


**From:** Jan Johnston [jjohnston@kelowna.ca]  
**Sent:** April-29-10 3:22 PM  
**To:** Living Water Smart ENV:EX  
**Subject:** Water Act Modernization - City of Kelowna Response  
**Attachments:** L-Ministry of Environment-WAM-April 29, 2010.pdf

Please find attached a letter signed by Mayor Sharon Shepherd, a City of Kelowna Council report and the Detailed Water Act Modernization response for your information.

**Jan Johnston**, Confidential Secretary to the Mayor  
**City Manager's Office**

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April 29, 2010  
File: 0705-40

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

Dear Sir or Madam:

RE: Water Act Modernization (WAM)-City of Kelowna Response

On behalf of my Council colleagues and the City of Kelowna, thank you for the opportunity to provide comments to your process at this stage of the Water Act Modernization (WAM).

Kelowna City Council, Okanagan Basin Water Board representatives and City of Kelowna staff have reviewed the WAM Discussion Paper and participated in your stakeholder process. The City of Kelowna response was developed in support of changes to the Water Act.

The City of Kelowna has a strong interest in the outcome of the WAM and supports the goals outlined in the Discussion Paper as per our comments in the attached Council report.

Yours very truly,

A handwritten signature in cursive script that reads "Sharon Shepherd".

Sharon Shepherd  
MAYOR

Attached: Council Report and Detailed WAM Response

c: City Council  
City Manager  
City Clerk  
Manager Strategic Projects

# Memo



**Date:** April 21, 2010  
**File:** 0610-01  
**To:** Ron Mattiussi, City Manager  
**From:** Mark Watt, Strategic Projects Manager  
**Subject:** Water Act Legislation Modernization

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**Purpose:** To advise Council of Water Act Modernization of the BC Water Act -City of Kelowna Response- April 26, 2010

**Background:** In support of Council and OBWB Board Representatives review of the Water Act Modernization (WAM) Discussion Paper and participation in the stakeholder process this City response has been developed to address City of Kelowna support to changes to the Water Act.

The BC Ministry of Environment is spearheading a Water Act Modernization Process (WAM). Several workshops have been held engaging stakeholders (March 12-most recent) for the last several months as part of their phase 2 (Engagement and Policy Development Stage) for proposed legislative changes.

The Water Act historically was first established in 1909 and has gone through numerous minor changes. The Water Act today does not reflect the 21<sup>st</sup> century reality of scarcity of water resources in dry areas, allocating and managing the resource, governance issues, nor protecting the resource for environmental flows or the groundwater resource which has no regulation.

Stakeholder groups including the Okanagan Basin Water Board, Water Supply Association, individual water licence holders and other local government throughout the Province have been asked to respond to the Ministry by the April 30th deadline for this round of consultation. This is viewed by government staff as very important stakeholder information gathering from which options will be developed after technical and cost benefit analysis. The legislation will then be drafted and a paper (Intention Paper) which interprets the draft legislation will be circulated for final stakeholder review (phase 3). The Province will be issuing this paper and draft legislation in the late fall or more likely in early 2011.


The City's response refers to the on-line discussion paper "British Columbia's Water Act Modernization" last updated in early March. The City of Kelowna has considerable water licence holdings for our domestic supply needs and for our growth however is dependant on a clean and healthy Okanagan Lake which has many water withdrawal uses and needs.

The following is a summary of City of Kelowna comments and recommendations gathered from City Staff, OBWB Board Members and City Council in order reference from the WAM Discussion Paper<sup>1</sup>:

- Goal 1 Protect Stream and Aquatic Health:
  1. Potential changes must ensure that there is a balance in water use and net conservation of water that recognizes ecosystem health and avoids fish vs. human conflict or any language that would put us in conflict.
  2. The City supports the objectives outlined in the discussion paper as described in the City detailed response (attach1).
- Goal 2 Improve Water Governance Arrangements:
  1. New governance models proposed must ensure that local government has a say in City taxpayer funds used and how those funds are used. The City is cautious of any other new legislative authority and that regulation is not downloaded, or downloaded without funding.
  2. The City supports the objectives however prefers the Centralized Approach with some Shared or delegated approach with local government authority (City detailed Response, Attach 1).
- Goal 3 Introduce more flexibility and efficiency in the water allocation system:
  1. The City will need assurance that our own domestic water licenses are grandfathered
  2. And would seek to have local authority over non-consumptive uses, such as uses for heating and cooling for energy and carbon reduction (lake water and groundwater).
  3. The City also seeks to have water licences reflect contributions to base flow or return flow to the lake such as wastewater treatment plant effluent. These return flows need to be recognized and used to decrease the net water license allocation or stated withdrawal on the City's Okanagan Lake Domestic Water Licences.
  4. The City supports the objectives in Goal 3; City detailed response (attach 1).
- Goal 4 Regulate Groundwater Extraction and Use:
  1. Protecting the resource and also allowing City allocation or first rights to large aquifers as backup supply to Okanagan Lake Source for our domestic and agricultural needs would be important for the City in the future.

The City supports protecting the groundwater resource; City detailed response (attach 1).

Submitted by:



M. Watt, Strategic Projects Manager

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<sup>1</sup> <http://www.livingwatersmart.ca/water-act/discussion-paper.html>

## **Water Act Modernization- City of Kelowna Detailed Response- Attachment 1**

### **Goal 1- Protect Stream Health and Aquatic Environments.**

The City supports the objectives.

