



Reviewing BC's Natural Resource Sector Professional Reliance Model

Submission from [WA:TER](#) in Salmon Arm, BC – January 5, 2018

Documentation for PRM review

As with any large multi-year (late 2008 through 2011) public initiative such as this, a great deal of information and documentation was generated. The purpose of the following annotated file listing is to highlight a chronological pathway through selected documentation considered most relevant to items listed in the [ToR for the BC NDP Government's PRM review](#).

Given that the PRM is a simplistic, opinion-based approach, without any oversight or quality control, which does not place any burden of proof on QPs to objectively apply government regulations and guidelines, **WA:TER realized that they needed to do the work the QPs were effectively being paid not to do.** WA:TER took it upon themselves to protect the common public interest; which in this instance was valuable fish habitat associated with this part of the Fraser River watershed, as clearly outlined in BC's Riparian Areas Regulation.

The following is a listing of the attached selected documents, along with some words of explanation. Furthermore, this documentation underscores blatant disregard and negligence on the part of the professional associations to address serious public concern about their members' failure to correctly interpret fish habitat regulations designed to protect the public's interest; keeping in mind that the PRM handed the full responsibility for government regulation enforcement to QPs hired and controlled by the developers, without any oversight nor quality assurance process!

PRM observations

Arguably, there's evidence in some of the attached documents to suggest that the PRM is so well-designed to facilitate the blocking of environmental regulation, that it obliges QP's to endorse their employer's already well-established plans, or risk becoming unemployable in BC (QPs are part of a small community, where those who take their professional obligations too seriously could be swiftly and anonymously blacklisted by those employers who have control over the QP's information [reporting], in addition to the full responsibility/freedom to hire and fire them, apparently without pay too.) Put another way, those QP's willing to compromise their professional ethics in order to please their employer, are at a competitive advantage because of the retrogressive (anti-regulation) opportunities offered by the PRM.

Annotated listing of PDF documents for download from the following shareable link:

<https://drive.google.com/drive/folders/1MzDZq1FUgj2xST41zkbMOoxgrvYsBy4d>

1. **WTR01_RAR Assessment Report #1310.pdf** (date: Aug. 27, 2009)

As detailed on p. 2 of this document, Megan Beveridge ENV:EX, on behalf of Riparian Areas, has rubber-stamped RAR Assessment Report #1310:

"This report meets the reporting criteria of the Riparian Areas Regulation. The local government may proceed with their approvals."

As far as the QEPs were concerned, they had successfully completed their RAR assessment responsibilities. This project was now approved to go ahead in full, exactly as planned by their employer well in advance of the engagement of these QEPs (see Section 3 Site Plan, PDF pages 21-25).

In the BC Liberal Government's Professional Reliance Model (PRM) no evidence or proof supporting the QEP's opinions or decisions is required. Nor is there any independent quality assurance requisite. The QP's opinion is the final word, unless the proponent (developer) doesn't like the QP's opinion! The proponent can keep on searching for a QP who will provide a more favorable opinion, completely under the radar. How's that for deregulation, and conflict of interest?!

It is beyond inappropriate, that everything rests on the QP's "final word" opinion in the Professional Reliance Model (an unsubstantiated opinion, subject by current design to conflict of interest). This is no way to ensure enforcement of something as fundamentally important to the health of BC's environment as the RAR (fish habitat protection and enhancement).

2. **WTR02_Complaint-QEP ReportSC001 Oct 1 2009.pdf** (date: Oct. 1, 2009)

Initial complaint to the CAB Discipline Committee from Ed Dahl D.V.M. (Doctor of Veterinary Medicine), wildlife naturalist and member of the local citizen's group WA:TER.

"I request that the College of Applied Biology investigate the inadequacy of this QEP report (WTR01_RAR Assessment Report #1310.pdf). The site contains numerous old river channels, some with year round standing water, vegetative and soil characteristics of wetland, and a large stand of Black Cottonwood. The site is on wetlands in an active floodplain."

