appeals.

2005, c.S-35.03, s.46.

DIVISION 2

Works Owned by the Corporation**Power to construct works outside municipalities, on provincial highways, etc.**

47(1) Subject to subsection (2) and to clause 4(1)(e) of *The Highways and Transportation Act, 1997*, the corporation may:

- (a) construct or place works on or under:
 - (i) any provincial highway, wherever situated; or
 - (ii) any other highway, road allowance, road, street, lane or other public place vested in the Crown and not situated in a municipality or in a hamlet in a rural municipality;
- (b) carry its works along or across a provincial highway or other highway, road allowance, road, street, lane or public place mentioned in clause (a); and
- (c) take down, remove or take up its works.

(2) Before exercising the powers of construction conferred by subsection (1), the corporation shall submit a copy of a plan showing the location of the proposed works to:

- (a) the minister responsible for the administration of *The Highways and Transportation Act, 1997*;
- (b) the minister responsible for the administration of *The Saskatchewan Telecommunications Act*; and
- (c) the administrator of any rural municipality in Saskatchewan within which the works or any part of the works is to be constructed.

(3) If it becomes necessary for the purpose of construction, reconstruction, alteration or improvement of any highway, road allowance, road, street, lane or other public place vested in the Crown and not situated in a municipality or in a hamlet in a rural municipality to remove any works constructed or placed on or under that highway, road allowance, road, street, lane or other public place and belonging to the corporation, the costs and expenses incurred in the work are to be apportioned between the corporation and the minister responsible for the administration of *The Highways and Transportation Act, 1997*, in any manner that they may agree on.

(4) If the corporation and the minister responsible for the administration of *The Highways and Transportation Act, 1997* are unable to agree on the apportionment of costs mentioned in subsection (3), the Saskatchewan Municipal Board, after any inquiry that it considers advisable, shall make the apportionment.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

Power to construct works inside municipalities

48(1) Subject to subsection (2), the corporation may:

- (a) construct or place works on or under any highway, road allowance, road, street, lane or other public place vested in the Crown and situated in a municipality or in a hamlet in a rural municipality;
- (b) carry its works along or across the highway, road allowance, road, street, lane or other public place mentioned in clause (a); and
- (c) take down, remove or take up its works.

(2) Before exercising the powers of construction conferred by subsection (1), the corporation shall submit a plan showing the location of the proposed works to the council of the municipality.

2005, c.S-35.03, s.48.

Power to enter on adjoining lands

49 For the purpose of doing all things that the corporation considers necessary for the operation, maintenance, repair and replacement of its works or part of its works, the corporation may enter:

- (a) on any land on either side of its works; or
- (b) on the right of way acquired for those works.

2005, c.S-35.03, s.49.

PART VII

Water Management

DIVISION 1

Water Rights

Water rights licence

50(1) On receipt of an application pursuant to section 51, the corporation may issue a water rights licence to any person for the right to the use of any water except any water that may be:

- (a) allocated for the use of any other person; or
- (b) withdrawn from allocation by order of the minister.

(2) The corporation may issue a water rights licence pursuant to subsection (1) to any person:

- (a) for any term that the corporation considers appropriate; and
- (b) subject to any terms and conditions that the corporation considers appropriate.

2005, c.S-35.03, s.50.

Application for licence

51 Every person wishing to obtain a water rights licence shall file with the corporation:

- (a) an application acceptable to the corporation;
- (b) the prescribed fee;
- (c) such plans as may be required by the corporation; and
- (d) any other information or material that the corporation may request.

2005, c.S-35.03, s.51.

Refusals

52 If, on receipt of an application pursuant to section 51, the corporation refuses to issue a water rights licence, the corporation shall cause notice of the refusal to be served on the applicant for the licence.

2005, c.S-35.03, s.52.

Cancellation, amendment or suspension of licence

53(1) The corporation may cancel, amend or suspend a water rights licence, without compensation to the holder of the licence, if:

- (a) the holder of the licence agrees to the cancellation, amendment or suspension;
- (b) the licence was issued subject to terms and conditions to be complied with by the holder of the licence and the holder of the licence fails to comply with a term or condition of the licence;
- (c) the water acquired is being used for a purpose other than that for which the licence was acquired;
- (d) the corporation considers that the holder of the licence no longer requires a right or the rights granted by the licence;
- (e) the holder of the licence contravenes any provision of this Act, the regulations or any order made pursuant to this Act; or
- (f) the holder of the licence defaults in the payment of any fee, levy, rate, charge or other consideration required by the corporation.

(2) Before the corporation takes any action pursuant to subsection (1), the corporation shall:

- (a) give the holder of the licence written notice of the corporation's intention to cancel, amend or suspend the licence; and
- (b) give the holder of the licence 30 days from the date of the notice mentioned in clause (a) to make written representations to the corporation as to why the licence should not be cancelled, amended or suspended.

(3) The corporation is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (2).

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(4) After receiving the representations mentioned in subsection (2), the corporation shall provide a written decision and forward that written decision to the person to whom the licence was issued.

2005, c.S-35.03, s.53.

Cancellation of grant of right to use water

54(1) Subject to the approval of the Lieutenant Governor in Council, if the corporation considers it to be in the public interest to do so for any reason other than those mentioned in subsection 53(1), the corporation may cancel the right to the use of any water granted by the corporation to any person.

(2) Any person whose right to the use of water has been cancelled pursuant to subsection (1) is entitled to compensation from the Crown for the actual value, at the time of cancellation, of any structures or works that the person used to secure water and transport it to the point of use.

(3) If the Crown and the person mentioned in subsection (2) do not agree on the amount to be paid as compensation or the terms of payment of the compensation, an arbitrator shall determine the matter.

(4) For the purposes of subsection (3):

(a) the parties to the arbitration must agree to a judge of the Court of Queen's Bench as an arbitrator; and

(b) *The Arbitration Act, 1992* applies to the arbitration.

