



Liabilities Associated With Water Well Drilling and Construction Services

Insurance and Other Solutions

It happens...



Liabilities Associated With Water Well Drilling and Construction Services

The Water Sustainability Act

Proof of qualifications and insurance

51 (1) On the direction of

- (a) the comptroller, (b) a water manager, (c) an engineer,
- (d) an officer, or
- (e) a drinking water officer,

a person who is performing or directly supervising an activity that under this Act must be performed or directly supervised by a professional with specified competencies, or by a well driller or well pump installer who is qualified in respect of the activity in relation to the well, must immediately provide proof that the person is qualified to perform or supervise the activity and, if the person is required under subsection (2) to carry insurance, proof of that insurance.

(2) If the regulations require that a professional or a well driller carry not less than the prescribed amount of liability insurance in the event of liability arising from the performance or supervision of activities under this Act, the professional or well driller, as applicable, must carry that amount.

(3) When asked to do so, a professional, a well driller or a well pump installer must provide to any person who engages the professional, well driller or well pump installer to perform or supervise activities under this Act

- (a) proof of insurance, if insurance is required under the regulations, and
- (b) proof of qualifications.

Controlling artesian flow during construction

52 (1) For the purposes of this section and section 53, artesian flow of a well is under control when

- (a) the artesian flow
 - (i) is clear of sediment,
 - (ii) is entirely conveyed through the well's production casing to the wellhead, if the well has a production casing,
 - (iii) may be mechanically stopped for an indefinite period in a manner that prevents leakage onto the surface of the ground or into another aquifer penetrated by the well, and
 - (iv) does not pose a threat to property, public safety or the environment, or
- (b) if the artesian flow cannot be controlled in accordance with paragraph (a), the well is decommissioned
 - (i) in accordance with the regulations,
 - (ii) by a person authorized under section 49 [restrictions on constructing or decommissioning wells], and
 - (iii) in a manner that allows no artesian flow at the surface of the ground or leakage into another aquifer penetrated by the well.

(2) If a well driller or a professional encounters artesian conditions while constructing a well or supervising the construction of a well, the well driller or professional must ensure, as soon as practicable, that

- (a) any artesian flow is stopped or brought under control, or

How can the well driller protect himself?

1. Insurance
2. Contract Language
3. Risk Management



Source: BC's Flowing Artesian Wells guidance document

Insurance Solutions


- One Liability Policy for a Complete Solution:
 - Commercial General Liability (limits from \$ 2,000,000 to \$10,000,000)
 - Contractors (Sudden & Accidental) Pollution \$1,000,000
 - Forest Fire Fighting Expense \$ 500,000
Professional Liability \$ 100,000
(option for higher limits)
 - Well Break Out Expense Insurance \$ 25,000
(option for higher limits)

Insurance Solutions

- Capri Insurance has created a program for BC Ground Water Association Members which provides unique and special coverage!
- **Artesian Flow Break Out Expense Insurance**, coverage details includes:
 - Base limit of \$ 25,000 for Expense Coverage subject to \$ 5,000 Deductible
 - Options to increase to \$50,000 and possibly higher depending on requirements of individual driller
 - Premium for coverage starts at \$750 with option to increase to \$ 50,000 (additional \$ 500)

Insurance Application

**Well Drilling & Pump Installer Contractors
Insurance Application**



GENERAL INFORMATION

Name of Applicant: _____
 Brief Description of Operations: _____
 Address of Applicant: _____
 Previous Insurer: _____ Policy Number: _____

Has any insurer ever cancelled, refused or applied special terms to any similar insurance for applicant? YES NO
 Has the applicant had any losses or claims in the past 5 years? YES NO
 If yes, please give full details: _____

SPECIAL UNDERWRITING INFORMATION

Please provide a complete schedule of coverages to enable us to properly provide you with a quotation on your

Summary of Coverage Requirements		
COVERAGE DESCRIPTION	LIMIT OF COVERAGE REQUIRED	DEDUCTIBLE
BUILDING COVERAGE		
CONTENTS & EQUIPMENT		
STOCK IN STORAGE		
CONTRACTORS EQUIPMENT FLOATER*		
TOOL FLOATER**		
INSTALLATION FLOATER		
LOSS OF INCOME COVERAGE		
DOWN HOLE TOOL COVERAGE		
COMMERCIAL GENERAL LIABILITY		
UMBRELLA LIABILITY		
Other (please specify): _____		
Other (please specify): _____		