WA:TER was able to prove that the proposed shopping centre development site on the Salmon River delta was extensively inundated by the 1-in-5 year floodplain of both the Shuswap River and Shuswap Lake. In non-ravine landscapes such as Salmon River delta, the 1-in-5 year floodplain (surface connected waters) and an additional 30 m boundary (SPEA), is fish habitat by definition according to the Riparian Areas Regulation (RAR).

3. **WTR03_CofApplied BiolJan1110001.pdf** (date: Jan. 11, 2010)

[CAB Complaint File 09-01] Response to Ed Dahl's Oct. 1, 2009 complaint, delayed by more than 3 months. Relevant issues raised about the CAB's QEPs' failure to acknowledge an extensive active floodplain in their RAR Assessment report were ignored by the CAB Discipline Committee.

4. **WTR04_09-474_FINAL REPORT(4).pdf** (date: November 2009)

“Proposed Development at 2571 and 2971 10th Avenue SW, Salmon Arm, BC Environmental Assessment and Biophysical Review” (by Ecoscape Environmental Consultants Ltd., Kelowna) is a report paid for by donations from local citizens, and funds from Westcoast Environmental Law Association through the initiative of the local concerned citizen’s group WA:TER, to which the above complainant Ed Dahl D.V.M. belonged at the time.

“The Riparian Areas Regulation (RAR) Detailed Assessment Methods consider the active floodplain to ensure that the Streamside Protection and Enhancement Area (SPEA) starts at the edge of this feature; seasonally inundated channels are to be included in the active floodplain. Review of the RAR report (Stantec 2009 “WTR01_RAR Assessment Report #1310.pdf”), submitted on behalf of the Developer, indicates that riparian setbacks for the development have been based on the defined channel banks and have not included floodplain areas of the Salmon River. Considering the above indicators (rafted debris, alluvial deposits, and watermarks and silt deposits in tree bark), it is evident that the active Salmon River floodplain extends well beyond the defined channel bank throughout the cottonwood floodplain and low-lying flood channels. Therefore, in accordance with the RAR, the SPEA boundary should encompass these low lying areas and flood channels and be measured relative to the maximum extent of these features within the Property.”

5. **WTR05_CofApplied BiolJan1810001.pdf** (date: Jan. 18, 2010)

[CAB Complaint File 09-01] This is Ed Dahl’s update in response to the CAB’s delayed letter (**WTR03_CofApplied BiolJan1110001.pdf** above). Ed Dahl provides strong rationale for his request for continued help from the CAB with regard to the conduct of their Qualified Environmental Professionals (QEPs).

“City staff and Salmon Arm City Council stubbornly refuse to become involved as they claim they have no authority to do so. Obviously the City Council is not cooperating with MOE and DFO as required by the Riparian Areas Regulation to enforce the Regulation. Therefore the system breaks down, and no one takes the lead.

A local group of citizens has been formed (WA:TER) in Salmon Arm to address the dilemma caused by the breakdown in regard to the protection of the Salmon River hazardous floodplain/wetland complex where the development is proposed.

*MOE has recently announced that an independent reassessment of the proposed development site will be commissioned. I hardly think this would happen if MOE thought the QEP report for SmartCentres/Salmon Arm Shopping Centre (**WTR01_RAR Assessment Report #1310.pdf**) was correct, or not seriously flawed.*

I believe the College must be seen to protect the public interest in this issue and ensure the competence and professional conduct of its members.”

NOTE, in section 2.3 on p. 24 of the *Riparian Areas Regulation Implementation Guidebook, January, 2006* Local Government roles and responsibilities were summed up as follows:

“Local governments have responsibility for land use decisions which relate to the protection, conservation and enhancement of the environment within their jurisdictions. As such, local governments have the primary responsibility for implementing the Riparian Areas Regulation through their powers under the Local Government Act.