Objective 1- Environmental Flow – Option A; “Environmental Flow Guidelines” is preferred. The guidelines approach allows more flexibility however should be science based so that deviations which are watershed specific and temporal can be facilitated.

Objective 2- Water Allocation Plans- Option B; “Plans should be required” and C “Decision maker must consider” is preferred if the Province mandates due to conditions backed by science or in circumstances where there is a water use conflict .

Water Plans should be developed to be prepared for those periods of repeated years of drought and for which there is a combination of higher demand scenarios.

Objective 3-Habitat and Riparian area protection provisions enhanced- Option A “Maintain requirement for order” however the province must enforce existing regulations. Option B would appear to be doubling up on existing legislation and local by-laws however reinforces Polluter Pay principle.

*Potential legislative changes must ensure that there is a balance in water use and net conservation of water that recognizes ecosystem health and avoids fish vs. human conflicts.*

### **Goal 2- Improve Water Governance Arrangements.**

The City supports the objectives.

The City prefers the *Centralized approach* with minor *Shared or Delegated* authority to local government for operational components (minor licencing and works), local watershed based collaboration and planning.

The City would like to see resolution to interagency conflicts over water and suggests that there needs to be an overarching Agency or Ministry of Water that has some authority over other agency planning and operations to protect the resource as was recommended in the Auditor General’s Report on water (this reinforces the *Centralized approach*).

The City views existing regulations and approvals as cumbersome and would like to see changes to reflect better streamlining of approvals. Currently it takes up to 2 years for minor works and approvals under Section 9 of the Water Act.

*Appropriate scale of watershed for planning*- City suggests that the typical area is site specific for the hydrological, soil, landuse and micro-climatic conditions. In other words it is not a specific size.

*Funding solutions to help implement approaches*-City suggests basin wide or watershed specific re-allocation of existing levies with additional dollars from water licencing and allocation revenues.

*Benefits to sharing roles for water stewardship*- Better collaboration with local watershed stakeholders to ensure water is put to priority use for specific watersheds under local government landuse jurisdiction.

*The City is cautious of any delegated authority for any new model of governance and needs assurance that we have full powers under our authority for use of local taxpayer funds now or in the future. We also have concerns for any shared or delegated authority that comes without adequate provincial funding.*

### **Goal 3- Introduce more flexibility and efficiency in the water allocation system**

The City strongly supports the objectives

Objective 1-the water allocation system emphasizes and encourages efficiencies in both water use and the administration of water as a natural resource.

Options to encourage water use efficiency: the City prefers option B “Codes for efficient infrastructure and practices” and C “the use of incentives and economic instruments”. In B we would like to see further changes to building and plumbing codes at the Provincial level as well as policy and by-laws at the local level ensuring sector specific best management practices.

The option D “review rules for transfer and apportionments of water rights” can only be considered if timely turn around of applications is available. A 30 day response and approval period may be adequate for drought or severe situations however the current norm of up to two years for any multiple agency approval is unacceptable.

Options to encourage administrative efficiency: the City supports web based solutions. The City prefers F “Permitted uses would be defined...in accordance with regulation...and be applied differently throughout the Province”. This seems in sync with the unique differences in the watersheds throughout the Province and one solution does not fit all watersheds.

The City also supports H “Required self-registration of the permitted use withdrawal.” If one uses the resource it needs to be registered and recorded on a data base.

The City supports O “ANY combination of tools outlined” in order to improve administrative and water use efficiencies.

*The City is also very interested in the non-consumptive water uses currently not defined in the water Act and would seek to have local permitting for those uses for heating and cooling purposes. This water use would help to reduce community and government carbon footprints significantly. Local government, with Provincial assistance, could approve these uses with best management practices, codes, and engineering sign-off without impacts to the water resource. This local need fits with the use of the natural resource as outlined in the objective.*



Objective 2 – Flexibility for water users and decision makers to quickly adapt to changing conditions.

None of this is possible without timely processing of applications.

Objective 3 – Water Allocation system integrates the management of groundwater and surface water where required in problem areas.

The City agrees with this premise especially where there is evidence of one resource connected to the other.

Options for Water Allocation-A modified FIT FIR (first in time- first in right) with priority use rather than priority of use is suggested. The priority use in each watershed would be different and have local context. The Manitoba example for changes to water use priority during times of low flow seems appropriate.

Options to address temporary water scarcity: B “Sharing” and C “hierarchy of uses” are supportable. However a modified Fit FIR as stated earlier could work.

*The City would like to have the return flow of wastewater treatment plant discharges notated on its water licences and have a net credit of water usage recorded on an annual basis. There may also be other municipal uses whereby water is returned to the lake and is not a consumptive use.*

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

The City strongly supports the objectives.

Options for determining thresholds: Agree that groundwater extraction is regulated in priority or critical areas such as the Okanagan Basin however no comment on thresholds.

Options for determining priority areas to regulate extraction: Agree with G “ANY combination” of triggers however must be local water shed specific.

*The City of Kelowna strongly suggests that local government have priority rights to groundwater reserves being considered for licencing within its boundary. It is important to the City to have an alternate water source, protected, for future use in case our surface supply becomes unusable.*