

Yep, Dolly ENV:EX

**From:** Correspondence Unit ENV:EX  
**Subject:** FW: Water Act Modernization Workshop - Submission on behalf of The Central Okanagan Naturalists' Club

**From:** John Huby [mailto:huby@okanagan.net]  
**Sent:** Sunday, March 14, 2010 9:49 AM  
**To:** Minister, ENV ENV:EX  
**Subject:** Fw: Water Act Modernization Workshop - Submission on behalf of The Central Okanagan Naturalists' Club

The Honourable Barry Penner, Minister of the Environment

Dear Sir,

Water Act Modernization Workshop - Submission on behalf of The Central Okanagan Naturalists' Club

It was with some optimism that I attended the Workshop in Kelowna on March 12, 2010 on behalf of The Central Okanagan Naturalists' Club, assuming that this was a great opportunity to improve our system of water governance and water management within our province. However, I soon realized that the Workshop's Discussion Paper was designed to focus on four predetermined stated goals within the Water Act. Also, it was clear that that Water Act does not encompass all the many issues concerning water in BC. Many of the issues raised by attendees at the Workshop were outside of the scope of the Water Act. Indeed, there is an entire mass of other legislation in BC that relates to water, but is outside the Water Act. From that, and out of the local concerns about water that we share in the Okanagan, two things are quite clear:

- 1.) Water legislation, governance and management within BC need a very fundamental overhaul.
- 2.) There are too many disparate, often conflicting, and insufficiently co-ordinated interests attempting to deal with water within BC.

With all the imminently looming expected future stresses on water here, how will we cope, unless sufficiently radical changes are quickly implemented? Tinkering about with the four goals that were identified at the Workshop may go some way to help, but it will not address the important need for proper change of water governance and water management within BC.

Would you be willing to give consideration shortly to these deeper and most important issues?

For your information, the following text is a copy of the written submission being made on this matter to "livingwatersmart" on behalf of The Central Okanagan Naturalists' Club.

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----- Original Message -->>>>>>

**From:** John Huby  
**To:** livingwatersmart@gov.bc.ca  
**Sent:** Sunday, March 14, 2010 7:05 AM  
**Subject:** Water Act Modernization Workshop - Submission on behalf of The Central Okanagan Naturalists' Club

Water Act Modernization Workshop

**From:** John Huby [huby@okanagan.net]  
**Sent:** March-14-10 7:05 AM  
**To:** Living Water Smart ENV:EX  
**Subject:** Water Act Modernization Workshop - Submission on behalf of The Central Okanagan Naturalists' Club

**Categories:** First Nations

### Water Act Modernization Workshop

#### Submission on behalf of The Central Okanagan Naturalists' Club

Here in the Okanagan Valley we are particularly sensitive to issues relating to water governance and management. The Okanagan Basin is an arid valley, with high average summer temperatures which result in considerable water evaporation losses. The prospects of even higher average temperatures resulting from climate change are expected to increase our evaporation losses further. Okanagan Lake acts as both a water source and as a drainage sink for a large population in this valley. There are many stresses on water here that are being further accentuated by continually increasing water demands from additional development growth. Local leaders have a difficult time acknowledging that the limitations of water servicing capacity will create an eventual development ceiling for the Okanagan. Within this valley water is a particularly precious and vulnerable resource. Unfortunately, the problematic management of water in the Okanagan Basin remains the subject of many disparate (and often conflicting) demands. Too often this has been accentuated by fragmentation of interests and lack of clear lines of proper responsibility at many levels.

With these factors in mind, it was on behalf of The Central Okanagan Naturalists' Club that I attended the Water Act Modernization Workshop, which was held in Kelowna on March 12, 2010.

In accordance with your "Discussion Paper" prescribed format, here are my comments thereon:

#### A.) PRINCIPLES

The proposed principles for Water Act modernization are:

1. B.C.'s water resources are used within sustainable limits. AGREED
2. First Nations social and cultural practices associated with water are respected and accommodated. NO COMMENT
3. Science informs water resource management and decision making. AGREED
4. Water resource legislation, policy and decision making processes as well as management tools are integrated across all levels of government. AGREED [but see my further comments]
5. Rules and standards for water management are clearly defined, providing a predictable investment climate across the province. AGREED for "rules and standards" [but see my further comments]; ALSO "predictable investment climate" APPEARS TO BE INAPPROPRIATE
6. Flexibility is provided to adapt to extreme conditions or unexpected events on a provincial, regional or issue-specific level. AGREED
7. Incentives are created for water conservation that consider the needs of users and investors. UNCERTAINTY ABOUT HOW THIS MAY BE ACCOMPLISHED; Also the reference to "and investors" AGAIN APPEARS TO BE INAPPROPRIATE
8. Rights to use water come with responsibilities to be efficient and help protect stream health. AGREED

#### B.) YOUR FOUR GOALS THAT YOU HAD IDENTIFIED IN THE "DISCUSSION PAPER"

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

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#### MY RESPONSES

There are two primary issues in responding to your four goals as stated.

