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To: Slater.MLA, John LASS:EX

Cc: Minister, ENV ENV:EX; Living Water Smart ENV:EX; Kriwoken, Lynn ENV:EX; White, Ted T ENV:EX; Roe, Sandra AL:EX; Minister, AGRI AGRI:EX

Subject: Water Act Consultations

John Slater
MLA Okanagan-Similkameen
Parliamentary Secretary for Water Stewardship

Attached please find the BC Agriculture Council submission in response to the policy proposals concerning the proposed new *Water Sustainability Act*. Thank you for your consideration of this input.

Sincerely,

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BC Agriculture Council

DRAFT Response to the Policy Proposal on BC's New Water Sustainability Act

The WAM Consultation Process:

The BCAC and its members have been appreciative of the consideration that agriculture has received in the *Water Act* Modernization consultation process. The Ministry of Environment (MoE) has responded to our requests to have the opportunity to make follow-up input, and agreed to hold a separate consultation meeting to discuss agricultural issues on January 31st 2011 and the process overall has been very positive. We would, however, like to stress a caution with respect to the input received through the consultation process.

The BCAC can fully appreciate MoE's efforts to solicit feedback and advice from British Columbians to its Water Sustainability Act through the Living Water Smart blog, but we have concerns regarding the on-line "conversation." There is no way of providing any accountability for the input received and, overall, the responses will not be a fair representation of the views and opinions of the BC population. Your responses will be skewed significantly towards the views of younger people in urban areas. Much of the BC rural population still do not have broadband access and are therefore much less likely to use an on-line blog process. Farmers, with an average age of well over 50 years old, are obviously more likely to live in rural areas and are less likely to have the time to navigate through an on-line blog than the general population. Despite the fact that there is more at stake for the farming community as a result of this process than for any other segment of BC society, actively participating in a blog conversation is simply something that many farmers will not do.

The interpretation of comments and input received through the Living Water Smart blog must therefore consider the major limitations and built-in bias of the process. The BCAC is not suggesting that the input received is of no value – as there are many thoughtful and insightful comments provided – but extreme caution must be taken in putting too much stock in the input overall.

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Conversely, the development of consensus positions to present the tremendously diverse needs of farmers and ranchers from different regions of the province, as is reflected in the submissions of the BCAC and its member associations, needs to be given more credence and weight in the development of MoE's new legislation and related policies.

The last point BCAC would like to make with respect to process is the concern that it is very difficult to gauge the full implications for agriculture of the proposed Water Sustainability Act without seeing the finer detail of what is being proposed in the legislation. There needs to be some form of follow-up before new legislation is introduced. At the very least, MoE should consider holding targeted sector meetings, which would include a comprehensive and detailed agriculture session, to present the further details of what is being proposed – with the objective of seeking additional substantive input that will help fine-tune the legislation.

A New Water Sustainability Act: BCAC response to the Framework¹

On behalf of farmers and ranchers from across the province, the BC Agriculture Council cannot overstate the importance of having a safe, secure, affordable and adequate water supply for crop and livestock production on agricultural lands across the province. Simply stated – water is an essential element for agriculture and food production, and access to water for agriculture must be a fundamental priority in the Water Sustainability Act. This is fully consistent with government's "shift in the natural resource sector to an area-based model and a more integrated approach for natural resource management." The major shortcoming, however, is that agriculture and food production do not yet appear to be integrated into this model – despite the reality that the preservation of agricultural land for future generations through the *Agricultural Land Commission Act* has been a cornerstone provincial government policy since the 1970's.

In fact, water is so critical for agriculture and food production, that the new legislation should be titled the *Water and Food Sustainability Act*. While the BCAC appreciates that this is not likely to occur, the notion is actually quite logical. Agriculture and food have, in recent times, been taken for granted in Canada – but with a global population forecast to rise to 7 billion with the turn of 2011-12 and to 9 billion by 2050, this will change – and very soon. The ever-growing world population and the ever-increasing importance of being able to adapt to changing weather patterns and a changing climate means that the water and agriculture interconnection will become more and more important in the very near future. Irrigation development is a critical component of establishing a more secure food supply.

