



Regional Operator Contracts: Operator Certification Considerations For Developing Contracts

By July 15, 2005, all Saskatchewan Environment regulated waterworks that provide human consumptive water and wastewater works require a certified operator. If an owner of such works does not have the resources to hire or does not need a dedicated operator, it can consider the following options:

- Several options for securing a certified operator are available for waterworks. Some of the possibilities are:
 - Two or more municipalities could agree between or among themselves to jointly hire a certified operator or have one municipality's certified operator provide the required services to the other municipalities. This agreement could be permanent or temporary (i.e. to cover off holiday absences).
 - A municipality could enter into an agreement with a certified operator directly, with the consent of the certified operator's current employer.
 - A municipality could enter into an agreement with a certified operator directly, without the consent of the certified operator's current employer.
 - A municipality could enter into an agreement with a company that supplies certified operators for waterworks.

- When determining which type of arrangement to make, waterworks owners (typically municipalities) and operators should seek legal counsel. Some of the questions and concepts they should seek advice on are as follows:
 - What is the liability risk to the municipality and the certified operator of the arrangement?
 - Does a municipality satisfy its duty of care by hiring a competent operator or is the municipality's duty non-delegable?
 - Does the municipality's and certified operator's insurance cover the services provided?
 - Does a municipalities' liability insurance coverage extend to services provided by a contracted certified operator?
 - Does vicarious liability apply in the arrangement made?
 - What are the liability concerns for an operator when s/he offers services as a private contractor to a municipality and how much liability would a municipality carry in the event of a problem?
 - What responsibilities lie with the operator? Are these shown in the contract?
 - Should the parties decide between themselves how to divide any liability?

Operators and municipalities involved in a regional operator scenario should ensure that they receive legal advice on the issues described above.

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