(5) If the judge mentioned in subsection (4) is unable to act for any reason, the Minister of Justice shall name another judge of the Court of Queen's Bench to act as arbitrator.

2005, c.S-35.03, s.54.

Prohibitions in relation to water

55 Subject to section 56 but notwithstanding any other provision of this Act or any other Act, the corporation shall not grant:

(a) any licence or approval to construct or operate works for the purposes of transferring water out of a watershed; or

(b) any licence or approval to transfer water out of a watershed.

2005, c.S-35.03, s.55.

Exceptions

56 Section 55 does not apply to water that is:

(a) transferred or taken for the purposes of transfer between watersheds, or portions of watersheds, within Saskatchewan;

(b) packaged in containers that have a capacity that is less than the maximum prescribed capacity;

(c) removed in the ordinary course of carrying water in a vehicle, vessel or aircraft for the use of persons or animals while they are being transported in the vehicle, vessel or aircraft;

- (d) removed in a vehicle, vessel or aircraft and is necessary for:
 - (i) the ordinary operation of the vehicle, vessel or aircraft; or
 - (ii) the transportation of food or products in the vehicle, vessel or aircraft; or
- (e) of a prescribed class or that is removed in a prescribed manner or for a prescribed purpose.

2005, c.S-35.03, s.56.

Diversion and use of water prohibited

57(1) Subject to subsection (2), unless authorized to do so by the corporation, no person shall:

- (a) divert or use any surface water; or
- (b) construct or cause to be constructed any works for the purpose of diverting or using surface water.

(2) Nothing in this Act or the regulations restricts the right of a person owning or occupying land that adjoins a body of surface water to use any quantity of that water that the person may require for domestic purposes on the land, but the person is not entitled to divert or use surface water by any works unless:

- (a) the authority to do so has been obtained pursuant to this Act; or
- (b) the person is exempt from the requirement of obtaining the corporation's approval pursuant to subsection 59(2).

(3) Subject to subsection (4), unless authorized by the corporation, no person shall:

- (a) divert, pump or use any ground water; or
- (b) construct or cause to be constructed any works for the purpose of diverting, pumping or using ground water.

(4) Nothing in this Act or the regulations restricts the right of a person owning or occupying land to use any quantity of ground water that the person may require for domestic purposes on the land, but the person is not entitled to divert, pump or use any ground water by any works unless:

- (a) the authority to do so has been obtained pursuant to this Act; or
- (b) the person is exempt, pursuant to subsection 59(2), from the requirement of obtaining the corporation's approval.

2005, c.S-35.03, s.57.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

Civil action for diversion of certain surface water

58 A person is liable to a civil action for damages at the instance of any person who suffers or may suffer loss or damage by reason of a diversion or construction mentioned in clauses (a) and (b), if the first person, without having obtained authority pursuant to this Act:

- (a) diverts surface water not flowing in a natural channel or contained in a natural bed; or
- (b) constructs or causes to be constructed any dam, dyke or other works for the diversion of water mentioned in clause (a).

2005, c.S-35.03, s.58.

DIVISION 2

Approval for Works

Approval for works required

59(1) Subject to subsection (2), no person shall commence the construction, extension, alteration or operation of any works unless that person has first obtained the written approval of the corporation to do so.

(2) Subsection (1) does not apply to:

- (a) the construction, extension, alteration or operation of works by a person mentioned in subsection 57(2) or (4) of:
 - (i) a dugout constructed for domestic purposes;
 - (ii) a pump or other apparatus used to fill a tank, cistern, trough or similar vessel or receptacle or a dugout constructed for domestic purposes; or
 - (iii) a well constructed for domestic purposes; or
- (b) works that have been designated or are within a class of works that have been designated in the regulations as works with respect to which approval is not required before the construction, extension, alteration or operation of the works.

2005, c.S-35.03, s.59.

Material to be filed with application for approval

60(1) Every person seeking approval to commence the construction, extension, alteration or operation of any works mentioned in section 59 shall file with the corporation:

- (a) an application acceptable to the corporation;
- (b) permission in writing from the appropriate municipal or other prescribed authority for the construction of the works mentioned in the application into, on, along, across or under any road allowance or any public highway, road, street, land, square or other public place that may be affected by the works;

- (c) any prescribed plans or other material;
 - (d) the prescribed fee;
 - (e) if requested by the corporation, a report on the operation of the works;
 - (f) if requested by the corporation in the circumstances mentioned in subsection (2), a written agreement between the parties prepared in accordance with subsection (3);
 - (g) proof of land control satisfactory to the corporation; and
 - (h) any other information or material that the corporation may request.
- (2) For the purposes of clause (1)(f), the corporation may require that a written agreement be filed with the corporation if:
- (a) two or more persons, who are neither joint tenants nor tenants in common of the same parcel of land, apply for the approval; or
 - (b) the applicant for the approval proposes to divert water or is diverting water through another person's works.
- (3) Any written agreement filed with the corporation pursuant to clause (1)(f) must:
- (a) be between the persons involved in the works and outline the manner of and obligations relating to the construction, future operation and future maintenance of the works and the apportionment of the costs between those persons; and
 - (b) be approved by the corporation.
- (4) In those circumstances in which the corporation requests that a written agreement be filed in accordance with clause (1)(f), any approval issued by the corporation for works outlined in that agreement must incorporate the provisions of the agreement as approved by the corporation.

2005, c.S-35.03, s.60.

