

Sent: April-23-10 9:51 AM
To: Living Water Smart ENV:EX
Subject: Water Act Modernization Discussion Paper Feedback

Below is the result of your feedback form. It was submitted by
() on 2010 04 23, at 09:51:27

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ContactMethod: Email

Goal1_Support: Support

Goal1_Comments: Stream health is an important consideration in the water licensing process. However, it isn't the only consideration and must be assessed in conjunction with social and economic factors. Overly conservative water license decisions, unclear assessment methods and inconsistent outcomes between applicants reduces confidence in the process and hinders developers and investors.

Stream health should be protected but not on a standard rule basis or requiring prohibitively expensive studies on a watershed basis. Some sectors or activities, such as run-of-river energy are by their nature located in riparian areas and are required to more than compensate for riparian or fish habitat impacts by the Department of Fisheries and Oceans. Setting more stringent requirements provincially would preclude the development of this industry which already has a low footprint and stringent requirements for riparian/habitat replacement and enhancement.

EnviroFlow: Guidelines

EnviroFlow_Comments: Setting a standard approach would likely not recognize the differing values and conditions between streams; two example applications, with very differing conditions might be 1) a non-consumptive use on a non-fish bearing mountain stream with a flashy hydrograph, compared to, 2) a consumptive use from a large low gradient river system. Guidelines would allow flexibility to be maintained in order to achieve the most beneficial use of the water resource under consideration. Run-of-river hydro licences already must meet stringent assessment guidelines and obtain Ecologo certification to address stream health. A flexible system should be maintained in order to make the most beneficial use of the resource.

WaterAllocationPlan: Optional

DecisionMaker_Comments: Rigidity in requiring plans or requiring they be followed does not allow any flexibility for decisions based on site specific conditions, changing circumstances or scientifically justified rational. Water allocation plans are often extensive, expensive and time consuming - it is unrealistic at any time - recessions or otherwise - to require the development of such plans, and if they are actually produced after long and painful consultations, the decision maker must still have flexibility in considering the plan.

WaterAllocationPlan_Conditions: This should best be answered by experienced water managers and not the public who would not really know. Suggestions might be where there are already multiple licences and pressure for more water use on a particular river or stream, in urban areas or heavily irrigated areas. For run-of-river energy, the presence of applications alone would not be enough to require a plan, there should be some criteria in place about when a plan could be considered. Some combination of existing consumptive use beyond a certain threshold on a stream, and water scarcity pressures in that stream would make sense.

DumpingProhibition: Maintain

DumpingProhibition_Comments: No further comments on this.

Goal2_Support: Support

Goal2_Comments: If this reflects the existing situation, it is supported. However, if a stronger role in decision making is envisaged, this should be described in more detail. Requiring agreement of all these parties would result in gridlock and few or no decisions made. In reality, there will likely be all three, however, it is important the Province maintain its overall responsibility - watershed authorities may make sense in some jurisdictions (e.g. the Okanagan), but for the run-of-river industry, a strong central decision making authority in the Province appears to be necessary to avoid inconsistent treatment and still achieve Energy Plan objectives.

Goal2_Options: Centralized

Goal3_Support: Support

WaterUseEfficiency_1: Government determines actual needs

WaterUseEfficiency_2: Use of incentives and economic instruments

WaterUseEfficiency_Comments: In reality, it may be a combination of all of the practices, not an either/or situation. In some sectors it may be appropriate to develop codes of practice, however, some flexibility in compliance is always necessary to account for site specific conditions. Incentives and economic instruments are a part of other Acts and have been used effectively. Rules for apportionment should definitely be reviewed to improve flexibility.

AdminEfficiencyOptions_PermittedUse: Permitted use consistent

AdminEfficiencyOptions_SelfReg: Voluntary self-registration

AdministrativeEfficiency_Comments: If regulations are set appropriately, there can be flexibility built into the Regional Manager's powers - to allow for some different situations (most of which can't be foreseen). Setting a requirement for registration then puts the onus on the Province to enforce it, which is not realistic at any time, given the number of water licences.

PermittedUseConsiderations: In terms of electricity, the suggestion is any power supply at 1 Mw or less, would be allowed for water power purpose. This would allow for micro hydro use in remote areas.

AdminEfficiencyOptions_WaterUse: Document impacts

AdminEfficiencyWaterUse_Comments: Each one of these options has pros and cons depending on the situation and no hard and fast legislated rules should be applied. The suggestion is that these could apply where there is heavy use and additional demand for water use on a watershed. In the case of run-of-river power, measuring and reporting actual water use is already required under the licence, and potential environmental impacts and effects on other users in licence applications or changes is already required by WSD.