It was stated numerous times throughout the WAM consultation process that it is government's intent to build the right model for the next 30 years, even if all of the resources are not available immediately, because the opportunity to change legislation such as this may not present itself again for many years. It will quite simply be much too late to build in the water-agriculture-food interconnection in 30 years,

¹ Policy Proposal on British Columbia's new Water Sustainability Act, http://www.livingwatersmart.ca/water-act/docs/wam_wsa-policy-proposal.pdf

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or even 10 years. It must, therefore, be a priority for inclusion in the new Water Sustainability Act. BC has a societal and indeed global responsibility to ensure that the productive capacity of its very limited agricultural land is not lost, which will happen without ready and secure access to water for agriculture.

A new Water Sustainability Act: BCAC Response to Policy Directions

1. Protect Stream Health and Aquatic Environments

The BCAC agrees in principle with this policy direction as protecting instream flows is important for agriculture and all water users. Considerable more discussion and work will, however, be necessary to develop details of this policy direction. As the *Fish Protection Act* already provides legislative authority to consider impacts on fish and fish habitat before approving new water licenses and amendments to licenses, the new Act must fully consider the needs of agricultural users to provide for a more balanced decision-making process.

Instream flows should be defined as the lesser of natural flow and conservation flow, such that flows are not artificially enhanced in unavoidable drought conditions or regardless of the impacts of climate change. Natural instream flows can be determined by data, modeling, and formulas, requiring data and staff resources and time to understand and assess individual river systems.

Considerable infrastructure has been developed to improve agricultural production through irrigation, but agriculture should not have to artificially augment stream flows to sustain, maintain or improve fish habitat if that stream does not normally flow during certain times. In the event that agricultural water is used to enhance fish habitat and water flow during critical times, compensation needs to be provided to producers for the full value of the loss of production associated with the limited access to water.

There are also opportunities for government to work with the agriculture sector to further develop water storage systems and infrastructure in order to enhance both fish habitat and instream flows and improve agricultural irrigation capacity. Investments in water infrastructure by the BC government can achieve long term positive economic and environmental improvements, and is long overdue. Currently, under BC Ministry of Community, Sport and Cultural Development policy, irrigation improvement districts are ineligible for infrastructural funding (grants or loans) and thereby are prevented from accessing provincial and federal funds and programs for development of storage and water systems – both irrigation and domestic! It is important that the Province address policy objectives across all BC ministries to achieve a harmonious and productive result.

2. Consider Water in Land-Use Decisions

This policy direction should be broader, to read “*Recognize Land and Water Interdependency*”. Within this context, the BCAC supports the notion of establishing Provincial Water Objectives (PWOs), one of which must be to establish water as a priority use for agriculture and food production on agricultural land – which is clearly in the societal interest and would support the intent of the Provincial Agriculture

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Land Reserve that farming is the prime use and all that farmers can do is farm on Agricultural lands in British Columbia.

Taking a more holistic land/water approach will help to solve inter-sectoral water conflicts and recognize that the water used in agriculture will be part of a natural water cycle to a much higher degree than water used for many if not all other purposes. Properly developed irrigation systems can help improve and lead to better positive economic results for agriculture and rural communities, and also long-term environmental improvements. More productive agricultural land, if managed properly, will lead to higher soil organic matter, reduced erosion, improved nutrient management and, most importantly for MoE, improved drought preparedness and mitigation.

There will need to be provision for recognizing direct and in-stream access for livestock watering in the framework, as contemplated the Ranching Task Force report, “WAM needs to secure access to water that will meet the needs of livestock on range and private land”, as well as “develop regulations under the Water Act that facilitate off-stream livestock watering and help secure stream health”. The Province needs to recognize the need for livestock producers to have access to historic volumes of water and to allow cattle access to water in-stream on crown range and private lands. While initiatives are underway to develop “off stream” watering troughs in some locations, it must be recognized that in many areas, particularly on cattle ranges, this is not feasible or even desirable from a stream health perspective.

3. Regulate Groundwater Use

The BCAC is supportive of regulating groundwater on a regional or water shed basis, but not on a province-wide basis. We also have concerns with the notion that the new Act would consider wells that draw water at the rate of 500 cubic meters per day as ‘large’ water use. A more appropriate figure for large water use within agriculture should be considered – and it should not include average sized farms. The determination of what constitutes a large water user should consider what the water is used for, and withdrawals used for agriculture and food production should be considered in a different way than withdrawals used for industrial use, golf courses, residential, etc.

