

**From:** Bernice Crowe [bcrowe@cariboord.bc.ca]  
**Sent:** April-21-10 9:40 AM  
**To:** Living Water Smart ENV:EX  
**Subject:** FW: Response to Water Act Discussion Paper  
**Attachments:** img-4212021-0001.pdf

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**From:** Rick Hodgson  
**Sent:** April-21-10 9:17 AM  
**To:** Bernice Crowe  
**Subject:** Response to Water Act Discussion Paper

The Cariboo Regional District Board passed the following resolution on April 15, 2010:

...That the staff responses to the Water Act Modernization Discussion paper be forwarded to the Ministry of Environment Water Stewardship Division prior to April 30, 2010.

Accordingly, we are attaching the report for your consideration.

Rick Hodgson  
Deputy Chief Administrative Officer  
Cariboo Regional District  
T: (250) 392-3351  
TF: 1-800-665-1636  
Fax: (250) 392-2812  
[rhodgson@cariboord.bc.ca](mailto:rhodgson@cariboord.bc.ca)

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## AGENDA ITEM SUMMARY

TO: Chair and Directors, Cariboo Regional District Board

AND TO: Janis Bell, Chief Administrative Officer

FROM: Rick Hodgson, Deputy CAO; Mitch Minchau, Manager of Environmental Services and Chris Hutton, Planning Officer

DATE: April 6, 2010

DATE OF MEETING: April 15, 2010 – Special Board Meeting

SHORT SUMMARY: Water Act Modernization

VOTING: Corporate Vote - Unweighted

MEMORANDUM: The Issue

As part of the BC Government's "Living Water Smart" initiative, the provincial government has committed to change the way water is governed and managed in BC. The objectives of Living Water Smart are to:

- improve the protection of ecological values; provide more community involvement; and provide incentives to be water efficient
- recognize water flow requirements for ecosystems and species
- address impacts from climate change
- regulate groundwater use in critical areas and large groundwater withdrawals

The existing "Water Act" was established in 1909 and is the principle legislation that regulates the use and diversion of water in BC. The provincial government is proposing changes to the Water Act in order to achieve the goals of the Living Water Smart initiative.

### Context

The Cariboo Regional District currently has a stewardship role to play in water management. Our current land use bylaws address and regulate development in riparian areas and along lakeshores.

In future, the proposed CRD "Regional Development Strategy" will address watershed sustainability and impacts of development on surface water and groundwater. The CRD is currently working with the Fraser Basin Council on a pilot project titled "Regional Adaptation Collaborative" which will assess potential impacts of climate change on surface and groundwater water availability, and flood and

erosion potential. The results will be used in the development of the Regional Development Strategy, and will ensure future development takes these issues into account.

We also note that the Final draft of the “Cariboo Regional Development Framework Feasibility Study” suggests that watershed considerations be included in the mandate of a regional development alliance.

### Water Act Modernization

The province has put forward four goals for modernization of the Water Act:

- Protect stream health and aquatic environments;
- Improve water governance arrangements;
- Introduce more flexibility and efficiency in the water allocation system;
- Regulate ground water use in priority areas and for large withdrawals.

Staff provide the following comments and recommended responses pertaining to each goal:

## **Goal #1 – Protecting Stream Health and Aquatic Environments**

### *Discussion Paper Objectives and CRD Responses*

#### **Objectives For Protecting Stream Health And Aquatic Environments**

In order to better protect stream health and aquatic environments the following objectives are proposed for a modernized Water Act:

1. Environmental flow needs are considered in all water allocation decisions to protect stream health
2. Watershed or aquifer-based water allocation plans include environmental flows and the water available for consumptive use
3. Habitat and riparian area protection provisions are enhanced

**CRD Response:** The CRD strongly supports these objectives. Through its current policies regarding riparian area protection, the CRD is already in a role of stewardship and would consider updating those policies to meet new standards set by the Ministry of Environment.

#### **Options For How Environmental Flow Is To Be Considered (Guidelines Or Standards) In Decisions**

**CRD Response:** The CRD supports the implementation of a *standards* process, but would indicate that applicants should be able provide a scientific defense/appeal. The statement that, “The *standards* option would need more time and resources to determine as they would be legally enforceable” (p.9) is questionable. A more accurate response could be provided if a cost-benefit analysis of the *guidelines* option

vs. the *standards* option were provided.