Flexibility_Support: Support

Flexibility_Comments: The ability of the Comptroller to change licence conditions for run of river power producers, e.g. based on monitoring results, is already a part of the water licence.

WaterAllocationSystem_Options: FITFIR

WaterAllocationSystem_Comments: A modified FITFIR approach should reflect the situation in BC, where opportunities for development of waterpower resources is meted out by periodic, but not regular, calls for electricity so power producers must be able to hold applications for long periods of time before they may be developed. A reasonable effort to investigate the resource should accompany the ability to hold applications. And second-in-line applicants should not be accepted unless the first in line applicant is in default of any government progress or application maintenance requirements.

WaterScarcityTemporary_Options: Priority date

WaterScarcityTemporary_Comments: Actual water use should be reviewed in cases of scarcity. It may be that a FITFIR user is not utilizing the licence, as the licences are generally issued in perpetuity.

WaterScarcityPermanent_Comments: It should be the existing water licencees that develop the plan, with input from interested parties. Otherwise, so many broader issues come into play that it is difficult to develop a plan among those with existing allocated rights.

Goal4_Support: Neutral

Goal4_Comments: This may be warranted in some areas, however, large withdrawals are already subject to BC Environmental Assessment Act and Canadian Environmental Assessment Act scrutiny and defacto regulation as a result of requirements set by agencies in those processes

Thresholds_Options: 250+100

Thresholds_Comments: Requesting general public comment on this seems counterproductive as most people will not have any concept of what these proposals mean. The suggestion here is to consult with larger users to obtain a more suitable threshold, and harmonize with the BC Environmental Assessment Act threshold and the Canadian Environmental Assessment Act thresholds.

PriorityAreas_Options: Known areas of concern

PriorityAreas_Comments: The government will have enough to do with focussing on areas of known concern for groundwater. These areas are also likely to be known concerns for surface water but should not be linked in legislation due to the unintended regulatory burden this could cause.

FedAndProvLegIntegration: Harmonizing the Water Act requirements with Land Act requirements, Electricity Purchase Agreement maximum terms, and BC Utilities Commission approved maximum terms - the current interpretation of a 40 year licence in the Water Act is not the interpretation of these other agencies. The Water Act should specify that beneficial use of the water for power purposes commences at the official Commercial Operation Date which all other agencies approve at 40 years, not including the period up to completion of construction. IPPBC has separate submission on this issue.

Water rentals - while water rentals are set by regulation, the formula for rate increases is not integrated with Electricity Purchase Agreement's formula for rate increases. IPPBC has a separate submission on this issue.

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Stephen|Kukucha|Atla Energy|1806 - 1111 West Georgia Street|Vancouver|B.C.|V6E 4M3|skukucha@atlaenergy.com|[Email](mailto:skukucha@atlaenergy.com)|[Support](#)|[Stream](#) health is an important consideration in the water licensing process. However, it isn't the only consideration and must be assessed in conjunction with social and economic factors. Overly conservative water license decisions, unclear assessment methods and inconsistent outcomes between applicants reduces confidence in the process and hinders developers and investors.

Stream health should be protected but not on a standard rule basis or requiring prohibitively expensive studies on a watershed basis. Some sectors or activities, such as run-of-river energy are by their nature located in riparian areas and are required to more than compensate for riparian or fish habitat impacts by the Department of Fisheries and Oceans. Setting more stringent requirements provincially would preclude the development of this industry which already has a low footprint and stringent requirements for riparian/habitat replacement and enhancement.

