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Attached, please find a submission from the Council of Forest Industries in response to government's request for input on this initiative.

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British Columbia's Water Act Modernization

In response to government's request for input, the Council of Forest Industries (COFI) is pleased to provide the following submission on the Ministry of Environment's proposal to modernize the Water Act.

COFI is the voice of the BC Interior Forest Industry. Collectively, COFI members operate 100 production facilities in over 60 forest dependent communities in BC's interior and account for approximately 80% of all BC softwood lumber shipments and 35% of all Canadian softwood lumber shipments. Thousands of British Columbia families depend on COFI member companies for their livelihood and well being.

General Comments

Water is an integral component that contributes to the quality of life enjoyed by British Columbians. Not only is it integral to people's well being, but it is also integral to a wide range of businesses and to the environment.

Within BC, the Water Act is the primary law for managing water resources. It is influenced by a vast array of statutes and regulations, making water management a very complex process. It is also a highly charged, emotional subject, that has often been the source of many conflicts. Water allocation and availability affects the livelihoods of thousands of British Columbians.

COFI is very supportive of government's initiative to modernize the Water Act, but advises government to proceed cautiously. Prior to making any decisions, we recommend that government undertake comprehensive reviews and cost benefit analyses across the full suite of affected legislation and other values on the landscape to determine the true impacts of any proposed decisions.

Principles

COFI supports the principles that appear in the discussion paper in general and recommends that they be expanded to include:

- all British Columbians' social and cultural practices;
- the balancing of water objectives with all other government objectives including those contained within cabinet approved land use plans (i.e. LRMPs);
- the completion of comprehensive cost benefit analyses as part of the decision making process to ensure that the true impacts of any proposed changes are known;
- the requirement to recognize and balance the needs of existing water users and resource rights on the land base.

Goal 1 – Protect Stream Health & Aquatic Environments

COFI supports the goal of protecting stream health and aquatic environments. We must however, point out that the definition of "stream health" is often badly misunderstood by the general public. For example, many healthy streams run dry during specific periods of year. A healthy stream does not necessarily equate to the year round flow of water. This common misunderstanding has the potential to lead to the call for increased constraints

on activities or added measures within watersheds that result in no benefit to stream health. They only add unnecessary constraints to other resource users.

Any discussion on Stream Health and Aquatic Environments implies, at least indirectly, land use impacts on water and the need to improve the regulations governing all land use activities on crown and private land. COFI raises this issue to help government avoid falling into this trap. We do not believe it is government's intention or desire to bring the regulation of all resource activities under the Water Act.

COFI is a strong advocate for the use of science to inform decision makers as well as a delegated authority model that incorporates in statute or regulation criteria to be considered by decision makers as part of the decision making process. Further, we advocate a policy structure that results in decision rationales being documented and communicated to proponents. We also recommend that legislation includes exception and exemption provisions to address unique or unforeseen circumstances. Exception provisions should provide automatic exemptions with no formal approval requirements. Exemption provisions however, should require an approval. Such a system would not only enable the proponent to understand what is required and whether he is in fact compliant or not, but also provide some flexibility in an administratively streamlined manner.

Currently, watershed plans are developed within government to guide decisions. COFI recommends that the responsibility for these plans remain within government. COFI supports any changes that will streamline process, increase certainty and reduce costs. We are concerned that many of the changes being contemplated by the discussion paper will not only add costs and burden onto both the public and private sectors, but will also reduce certainty without any measurable benefit to water quantity or quality.

The need for local, area specific water allocation plans should not be mandatory across the province. Instead, the need should be triggered by specific events and/or measurable benchmarks as outlined in an overall plan or strategy for the province. Such a plan would outline the water management strategy for the province including the bounds and criteria by which water is measured and allocated.

Goal 2 – Improve Water Governance Arrangements

Within BC, water governance involves government licensing and regulating the use of surface water from streams and authorizing and regulating changes in and about streams. Water governance is very complex. It is influenced by numerous provincial and federal statutes and regulations¹ which are implemented and enforced by many different agencies and jurisdictions at the federal, provincial and local levels.