Chapter 4 in this guidebook outlines various implementation “tools” that local governments have at their disposal to apply the Regulation.”

6. **WTR06_Addendum to RAR #1257 & #1310 - May 21-2010.pdf** (date: May 21, 2010)

Note the following quote from subject QEPs covering letter, within this file, to MOE RAR specialist Andy Witt, where the QEPs say that neither they nor their client agree with the MOE’s interpretation of the RAR guidelines:

“Since the submission of our assessment report in August 2009, the Ministry of Environment has taken the position that the phrase ‘temporary, frequent or seasonal inundation’ in the definition of ‘active floodplain’ must include those areas inundated during a 1-in-5 year flood. While this is not our or our client’s interpretation of the Riparian Areas Regulation and the Assessment Methods, Salmon Arm Shopping Centres Ltd. has instructed us to prepare a Riparian Area Assessment Report following the Ministry of Environment’s interpretation of the boundaries of the ‘active floodplain.’ The enclosed amended report uses the 1-in-5 year flood elevation for defining the SPEA adjacent to both the Salmon River and Shuswap Lake.”

The QEPs attempt to deflect blame onto the Ministry of Environment’s technical definition of active floodplain. More importantly and conspicuously (to the advantage of their client’s development plans), these QEPs had entirely misinterpreted the extensive active floodplain of the Salmon River, by suggesting there was no active floodplain whatsoever associated with the Salmon River within their client’s project site (cf. WTR01_RAR Assessment Report #1310.pdf p. 5 of 30):

“Within the project site, the Salmon River is contained within well-defined banks and does not have alluvial deposits beyond the top-of-bank. Further, the development on this property will not encroach within 30 m of the HWM for the Salmon River.”

Additionally, the QEPs had failed in their 2009 assessment to correctly account for the full extent of the surface-connected High Water Mark (HWM) for Shuswap Lake (348.7 m above sea level) within the development property. Likewise, by ignoring flood channel topography they again failed in their 2010 (current document, final RAR assessment) to update or account for the full extent of the HWM of Shuswap Lake.

Furthermore, information dating back as far as December 2008 (six months before **WTR01_RAR Assessment Report #1310.pdf**) suggests that the local DFO Habitat Management Biologist, Bruce Runciman, was *“aware of low-lying areas on the subject properties that may be inundated during periods of high water and that DFO would expect a hydrological assessment – in support of the RAR assessment for these properties – to determine inundation frequency for these features and associated fish habitat protection requirements.”* Runciman went on to summarize

“that DFO generally considers seasonally inundated floodplain areas to be important fish habitat.”

Approximately one week after the submission of **WTR01_RAR Assessment Report #1310.pdf**, a freedom of Information request yielded the following September 2, 2009 message sent by Bruce Runciman to Alan Lee of SmartCentres (Salmon Arm Shopping Centre Ltd.) in Richmond, BC: *“The proposed fill placement on the SmartCentres development site in Salmon Arm remains an issue of concern for DFO in the absence of detailed geomorphic and hydrological studies that define the 1-5 year floodplain and a registered and approved RAR assessment report that defines the SPEAS and associated measures for the Salmon River, Hobbs Creek and Shuswap Lake.”*

Clearly, these QEPs felt that the PRM gave them and their client the power to ignore all active floodplain commentary and related fish habitat information requests from the federal government fish habitat specialist (RAR authority), Bruce Runciman (DFO). Please see “3.3 Hydrological assessment request ignored” in **WTR09_Complaint to CAB regarding QEP RAR Assessments Nov 23 2010.pdf** for more details.

The CAB Discipline Committee apparently did not have any issue with their QEPs ignoring advice and fish habitat information requests from the federal government’s local DFO Habitat Management Biologist either.

Also, please recall the widespread Salmon River active floodplain findings documented in **WTR04_09-474_FINAL REPORT(4).pdf**; dated November 2009 – at least six months in advance of **WTR06_Addendum to RAR #1257 & #1310 - May 21-2010.pdf**.