As this will be a huge undertaking for the province, with limited benefit in some areas, the regulation of groundwater should focus on problem areas where sustainability may be at risk. Existing agriculture wells should be exempted or “grand-fathered” into the new legislation and a FITFIR-type system similar to surface water should be established for volume and date of right. BCAC also supports the inclusion of an option to see a transfer of an existing surface license to a groundwater license.

4. Regulate During Scarcity

The discussion in this section fails to address how the hierarchy of importance of water users will be determined and how the respective minimum drought allotments will be established. It is suggested that the suspension of FITFIR rights would be contemplated in favour of “high importance water uses

such as municipal water supplies”, but this requires considerable more clarification and consultation, and must consider the extraordinary conservation programs and efficiency gains already in progress in many agricultural sectors and regions. Recent studies by the OBWB showed that in the Okanagan, while 86% of the water used by humans is for outdoor purposes, of this, now only 55% is used by agriculture and fully 24% was domestic outdoor use and a further 5% for golf courses and 2% for parks and open spaces. Domestic (“municipal”) per capita water usage in BC is 50% higher than the Canadian average, with the Okanagan domestic user using more than 300% of that average. An effective drought strategy needs to be developed to determine the appropriate actions to be taken during a drought. A List of Priorities needs to be included, with agriculture water being a high priority.

Agriculture should not have to artificially augment stream flows to sustain, maintain or improve fish habitat during times of scarcity in streams that do not normally flow during certain times of the year. It is also critical that a watershed approach be put in place to develop the required infrastructure that can mitigate water scarcity situations during times of drought.

5. Improve Security, Water Use Efficiency and Conservation

5.1. Economic Instruments

There are significant concerns within the agriculture sector with respect to a water market or the trading of water rights as outlined in the Policy Proposal document. Few, if any, agriculture sectors could afford a substantial increase in water rates – and the instruments proposed or considered would appear to lead to higher rates, which is of significant concern. If economic instruments that go beyond the trading of water licenses within the agriculture sector are still being contemplated, the BCAC would insist that there be further discussions that would include full disclosure of detailed plans of MoE’s proposals. The BCAC would not accept the transfer of agriculture-based water licenses to non-agriculture uses.

The most important economic instrument that can be put in place, and which would be fully supported, are financial incentives for agricultural water users to not only encourage water conservation (see details in section 5.2), but also to assist with the development of further water storage that can ultimately improve instream flows and enhance aquatic habitats – while also benefiting farmers and ranchers.

5.2. Best Management Practices, Efficiency and Beneficial Use

The BCAC supports the concept of best management practices, efficiency and beneficial use, but would caution MoE to not develop a new system that duplicates, or potentially works at cross purposes to, the efforts already underway. Many programs are already in place to encourage efficient water management and riparian care on agricultural land. The BC Cattlemen’s Association Farmland Riparian Interface Stewardship Program assists ranchers in protecting and enhancing water quality and riparian habitats and the Environmental Farm Plan and Best Management

Practices program available to all BC farmers and ranchers has had a huge positive impact on water sustainability in BC. Stream health and the protection of aquatic environments has been a major focus of the EFP/BMP program – and buffer zones, erosion control, riparian area management and enhancing wildlife habitat are just some of the examples of work that has been undertaken over the years (see Appendix A).

Such initiatives are the single most effective way for government to meet its objectives under the Water Sustainability Act and, at the same time, improving agricultural productivity. It is imperative that MoE provide direct financial support towards the EFP program, as the objectives of the program are fully consistent with the Ministry's goals of protecting stream health and aquatic environments. The BCAC would be pleased to facilitate a separate meeting with MoE work out the details of how the initiative could be further improved to meet MoE's needs.

Any licenses allocations clawed back under beneficial use clause must be available only for agriculture purposes or, if established, placed in Agricultural Water Reserve.