Publication of notice

- 61(1)** Subject to subsection (6), immediately after an application for an approval is filed with the corporation pursuant to section 60, the corporation shall make any arrangements that the corporation considers necessary to advertise the application.
- (2) If, in the corporation's opinion, the works proposed in an application filed with the corporation may impair the environment or have an impact on natural resources, the corporation may forward a copy of the application to the minister responsible for *The Environmental Management and Protection Act, 2002*.
- (3) Within 30 days after the day on which an application for an approval is first advertised, any person who objects to the granting of the approval applied for may file with the corporation a statement of reasons for the objection.
- (4) If the corporation receives objections pursuant to subsection (3), the corporation may require any investigations to be made and any public meetings to be held that it considers necessary to inquire into the objections.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(5) As soon as the corporation makes a decision with respect to an application for an approval, the corporation shall give notice to all persons who filed objections pursuant to this section.

(6) If the corporation considers it expedient to do so, the corporation may waive the necessity for advertising the application for an approval.

2005, c.S-35.03, s.61.

Approval for construction or operation of works and orders in relation to works

62(1) The corporation may:

- (a) in the case of an application for approval to construct, extend or alter works:
 - (i) issue the approval, subject to any terms and conditions that the corporation considers appropriate, including fixing the period within which the construction, extension or alteration of works is to be completed; or
 - (ii) refuse approval for the construction, extension or alteration of the proposed works;
 - (b) in the case of an application for approval to operate existing works:
 - (i) approve the operation of the works, subject to any terms and conditions that the corporation considers appropriate; or
 - (ii) refuse approval for the operation of the works; and
 - (c) in the case of works constructed, extended, altered or operated without an application having been made to or approved by the corporation, do all or any of the following:
 - (i) make any order that the corporation considers appropriate requiring the alteration, closure, removal, destruction or otherwise rendering inoperable of the whole or any part of the works;
 - (ii) in the order made pursuant to subclause (i), fix the period within which the order is to be complied with.
- (2) If the corporation considers it appropriate, the corporation may extend the period within which the construction, extension or alteration of any works is to be completed or within which any order is to be complied with, and may amend the terms and conditions of any order made by it.
- (3) If an approval is refused or an order is issued or amended pursuant to this section, the corporation shall cause notice of the refusal or of the order to be served on the applicant for the approval or the person to whom the order is directed.

2005, c.S-35.03, s.62.

Replacement of certain licences

63(1) In this section:

- (a) **“domestic purpose licence”** means a licence to operate works and to use water for domestic purposes, including the watering of stock, issued pursuant to *The Water Rights Act*, as that Act existed on the day before the coming into force of *The Water Corporation Act*;
 - (b) **“licence and approval”** means a licence to use water and an approval to operate works for domestic purposes;
 - (c) **“licensee”** means a person who is the holder of a domestic purpose licence;
 - (d) **“owner”** means a person who is an owner of the land on which works, for which a domestic purpose licence was issued, are located.
- (2) Notwithstanding any other provision of this Act or any other Act or law but subject to subsection (3), the corporation may, on its own initiative, cancel a domestic purpose licence and issue a licence and approval in its place to the owner, without notice to the licensee unless the licensee is the owner.
- (3) At the time of issuing a licence and approval pursuant to subsection (2), the corporation shall notify the owner in writing of the fact that the corporation has cancelled the domestic purpose licence and has issued a licence and approval in its place.
- (4) If requested to do so by the owner, the corporation may cancel the domestic purpose licence and not issue a licence and approval in its place.
- (5) Immediately after the corporation issues a licence and approval pursuant to subsection (2), the corporation shall forward a copy of the licence and approval to the owner.
- (6) A licence and approval issued pursuant to subsection (2) must incorporate only the same terms and conditions as the domestic purpose licence that it is replacing.
- (7) A licence and approval issued in accordance with this section is subject to all the terms and conditions and rights and obligations of this Act as if it were a licence issued pursuant to section 50 and an approval issued pursuant to section 62.

2005, c.S-35.03, s.63.

Registration of approval

- 64(1)** Immediately after the corporation issues an approval pursuant to section 62 or 63, the corporation shall apply to the Registrar of Titles to register an interest against the titles to the affected lands or against the abstract record for the affected lands.
- (2) The interest mentioned in subsection (1) is to be based on a notice stating:
- (a) that the approval has been issued;
 - (b) the date of the issuance of the approval;

- (c) the legal description of the land on which the works are to be constructed or are situated;
 - (d) a statement as to the effect of this section; and
 - (e) the place where a copy of the approval may be obtained.
- (3) On the registration of an interest in accordance with subsection (1):
- (a) the terms and conditions of and the rights and obligations under the approval that is the subject of the notice enure to the benefit of and are binding on any person who, at any time subsequent to the registration of the notice pursuant to this section, is the registered owner of the lands with respect to which the notice is registered; and
 - (b) this Act applies to any person mentioned in clause (a) in the same manner as if that person were the person to whom the approval was originally issued.
- (4) If the corporation considers it appropriate to do so, the corporation may apply to the Registrar of Titles to discharge the interest registered pursuant to subsection (1) in whole or in part.

2005, c.S-35.03, s.64.

Easements

- 65(1)** The corporation shall act pursuant to subsection (2) if it appears from any application or plans filed with or received by the corporation pursuant to this Act that:
- (a) any works will affect any land other than that of the applicant;
 - (b) the registered owner of the other land, if he or she is other than the applicant, has granted an easement, in the prescribed form, over the land relating to the construction, extension, alteration or operation of the works; and
 - (c) any other person having registered interests or rights in the land that the corporation considers appropriate has consented to the granting of the easement.
- (2) In the circumstances mentioned in subsection (1), immediately after the corporation issues an approval pursuant to this Division, the corporation shall apply to the Registrar of Titles to register an interest against the titles to the affected lands or against the abstract record for the affected lands.
- (3) The interest mentioned in subsection (2) is to be based on a certificate stating that the approval has been issued and setting forth:
- (a) the date of the issuance of the approval;
 - (b) the name and address of the person securing the approval;
 - (c) the legal description of the land on which the works are to be constructed or are situated; and
 - (d) the legal description of the land that will be affected by the works.