Ultimately, a hybrid format that considers environmental flow against the strictest of standards first, but allows for the submission of a scientific defense or appeal would be most ideal.

### **Inclusion Of Water Allocation Plans In The Water Act**

**CRD Response:** A requirement for water allocation plans is ideal if priority areas have been predetermined and are not amendable prior to inclusion. It would seem that in order to achieve the goal of protecting stream health and aquatic environments, it would be best to require that the decision maker follow the water allocation plan. However, the option of an appeal should be available, but only on scientific grounds.

### **Water Allocation Plan Requirements, Development And Application**

**CRD Response:** The determination of whether to develop and include water allocation plans in the *Water Act* should be a socio/scientific one where lake sensitivity, fish habitat, sustainable economic development value (i.e. tourism value and well managed forestry), and protection of quality of life are considered (i.e. consideration for the safety, servicing and lifestyles of existing residents and businesses). In order to achieve Goal 1, it would be important that scientific consideration take precedence over social considerations.

### **Habitat And Riparian Areas Protection**

**CRD Response:** The option of amending the water act to include a prohibition against dumping of a wider range of debris and materials and requiring that the person responsible for dumping restore stream health would certainly be the better option; particularly in cases of negligence.

## **Goal #2 – Improve Water Governance Arrangements**

### **Objectives For Improving Water Governance**

In order to improve BC's water governance arrangements the following objectives are proposed for a modernized Water Act:

1. Governance roles and accountabilities are clarified in relation to the allocation of water and the protection of stream health. This includes roles for First Nations, industry, local communities and non-government organizations in planning and decision making
2. Governance arrangements are flexible and responsive to future needs and values
3. Management is coordinated with neighbouring jurisdictions across all levels of government and those with a major interest in the watershed

**CRD Response:** The CRD supports the objectives relating to improving water governance arrangements.

### Improving Water Governance

**CRD Response:** Official Community Plans and policies incorporating the requirements of Regional Growth Strategies can act as a triggering mechanism to carry out and/or enforce broader provincial goals and standards.

The centralized approach is the best option, operationally speaking, but may pose challenges relating to the reflection of local values surrounding water use. Information on the shared approach indicates that: “Land use plans, Regional Growth Strategies, Official Community Plans and watershed management plans could be used to articulate water management values and priorities.” (p. 17-18) This is an agreeable statement in terms of carrying out actions and/or enforcing standards in order to achieve the goals of the Ministry of Environment, however it is still preferred that local governments only be consulted and that decision making responsibility lie with the Ministry of Environment.

Furthermore, the consultation process involved in forming these plans could include the gathering of public input on values relating to water use. In so doing, local governments would refer to policies in those plans when, for instance, considering a referral from the Ministry of Environment. In order to proceed with such an option, guidelines, educational tools and granting to recover costs associated with the formation of *ad hoc* water-specific advisory committees would be needed.

### Scale Of Watershed Management For Water Planning And Management

**CRD Response:** From a technical perspective, the existing *Water Act* Water Districts are likely the most effective means of managing watersheds as they are determined by the watersheds themselves. From an operational perspective (for local governments), a system that reflects the existing layout of regional districts would be most ideal. If the ultimate goal is protection of water resources and its effective use, the Water District layout is likely the most appropriate. This is only true, however as long as the Ministry of Environment manages watersheds.

### Funding Solutions To Implement The Approaches

**CRD Response:** Where a provincial agency mandates that local governments carry out an action beyond its legislated obligations, full costs should be outlined ahead of that mandate in order to prepare those local governments and enable prudent financial planning. Granting should be provided to cover extraordinary costs (such as the cost of public consultation or any additional staff hours and/or consultant costs).

Currently, we are facing a similar challenge. In meeting the requirements of Bill 27, The Local Government (Green Communities) Statutes Act, the Planning Services Department has faced higher than expected costs relating to legally required advertising, holding of public hearings and use of staff resources.

Moreover, meeting these requirements requires that local governments determine solutions that reflect local values in order to be effective and result in compliance.

Therefore, it is important the consultation process be as effective and as full as possible. Grants should have been provided to local governments to enable them to carry this out in order to better our chances at achieving this provincial goal.

