Living Water Smart ENV:EX

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Sent: April-30-10 6:27 AM
To: Living Water Smart ENV:EX
Subject: WAM InputA
Attachments: BCWF WAM Input.pdf

Attached is the BCWF input to the Water Act Moderization consultation

B.C.Wildlife Federation

RE: WATER ACT MODERNIZATION – COMMENTS ON DISCUSSION PAPER

INTRODUCTION:

The B.C.Wildlife Federation has long held concerns about the present Water Act. We welcomed, therefore the announcement that government was considering modernizing the act to enable it to serve the needs of the citizens of the Province for the future.

Unfortunately it would appear that the modernization of the Act is simply nothing more than cosmetic tinkering with the present act and will serve very little in ensuring the future of water supplies in the province.

Federation members are much more familiar with the on the ground application of the present act and are more than aware of its shortcomings. We see nothing in these suggested changes that addresses the basic flaws that make up the present act.

We cannot emphasize enough the reality that there was much consultation and time dedicated (wasted) by many participants espousing diverse water requirements and priorities and a common theme emerged across the working groups.

The people were telling them (the bureaucrats) that "these are the flaws" and "these are the solutions. The message was clear yet government continues to dilute the impact of the process solutions by cherry picking as we see it.

For example water is governed in the province by 21 differing acts both Federal and Provincial as well as local government regulations. Often these acts are in conflict with each other. Several ministries and divisions of ministries are often at odds in their approach to the management of water. The Ministry of Environment on one hand is seeking clean water for fish and wildlife while another division of the same ministry is seeking to dump

poisons into waterways in the mistaken belief that diffusion will solve the toxicity.

The Federation believes that the time has come for a Water Act that is a true Environmental Act rather than a toothless allocation process that depends on other legislation to control the ecological functions of the watersheds of the Province.

A dominant environmental act would ensure that watersheds are recognized for their essential contribution to human wellbeing. A new Act would recognize that water supply consists of more than streams. Wetlands, Bogs and Lakes also need ecological protection and this discussion paper and process is silent on that.

A new Act would ensure cumulative withdrawals from streams in the Province would maintain minimum annual discharges as a base and licensing would be suspended once those thresholds are reached. It would ensure cumulative measuring would mean streams could no longer be used as sewers by industry and municipal government. It's a telling failure of government's ability to protect waterways when 3% of the Fraser River's Low Flows are licensed pulp mill effluent.

A new Act would replace the present day Environmental Assessment Act that is reactive in nature and does not ensure the necessary protections for waterways and their dependent flora and fauna. The new act should also require the measurement of downstream effects from development. No one considered the effects of the Peace River Dams on the Mackenzie Delta and harm was caused.

Members of our organization attended several of the information sessions throughout the province. They had a variety of opinions on the process itself but welcomed the opportunity to be involved. The following is a compilation of their suggestions.

THE PROCESS:

Principles:

- The Act should contain an overarching principle that defines and protects watershed integrity and maintains the integrity of watercourse/aquatic and terrestrial ecosystems.
- Allocation decisions must recognize cumulative effects in and need to be addressed using the precautionary principle.

- Penalties must address present and future impacts on ecosystems.

Goal One: - Protect Stream Health

- Provision of environmental flows for ecosystems and species must be recognized in legislation.
- Agree that both assessment methods to determine stream flows should be used pending perceived risk to stream health – standard setting for low risk withdrawals and detailed assessments for higher risk applications.
- Guidelines vs Standards for decision-makers – favour standards for greater certainty, but recognize that timeliness and flexibility offered by some discretionary power may be beneficial in some circumstances; with a more decentralized governance model, it may be feasible to have provincial-level standards and more local-level guidelines in place to guide decision making.
- Water allocation planning at the watershed level should be required for priority areas based on criteria related to restricted supply, growing demand, user conflicts, drought prone regions, etc. Plan development should be a collaborative approach with community stakeholders, and once approved (with provision for periodic review) must be **legislated.**
- Climate change and drought events must receive recognition in any planning process and must be undertaken annually based on projected moisture supply as identified as of January 1.
- The current reactive situation restricting the dumping of specified material into streams by issuing an order must be replaced with a legislated prohibition against dumping a wider range of materials, including effluent from house boats, riverside/lakeside cottages, industry, etc.
- The definition of a "stream" must be revised to include "wetlands" ", lakes" and "bogs". (Much more inclusive than just "swamp").

