

Attachment- D: MOE's Permit To Take Water (PTTW)



Ministry of the Environment
Ministère de l'Environnement

PERMIT TO TAKE WATER Surface and Ground Water NUMBER 4201-8DEPTU

Pursuant to Section 34 of the Ontario Water Resources Act, R.S.O. 1990 this Permit To Take Water is hereby issued to:

The York Downs Golf and Country Club, Limited
4134 16th Ave
Markham, Ontario
L3R 0P1

For the water taking from: Production Wells: PW 1, PW 2B, PW 3, PW 4 and PW 6
Surface Water: Bruce Creek

Located at: Lot 16, 17, 18, Concession 5
Markham, Regional Municipality of York

For the purposes of this Permit, and the terms and conditions specified below, the following definitions apply:

DEFINITIONS

- (a) "Director" means any person appointed in writing as a Director pursuant to section 5 of the OWRA for the purposes of section 34, OWRA.
- (b) "Provincial Officer" means any person designated in writing by the Minister as a Provincial Officer pursuant to section 5 of the OWRA.
- (c) "Ministry" means Ontario Ministry of the Environment.
- (d) "District Office" means the York-Durham District Office.
- (e) "Permit" means this Permit to Take Water No. 4201-8DEPTU including its Schedules, if any, issued in accordance with Section 34 of the OWRA.
- (f) "Permit Holder" means The York Downs Golf and Country Club, Limited.
- (g) "OWRA " means the *Ontario Water Resources Act*, R.S.O. 1990, c. O. 40, as amended.

You are hereby notified that this Permit is issued subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1. Compliance with Permit

- 1.1 Except where modified by this Permit, the water taking shall be in accordance with the application for this Permit To Take Water, dated October 29, 2010 and signed by Manuel Fernandes, and all Schedules included in this Permit.
- 1.2 The Permit Holder shall ensure that any person authorized by the Permit Holder to take water under this Permit is provided with a copy of this Permit and shall take all reasonable measures to ensure that any such person complies with the conditions of this Permit.
- 1.3 Any person authorized by the Permit Holder to take water under this Permit shall comply with the conditions of this Permit.
- 1.4 This Permit is not transferable to another person.
- 1.5 This Permit provides the Permit Holder with permission to take water in accordance with the conditions of this Permit, up to the date of the expiry of this Permit. This Permit does not constitute a legal right, vested or otherwise, to a water allocation, and the issuance of this Permit does not guarantee that, upon its expiry, it will be renewed.
- 1.6 The Permit Holder shall keep this Permit available at all times at or near the site of the taking, and shall produce this Permit immediately for inspection by a Provincial Officer upon his or her request.
- 1.7 The Permit Holder shall report any changes of address to the Director within thirty days of any such change. The Permit Holder shall report any change of ownership of the property for which this Permit is issued within thirty days of any such change. A change in ownership in the property shall cause this Permit to be cancelled.

2. General Conditions and Interpretation

- 2.1 Inspections
The Permit Holder must forthwith, upon presentation of credentials, permit a Provincial Officer to carry out any and all inspections authorized by the OWRA, the *Environmental Protection Act*, R.S.O. 1990, the *Pesticides Act*, R.S.O. 1990, or the *Safe Drinking Water Act*, S. O. 2002.
- 2.2 Other Approvals
The issuance of, and compliance with this Permit, does not:
 - (a) relieve the Permit Holder or any other person from any obligation to comply with any other applicable legal requirements, including the provisions of the *Ontario Water Resources Act*, and

the *Environmental Protection Act* , and any regulations made thereunder; or

(b) limit in any way any authority of the Ministry, a Director, or a Provincial Officer, including the authority to require certain steps be taken or to require the Permit Holder to furnish any further information related to this Permit.

2.3 Information

The receipt of any information by the Ministry, the failure of the Ministry to take any action or require any person to take any action in relation to the information, or the failure of a Provincial Officer to prosecute any person in relation to the information, shall not be construed as:

(a) an approval, waiver or justification by the Ministry of any act or omission of any person that contravenes this Permit or other legal requirement; or

(b) acceptance by the Ministry of the information's completeness or accuracy.

2.4 Rights of Action

The issuance of, and compliance with this Permit shall not be construed as precluding or limiting any legal claims or rights of action that any person, including the Crown in right of Ontario or any agency thereof, has or may have against the Permit Holder, its officers, employees, agents, and contractors.

2.5 Severability

The requirements of this Permit are severable. If any requirements of this Permit, or the application of any requirements of this Permit to any circumstance, is held invalid or unenforceable, the application of such requirements to other circumstances and the remainder of this Permit shall not be affected thereby.

