



Environment and
Climate Change Canada

Environnement et
Changement climatique Canada

**ENFORCEMENT
BRANCH**

Environmental Enforcement



**DIRECTION GÉNÉRALE DE
L'APPLICATION DE LA LOI**
Application de la loi en environnement

WRITTEN WARNING

FISHERIES ACT
Wastewater Systems Effluent Regulations

File: 8530-2026-04-01-6917
PROTECTED B

April 29, 2026

Registered with acknowledgement of receipt

The purpose of this warning is to inform:

Capital Regional District
479 Island Highway
Victoria, BC, V9B 1H7

c/o

Jason Dales
Senior Manager, Wastewater Infrastructure Operations
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479 Island Highway
Victoria, BC, V9B 1H7

&

Ted Robbins
Chief Administrative Officer
Capital Regional District
625 Fisgard Street
Victoria, BC V8W 1R7

&

Alicia Fraser
General Manager of Infrastructure & Water Services
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479 Island Highway
Victoria, BC, V9B 1H7

That information obtained on March 12, 2026, by the undersigned inspector and fishery officer designated by the Minister of Environment and Climate Change under the *Fisheries Act*, provided reasonable grounds to

Canada

believe that the Capital Regional District and its responsible officials were in contravention of section 44(1)(c.1)(ii), paragraph 45.2(3)(f), and subsection 45.2(4) of the *Wastewater Systems Effluent Regulations* (WSER) made pursuant to the *Fisheries Act*.

ALLEGED FACTS

As a result of a review of submitted data, I, the undersigned inspector and fishery officer determined the following alleged facts:

1. That the Capital Regional District (CRD) owns and operates the McLoughlin Point Wastewater Treatment Plant located at 337 Victoria View Road, Victoria, BC V9A 6T7.
2. That the Wastewater section of Environment and Climate Change Canada (ECCC) received a temporary bypass authorization (TBA) application from the CRD on November 30, 2024, and a Category 3 bypass authorization was issued on February 21, 2025, for maintenance work on the backwash tank at the McLoughlin Point Wastewater Treatment Plant.
3. The temporary bypass authorization period was from March 26, 2025, to April 14, 2025, for a total of 464 hours.
4. That the holder of a temporary bypass authorization must, within 90 days after the last day of the authorization period, send to the authorization officer a final report on the temporary bypass; Paragraph 45.2(3) of WSER states that the final report must include:
 - f. *for a Category 2 bypass as determined in accordance with sections 43.3 or 43.4 or a Category 3 bypass as determined in accordance with sections 43.2 to 43.4, a confirmation of the existence of a plan that describes modifications to be made to the wastewater system and any other measures to be taken to reduce the need for future temporary bypass authorizations and to limit any adverse effects on fish, fish habitat or the use by man of fish when performing work referred to in paragraph 43(2)(a), including a schedule for implementation of the plan.*
5. That subsection 45.2(4) of WSER requires that:

The holder of a temporary bypass authorization must ensure that the plan referred to in paragraph 45.2(3)(f) is available for examination by the public.
6. That any subsequent temporary bypass authorization applications require an explanation of how the proposed bypass meets the requirements of the plan as per 44(1)(c.1)(ii) of WSER.
7. That the final report for the temporary bypass authorization was submitted by the CRD on July 13, 2025, and did not confirm the existence of a plan described by paragraph 45.2(3)(f).
8. That on March 12, 2026, I confirmed with CRD personnel that a plan as described in paragraph 45.2(3)(f) has not been made available to the public for examination as required under 45.2(4).
9. That on September 26, 2025, the CRD submitted a subsequent temporary bypass authorization application but did not include an explanation of how the bypass meets the requirements of 45.2(3)(f) and was therefore in contravention of the *Wastewater Systems Effluent Regulations* paragraph 44(1)(c.1)(ii).
10. That the final report submitted to ECCC by the CRD for the temporary bypass that occurred between March 26, 2025, to April 14, 2025, did not confirm the existence of a publicly available plan that described modifications to be made to the wastewater system and any other measures to be taken to reduce the need for future temporary bypass authorizations and to limit any adverse

effects on fish, fish habitat or the use by man of fish, and was therefore in contravention of the *Wastewater Systems Effluent Regulations* paragraph 45.2(3)(f) and subsection 45.2(4).

11. That contraventions of section 44(1)(c.1)(ii), paragraph 45.2(3)(f), and subsection 45.2(4) of the *Wastewater Systems Effluent Regulations* are offences under paragraph 40(3)(a) of the *Fisheries Act*.

THE LAW

Wastewater Systems Effluent Regulations

43(2) An application for a temporary bypass authorization is not to be made unless

- (a) the requirement to bypass those treatment processes arises from
- (i) construction work to make changes to the system,
 - (ii) the maintenance of the system, or
 - (iii) the response to an anticipated event that is beyond the control of the owner or operator of the system;

44 (1) An application for a temporary bypass authorization must contain the following information:

- (c.1) a description of the construction work, the maintenance of the system or the response referred to in paragraph 43(2)(a), as well as:
- (ii) in the case of an application by an owner or operator who had to confirm the existence of a plan referred to in paragraph 45.2(3)(f) for a previous authorization, an explanation that demonstrates how the bypass meets the requirements of that plan and any amendments to that plan since it was created;

45.2(3) The holder of a temporary bypass authorization must, within 90 days after the last day of the period of the authorization, send to the authorization officer a final report on the temporary bypass that includes the following information, as applicable:

[...]

