

From: Tate, Shirley [shirley.tate@capp.ca]
Sent: May-04-10 2:04 PM
To: Living Water Smart ENV:EX
Cc: Caddie, Donna ENV:EX; Webb, Andrew; Reimer, Greg A EMPR:EX; Konkin, Doug ENV:EX
Subject: RE: CAPP Feedback on Water Act Modernization
Attachments: Water_Modernization_Act_submission.pdf

Further to the e-mail you received yesterday with the CAPP feedback on the Water Act Modernization please find attached the CAPP submission with signature.

Regards,
Shirley Tate on behalf of

Steve Dunk

Manager, BC Operations
Canadian Association of Petroleum Producers (CAPP)
2100, 350 - 7th Ave. SW Calgary AB, T2P 3N9
ph: (403) 267-1184 | fax (403) 266-3214 | <mailto:steve.dunk@capp.ca>

 Please consider the environment before printing this email

From: Dunk, Steve
Sent: Monday, May 03, 2010 4:25 PM
To: 'livingwatersmart@gov.bc.ca'
Cc: 'Donna.Caddie@gov.bc.ca'; Webb, Andrew; Tate, Shirley
Subject: RE: CAPP Feedback on Water Act Modernization

Please find attached the CAPP submission on the Water Act Modernization.

If you have any questions or clarifications, please contact the undersigned.

We look forward to continuing discussion.

Steve Dunk
Manager, BC Operations
CAPP
403-267-1184

 Please do not print unless necessary



May 3, 2010

Ministry of Environment, Water Stewardship Division
PO Box 9362, Stn. Prov. Govt.
Victoria, B.C. V8W 9M2

Dear Sir or Madam:

Re: Water Act Modernization Discussion Paper

The Canadian Association of Petroleum Producers (CAPP) represents 130 companies that explore for, develop and produce more than 90 per cent of Canada's natural gas and crude oil. CAPP also has 150 associate member companies that provide a wide range of services that support the upstream oil and natural gas industry. Together, these members and associate members are an important part of a \$120-billion-a-year national industry that affects the livelihoods of more than half a million Canadians.

CAPP appreciates the opportunity to review and comment on the discussion paper for British Columbia's Water Act Modernization. CAPP requested feedback from members on the discussion paper, and CAPP staff and several members attended the workshop in Fort St John on April 20, 2010. As a result of consultation with members, and attendance at the workshop, CAPP has prepared a response which is attached.

CAPP and its members support the initiative to modernize the Water Act, and recognize the challenge of engaging multiple stakeholders across the entire province. The initial feedback stage (blogs, formal submissions, workshops, discussion paper); will assist in determining the wide and possibly divergent range of interests regarding water management.

We recognize that government will need to incorporate feedback from numerous stakeholders and make appropriate policy decisions. CAPP has commented on the broad policy initiatives outlined in the discussion paper. However, given the broad nature of the policy framework, CAPP would appreciate the opportunity to continue more focused discussion on water issues that have an impact on the upstream oil and natural gas industry. We encourage the government to continue to engage all key stakeholders.

2100, 350 – 7 Avenue S.W.
Calgary, Alberta
Canada T2P 3N9
Tel (403) 267-1100
Fax (403) 261-4622

403, 235 Water Street
St. John's, Newfoundland and Labrador
Canada A1C 1B6
Tel (709) 724-4200
Fax (709) 724-4225

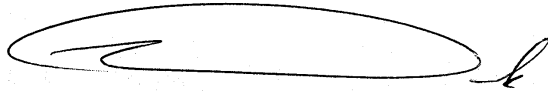
Specifically, there are three key areas that we would like to continue discussion:

- Groundwater regulations, recognizing the difference between saline and non-saline water;
- Recognition that the oil and gas industry is regulated through the Oil and Gas Activity Act;
- Water governance that provides a consistent, clear provincial framework which recognizes the difference in regional water supply and demand.

These priority areas are discussed in the attached document. In addition to these areas, CAPP has commented on the other goals and objectives outlined in the Discussion Paper.

We look forward to continuing the discussion.

