

From: Les Kiss [Kiss@coastforest.org]
Sent: April-30-10 2:13 PM
To: Living Water Smart ENV:EX
Subject: Water Act Modernization
Attachments: Water Act Response April30 2010.pdf

Please find attached the Coast Forest Products Association response to the Water Act Modernization Discussion Paper. Should you have any questions or require clarification please do not hesitate to contact us.

Sincerely, Les Kiss

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April 30, 2010

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

Via Email: livingwatersmart@gov.bc.ca

Re: British Columbia's Water Act Modernization Discussion Paper

The Coast Forest Products Association (CFPA) appreciates the opportunity to comment on the Ministry of Environment's proposed *Water Act* Modernization ("WAM") Discussion Paper.

CFPA represents forest and paper companies in coastal BC engaged in the harvesting and manufacturing of primary and added value forest products, and pulp and paper products. Together, CFPA member companies manufacture 95% of the lumber produced on the coast, 70% of the pulp and paper production and are responsible for 70% of the total coast timber harvest.

CFPA understands the WAM Discussion Paper is the first step in the process of assessing potential opportunities to modernize the *Water Act* in the way water is managed in BC and how the management and of water can be improved. CFPA believes that the sustainability of BC's water resources is important to the province's future and also to the success of our membership. As such, CFPA supports the goal of modernizing and streamlining legislation, particularly where proposed changes provide business certainty and consistency in application. In managing key resources such as water, it is imperative legislation and attendant regulations are developed with the underpinning of an appropriate balance between social, economic and environmental objectives.

For the most part, the WAM Discussion Paper makes generalized commentary on four goals:

- Protection of stream health and aquatic environments;
- Improvement of water governance arrangements;
- Introduction of a more flexible and efficient water allocation system; and
- Regulating groundwater extraction and use.

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In respect of **stream protection**, *Forest Act* tenure agreement holders manage their forest land base activities to be consistent with a number of statutes including the Federal *Fisheries Act* and the *Forest and Range Practices Act (FRPA)*. FRPA's Forest Planning and Practices Regulation has objectives set for water, fish, wildlife and biodiversity within riparian areas, fish habitat in fisheries sensitive watersheds, and water quality in community watersheds. The overlapping jurisdiction of the federal government and the provincial government already provides duplication of protection measures for many streams. A third layer of prescriptive requirements in the *Water Act*, which may conflict with existing regulatory provisions, would add unnecessary complexity for the forest sector's compliance efforts without materially improving stream protection and health.

Recommendation: The primary function of the *Water Act* should continue to be the allocation and regulation of water diversion, storage and use of water. The current provincial and federal legislation provides adequate protection of streams. The *Water Act* should not add more stream protection or water quality regulatory requirements for *Forest Act* tenure agreement holders, and in our view the *Water Act* is not the appropriate vehicle by which to address materials not to be introduced (dumping) into a stream.

In respect of **governance models** the CFPA strongly supports retaining the current model of centralized administration of the *Water Act*. Water is a provincial resource and as such it should be overseen at the provincial level. Central administration of the *Water Act* and clear policy leadership by the Ministry on water issues is preferred to a multitude of "watershed agencies". Provincial oversight will provide more efficiency and certainty for water users as well as those mandated to comply with water management objectives.

Recommendation: The current model of centralized administration of the *Water Act* should be retained as it appears to be the only option that guarantees the consistent application of policy across the province.

In respect to **water allocation plans** proposed in the Discussion Paper, where they may be required, must be developed on the basis of consistent policy and processes throughout the province. It is indicated the water allocation plan is a watershed scale supply and demand study that can determine the amount of water that is available for allocation while environmental needs are met. While CFPA is not opposed to the underlying objectives of such a plan, we caution the responsibility for development of these plans must not be imposed on our members. CFPA members are already obliged to prepare Forest Stewardship Plans wherein stream protection and water management strategies are included to be consistent with government objectives for these resources.

Recommendation: Water allocation plans should only be developed for priority areas, where the priority areas are designated in accordance with a clear set of rules based on



widely accepted provincial criteria. It is likely appropriate to provide government the discretion to develop water allocation plans where a priority need is identified. Individual water users should not be burdened with the task of balancing competing interests to water rights.

As indicated, forest sector activity is already subject to significant forest and range practices legislation, including objectives for water resources. In modernizing the *Water Act* the Ministry of Environment should strive to have legislation that is consistent with the profession reliance / results based foundation of the *Forest and Range Practices Act* (FRPA) and a product that respects and upholds the rights of existing tenure holders. Any changes to the Act must avoid overlap or duplication with other enactments – this includes consistency in definitions, relevant objectives, and practice requirements.

As a general rule, from the forest sector perspective, changes to the Act should strive to:

- address special water management on an incremental basis and not duplicate requirements found in existing federal and provincial statutes (i.e. the Forest and Range Practices Regulation);
- provide clarity rather than confusion;
- not conflict with objectives or requirements found in the existing federal and provincial statutes;
- be premised on a results based approach rather than being overly prescriptive;
- not unduly impact timber supply and log costs and
- provide exemption opportunities where warranted.

Coast Forest observes that many of the options referenced in the WAM Discussion Paper have not been set out in sufficient detail to provide for adequate analysis and response. As a result, CFPA has only provided preliminary comment on a few issues including suggestions for consideration to truly modernize the Act. We look forward to further opportunities to engage with the Ministry as the Act proposals become more detailed and concrete.

The CFPA appreciates the opportunity to comment on the Ministry's plans with respect to Water Act Modernization. We have provided this response in the hope that the ongoing development of the statute reduces regulatory burden, avoids duplication and recognizes the significant economic importance of the forest sector on communities and the province. We look forward to further dialogue on this issue.

Yours truly,



Les Kiss, RPF
Vice-President, Forestry