Firstly, I consider that it is more appropriate to deal in an alternative manner with your overall objective to "modernizing the Water Act to help make our water laws simpler to understand, communicate, administer and enforce to respond to current and future challenges". [That quote was taken from your web-site at [http://www.env.gov.bc.ca/wsd/water\\_rights/index.html](http://www.env.gov.bc.ca/wsd/water_rights/index.html)]

Secondly, because many problems for dealing with water in BC are beyond the bounds of the existing Water Act, and also are beyond the approach by your "Discussion Paper." Not only is this issue clear from longer term examination of existing deficiencies of how we attempt to deal with water in this province, but also (and most immediately) as was demonstrated at your "WAM Workshop" in Kelowna on March 12, 2010. Many matters raised by various attendees related to significant concerns about water that were beyond the realm that you are considering for the modernization of the Water Act.

#### General Comments about water in BC are :

1.) Legislation for water is far too fragmented, with too many different ministries involved. Further to this, there are also many other agencies "with their fingers in the pie." Some indication of this may be displayed on the Internet. An overview of water stewardship legislation is available for viewing at various sites, including your own references at:

[http://www.env.gov.bc.ca/wsd/water\\_rights/overview\\_legislation/index.html](http://www.env.gov.bc.ca/wsd/water_rights/overview_legislation/index.html) and at [http://www.env.gov.bc.ca/wsd/water\\_rights/legislation.html](http://www.env.gov.bc.ca/wsd/water_rights/legislation.html) In addition to all of this are various other disparate interests, mentioning a few (for purposes of illustration only, and in random order) such as Health, Tourism, Agriculture, Mining, Forestry, etc. etc. The result of this is much too fragmented governance and management of water, together with an often conflicting line of command. This state of affairs is certainly unacceptable with the looming prospects of additional stresses on water, particularly from such factors as increasing water demands in many areas, and from global warming. There is no way that the present system of water management and governance can effectively deal with the expected rapidly increasing demands on water in this province.

2.) A most radical legislative change is required to properly deal with the deficiencies that exist in managing and governing water within British Columbia. The present intention for Water Act Modernization appears as a particularly critical opportunity to improve management and governance of water. However, legislative alterations must be very fundamental over a broad range of provincial ministries together with their present range of responsibilities. What is actually needed is not simply a direct revision to the existing Water Act. What is needed is a fundamental review to also change and consolidate other applicable legislation as appropriate, so as to properly bring the philosophy of our water management and governance into the twenty-first century. Unless the changes made are sufficiently profound, then the existing woes concerning water management and governance in BC will not be properly addressed, and this important opportunity for effective change will not be attained.

#### 3.) Short summary of those principles proposed for implementation in water legislation changes

3.1.) Recognize and take into account the universal nature of water, together with the interdependence of interwoven processes within the natural hydrologic cycle.

3.2.) Materially change and consolidate the provincial water management and governance structure, with one ministry empowered to be in primary charge of water. In the following text, "Minister" is intended to refer to that minister empowered by the Water Legislation Changes to be in charge of water in the province. For matters relating to water in BC, other ministries in the province are to become normally subservient to the Minister. The Minister is to be charged with the proper management and governance for the well-being of all water (as may be defined in the Water Legislation Changes) within BC.

3.3.) The Minister is to operate with a clear command structure, in a central over-riding management role for water. Under the Minister and across the province, establish local water management divisions generally based on river systems/drainage areas, or on combinations thereof.

3.4.) The Minister is to be charged with the management and governance of abstraction of surface water and the taking of ground water, subject to conditions relating to details and works therefor, such as the Minister may reasonably require under the Water Legislation Changes. Ground water and surface water are clearly linked in the hydrologic cycle; both are supplied by precipitation, and are often in direct hydraulic connection with each other. A suitably similar system is to be implemented shortly to apply to both surface water and to ground water. The Minister is to be charged with the approval and granting of water licences subject to conditions relating to details of quantities and quality, and works relating thereto, such as the Minister may reasonably require. It must be recognized that the appropriateness of water licences may vary with time. The Minister is to be charged with the review of water licences over reasonable periods of time, taking account of any changes in circumstance, including such as water availability (quantity or quality), changing longer-term priorities and needs, water demands, and climatic changes (including effects of short-term drought conditions). Water licences are to become conditional to the discretion of the Minister. The Minister to be empowered to over-ride previously granted licences subject to the imposition of a formally declared emergency status. This procedure to be set up to ensure reason is maintained in the public interest both for the Minister and for the licensees, being subject to review as may be defined by regulations under the Water Legislation Changes.

3.5.) In a similar manner for the management and governance of abstraction of surface water and the taking of ground water, the Minister is to be charged with the management and governance of discharges of water and other effluents, subject to conditions relating to details, including the nature of discharges (rate of discharge, quantity or quality), and other changing longer-term priorities and needs, and works therefor, such as the Minister may reasonably require under the Water Legislation Changes.

3.6.) The Minister is to be included as part of the review process for approval of changes in land use in any given water catchment drainage basin within BC. In cases where the Minister considers that change of land use may have material effects on water, then the Minister is to be empowered to require amendments or to refuse the application for change of land use, all being subject to procedure defined by regulation under the Water Legislation Changes.

3.7.) The Minister is to be charged with collating and maintaining adequate records of all water taking abstractions and discharges within BC., with the provision of such data from licensees conditional to their authorization for obtaining the water. To achieve this goal, the licence over reasonable setting up of flow monitoring is necessary.

Submitted on behalf of the Central Okanagan Naturalists' Club, March 14, 2010

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