- (4) On the registration of an interest in accordance with subsection (2):
- (a) the certificate on which the registered interest is based becomes and is an easement whereby the registered owner of the servient tenements, being the lands affected by the works, has granted to the registered owner of the dominant tenement, being the applicant's lands, the right to use the land for the purposes and to the extent shown in the approval and the application or plans as authorized; and
 - (b) the right mentioned in clause (a) runs with the land and is binding on the present and subsequent registered owners of the servient tenement, their heirs, executors, administrators and assigns.
- (5) An easement is deemed to be created pursuant to subsection (4) notwithstanding that the dominant and servient tenements are owned by the same person.
- (6) No easement deemed to be created pursuant to this section is extinguished or merged by operation of law, notwithstanding that the dominant and servient tenements may at some time be owned by the same person.
- (7) If the corporation considers it appropriate to do so, the corporation may apply to the Registrar of Titles to discharge the interest registered pursuant to subsection (2) in whole or in part.

2005, c.S-35.03, s.65.

Non-application of sections 64 and 65

66(1) Subject to subsection (2), sections 64 and 65 do not apply if the construction, extension, alteration or operation of the works with respect to which an approval is issued has been authorized before the coming into force of this Act pursuant to another Act providing for the construction, extension, alteration or operation of the works.

(2) Sections 64 and 65 continue to apply with respect to approvals issued pursuant to section 63.

2005, c.S-35.03, s.66.

Public highways

67(1) Every person who has been issued an approval to construct, extend or alter any works shall:

- (a) during the construction, extension or alteration, keep open for safe and convenient travel all public highways where they are crossed by the works; and
 - (b) before operating or releasing water into works extending into or crossing any public highway, construct, to the satisfaction of the authority having jurisdiction, a substantial structure for required passage over the works.
- (2) Every structure mentioned in subsection (1) is to be maintained by the authority having jurisdiction, but the authority having jurisdiction may enter into an agreement with the person to whom the approval has been issued with respect to all or any part of the costs associated with the construction, maintenance, replacement or reconstruction of works extending into or crossing public highways.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(3) A copy of any agreement entered into pursuant to subsection (2) must be filed with the corporation.

2005, c.S-35.03, s.67.

Inspection of works

68(1) The corporation, or any person acting on its instructions, may inspect works:

- (a) on the expiration of any term fixed in the approval for the construction, extension or alteration of the works; or
 - (b) at any time before the time mentioned in clause (a) if the construction, extension, or alteration is completed sooner.
- (2) On completion of the construction, extension or alteration of the authorized works, the person to whom the approval was issued shall:
- (a) notify the corporation in writing of the completion; and
 - (b) if requested by the corporation, supply the corporation with plans showing the works as actually constructed, extended or altered.
- (3) If, on inspection, it is found that any works are not constructed, extended or altered in accordance with the requirements of the approval issued, the corporation may:
- (a) issue an amended approval, subject to any terms and conditions that the corporation considers appropriate;
 - (b) order any alterations or changes to the works that the corporation considers appropriate; or
 - (c) revoke the approval and:
 - (i) make any order that the corporation considers appropriate requiring the closure, removal, destruction or otherwise rendering inoperable of the whole or any part of the works; and
 - (ii) in the order mentioned in subclause (i), fix the period within which the order is to be complied with.
- (4) If, on inspection, it is found that any works are constructed, extended or altered in accordance with the requirements of the approval issued, the corporation may, whether or not an application for approval to operate the works has been received, issue an approval to operate the works subject to any terms and conditions that the corporation considers appropriate.

2005, c.S-35.03, s.68.

Cancellation, amendment or suspension of approval

69(1) A person to whom the corporation has issued an approval pursuant to section 62 may apply to the corporation for the cancellation or amendment of that approval.

- (2) The corporation may cancel, amend or suspend an approval, in whole or in part, without compensation to the person to whom the approval was issued, if:
- (a) the approval was issued subject to terms and conditions to be complied with by the person to whom the approval was issued and he or she fails to comply with a term or condition of the approval;
 - (b) the person to whom the approval was issued contravenes any provision of this Act, the regulations or any order made pursuant to this Act;
 - (c) the person to whom the approval was issued made a false or misleading statement in any application, information, materials or plans supplied pursuant to this Act in support of the person's application for the approval;
 - (d) the person to whom the approval was issued ceases to exercise the rights granted pursuant to the approval;
 - (e) the person to whom the approval was issued defaults in the payment of any fee, levy, rate, charge or other consideration required by the corporation;
 - (f) the approval was issued as a result of a clerical or administrative error or mistake; or
 - (g) unauthorized changes or alterations are made to the works for which the approval was issued.
- (3) Before the corporation takes any action mentioned in subsection (2), the corporation shall give the person to whom the approval is issued:
- (a) written notice of the corporation's intention to cancel, amend or suspend the approval, with reasons; and
 - (b) an opportunity to make written representations to the corporation within 30 days after receiving the notice as to why the permit should not be cancelled, amended or suspended.
- (4) The corporation is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (3).
- (5) After receiving the representations mentioned in subsection (3), the corporation shall issue a written decision and serve that decision on the person who made the representations.
- (6) If an approval is cancelled, amended or suspended, the corporation may make any order it considers appropriate requiring any alterations or changes to or the closure, removal, destruction or otherwise rendering inoperable of the whole or any part of the works.
- (7) If the corporation makes an order pursuant to subsection (6), the corporation shall specify the time for compliance with the order.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

Compensation if approval cancelled for public interest

70(1) Subject to the approval of the Lieutenant Governor in Council, if the corporation considers it to be in the public interest to cancel an approval for any reason other than those mentioned in subsection 69(2), the corporation may cancel the approval.

(2) Any person whose approval has been cancelled pursuant to subsection (1) is entitled to compensation from the Crown for the actual value, at the time of cancellation, of any structures or works for which the approval was issued.