**Important Considerations For Accountability,  
Transparency And Dispute Resolution Processes**

**CRD Response:** The delegated approach is not as much a workable solution as the shared approach. The existence of an ongoing elected or appointed water board would lead away from the ambition of making water use decisions based upon science and, possibly, towards politicization of water use decisions.

The shared approach or a hybrid centralized/shared approach does provide an opportunity for the Ministry of Environment to seek the aid of local governments in determining local values surrounding water and water use and further ensuring that water use decisions adhere to those values.

Moreover, the use of various planning tools as a triggering mechanism for adherence to the *Water Act* is an action that could greatly improve stewardship of water resources in British Columbia.

**Goal #3 – Introduction of more flexibility  
and efficiency in the water allocation system.**

**CRD Staff Comments:**

The provincial government is seeking to modernize the Water Act to increase the ability to respond to water shortages and changing social values concerning the use of water.

In British Columbia under the existing Water Act surface waters are allocated and licensed by the provincial government. At this time ground water is not licensed, but the provincial government is promoting that it should be and that large water withdrawals such as from community water systems should be managed jointly with surface waters through a modernized Water Act. The Cariboo Regional District does not utilize surface water but does make extensive use of groundwater for its community water systems.

The Cariboo Regional District has not yet experienced any severe water shortages in its community water systems. The most prevalent issue at this time involves the 108 Mile Water System. The lake level has been dropping for the past several years and residents are very concerned and wanting answers as to the cause and possible solutions. Within this small water shed several surface water licenses for agricultural irrigation, golf course irrigation and wildlife conservation exist. As well, the Cariboo Regional District withdraws substantial volumes from the groundwater to service the 3,000 residents in the area. Under the existing Water Act the only means available to the authorities to resolve this issue is to begin taking water licenses away, starting with the last person that received one. As groundwater is not licensed the use of the water by the Cariboo Regional District would not be affected, however it also does not

have any guarantees as to supply, should another developer want to use the aquifer.

Through the modernization of the Water Act the provincial government is hoping to be able to develop a legislative tool to resolve issues such as that occurring at 108 Mile. To address these types of issues, a water shed approach coupled with extensive water conservation practices is being promoted to balance the competing water use demands in problem areas. All users would have to practice water conservation and make investments in improved infrastructure that does not waste water. From a community water supply perspective this means practicing water conservation through use of low flow toilets and shower heads, collecting roof rain water for gardening purposes, utilizing water meters to provide a financial incentive for water reduction, utilizing drought resistant plants for lawns and gardens or using buried soaker hoses rather than sprinklers for gardens. As well as many other conservation practices. Future water licensing may be contingent on employing these practices. Provincial authorities, may independently determine when issuing a groundwater licence, that each household will be expected to practice water conservation and as such may only license 300 gallons per day rather than the historical 700 gallons per day.

Flexibility within the modernized Act is desired so that licenses can be adjusted in times of temporary and long-term water shortages such as those caused by climate change. The licensing authority would place restriction on all water users within a watershed or require them to use the water more efficiently. With regards to making decisions for the entire water shed the provincial authority may want to delegate this authority to the local government to facilitate public discussion and decision making processes. District staff is of the opinion that this responsibility should remain with the provincial government, as the Cariboo Regional District would be in a conflict of interest as a water user itself.

#### Discussion paper Objectives and CRD Responses

##### **In order to introduce more flexibility and efficiency in the water allocation system the following objectives are proposed for a modernized Water Act:**

1. The water allocation system emphasizes and encourages efficiencies in both water use and the administration of water as a natural resource.
2. Water users and decision makers have flexibility to quickly adapt to changing environmental, economic and social conditions.
3. The water allocation system integrates the management of groundwater and surface water resources where required in problem areas.
4. Water users conserve water during drought or when stream health is threatened.

**CRD Response:** The Cariboo Regional District supports the general objectives regarding flexibility and efficiency. However, the provincial government should develop a consultation process for stakeholders, and retain/assume all management responsibilities.

#### **Options To Encourage Water Use Efficiency**

**CRD Response:** Government should determine actual needs on the basis of efficient practices and works. The potential for license cancellation should exist should the



terms of use not be complied with.

The use of incentives and other economic instruments to encourage efficiency should be enabled in the new Act.