7. **WTR07_College of Applied Biol001 Final Decision.pdf** (date: June 16, 2010)
[CAB Complaint File 09-01] Response from the CAB to Ed Dahl’s request for more help from the CAB (see **WTR04_09-474_FINAL REPORT(4).pdf** above). The CAB has directed several important questions to their QEP’s, who in turn have provided their response as part of this “closing” letter to Ed Dahl.

Please note, the QEP’s response fails to acknowledge their failure in their first (acknowledged and accepted by MOE) assessment report to properly recognize fish habitat as clearly defined within the RAR. Their first report (**WTR01_RAR Assessment Report #1310.pdf**) would have been the FINAL report allowing this shopping centre to proceed according to its initial much larger 55 acre footprint, had it not been for intervention and complaints by Ed Dahl and the local citizen’s group WA:TER.

The CAB Discipline Committee appears oblivious and disinterested in the potentially destructive consequences of their QEPs’ earlier gross negligence or incompetence regarding floodplain and fish habitat interpretations (ethical breaches). The CAB Discipline Committee states their unflinching support for their QEPs as follows:

“The Committee notes there is no evidence of the work performed by the named College members being undertaken in a negligent or incompetent manner.”

Unapologetically and surreptitiously, the CAB Discipline Committee dismisses the original critical failure (**WTR01_RAR Assessment Report #1310.pdf**) of their QEPs to properly do their RAR assessment work:

“Further, the Committee notes that while there was a difference of professional opinion concerning elements germane to your complaint, the professionals involved are now working to ensure that the issues are addressed in an appropriate manner.

Therefore, after a full and careful consideration of the material contained in this file, it is the decision of the Discipline Committee that this complaint is dismissed and that the file be closed.”

The CAB Discipline Committee fails to acknowledge that the complaints were not based on “professional opinion,” rather, they were based on hard scientific evidence (proof). The only ones dwelling on unsupported professional opinion appear to be the QEPs and their affiliated CAB Discipline Committee.

In a revealing and bizarre aside, the QEPs suggest their professional standards sway according to the degree of perceived public scrutiny: *“When we were preparing the assessment report (**WTR06_Addendum to RAR #1257 & #1310 - May 21-2010.pdf**) it was understood that there would be a very high level of public scrutiny of our work. **As a result, a number of steps were implemented to ensure the work was conducted to a high professional standard.**”* (emphasis added)

The CAB’s unfailing support for these QEPs, indicates that it’s fine for their members to adjust their professional standards in accordance with the level of perceived public scrutiny!

Furthermore, in this (final decision) letter, the CAB Discipline Committee notified the complainant that effectively regardless of the complainant’s thoughts or reaction, they were closing the file. How’s that for tactfully dealing with their mandate to uphold and protect the public interest? <https://www.cab-bc.org/protecting-public>

8. **WTR08_CAB complaint cover letter Nov 23 2010.pdf** (date: Nov. 23, 2010)

This letter introduces a new detailed report addressing the substantial evidence of negligence, incompetence and/or unethical behaviour of the named QEPs, in a continued effort by WA:TER to get the CAB Discipline Committee to address their questionable, if not unethical support for these QEPs.

9. **WTR09_Complaint to CAB regarding QEP RAR Assessments Nov 23 2010.pdf** (date: Nov. 23, 2010)

[CAB Complaint File 09-01] cont.

This is the report which provides the substance for a substantial follow-up complaint to the CAB by others in the local citizen’s group WA:TER; suggesting the CAB Discipline Committee has not

addressed their QEPs' failure to follow RAR, to protect the public interest on behalf of the BC Government.

"Had there not been local citizen volunteer involvement surrounding the above Sept. 11, 2009 MOE acceptance of the seriously flawed RAR Assessment Report #1310, Salmon Arm Shopping Centre Ltd. would now be filling and building parking lots, roads, and retails stores on critical sensitive wetland and cottonwood forest habitat associated with Salmon River's and Shuswap Lake's 1-in-5 year floodplain (surface-connected flood water - fish habitat) on Salmon River delta. The habitat in question is some of the most at-risk and biologically diverse in BC's Southern Interior; which is yet another important reality disregarded by the named College members."