(3) If the Crown and the person mentioned in subsection (2) do not agree on the amount to be paid as compensation or the terms of payment of the compensation, an arbitrator shall determine the matter.

(4) For the purposes of subsection (3):

(a) the parties to the arbitration must agree to a judge of the Court of Queen's Bench as an arbitrator; and

(b) *The Arbitration Act, 1992* applies to the arbitration.

(5) If the judge mentioned in subsection (4) is unable to act for any reason, the Minister of Justice shall name another judge of the Court of Queen's Bench to act as arbitrator.

2005, c.S-35.03, s.70.

DIVISION 3

Ground Water

Purposes of Division

71 The purposes of this Division are:

(a) to obtain logs of wells drilled and information on formations and materials encountered during drilling operations in order to assist in ground water and geological studies; and

(b) to provide for the conservation, development and utilization of ground water resources and to prevent pollution and contamination of ground water.

2005, c.S-35.03, s.71.

Application of Division

72(1) Subject to subsection (2), this Division applies to all sources of ground water and to all wells whether drilled or developed before or after the coming into force of this Act.

(2) This Division does not apply with respect to a well that is drilled or developed by an owner on the owner's land, using equipment owned by him or her, for the purpose of obtaining water for his or her domestic purposes.

2005, c.S-35.03, s.72.

Certain Acts not affected

73 Nothing in this Division or in the Ground Water Regulations, being Saskatchewan Regulations 172/66, restricts or modifies any provision of *The Crown Minerals Act*, *The Mineral Resources Act, 1985*, *The Oil and Gas Conservation Act* or *The Public Health Act, 1994* or any regulations or orders made pursuant to any of those Acts.

2005, c.S-35.03, s.73.

Registration with the corporation

74 No person shall operate a water well drilling machine unless that person or machine is registered with the corporation in accordance with the regulations.

2005, c.S-35.03, s.74.

Investigation, well drilling and use of ground water subject to regulations

75 No person shall do any of the following, except in accordance with the regulations:

- (a) undertake a ground water investigation program;
- (b) drill a water well;
- (c) use ground water.

2005, c.S-35.03, s.75.

Powers of inspection

76 For the purposes of conducting an inspection of wells or of records that relate to the drilling and operation of wells and that are required to be kept by this Act or the regulations, the corporation, or any person authorized by the corporation, has those powers set out in section 89.

2005, c.S-35.03, s.76.

Safety and control of wells

77 Every well driller and owner of a well shall ensure the well is sited, constructed and controlled in accordance with the regulations.

2005, c.S-35.03, s.77.

Regulations

78 The Lieutenant Governor in Council may make regulations for the purposes of this Division:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Division but not defined in this Division;
- (b) governing the survey of sources of ground water;
- (c) governing the establishment of ground water conservation programs;
- (d) respecting the methods of drilling wells and precautions and measures to be taken during well drilling and development operations;

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

- (e) respecting the control and utilization of the flow of water from a well during and after drilling operations;
- (f) requiring well drillers and owners of wells to furnish logs, reports and geological and other information, and specimens and samples of materials encountered in drilling operations;
- (g) prescribing specifications of casing and other materials in wells;
- (h) governing the spacing and depth of wells;
- (i) respecting the abandonment of wells and prescribing the methods and requirements to be observed in abandonment operations;
- (j) respecting measures for the prevention of pollution and contamination of ground water and prescribing the circumstances in which such measures or any of them shall be taken;
- (k) respecting any other matter relating to the conservation, development and control of ground water resources and the drilling and management of wells and the production of ground water from them.

2005, c.S-35.03, s.78.

DIVISION 4

Complaints re Drainage Works

Interpretation of Division

79 In this Division:

- (a) “**drainage works**” do not include drainage works that are designated, or are within a class of drainage works that are designated as exempted by the regulations from the application of sections 80 and 81;
- (b) “**formal complaint**” means a complaint filed pursuant to section 81.

2005, c.S-35.03, s.79.

Request for corporation’s assistance to resolve complaint

80(1) Before filing a formal complaint pursuant to section 81, a person who claims to have suffered, or anticipates that he or she may suffer injury, loss or damage by reason of the construction, extension, alteration or operation of any drainage works, must submit a written request to the corporation for assistance in resolving the complaint.

(2) Subject to subsection (3), a written request submitted pursuant to subsection (1) must include the following information:

- (a) the name of the person or authority that the complainant considers to be responsible for the cause of the complaint;
- (b) the complainant’s efforts to resolve the complaint through contact with the person or authority that the complainant considers to be responsible for the cause of the complaint;

- (c) the location of drainage works the construction, extension, alteration or operation of which the complainant claims has caused or will cause injury, loss or damage;
 - (d) the injury, loss or damage suffered or anticipated.
- (3) If the corporation considers it appropriate, the corporation may waive the requirement set out in clause (2)(b).
- (4) On receipt of a written request pursuant to this section, the corporation shall conduct a preliminary investigation of the complaint and shall:
- (a) issue a written recommendation for resolving the complaint, which may include recommending mediation or arbitration; or
 - (b) dismiss the complaint, with written reasons.
- (5) The corporation shall provide a copy of any recommendation or decision made by it pursuant to subsection (4) to:
- (a) the complainant; and
 - (b) if the corporation considers it appropriate, the person or authority that the complainant considers to be responsible for the cause of the complaint.

2005, c.S-35.03, s.80.

Filing of formal complaint

81(1) The complainant mentioned in section 80 may file a formal complaint with the corporation with respect to the construction, extension, alteration or operation of any drainage works by reason of which the complainant claims to have suffered or anticipates that he or she will suffer injury, loss or damage if:

- (a) the complainant is not satisfied with a recommendation of the corporation made pursuant to clause 80(4)(a); or
 - (b) the person or authority that the complainant considers to be responsible for the cause of the complaint does not implement the corporation's recommendations.
- (2) A formal complaint filed pursuant to subsection (1) must be:
- (a) in writing and in a form acceptable to the corporation; and
 - (b) accompanied by the prescribed fee for filing the complaint.