2.6 Conflicts

Where there is a conflict between a provision of any submitted document referred to in this Permit, including its Schedules, and the conditions of this Permit, the conditions in this Permit shall take precedence.

3. Water Takings Authorized by This Permit

3.1 **Expiry**

This Permit expires on **December 31, 2015**. No water shall be taken under authority of this Permit after the expiry date.

3.2 Amounts of Taking Permitted

The Permit Holder shall only take water from the source, during the periods and at the rates and amounts of taking specified in Table A. Water takings are authorized only for the purposes specified in Table A.

Table A

	Source Name / Description:	Source: Type:	Taking Specific Purpose:	Taking Major Category:	Max. Taken per Minute (litres):	Max. Num. of Hrs Taken per Day:	Max. Taken per Day (litres):	Max. Num. of Days Taken per Year:	Zone/ Easting/ Northing:
1	PW1	Well	Golf Course Irrigation	Commercial	205	24	295,200	200	17 634160 4859500
		Drilled							
2	PW2B	Well	Golf Course Irrigation	Commercial	182	24	262,080	200	17 634090 4859650
		Drilled							
3	PW3	Well	Golf Course Irrigation	Commercial	228	24	328,320	200	17 634030 4860470
		Drilled							
4	PW4	Well	Golf Course Irrigation	Commercial	340	24	489,600	200	17 633905 4860610
		Drilled							
5	PW6	Well	Golf Course Irrigation	Commercial	455	24	655,200	200	17 634001 4860150
		Drilled							
6	Bruce Creek	River	Golf Course Irrigation	Commercial	910	24	1,310,400	200	17 634145 4860320
Total Taking:									

Explanatory Note: Water taken from the "Sources" listed in Table A is stored in the Irrigation Pond that is located adjacent to Bruce Creek and the offline Reservoir, to be used for irrigation as needed. The Irrigation Pond and the Reservoir are not listed as "Sources", as their main function is to store water taken from the primary sources listed in Table A. In addition, to lessen its reliance on the Creek and the wells to meet its irrigation water demands, the facility may also divert water from the stormwater management pond located on the property to the Irrigation pond. The stormwater management pond is not included in this Permit as a Source as its operation and the diversion works are approved under a separate Certificate of Approval;

No limits are imposed on the rates or amounts of water that may be pumped or diverted from the Irrigation Pond; the Reservoir and the Stormwater Management pond. Also, the Permit Holder is not required to monitor the rates or amounts of water pumped or diverted from these features.

3.3 Future water taking from Bruce Creek is to be designed such that no diversion occurs when streamflow is at or below a "minimum flow" of 94 L/s and that the rate of taking is no greater than 10% of the available flow above the minimum flow. Conditions 3.4 and 3.5 are imposed to ensure that this requirement is met prior to water taking from Bruce Creek occurs in the future.

3.4 Prior to June 1, 2011, the Permit Holder shall permanently plug the existing intake pipe used in the past to divert water from Bruce Creek into the Irrigation Pond and provide

Notice to the Director when this work is completed.

- 3.5 Notwithstanding Table A, The Permit Holder shall not divert any water from Bruce Creek prior to installing an intake system that is approved by the appropriate regulatory agencies and obtaining written confirmation from the Director that diversions can commence using the approved intake. In order to obtain the Director's approval to commence taking from Bruce Creek, the Permit Holder shall submit a brief report, prepared by relevantly qualified persons, that documents the following:
- i) Details of the technical work completed to develop and refine the rating curve at the point of taking. This shall include the stream flow data collected during low flows; the appropriateness of selected location to develop a rating curve and how frequently the rating curve needs to be re-evaluated to verify its accuracy;
 - ii) Details on the design of the intake system and how it meets the minimum flow and rate of diversion requirements;
 - iii) Copies of the approvals by other agencies to construct the intake (if applicable) and a copy of the as-built drawings.
- 3.6 As with the previous Permit 1805-7JKM6A, the production wells identified in Table A are clustered in two groups referenced as follows: North Cluster includes PW 3, PW 4 and PW 6, South Cluster includes PW 1 and PW 2B. The Permit Holder may operate the clusters simultaneously provided only one well within the each cluster is operated at any one time.
- 4. Monitoring**
- 4.1 The Permit Holder shall install and maintain flow meters on each well Source listed in Table A and record the daily amount of water taken from each Source. A separate record shall be maintained for each Source. The Permit Holder shall keep all required records up to date and available at or near the site of the taking and shall produce the records immediately for inspection by a Provincial Officer upon his or her request.
- 4.2 The Permit Holder shall install and maintain water level recorders in at least one well within each of the two clusters identified in Condition 3.6. Data collected shall be available electronically to Ministry staff at any time upon request.