10. **WTR10_Dec 28 2010 response from CAB.pdf** (date: Dec. 28, 2010)

There is an obvious unwillingness on the part of the CAB Discipline Committee to acknowledge or deal with ethical breaches, even when the details of the unethical actions of their member QEPs are spelled out in detail.

Would it be unreasonable (at this point) to suggest that this letter from the CAB Discipline Committee confirms their singular interest in protecting their fee-paying member QEPs, and the apparent good reputation of their association, rather than the greater public interest? Again, conflict of interest is at work.

*"Self-regulation of any group is also a **conflict of interest**. If any organization, such as a corporation or government bureaucracy, is asked to eliminate unethical behavior within their own group, it may be in their interest in the short run to eliminate the appearance of unethical behavior, rather than the behavior itself, by keeping any ethical breaches hidden, instead of exposing and correcting them. An exception occurs when the ethical breach is already known by the public. In that case, it could be in the group's interest to end the ethical problem to which the public has knowledge, but keep remaining breaches hidden."*

Copied from: https://en.wikipedia.org/wiki/Conflict_of_interest (accessed Dec. 2, 2017)

11. **WTR11_Response letter to CAB Feb 18 2011.pdf** (date: Feb. 18, 2011)

This final letter, in reaction to the above "**WTR10_Dec 28 2010 response from CAB.pdf**" letter from the CAB Discipline Committee, effectively lets them know that WA:TER (the public interest) has lost confidence in their capacity or willingness to provide meaningful help. Needless to say, the CAB Discipline Committee did not respond to this letter.

Although there were still some major unresolved problems and oversights with regard to the Riparian Areas Regulation in the QEPs' "**WTR06_Addendum to RAR #1257 & #1310 - May 21-2010.pdf**" final assessment report, WAT:ER agreed to heed a recommendation from the MOE, to leave well enough alone; to presumably accept the remaining unresolved RAR conflicts as a concession or compromise for some gains made.

Additional supporting information:

The following two videos provide some visual context and background for this particular PRM debacle.

- 1) <https://youtu.be/DKIEp-qIrkQ> **“SmartCentres vs. Salmon River Delta Conflict July 20 2010”** (6:34)
- 2) <https://youtu.be/D6327sf-lyo> **“Salmon R Delta floodplain update 2011”** (6:33)

This WCEL article from March 2013 includes reference to WA:TER’s initiative in Salmon Arm:
<https://www.wcel.org/blog/privatizing-salmon-protection-failure-riparian-areas-regulation> **“Privatizing Salmon Protection: The Failure of the Riparian Areas Regulation”**

The following summary article on the PRM by WAT:ER’s President, Dr. R. Warren Bell, was published in the Association of Professional Biology’s magazine **BioNews**: <https://professionalbiology.com/wp-content/uploads/2016/10/BioNews22-2-electronic.pdf> **“Why the Professional Reliance Model is Doomed to Fail”** (cf. p.10-12)

An additional article from April 2014 by WAT:ER’s Dr. R. Warren Bell on the failings of the PRM:
<https://www.vancouverobserver.com/politics/commentary/bc-ombudsperson-slams-province-environmental-protection?page=0,0> **“BC Ombudsperson slams province on environmental protection”**

Additionally, there is the summary report “Professional-Reliance-and-Environmental-Regulation-in-BC_2015Feb9.pdf” from the Environmental Law Centre at the U of Victoria:
http://www.elc.uvic.ca/wordpress/wp-content/uploads/2015/02/Professional-Reliance-and-Environmental-Regulation-in-BC_2015Feb9.pdf **“Professional Reliance and Environmental Regulation in British Columbia”**