2005, c.S-35.03, s.81.

Notice of formal complaint and investigation

82(1) On receipt of a formal complaint filed pursuant to section 81, the corporation shall:

- (a) immediately serve notice of the filing, stating the basis of the complaint, on:
 - (i) the persons indicated in the complaint as being responsible for the cause of the complaint; and
 - (ii) any other persons that the corporation considers it appropriate to notify;

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

- (b) inquire into and investigate the complaint; and
 - (c) subject to subsection (2), render a written decision, with reasons, with respect to the complaint not later than 18 months after the day on which it receives the complaint.
- (2) If the corporation considers it appropriate, it may extend the period mentioned in clause (1)(c) by not more than six months.
- (3) On receipt of a formal complaint, the corporation may register or file an interest based on the notice of the complaint against the title to or abstract record for the land on which the drainage works complained of are located, and any application to register or file the interest must be accompanied by a copy of the notice of complaint.
- (4) On the registration of an interest in accordance with subsection (3):
- (a) the rights and obligations arising out of this Division apply to and enure to the benefit of, and are binding on, any person who, at any time subsequent to the registration of the notice pursuant to this section, is the registered owner of the land with respect to which the notice is registered; and
 - (b) this Act applies to any person mentioned in clause (a) in the same manner as if that person was the registered owner of the land at the time the notice was registered.
- (5) The corporation shall cause a copy of its decision pursuant to this section, together with reasons, to be served on:
- (a) the complainant; and
 - (b) each person on whom notice has been served pursuant to clause (1)(a).
- (6) The corporation shall register a discharge of any notice registered or filed by the corporation pursuant to subsection (3) if:
- (a) the corporation subsequently registers an interest based on an order of the corporation pursuant to subsection 83(6);
 - (b) the corporation dismisses the complaint and no appeal is taken pursuant to section 84;
 - (c) following an appeal taken pursuant to section 84, the Water Appeal Board or the Court of Queen's Bench, as the case may be, dismisses the complaint; or
 - (d) the complaint is otherwise resolved.

2005, c.S-35.03, s.82.

Order relating to decisions

83(1) If the corporation makes a decision pursuant to section 82 with respect to a formal complaint, it may make any order that it considers appropriate:

- (a) requiring the closure or alteration of, or changes or additions to, the drainage works with respect to which the complaint was filed; or

- (b) directing or discontinuing any operation, construction, extension, alteration, use or repair of the drainage works with respect to which the complaint was filed, either permanently or for a specified period, by the person to whom the order is directed.
- (2) In an order made pursuant to subsection (1), the corporation may fix the period within which the order is to be complied with.
- (3) The corporation shall cause a copy of any order made by it pursuant to this section to be served on the person to whom it is directed.
- (4) An order made pursuant to this section is effective with respect to the whole of the drainage works with respect to which the complaint was filed, and on the making of the order, any approvals relating to the drainage works and affected by the order are deemed to be amended insofar as is necessary to be consistent with the provisions of the order.
- (5) If the corporation considers it appropriate, the corporation may:
- (a) extend the period in which any order made pursuant to this section is to be complied with; or
 - (b) amend the terms and conditions of any order made pursuant to this section.
- (6) In accordance with subsection (8), the corporation may register or file an interest based on an order made pursuant to subsection (1) against the title to or abstract record for the land on which the drainage works complained of are located, and any application to register or file the interest must be accompanied by a copy of the order.
- (7) On the registration of an interest in accordance with subsection (6):
- (a) the terms and conditions of and the rights and obligations under the order that is the subject of the notice are binding on any person who, at any time subsequent to the registration of the notice pursuant to this section, is the registered owner of the land with respect to which the notice is registered; and
 - (b) this Act applies to any person mentioned in clause (a) in the same manner as if that person were the person to whom the order was originally directed.
- (8) The corporation may register or file the interest mentioned in subsection (6):
- (a) if no appeal is taken pursuant to section 84, after the 30-day appeal period mentioned in section 12 of *The Water Appeal Board Act* has expired;
 - (b) if an appeal is taken pursuant to section 84, and the Water Appeal Board confirms, in whole or in part, the order made by the corporation pursuant to this section and the period for appeal to the Court of Queen's Bench mentioned in section 26 of *The Water Appeal Board Act* has expired; or
 - (c) if an appeal is taken from the decision of the Water Appeal Board and the Court of Queen's Bench confirms the order of the corporation, in whole or in part.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(9) In the event that the decision of the Water Appeal Board in the circumstances described in clause (8)(b) or the order of the Court of Queen's Bench in the circumstances described in clause (8)(c) amends the corporation's order, the corporation shall register the amended order in the manner described in subsection (6).

2005, c.S-35.03, s.83.

Enforcement of orders made pursuant to *The Saskatchewan Watershed Authority Act*

83.1 Any order made by the corporation pursuant to section 69 of *The Saskatchewan Watershed Authority Act* and that is in effect on the coming into force of this Act is deemed to be an order made by the corporation pursuant to section 83 of this Act and is enforceable as such.

2006, c.34, s.2.

Right of appeal

84(1) The complainant or any person on whom notice has been served pursuant to clause 82(1)(a) may appeal a decision of the corporation made pursuant to section 82 or an order of the corporation made pursuant to section 83 to the Water Appeal Board in accordance with *The Water Appeal Board Act*.

(2) The parties to the appeal are to be the complainant and the person or persons on whom notice has been served pursuant to clause 82(1)(a).

2005, c.S-35.03, s.84.