[Guidelines]Setting a standard approach would likely not recognize the [Guidelines]differing values and conditions between streams; two example [Guidelines]applications, with very differing conditions might be 1) a [Guidelines]non-consumptive use on a non-fish bearing mountain stream [Guidelines]with a flashy hydrograph, compared to, 2) a consumptive use [Guidelines]from a large low gradient river system. Guidelines would [Guidelines]allow flexibility to be maintained in order to achieve the [Guidelines]most beneficial use of the water resource under [Guidelines]consideration. Run-of-river hydro licences already must meet [Guidelines]stringent assessment guidelines and obtain Ecologo [Guidelines]certification to address stream health. A flexible system [Guidelines]should be maintained in order to make the most beneficial [Guidelines]use of the resource.[Optional]Rigidity in requiring plans or [Guidelines]requiring they be followed does not allow any flexibility [Guidelines]for decisions based on site specific conditions, changing [Guidelines]circumstances or scientifically justified rational. Water [Guidelines]allocation plans are often extensive, expensive and t [ime consuming - it is unrealistic at any time - recessions or otherwise - to require the development of such plans, and if they are actually produced after long and painful consultations, the decision maker must still have flexibility in considering the plan.[This should best be answered by experienced water managers and not the public who would not really know. Suggestions might be where there are already multiple licences and pressure for more water use on a particular river or stream, in urban areas or heavily irrigated areas. For run-of-river energy, the presence of applications alone would not be enough to require a plan, there should be some criteria in place about when a plan could be considered. Some combination of existing consumptive use beyond a certain threshold on a stream, and water scarcity pressures in that stream would make sense. |Maintain|No further comments on this.|Support|If this reflects the existing situation, it is supported. However, if a stronger role in decision making is envisaged, this should be described in more detail. Requiring agreement of all these parties would result in gridlock and few or no decisions made. In reality, there will likely be all three, however, it is important the Province maintain its overall responsibility - watershed authorities may make sense in some jurisdictions (e.g. the Okanagan), but for the run-of-river industry, a strong central decision making authority in the Province appears to be necessary to avoid inconsistent treatment and still achieve Energy Plan objectives.[Centralized]Support|Government determines actual needs|Use of incentives and economic instruments|In reality, it may be a combination of all of the practices, not an either/or situation. In some sectors it may be appropriate to develop codes of practice, however, some flexibility in compliance is always necessary to account for site specific conditions. Incentives and economic instruments are a part of other Acts and have been used effectively. Rules for apportionment should definitely be reviewed to improve flexibility.|Permitted use consistent|Voluntary self-registration|If regulations are set appropriately, there can be flexibility built into the Regional Manager's powers - to allow for some different situations (most of which can't be foreseen). Setting a requirement for registration then puts the onus on the Province to enforce it, which is not realistic at any time, given the number of water licences.|In terms of electricity, the suggestion is any power supply at 1 Mw or less, would be allowed for water power purpose. This would allow for micro hydro use in remote areas.|Document impacts|Each one of these options has pros and cons depending on the situation and no hard and fast legislated rules should be applied. The suggestion is that these could apply where there is heavy use and additional demand for water use on a watershed. In the case of run-of-river power, measuring and reporting actual water use is already required under the licence, and potential environmental impacts and effects on other users in licence applications or changes is already required by WSD.|Support|The ability of the Comptroller to change licence conditions for run of river power producers, e.g. based on monitoring results, is already a part of the water licence.|FITFIR|A modified FITFIR approach should reflect the situation in BC, where opportunities for development of waterpower resources is meted out by periodic, but not regular, calls for electricity so power producers must be able to hold applications for long periods of time before they may be developed. A reasonable effort to investigate the resource should accompany the ability to hold applications. And second-in-line applicants should not be accepted unless the first in line applicant is in default of any government progress or application maintenance requirements.|Priority date|Actual water use should be reviewed in cases of scarcity. It may be that a FITFIR user is not utilizing the licence, as the licences are generally issued in perpetuity.|It should be the existing water licencees that develop the plan, with input from interested parties. Otherwise, so many broader issues come into play that it is difficult to develop a plan among those with existing allocated rights.|Neutral|This may be warranted in some areas, however, large withdrawals are already subject to BC Environmental Assessment Act and Canadian Environmental Assessment Act scrutiny and defacto regulation as a result of requirements set by agencies in those processes|250+100|Requesting general public comment on this seems counterproductive as most people will not have any concept of what these proposals mean. The suggestion here is to consult with larger users to obtain a more suitable threshold, and harmonize with the BC Environmental Assessment Act threshold and the Canadian Environmental Assessment Act thresholds.|Known areas of concern|The government will have enough to do with focussing on areas of known concern for groundwater. These areas are also likely to be known concerns for surface water but should not be linked in legislation due to the unintended regulatory burden this could cause.|Harmonizing the Water Act requirements with Land Act requirements, Electricity Purchase Agreement maximum terms, and BC Utilities Commission approved maximum terms - the current interpretation of a 40 year licence in the Water Act is not the interpretation of these other agencies. The Water Act should specify that beneficial use of the water for power purposes commences at the official Commercial Operation Date which all other agencies approve at 40 years, not including the period up to completion of construction. IPPBC has separate submission on this issue. Water rentals - while water rentals are set by regulation, the formula for rate increases is not integrated with Electricity Purchase Agreement's formula for rate increases. IPPBC has a separate submission on this issue.