Sincerely,



Steve Dunk
Manager, BC Operations
Canadian Association of Petroleum Producers

/attachment

Cc Doug Konkin, Deputy Minister Environment
Greg Reimer, Deputy Minister Energy, Mines Petroleum Resources



CANADIAN ASSOCIATION
OF PETROLEUM PRODUCERS

Water Act Modernization

May 3, 2010

General Comments:

- Recommendation is that the Act allows for a distinction between non-saline groundwater and saline water and regulates non-saline groundwater. In the proposed integration of groundwater and surface water allocation systems (goal three, objective three) it would make the most sense to involve only non-saline water.
- The discussion paper makes reference to some of the other current water legislation but does not provides clarification on proposals for the integration with existing plans and legislation.
- The oil and gas industry is regulated under the Oil and Gas Activities Act. Clear direction is required demarcating which regulatory departments have jurisdiction. Revisions to the Water Act will require coordination of efforts with MEMPR, the Environmental Assessment Office, Federal regulations and the OGC and ensure that it does not conflict with existing legislation.
- The Water Act needs to provide governance that provides a consistent, clear provincial framework with a focus on science and risk based regional water management requirements. Where water management is carried out at a local level there must be capacity to manage water in a consistent, efficient fashion that provides certainty for sustainable development.
- Public involvement – Concern that the stakeholder participation going forward may be limited. The initial feedback stage (blogs, formal submissions, workshops, discussion paper), has engaged a broad group of stakeholders, and may have created expectations for further feedback. The process for iterative specific, constructive feedback with key stakeholders is not clear.
- Activities within the watershed should not be deferred or delayed during the development and implantation of the Water Act Modernization.

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Calgary, Alberta
Canada T2P 3N9
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Fax (403) 261-4622

403, 235 Water Street
St. John's, Newfoundland and Labrador
Canada A1C 1B6
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Water Act Modernization - Comments on the specific goals & objectives:

Objective	Preferred Solution	COMMENTS
<p>Goal One - Protect stream health and aquatic environments</p> <p>General Comments:</p> <p>CAPP supports objectives that protect stream health and aquatic environments and provide a balance between energy, economy and the environment. With regards to specific options outlined in the Discussion paper, several of the options presented are not necessarily mutually exclusive and CAPP is reluctant to express support for one option over another in the absence of a regulatory framework. Specific comments are captured below</p>		
<p>One</p> <p>Environmental Flows are considered in all water allocation decisions to protect stream health</p>	<p>Option A preferred</p>	<p>Options for how environmental flow is to be considered in decisions</p> <ul style="list-style-type: none"> • Allow for “guidelines” rather than absolute standards; provide the decision maker with the discretion to deviate where justified. In support of this option as it allows flexibility to adapt to changing circumstances and is most aligned with the principle of a decision process based on scientific fact. • Focus should be on the Priority areas • There will always be unanticipated situations where deviation is required, and using guidelines will allow for flexibility in these cases.
<p>Two</p> <p>Watershed based water allocations plans include environmental flow needs and the water available for consumptive use</p>	<p>Option C preferred</p> <p>Comments attached for Option A,B</p>	<p>Options for including water allocation plans in the Water Act</p> <ul style="list-style-type: none"> • The decision maker must consider the water allocation plan. • Water allocation plans should be developed where the need exists. Development of plans is complex and resource intensive. The provincial government should have a basic water allocation plan which can then be refined to suit each region. The plan should be developed using sound science, and applied using a risk-based adaptive management approach.
<p>Three</p> <p>Habitat and riparian area</p>	<p>Comments attached for Option A, B</p>	<p>Options for protecting habitat and riparian areas</p> <ul style="list-style-type: none"> • Protection of habitat and riparian areas are covered by the Environmental Management Regulation under the Oil and Gas Activities Act

<p>protection provisions are enhanced</p>		<ul style="list-style-type: none"> • We do not see these options as mutually exclusive. Clarity and/or definitions on release guidelines need to be developed • Government should be accountable to maintain overview on environmental impacts • There are Federal guidelines that govern water quality criteria, and provincial requirements, through engineer’s order or amendment of the Water Act must align with Federal guidelines.
<p>Goal Two - Improve Water Governance Arrangements</p> <p>Governance of provincial resources requires a robust provincial framework, whether through a Centralized or Delegated approach. The province must provide clear direction as to the balance between provincial economic goals, environment, and social values. Industry requires governance to be consistent, efficient and provide certainty. CAPP recognizes that water governance needs to have a basis in regional watersheds and water uses. CAPP notes in the discussion paper that there are over 400 municipalities, regional districts and improvement districts, and 291,000 unique watersheds. We also note from the Water workshop in Fort Saint John that the regions have identified that they do not have the capacity to make many water decisions.</p>		
<p>Options for Improving Water Governance</p>	<p>Comments</p>	<ul style="list-style-type: none"> • No members expressed support for Option B, Shared Approach <p>Scale</p> <ul style="list-style-type: none"> • A major basin scale is typically required <p>Funding solutions</p> <ul style="list-style-type: none"> • Funding solutions will be based on the model chosen. • CAPP notes that the government is responsible for governance of provincial resources and is responsible for allocating appropriate funds to manage the resource. CAPP cautions that funding solutions must be equitable and not penalize specific water users, nor create a competitive disadvantage for investment in British Columbia. <p>Sharing roles for water stewardship implications</p> <ul style="list-style-type: none"> • Subjectivity and complexity are increased when the number of governments and stakeholders increases. • Accountability, transparency and dispute resolution are key issues • Clarity and process for dispute resolution will be required to ensure consistency, efficiency and certainty of sustainable development.