5. Impacts of the Water Taking

5.1 Notification

The Permit Holder shall immediately notify the local District Office of any complaint arising from the taking of water authorized under this Permit and shall report any action which has been taken or is proposed with regard to such complaint. The Permit Holder shall immediately notify the local District Office if the taking of water is observed to have any significant impact on the surrounding waters. After hours, calls shall be directed to the Ministry's Spills Action Centre at 1-800-268-6060.

5.2 For Surface-Water Takings

The taking of water (including the taking of water into storage and the subsequent or simultaneous withdrawal from storage) shall be carried out in such a manner that streamflow is not stopped and is not reduced to a rate that will cause interference with downstream uses of water or with the natural functions of the stream.

For Groundwater Takings

If the taking of water is observed to cause any negative impact to other water supplies obtained from any adequate sources that were in use prior to initial issuance of a Permit for this water taking, the Permit Holder shall take such action necessary to make available to those affected, a supply of water equivalent in quantity and quality to their normal takings, or shall compensate such persons for their reasonable costs of so doing, or shall reduce the rate and amount of taking to prevent or alleviate the observed negative impact. Pending permanent restoration of the affected supplies, the Permit Holder shall provide, to those affected, temporary water supplies adequate to meet their normal requirements, or shall compensate such persons for their reasonable costs of doing so.

If permanent interference is caused by the water taking, the Permit Holder shall restore the water supplies of those permanently affected.

5.3 The taking of water shall be carried out in such a manner as to prevent the disruption or removal of any fish, invertebrates, or sediment from Bruce Creek.

6. Director May Amend Permit

The Director may amend this Permit by letter requiring the Permit Holder to suspend or reduce the taking to an amount or threshold specified by the Director in the letter. The suspension or reduction in taking shall be effective immediately and may be revoked at any time upon notification by the Director. This condition does not affect your right to appeal the suspension or reduction in taking to the Environmental Review Tribunal under the *Ontario Water Resources Act*, Section 100 (4).

The reasons for the imposition of these terms and conditions are as follows:

1. Condition 1 is included to ensure that the conditions in this Permit are complied with and can be enforced.
2. Condition 2 is included to clarify the legal interpretation of aspects of this Permit.
3. Conditions 3 through 6 are included to protect the quality of the natural environment so as to safeguard the ecosystem and human health and foster efficient use and conservation of waters. These conditions allow for the beneficial use of waters while ensuring the fair sharing, conservation and sustainable use of the waters of Ontario. The conditions also specify the water takings that are authorized by this Permit and the scope of this Permit.

*In accordance with Section 100 of the Ontario Water Resources Act, R.S.O. 1990, you may by written notice served upon me, the Environmental Review Tribunal and the Environmental Commissioner, **Environmental Bill of Rights**, R.S.O. 1993, Chapter 28, within 15 days after receipt of this Notice, require a hearing by the Tribunal. The Environmental Commissioner will place notice of your appeal on the Environmental Registry. Section 101 of the Ontario Water Resources Act, as amended provides that the Notice requiring a hearing shall state:*

1. The portions of the Permit or each term or condition in the Permit in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

In addition to these legal requirements, the Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Permit to Take Water number;
6. The date of the Permit to Take Water;
7. The name of the Director;
8. The municipality within which the works are located;

This notice must be served upon:

*The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto ON
M5G 1E5*

AND

*The Environmental Commissioner
1075 Bay Street
6th Floor, Suite 605
Toronto, Ontario M5S 2W5*

AND

*The Director, Section 34
Ministry of the Environment
8th Floor
5775 Yonge St
Toronto ON M2M 4J1
Fax: (416)325-6347*

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal:

by telephone at (416) 314-4600


by fax at (416) 314-4506

by e-mail at www.ert.gov.on.ca

*This instrument is subject to Section 38 of the **Environmental Bill of Rights** that allows residents of Ontario to seek leave to appeal the decision on this instrument. Residents of Ontario may seek to appeal for 15 days from the date this decision is placed on the Environmental Registry. By accessing the Environmental Registry, you can determine when the leave to appeal period ends.*

This Permit cancels and replaces Permit Number 1805-7JKM6A, issued on 2009/03/04.

Dated at Toronto this 7th day of February, 2011.



**Kathryn Baker
Director, Section 34
Ontario Water Resources Act , R.S.O. 1990**

Schedule A

This Schedule "A" forms part of Permit To Take Water 4201-8DEPTU, dated February 7, 2011.

1. Permit To Take Water renewal application for York Downs Golf and Country Club signed by Manuel Fernandes, dated October 29, 2010.
2. Report entitled 'York Downs Golf and Country Club Limited, File No. PGD019389.0000 prepared by R.J. Burnside & Associates report dated November 2010.