* ANY PIECE OF EQUIPMENT WITH A VALUE OF \$1500 OR LESS SHOULD BE INCLUDED UNDER TOOLS
 ** ANY TOOL WITH A VALUE GREATER THAN \$ 1500 SHOULD BE INCLUDED UNDER EQUIPMENT

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GROSS REVENUES

Breakdown of Revenue By Category & Operation		
Water Well Drilling: \$		Plumbing Installation: \$
Geotechnical Drilling: \$		Heating Installation: \$
Environmental Drilling: \$		Septic Installation: \$
Other Drilling: \$		Water Treatment: \$
Pump Installation & Service: \$		Other Revenue: \$
*Please provide a complete description of what other revenue may be		TOTAL OF ALL REVENUE: \$

A. Sub- consultants/ Sub- contractors: Do you subcontract a part of your operations? YES NO
 1. If yes, do you obtain certificates of insurance from your subcontractors? YES NO
 2. If yes, do you require the subcontractor's policies to add you as an additional insured? YES NO

Total Sublet Costs: _____

LIABILITY

Number of employees including part-time: _____
 How many years of experience in the type of operations undertaken do the applicant and key employees have? _____ Years
 Do any operations take place outside of Canada? YES NO
 If yes, how often? _____
 Is equipment ever rented or leased to others without an operator? YES NO
 Does applicant require building coverage? YES NO

If yes: Building location: _____
 Construction: _____ Construction Class: _____
 Occupant (other than by applicant) if applicable: _____
 Security Protection: _____
 Fire Protection: Is there a hydrant within 150 metres? YES NO
 Age of building: _____ No. Of Storeys: _____ Ground Floor sq. footage: _____
 Rental Income: _____ (Please state the total annual rental income)
 Any other location (s) to be insured: _____

Extended Business Income Required? YES NO Indemnity Period _____ months
 Umbrella (optional) Required? YES NO

Additional Comments:

Applicants Name _____ Broker Name _____
 Position/ Title _____ Position/ Title _____
 Signature _____ Signature _____
 Date _____ Date _____

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Contract Language Solution

- The Water Sustainability Act does not specify who is responsible for paying (\$\$\$) to control the flowing artesian well but rather that the well driller “must ensure” that steps are taken to stop or control the well...

Contract Language Solution

- Create a work order or standard contract which indicates a limitation of liability (example below)
 - **LIMITATION OF LIABILITY:**
In recognition of the requirement for services provided by (TBA Well Services Ltd) Client agrees, to the fullest extent permitted by law, to limit the liability of (TBA Well Services Ltd)for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from Artesian Well Break Out so that the total aggregate liability of (TBA Well Services Ltd) to the Client shall not exceed \$25,000, or the total fee for services rendered on this project, whichever is lesser. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

Contract Language Solution

- The work order or contract can be written to limit liability for many issues including:
 - Liability for pollution related exposures
 - Liability for “All Loss” including bodily injury or property damage
 - Down-hole loss/damage
 - Etc

Risk Management Solution

- Do a pre drill assessment including geological conditions, static water levels and any history of flowing artesian wells in the area.
 - This information can be obtained from reviewing available local well construction reports or reviewing hydrogeological information ie: maps on the Water Resource Atlas(http://www.env.gov.bc.ca/wsd/data_searches/wrbc/index.html) showing flowing artesian well coverage or reports on Ecocat (<http://www.env.gov.bc.ca/ecoca/>), consulting with the Ministry of Environmental regional hydrogeologists and consulting with local well drillers and geotechnical engineers with knowledge of the area

Risk Management Solution

- Always recommend a high quality (conservative) solution. If you quote more than one option, make sure to recommend the high quality solution (in writing) and bring back contract language to hold your client liable for solutions which save money but are less cautious.

Risk Management Solution

- Create an action plan for dealing with:
Down Hole Loss, Controlling Well Break
Out & Controlling Environmental Incidents
(review this with your staff)

Risk Management Solution

- Engage with the BCGWA, who strive to promote and support the interests of the groundwater industry, including the provision of information and resources for dealing with flowing artesian wells.

Capri Insurance wants to work with BCGWA members to create solid risk management and insurance solutions to avoid unnecessary loss.