Goal Two – Governance

- The Federation has embraced shared decision making as an approach to governance. As a result we enthusiastically joined in and contributed to land use planning throughout the Province. The results were very disappointing to our members. The process was done well enough but ministries were allowed to "cherry pick" the recommendations and the

overall agreements were lost. As a result key strategies were lost and the results were less than acceptable.

- The suggestion that communities should have more input and decision-making authority over local resources than afforded under the current centralized model causes much concern. In our experience most communities base their decisions on human values rather than ecosystems. We find that our members are forced in municipal planning processes to defend themselves against the "anti-humans" and the development industry. Even in progressive regions like the Okanagan ensure the decisions of the Water Board are subject to Regional District authority.
- We agree that senior governments must establish the legal framework, establish provincial policy and standards, provide oversight and dispute resolution mechanisms, and budget support for information systems, monitoring and enforcement.
- A revised Water Act must be integrated with other pertinent legislation, and be high in the legal hierarchy such that some existing laws (i.e. exemptions in the Right to Farm Act to provide water for fish) will require amendments to be compliant with the new Act.

Goal Three – Flexibility and Efficiency

- Assigning water licenses in perpetuity based on a priority of first in line (FITFIR) has outlived its usefulness; if water is not being used as authorized or licenses have changed from their original purpose, licenses should be cancelled and their priority reduced to reflect the changes.
- A combination of economic carrots and sticks can be used to encourage efficiency – real pricing based on actual measuring and reporting of water use would effectively reduce wastage ("we can't manage what we don't measure").
- The ability to transfer existing allocations within watersheds for higher value uses should be enabled (according to the watershed allocation plan developed by the community).
- Administrative efficiency: domestic use licenses apparently comprise ~ 50% of all applications, are generally considered low risk, but are a major workload. Small volume, low risk uses could be permitted in accordance with regulations that specify uses and priority areas (low risk), <u>with required measuring and reporting of water use</u>. Other options identified on pp 25 are all appropriate under various conditions

– the onus should be on the applicant to provide as much information as reasonably possible.

- The ability to review and revise license terms and conditions based on consistent criteria is critical to effectively respond to changing conditions. Again, this would be based on the watershed allocation plans developed by the decentralized collaborative process with local stakeholders and legislated by senior government.
- New uses of surface water and groundwater (in priority areas) should be allocated (or reallocated) based on priority of use, as determined by general provincial standards with some room for refinements at the watershed plan/community level; ecosystem values would be first priority, consistent with goal one. BC resident priority over export!
- During periods of water scarcity, options to reduce use should employ both a hierarchy of uses and proportional reduction options. Many jurisdictions already restrict residential outdoor watering uses to specific days. If additional restrictions are required, domestic, agricultural, industrial users etc would be reduced on a proportional basis.
- Issues of long-term water scarcity are probably best addressed at the basin or watershed level with local communities. Supply side options should focus on increased headwater storage infrastructure and /or reuse of domestic water after treatment to drinking water standards.
- In regions where water shortages are known to be chronic, proponents of large projects such as industrial (IPPs, pulp mills) and residential/golf course developments should be required to contribute to these facilities as a condition of license approval.

Goal Four – Regulate Groundwater

- The recent event in Coldstream highlights the need for groundwater legislation. The recent event involving the spreading of animal waste which, as we understand it, did not enter the aquifer through the existing domestic wells governed by the irrigation district. We understand the fecal matter entered via numerous well that were abandoned over the years and no record was kept of their location.
- There are large data gaps regarding aquifer inventory and status of groundwater supply, location of abandoned wells and an incorporation of the records of Regional Districts and well drillers

into an overall record of potential extraction sites or sites having the potential to introduce foreign matter into aquifers.

- Strongly support the regulation of all "large" groundwater extractions, and in critical areas to regulate all extractions. Monitoring and reporting must also be a requirement.
- How large is "large"? Must defer to the experts, but suggest that thresholds should be based not only on type of substrate but also on consideration of user demands – lower thresholds in area of high use and demand. This factor is taken in consideration however when determining high priority/critical areas where all users will be regulated (i.e. criteria A to G outlined on page 32)

Potential funding sources to implement a new Act include shared traditional government resources – general revenue, infrastructure grants, property taxes, license fees – and a new user pay model to include "rent" based on metered use, and a share of infrastructure costs associated with new residential/industrial development projects. This funding should be dedicated to water management and portions of them be made available for monitoring, restoration etc. by both government and NGO's.

The BCWF supports the government's vision outlined in the Living Water Smart water plan, and fully expects government to fulfill their stated commitments. We welcome the opportunity to provide input to the Water Act Modernization process, and again expect to see many positive changes to the legislation.

Submitted by:

BCWF Land Use Committee