Goal Three - Introduce flexibility and efficiency in the water allocation system

CAPP supports efficiency and flexibility in the water allocation system, with the caution that flexibility must not create uncertainty for sustainable development.

<p>One</p> <p>The water allocation system emphasizes and encourages efficiencies</p>	<p>Comments</p>	<p>Options to encourage water use efficiency</p> <ul style="list-style-type: none"> • We support the proposed objectives for introducing more flexibility and efficiency into the water allocation system • (A) (government determines actual needs) is less desirable for the following reasons: <ol style="list-style-type: none"> 1. Determination of actual needs on a proposed undertaking by industry will require considerable resources by government, and government would be required to be a subject expert in the industry it is allocating. This could result in subjective & inconsistent application 2. Having a case by case allocation system reduces certainty. 3. The type of water source should be considered – non potable water should have different license requirements. • We support continuous improvement in fresh water use efficiency and as such would support codes and practices (B) to assess water requirements. • There are a number of options other than (C) (incentives & economic instruments), and (D) (review rules re transfer etc) that could work together to encourage efficient water use. We would like to engage in further discussion on options. <p>Options to encourage administrative efficiency</p> <ul style="list-style-type: none"> • Regulations might apply differently throughout the province based on risk, but must be science based, and need to be consistently applied to reduce uncertainty. • Recommend options F and H. Must require water measurement. What gets measured, gets managed • Permitted use should be defined in terms of water availability in a basin and should require registration. Otherwise the government of BC will be unable to accurately measure the permitted uses which while exempt from licenses, never-the-less use a portion of available water in a watershed. • Runoff, capture ponds and dugouts (borrow pits) should not have to be permitted if they capture surface water
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		<p>Options to encourage administrative and water use efficiencies</p> <ul style="list-style-type: none"> All members agree that options chosen must be quantifiable and objective, and provide certainty of supply. Option K does not appear to meet these criteria. Most of the other options appear to provide this, and the appropriateness of the options will depend on the details. CAPP would welcome the opportunity to engage in further discussion.
Two Flexibility is provided to water users efficiencies	Comments	<p>Option to provide water users and decision makers the flexibility to adapt</p> <ul style="list-style-type: none"> We note that the ability to update water licenses based on new information could also be based on positive indications that adverse impacts are NOT occurring to stream health, aquifers, or to groundwater recharge.
Three The water allocation system integrates the management of groundwater and surface water in problem areas	Comments	<p>Options for the water allocation system</p> <ul style="list-style-type: none"> CAPP members do not have consensus on FITFIR vs. priority of use. We caution that while some distinctions in priority are clear (i.e. drinking water); others will be subjective and difficult to make, especially with regards to competing industry requirements.
Four Water users will be required to conserve water during drought or when stream health is threatened		<p>Options to address temporary water scarcity</p> <ul style="list-style-type: none"> CAPP does not support Option A. as it has the potential to create uncertainty and affect sustainable development decisions. Most members support B and/or C. We reiterate the caution expressed above with regards to establishing hierarchy of use. The appropriateness of the options will depend on the details. CAPP would welcome the opportunity to engage in further discussion. <p>Options to address long term water scarcity</p> <ul style="list-style-type: none"> Options to address long term water scarcity are complex, regional and specific. The appropriateness of the options will depend on the details. CAPP would welcome the opportunity to engage in further discussion.

Goal Four - Regulating Groundwater Extraction and Use

CAPP supports non saline groundwater regulation. As per comments provided above, limits on groundwater extraction in priority areas should be accompanied by a classification system, either saline or non-saline, and limits for each class set taking into account to potential uses.

One	areas	<p>Options for determining the thresholds for large groundwater withdrawals</p> <ul style="list-style-type: none">• The use of thresholds is beneficial for aquifer protection. However, science-based determination of aquifer yields should be considered to determine appropriate thresholds for a given region.• Thresholds should be determined by the quality of groundwater as well as the withdrawal volume. Fresh water should have different thresholds than saline water. Water salinity should be defined in the Water Act. <p>Options for determining priority areas to regulate groundwater extraction and use</p> <ul style="list-style-type: none">• Saline groundwater should have different criteria• CAPP members prefer some options over others, but agree that all options have some suitability in the identification of a priority area.• The appropriateness of the options will depend on the details. CAPP would welcome the opportunity to engage in further discussion
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