In COFI's opinion, a successful system will be harmonized with other requirements and will clearly identify and communicate the roles, authorities and accountabilities of all parties. It will provide flexibility and the ability to adapt to future needs while being both realistic and practicable. Fundamental to any system's success will be the need to

¹ Examples include: Federal Fisheries Act, Federal Species at Risk Act, Forest Range Practices Act, Park Act, Oil and Gas Activities Act, etc.

improve the alignment of agencies and jurisdictions who play a role in, or influence water management.

Given the complexity of water governance, and the ever decreasing availability of resources, COFI recommends retaining a centralized management model with a portal or link to an officially recognized local advisory group to provide input and local knowledge. Although these groups may have more intimate knowledge of specific areas, COFI is concerned that where water management is shared or delegated, the necessary resources will not be available, nor will the groups have the authority to deal with the range of issues that may potentially influence water management. Such systems, in our opinion, will lead to more plans, additional burden and increased costs for resource users with no apparent gain or benefit. In addition, there will likely be a wide variation in how these plans are developed and implemented across the province. It is also very likely that local groups will not have the capacity nor expertise to deal with, or administer the complexity of issues that may arise.

Goal 3 – Introduce More Flexibility and Efficiency in the Water Allocation System

To achieve the desired output of introducing more flexibility and efficiency into the water allocation system, government must undertake a comprehensive review and overhaul of the water licensing system. A key component of this is the need for an inventory outlining the availability of water within the constraints of other tenured resource activities on the landbase, as well as an estimate of both the current use and future demands by system.

Water Licences

Many water licenses were issued years ago and contain terms and conditions reflective of past years. These need to be modernized, but must be done so in such a manner as to protect the rights and maintain certainty for existing water tenure holders as well as other resource tenure holders on the landscape. We recommend the following:

- Protect and enhance existing tenure holders rights;
- Review the terms and conditions of all existing licenses;
- Offer new licences (with modernized terms and conditions) to existing tenure holders in exchange for the old licences. Include incentives in the new tenures, i.e. the ability to transfer water rights, to facilitate this exchange;
- Cancel licences that are inactive;
- Where allocation exceeds availability, government needs to initiate a program to buy back water licences;
- Tie the issuance of new licences to actual, demonstrated needs and the availability of water given all of the other demands across the landscape;
- Within new licences include special powers for use during emergency situations (i.e. excessive drought)
- Develop a province wide strategy to guide water management, supported by regional plans;
- Develop a hierarchy of users for implementation during periods of water shortage or excessive drought (i.e. essential use Vs. non-essential use)
- Introduce terms requiring water conservation and the efficient use of water;

- Introduce licensing to govern ground water use;
- Where water availability far exceeds water use, allow the non-licence use of water;

Goal 4 – Regulate Groundwater Extraction and Use

Increasing demands and use by the general public and business, combined with the lack of formal regulations to govern ground water use is now creating conflicts. Although COFI generally does not support calls for increased legislation, we believe the time has come to introduce legislation to govern ground water use where use appears to be exceeding availability. It is especially needed where large withdrawals are being considered to protect stream health and existing tenure holder's rights.

We also advocate for inventories outlining the overall availability of ground water, as well as an estimate of both the current use and future demands by system. Not only will this help establish clarity, it will also provide greater certainty to those who depend on it. Identifying the critical levels for each system, will facilitate better water management and stream health.



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RE: BC Water Act Modernization

The Council of Forest Industries is please to submit the following paper outlining our recommendations on the provincial Water Act Modernization initiative. In recognition of the complexity of this subject, we encourage you to contact the undersigned to arrange a meeting to facilitate a much more thorough discussion, including the potential impacts this initiative could have on the forest sector in British Columbia.

Yours truly,

Archie MacDonald, RPF
General Manager, Forestry

cc: COFI Forestry Committee