Failure to comply with order

85(1) If a person fails to comply with an order of the corporation made pursuant to section 83 or an order of the Water Appeal Board or the Court of Queen's Bench following an appeal pursuant to section 84, the corporation or any person acting under the corporation's instructions may, without incurring any liability for any action taken that is necessarily incidental to the exercise of its powers pursuant to this section:

(a) enter on any land with any equipment, machinery or other articles that it considers necessary; and

(b) do any acts that are necessary to carry out the order.

(2) Any person acting under the corporation's instructions pursuant to subsection (1) may be accompanied by any person or persons who, in the corporation's opinion, by virtue of their expertise in a particular field or their knowledge of facts relevant to the matter being investigated, may be of assistance in carrying out the corporation's instructions.

(3) Any costs incurred by the corporation in carrying out an order pursuant to subsection (1) are a debt due to and recoverable by the corporation from the person to whom the order was directed.

2005, c.S-35.03, s.85.

Recovery of corporation's costs

86(1) If the corporation undertakes any work for the purposes of section 85 and incurs any costs as a result, the corporation may file in the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to the place where the work, or the greatest portion of the work, was done a certificate that is signed by an authorized officer of the corporation and that sets out:

- (a) the amount of the costs incurred by the corporation pursuant to that section; and
- (b) the person from whom the corporation claims the costs are recoverable.

(2) If the corporation files a certificate pursuant to subsection (1), the corporation shall cause a copy of the certificate to be served on the person from whom the certificate states the costs are recoverable.

(3) A certificate filed pursuant to this section has the same force and effect as if it were a judgment of the court for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(4) A person who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the corporation requesting the corporation to reconsider the amount of the costs.

(5) The corporation is not required to give an oral hearing to any person who makes written representations to the corporation pursuant to subsection (4).

(6) On receipt of a written representation pursuant to subsection (4), the corporation may:

- (a) withdraw the certificate;
- (b) vary the amount of the costs and, for that purpose, withdraw the certificate and file a new certificate with the new costs; or
- (c) confirm the certificate.

(7) The corporation shall notify the person who made the written representations of its decision as soon as is reasonably practicable after making the decision.

2005, c.S-35.03, s.86.

Appeal to Court of Queen's Bench

87(1) A person with respect to whom a certificate has been entered as a judgment pursuant to section 86 may appeal against the amount of the costs set out in the certificate to a judge of the Court of Queen's Bench:

- (a) within 30 days after the date on which the certificate was filed; or
- (b) if the person made representations to the corporation pursuant to section 86, within 30 days after the date on which the corporation notified the person of its decision pursuant to subsection 86(7).

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

(2) On hearing an appeal pursuant to this section, the judge of the Court of Queen's Bench may issue an order:

- (a) confirming the amount of costs set out in the certificate;
- (b) amending or varying the amount of costs set out in the certificate;
- (c) quashing the certificate; or
- (d) doing any other thing that the judge considers appropriate.

2005, c.S-35.03, s.87.

Mediation of damage claim

88 The corporation has no power to determine liability or award damages or other compensation with respect to a complaint, but the corporation may act as mediator between the parties to a complaint in an attempt to bring about a settlement of claims for damages or compensation.

2005, c.S-35.03, s.88.

PART VIII

Enforcement, Offences and Penalties

Powers of entry re duties and powers of corporation

89(1) For the purpose of carrying out its duties or exercising its powers pursuant to this Act or the regulations, the corporation, or any persons authorized by the corporation, may:

- (a) enter at any reasonable time and inspect any building, structure, machinery, vehicle, land or water;
- (b) make or require to be made any survey, examination, investigation, test or inquiry that the corporation considers necessary; and
- (c) make, take and remove, or require to be made, taken or removed, any sample, copy or extract.

(2) No person shall obstruct a person authorized pursuant to subsection (1) in exercising his or her powers pursuant to that subsection.

(3) The corporation and any person authorized by the corporation shall not enter any place that is a private dwelling without the consent of the owner or occupier or an order of a provincial court judge issued pursuant to subsection (5).

(4) If entry pursuant to this section is refused, the corporation may apply *ex parte* to a provincial court judge for an order authorizing the corporation, or a person authorized by the corporation, to enter and inspect any building, structure, machinery, vehicle, land or water.

(5) On an application pursuant to subsection (4), the provincial court judge may issue the order sought on any terms and conditions that the judge considers appropriate.

2005, c.S-35.03, s.89.

Offence and penalty

90(1) No person shall:

- (a) contravene any provision of this Act or the regulations;
 - (b) fail to comply with an order of the corporation;
 - (c) hinder or obstruct the corporation or any person authorized or instructed by the corporation in the lawful performance or exercise of its duties or powers;
 - (d) knowingly furnish the corporation or any person acting on behalf of the corporation with false information;
 - (e) knowingly mislead or attempt to mislead the corporation or any person acting on behalf of the corporation;
 - (f) take or use water without having authority from the corporation to do so;
 - (g) take or use water in contravention of any term or condition pursuant to which the taking or use of the water was granted by the corporation;
 - (h) construct, extend, alter or operate any works:
 - (i) without having secured the approval of the corporation; or
 - (ii) in contravention of any term or condition imposed by the corporation with respect to the construction, extension, alteration or operation of those works; or
 - (i) take or use water after the right of the person to do so has been cancelled or suspended by the corporation.
- (2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 and not more than \$1,000 for each day or part of a day during which the offence continues.
- (3) Every director, officer or agent of a body corporate who directed, authorized, assented to or acquiesced in or participated in an act or omission of the body corporate that would constitute an offence by the body corporate is guilty of that offence and is liable on summary conviction to the penalties provided for that offence, whether or not the body corporate has been prosecuted or convicted.

2005, c.S-35.03, s.90.

Limitation period on prosecutions

91 No prosecution for an offence pursuant to this Act is to be commenced after the expiration of two years from the date that the corporation became aware of the alleged offence.