### **Options To Encourage Administrative Efficiency**

**CRD Response:** If a category of “Permitted Uses” were to be developed, then regulations should be used to define these uses differently throughout the province based on risk. Registration must be required. Extraction rates for “Permitted Uses” must be determined to have negligible impact. An inspection and enforcement process must still exist for “Permitted Uses”.

### **Options To Encourage Administrative And Water Use Efficiencies**

**CRD Response:** The CRD supports a requirement for existing water license holders and applicants to provide detailed information about the proposed use and efficiency measures, and measuring and reporting actual water use and well levels. Documenting potential environmental impacts and undertaking consultation with affected parties should involve the water stewardship division, at a minimum in an oversight role.

### **Options To Provide Water Users And Decision Makers The Flexibility To Adapt**

**CRD Response:** Decision makers and licence holders should have the ability to seek amendments to licence conditions based on:

- new information about watersheds, priorities or changes in supply including addressing over-allocation and climate change impacts;
- adverse impacts on aquifers or groundwater recharge zones;
- monitoring information that shows stream health is deteriorating
- the ability to use water differently – bring more land into productivity, change land appurtenance or use, or to use for a higher economic purpose provided Goal 1 is considered foremost.

### **Options For The Water Allocation System**

**CRD Response:** If existing groundwater wells are to be licenced, then the “first-in-time, first-in-right” approach should be considered. However, for licencing of new surface water and groundwater withdrawals, a “priority of use” approach should be used, allocated with community consultation.

### **Options To Address Temporary Water Scarcity**

**CRD Response:** The most effective management of temporary water scarcity would occur through community acceptance of a drought management plan, enforceable by the province. The plan should include a hierarchy of priority uses, including stream health (Goal 1).

### **Options To Address Long Term Water Scarcity**



**CRD Response:** Water licencees and other interested parties should be permitted to develop a plan that addresses long term scarcity by recommending changes to supply and demand, providing there is community consultation. Should this not occur, then a mandatory Water Management Planning process per the current Water Act would be required.

**Goal 4 – Regulate Groundwater Extraction and Use**

**CRD Staff Comments:**

At this time the Cariboo Regional District does not have any guarantees as to a continuing groundwater supply. Without licensing a large development could occur next to an existing community development and utilize the same aquifer. In most cases given the lack of development in surrounding areas and more than ample water supplies this is not a concern. However a couple areas of concern do exist at Horse Lake and 108 Mile in the south Cariboo.

The new Act proposes to regulate extraction and use of groundwater above applicable thresholds for larger withdrawals, or within priority areas for all new and existing wells. Threshold limits of either 500 or 250 cubic meters per day are being proposed. As 250 cubic meters per day would capture communities in the range of 100 to 120 single residential homes district staff are in favour of this threshold level.

*Discussion Paper Objectives and CRD Responses*

**In addition to the objectives outlined in Goal Three the following groundwater specific objective is proposed for a modernized Water Act:**

- 1. Groundwater extraction and use is regulated in priority (critical) areas and for all large withdrawals.

**CRD Response:** The Cariboo Regional District supports the regulation and licensing of groundwater when use exceeds 250 cubic metres per day for wells in unconsolidated, sand and gravel aquifers or if otherwise determined to be large by a Water Management Plan; or 100 cubic metres per day for wells drilled into consolidated bedrock aquifers or if otherwise determined to be large by a water management plan.

ATTACHMENT: Water Act Modernization - Discussion Paper

POLICY IMPLICATIONS: N/A

FINANCIAL IMPLICATIONS: N/A

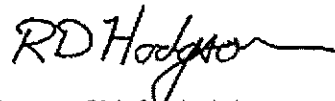
Reviewed by the CFO:

OPTIONS: 1) Endorse recommendation; 2) Receipt only; 3) Defer.

RECOMMENDATION: That the agenda item summary from Rick Hodgson, Deputy CAO, Mitch Minchau, Manager of Environmental Services, and Chris Hutton, Planning Officer, dated April 6, 2010 regarding the Water Act Modernization Discussion Paper, be received.

Further, that the staff responses to the Water Act Modernization Discussion paper be forwarded to the Ministry of Environment Water Stewardship Division prior to April 30, 2010.

Respectfully submitted

A handwritten signature in black ink, appearing to read "RD Hodgson", with a long horizontal flourish extending to the right.

Deputy Chief Administrative Officer