5.3. Agricultural Water Reserves

The notion of Agricultural Water Reserves is certainly supported by the agricultural community, provided that effective means are developed to ensure that water remains available and is not alienated from the land and future agricultural production. While there is a commitment to use economic instruments to help producers achieve a higher return “on their water use efficiency investments or their existing storage infrastructure” it is not at all clear how this would be facilitated. The paper provides few explanations as to how the Agriculture Water Reserve is reconciled with other policy objectives where interests may conflict.

Successful development of an Agriculture Water Reserve is a function of consultation, data collection, modeling agricultural water demands and considering climate change impacts to ensure sufficient water allocations to any Agriculture Water Reserves. This will require a significant amount of consultation, which should directly involve both the agriculture sector through organizations such as the BCAC, as well as the Ministry of Agriculture.

6. Measure and Report

The BCAC certainly supports the notion that you cannot effectively manage a resource such as water (for inflows, aquifer recharge, surface water diversions, retention and storage, and all types of water usage) without some form of measurement of how much is being used – particularly during times of drought or severe scarcity. We would stress, however, that water meters are not necessarily the only method of measuring extraction or water usage. The amount of water used should be determined using alternative measurement methods, such as usage per acre feet, which is information already obtainable.

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Producers are concerned that requirements for measuring and reporting water is being implemented with the purpose of reducing the amount of water allocated to agriculture water licenses. Development of water plans and Agriculture Water Reserves (Section 5.3) and establishing agriculture as a priority use in legislation will create more certainty and reduce the resistance of producers to measuring.

The BCAC has major concerns with the statement that, “Reporting will provide the data to support adjustment of license volumes to give water savings back to the stream...”, which implies that allocations will be cut back if they are not fully utilized. Water licenses must provide an adequate supply during drought years – and will not necessarily use their full allocation in normal conditions.

7. Enable a Range of Governance Approaches

The BCAC supports the recognition that water resource management is complex and that there is no one-size-fits-all policy solution to improving water allocations and management. Establishing a range of Governance Approaches will allow areas with potentially severe water shortages to develop their own solutions regarding drought management, water sharing agreements, etc. which we strongly support. Agriculture sector representation through established farm organizations on all of these processes is imperative.

It is, however, critical to have further clarification on who will be in charge of developing regional solutions. Even in the Okanagan, which has the only regional water authority (Okanagan Basin Water Board) currently in place, has issues of governance, including authority, accountability, representation, appointment, costs and resources, and sharing or delegation of authority by MOE which are not addressed in this Policy and will take time and extensive consultation to sort out.

While the BCAC supports the enabling of collaboration on developing regional Watershed Sustainability Plans, we are concerned that adequate resources and structures may not be available for the agricultural community to effectively participate.

Concluding Comments

As already indicated, it is very difficult to gauge the full implications of the proposed Water Sustainability Act for BC’s diverse agriculture sector without seeing the finer detail of what is being proposed in the legislation. There needs to be some form of follow-up before new legislation is introduced. At the very least, MoE should consider holding targeted sector meetings, which would include a comprehensive and detailed agriculture session, to present the further details of what is being proposed – with the objective of seeking additional substantive input that will help fine-tune the legislation.

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Appendix A: Summary of EFP/BMP Program on initiatives intended to improve water management in British Columbia.

Total Environmental Farm Plans in BC:	3279
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Supplemental Plans	BMP Category	Number of Projects Completed	Funding Paid ²
Nutrient Management Plans	Nutrient Management Planning	63	\$60,455.52
Water Management Plans	Water Management Planning	13	\$10,595.78
Riparian Health Assessments/Management Plans	Riparian Health Assessment /Riparian Management Plan	36	\$28,046.94
TOTAL		112	\$99,098.24

Environmental Aspect of BMP's	BMP Category	Number of Projects Completed	Funding Paid
Water Management	Irrigation Management	637	\$3,334,575.76
Riparian Management	Riparian Area Management	281	\$1,783,770.66
Nutrient Management	Improved Manure Storage & Handling	188	\$3,203,699.24
	Manure Land Application	16	\$81,231.57
	Farmyard Runoff Control	79	\$810,748.65
TOTAL		1201	\$9,214,025.88

² The “Funding Paid” column does not include the direct contributions of farmers and ranchers, so is only a fraction of the total investments in these areas.