2005, c.S-35.03, s.91.

Powers to enforce rates, etc.

92 The corporation may enforce payment of fees, levies, rates, charges, penalties or interest mentioned in clause 6(1)(l) in the same manner as that mentioned in section 86, and for that purpose section 86 applies, with any necessary modification, to that recovery.

2005, c.S-35.03, s.92.

Powers of entry re removal of illegal dam or works

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005

93(1) The corporation, or any person acting under the corporation's instructions, may enter on any land with any equipment, machinery or other articles that it considers necessary for the purpose of opening up, taking down, removing or destroying:

- (a) any illegal works; or
- (b) any dam constructed by a beaver or any natural obstruction whether formed by blown dirt, debris or otherwise, in any lake, river, stream or other water body.

(2) The corporation and any persons acting under the corporation's instructions are not liable for any damage done to the land that is necessarily incidental to the exercise of the powers granted by subsection (1).

(3) The amount expended by the corporation and any person acting under its instructions in opening up, taking down, removing or destroying illegal works pursuant to clause (1)(a) may be recovered as a debt due to the corporation from the person who constructed the works in the same manner as that mentioned in section 86 and, for that purpose section 86 applies, with any necessary modification, to that recovery.

2005, c.S-35.03, s.93.

PART IX

General

Other licences and approvals not affected

94 The issuing by the corporation of a licence or approval pursuant to this Act for the doing of any act or thing for which a licence or the approval of the corporation is required does not affect the application of any other Act or regulations that require:

- (a) a permit, approval or licence; or
- (b) the doing or omitting of any act or thing with respect to a permit, approval, licence, right, authority, grant, promise, lease or concession granted or to be granted pursuant to that Act or those regulations, with respect to the first mentioned act or thing.

2005, c.S-35.03, s.94.

Immunity

95 No action or proceeding lies or shall be commenced against the Crown, the minister, the corporation, any member of the corporation, any officer or employee of the corporation or any person authorized by the corporation, if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2005, c.S-35.03, s.95.

Inspection of records

96(1) Subject to *The Freedom of Information and Protection of Privacy Act*, any person may inspect and obtain access to the details of any water rights licence or approval of works issued or continued pursuant to this Act.

(2) On receipt of payment of the prescribed fee, the corporation shall supply copies of any records available for public inspection.

2005, c.S-35.03, s.96.

Crown bound

97 The Crown is bound by this Act.

2005, c.S-35.03, s.97.

PART X

Regulations**Regulations**

98(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (c) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(2) The Recreation (Residential) District Building Regulations, 1969, being Saskatchewan Regulations 320/69, as those regulations existed on the day before the coming into force of this Act, are continued pursuant to this Act and may be amended or repealed pursuant to this Act as if those regulations had been made pursuant to this Act.

2005, c.S-35.03, s.98.

PART XI

Repeal and Transitional**R.S.S. 1978, c.G-8 repealed**

99 *The Ground Water Conservation Act* is repealed.

2005, c.S-35.03, s.99.

S.S. 2002, c.S-35.02 repealed

100 *The Saskatchewan Watershed Authority Act* is repealed.

2005, c.S-35.03, s.100.

c. S-35.03 SASKATCHEWAN WATERSHED AUTHORITY, 2005**Employee transfers**

101 Without limiting the generality of *The Public Service Act, 1998*, the chairperson of the Public Service Commission may transfer or second any employee from a position in a department as defined in that Act to the corporation with the approval of the corporation.

2005, c.S-35.03, s.101.

Transitional - Saskatchewan Watershed Authority

102 The persons who constitute the corporation and the board of directors pursuant to sections 4 and 13 of *The Saskatchewan Watershed Authority Act* on the day before the coming into force of this Act continue as the members of the corporation and as the members of the board of directors of the corporation until new appointments are made pursuant to sections 4 and 13 of this Act.

2005, c.S-35.03, s.102.

Transitional re orders and agreements

103(1) All orders that were issued by Saskatchewan Water Corporation pursuant to *The Water Corporation Act*, that were in existence on September 30, 2002 and that relate to matters governed by *The Saskatchewan Watershed Authority Act* are continued pursuant to *The Saskatchewan Watershed Authority Act* for the period commencing on October 1, 2002 and ending on the date on which this Act comes into force, and for that period may be dealt with pursuant to that Act as if they had been issued by the corporation pursuant to that Act.

(2) All orders that are continued pursuant to subsection (1) that are in existence on the day before the coming into force of this Act and that relate to matters governed by this Act, are continued and may be dealt with pursuant to this Act as if they had been issued by the corporation pursuant to this Act.

(3) The interests of Saskatchewan Water Corporation in all agreements entered into with Her Majesty in right of Canada or an Indian band pursuant to clause 2(g.1) or 16(d.1) of *The Water Corporation Act* that were in existence on September 30, 2002 are continued as the interests of the corporation pursuant to *The Saskatchewan Watershed Authority Act* for the period commencing on October 1, 2002 and ending on the date on which this Act comes into force, and for that period those agreements may be dealt with by the corporation and enforced by or against the corporation as if they had been entered into pursuant to *The Saskatchewan Watershed Authority Act*.

(4) All interests in agreements continued pursuant to subsection (3) that are in existence on the day before the coming into force of this Act are continued and may be dealt with by the corporation and enforced by or against the corporation as if those agreements had been entered into pursuant to this Act.

2005, c.S-35.03, s.103.

PART XII

104 to 122 Dispensed. These sections make consequential amendments to other Acts. The amendments have been incorporated into the corresponding Acts.

PART XIII

Coming into Force

Coming into force

123(1) Subject to subsection (2), this Act comes into force on assent.

(2) Subsections 103(1) and (3) come into force on assent, but are retroactive and are deemed to have been in force on and from October 1, 2002.