- (f) for a Category 2 bypass as determined in accordance with sections 43.3 or 43.4 or a Category 3 bypass as determined in accordance with sections 43.2 to 43.4, a confirmation of the existence of a plan that describes modifications to be made to the wastewater system and any other measures to be taken to reduce the need for future temporary bypass authorizations and to limit any adverse effects on fish, fish habitat or the use by man of fish when performing work referred to in paragraph 43(2)(a), including a schedule for implementation of the plan.

[...]

45.2(4) The holder of a temporary bypass authorization must ensure that the plan referred to in paragraph (3)(f) is available for examination by the public.

Fisheries Act

Deposit of deleterious substance prohibited

- 36(3) Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.

Deposits authorized by regulation

- (4) No person contravenes subsection (3) by depositing or permitting the deposit in any water or place of
- (a) waste or pollutant of a type, in a quantity and under conditions authorized by regulations applicable to that water or place made by the Governor in Council under any Act other than this Act;
 - (b) a deleterious substance of a class and under conditions — which may include conditions with respect to quantity or concentration — authorized under regulations made under subsection (5) applicable to that water or place or to any work or undertaking or class of works or undertakings; or
 - (c) a deleterious substance the deposit of which is authorized by regulations made under subsection (5.2) and that is deposited in accordance with those regulations.

Offence and punishment

40(2) Every person who contravenes subsection 36(1) or (3) is guilty of an offence and liable

(a) on conviction on indictment,

- (i) in the case of an individual,
 - (A) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000, or to imprisonment for a term not exceeding three years, or to both,
- (ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),
 - (A) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000, and
- (iii) in the case of a corporation that the court has determined to be a small revenue corporation,
 - (A) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or

(b) on summary conviction,

- (i) in the case of an individual,
 - (A) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000, or to imprisonment for a term not exceeding six months, or to both,
- (ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),
 - (A) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000, and
- (iii) in the case of a corporation that the court has determined to be a small revenue corporation,
 - (A) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and
 - (B) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Other Offences

40(3) Every person who

[...]

- (a) in carrying on a work, undertaking or activity, fails to comply with a prescribed condition referred to in paragraph 34.4(2)(a) or 35(2)(a), with a condition set out in an authorization or a permit, as the case may be, issued under paragraph 34.4(2)(b) or (c) or 35(2)(b) or (c) or subsection 35.1(3) or 35.2(7), or with a condition imposed by regulations made under subsection 36(5) or (5.2),

[...]

is guilty of an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding two hundred thousand dollars and, for any subsequent offence, to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both.

Duty to take corrective measures

- 38(6) Any person described in paragraph (4)(a) or (b) or 5(a) or (b) shall, as soon as feasible, take all reasonable measures consistent with public safety and with the conservation and protection of fish and fish habitat to prevent the occurrence or to counteract, mitigate or remedy any adverse effects that result from the occurrence or might reasonably be expected to result from it.

Report

- 38(7) As soon as feasible after the occurrence or after learning of the danger of the occurrence, the person shall provide an inspector, fishery officer or an authority prescribed by the regulations with a written report on the occurrence or danger of the occurrence.

Corrective measures

- 38(7.1) If an inspector or fishery officer, whether or not they have been notified under subsection (4) or (5) or provided with a report under subsection (7), is satisfied on reasonable grounds that immediate action is necessary in order to take any measures referred to in subsection (6), the inspector or officer may, subject to subsection (7.2), **take any of those measures at the expense of any person described in paragraph (4)(a) or (b) or (5)(a) or (b) or direct such person to take them at that person's expense.**

Continuing Offence

- 78.1 Where any contravention of this Act or the regulations is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

Offences by corporate officers, etc.

- 78.2 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted.

Offences by employers

- 78.3 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent

is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

CONCLUSION

This warning alleges contravention of section 44(1)(c.1)(ii), paragraph 45.2(3)(f), and subsection 45.2(4) of the *Wastewater Systems Effluent Regulations*. It is intended to bring this matter to your attention in order for you to take the necessary corrective action to ensure compliance with the *Fisheries Act* or to exercise due diligence in the future. This document is not a finding of guilt or civil liability, and is not an administrative adjudication.

This warning and the circumstances to which it refers will form part of Environment and Climate Change Canada's records of the Capital Regional District and its responsible officials, and will be taken into account in future responses to alleged violations and for internal purposes such as setting the frequency of inspections. Environment and Climate Change Canada will consider taking further action if you do not take all necessary corrective steps to comply or do not exercise due diligence in the future.

This warning is issued in accordance with the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*. The complete text of this policy is available on Environment and Climate Change Canada's website:

<https://www.canada.ca/en/environment-climate-change/services/environmental-enforcement.html>

The complete text of the *Fisheries Act* is available on the Department of Justice website: <http://laws-lois.justice.gc.ca/eng/acts/F-14/>

For more information or to respond to the alleged facts contained in this warning, please call or write the undersigned. Your comments will be considered, and where appropriate, a response provided. Any comments you make, as well as Environment and Climate Change Canada's response, will be maintained on file with this warning in Environment and Climate Change Canada's records.

**Brisotto,
Quentin**

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Brisotto, Quentin
Date: 2026.04.21
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[Officer Signature]

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[Badge Number]

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