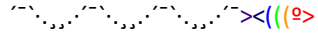


**From:** Meera Karunanathan [meerak@canadians.org]  
**Sent:** April-30-10 3:32 PM  
**To:** Living Water Smart ENV:EX  
**Cc:** Harjap Grewal  
**Subject:** Water Act Modernization submission  
**Attachments:** BC Water Act modernization.pdf

Please find attached, a submission by the Council of Canadians on the Water Act Modernization.

Thanks,

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April 30, 2010



## COUNCIL OF CANADIANS' SUBMISSION ON BRITISH COLUMBIA'S WATER ACT MODERNIZATION

The modernization of British Columbia's Water Act is long overdue and the Council of Canadians welcomes the opportunity to make a submission on British Columbia's Water Act Modernization.

The Council of Canadians is Canada's largest public advocacy organization with members and chapters across the country. The Council of Canadians works to protect the public interest by promoting progressive policies on fair trade, clean water, energy, public health care, and other issues of social and economic concern to communities in Canada.

Maintaining public ownership and control of water resources is an important priority for the Council of Canadians. A key component of our national water campaign is to advocate for a national water policy that preserves water as a public resource and enshrines water as a human right.

The Council of Canadians understands that the quality and availability of a community's water supply is linked to its future prosperity and health. We have close to 12,000 members and 30 chapters across the province of British Columbia. Through our BC regional office, based in Vancouver we have been actively involved in campaigns to promote the protection of water resources and public control over water systems within the province.

### 1. Water governance

The Council of Canadians calls for a governance structure that favours public oversight over decision-making regarding the allocation of water resources and protection of ground and surface water. Such decision must be made by governments with full public consultation and not downloaded to agencies or other unelected bodies.

First Nations communities are not stakeholders and should be seen as equal partners within the decision-making process. The BC government has a duty to work with First Nations government on a government to government basis on decisions pertaining to water resources according to processes that are mutually agreed upon. It is not the responsibility of the BC government to "reduce the burden of consultation" on First Nations communities. Speeding up or streamlining the process should not be its priority.

### 2. Water allocation

Submitted by Harjap Grewal, BC-Yukon regional organizer and Meera Karunanathan, national water campaigner for the Council of Canadians.

April 30, 2010

Rather than a system that promotes “flexibility and efficiency” the Council of Canadians is calling on the BC government to adopt a system of allocation that favours the public interest and environmental preservation.

#### Public trust legislation

The Council of Canadians calls on the BC government to recognize ground and surface water as a public trust, thereby allocating water resources according to a hierarchy that places environmental needs and the public interest above commercial interests.

Broadly the declaration of surface and groundwater as a public trust would require the government to protect water resources for the public’s reasonable use. Private use must be subservient to the public interest. Permission to extract groundwater, for example, must be granted on the ability to show public benefit for any proposed extraction.

In Vermont, for example, the application of public trust legislation to groundwater, led to the adoption of a hierarchy of allocation requiring water use be allocated for ecosystems and basic human needs first. Such a system is vital given the impacts of climate change in BC and projected drought and groundwater shortages being anticipated by the BC government.

#### License transfers and water markets

The Council of Canadians has strong concerns about the BC government’s interest in increasing flexibility in water licence transfers to promote “higher value use.” In Southern Alberta, this has led to the establishment of a water market where licences are sold and purchased with little public oversight. All water licenses must be granted by governments in consultation with the public upon principles of watershed protection. Water is a fundamental human right and must not be distributed according to ability to pay or according to the commercial value of its use.

#### Economic instruments for conservation

While conservation must be a priority, governments should favour non-market mechanisms such as funding water-efficient infrastructure, public education and strict regulation of unsustainable practices. Market mechanisms such as metering tend to allow waste among those who can afford it, while restricting access to a vital resource for those who are not able to pay the price.

### 3. Additional elements

#### Water as a human right

The Council of Canadians is calling on the BC government to use the modernization of the Water Act as an opportunity to become the first province to officially recognize water as a human right. This would ensure that all people living in BC, without discrimination, are legally entitled to safe clean drinking water and water for sanitation in sufficient quantities and that inequalities in access are addressed immediately.

Submitted by Harjap Grewal, BC-Yukon regional organizer and Meera Karunanathan, national water campaigner for the Council of Canadians.

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As outlined in a 2003 World Health Organization report on the right to water, the recognition of water as a human right would require the BC government to:

- A) Respect or refrain from interfering directly or indirectly with the enjoyment of the right to water.
- B) Protect or prevent third parties such as corporations from interfering in any way with the enjoyment of the right to water.
- C) Fulfill or adopt the necessary measures to achieve the full realization of the right to water.

Protect BC lakes and rivers from mining waste

BC lakes and rivers are being targeted by metal mining companies seeking exemptions under "Schedule 2" of the Fisheries Act to use bodies of fresh water as tailings impoundment areas or natural dumpsites for metal mining waste. New Brunswick and Quebec currently have legislation that prevents such practices within their territory.

The Council of Canadians is calling on the BC government to enact legislation that would outlaw the use of natural bodies of water as tailings ponds.

In summary, the Council of Canadians calls on the BC government to amend the Water Act to better protect ecosystem needs and the public interest by:

- recognizing water as a public trust
- Enshrining water as a human right
- Favouring non-market conservation strategies
- Creating governance structures that favour strong public oversight, public participation and collaboration with First Nations governments
- Establishing an allocation system based on a hierarchy of use that prioritizes environmental needs and the public system rather than a market-based allocation system
- Enacting legislation to prevent natural bodies of water from being used as tailing impoundment areas

Submitted by Harjap Grewal, BC-Yukon regional organizer and Meera Karunanathan, national water campaigner for the Council of Canadians.