From: ***PERSONAL IDENTIFIERS REMOVED***
Sent: Friday, April 30, 2010 11:17:53 PM
To: Living Water Smart ENV:EX
Subject: WAM Comment Submission

Here are the most important points that need to be addressed in the current Water Act Modernization:

• Water needs to be recognized as a human right & part of the commons – owned collectively by all & held in trust by government to manage in the public interest;

• Domestic Use licensed use should NOT be changed to a "permitted" use in order to retain legal rights.

Logically, you can't 'permit' someone to do something when it is their legal RIGHT (see below). A court battle or protest (or many) on this issue will definitely NOT help the government involved in instituting this violation of rights get re-elected! Make no mistake, the people who are interested in protecting their water rights are intelligent, well-informed, participating citizens of this democracy.

According to the BC Water Act:

"Part 2 – Licencing, Diversion & Use of Water & Related Matters

Section 2 – Vesting water in government

(1) The property in and the right to the use and flow of all the water at any time in a stream in British Columbia are for all purposes vested in the government, except only in so far as private rights have been established under licences issued or approvals given under this or a former Act."

This is vested by the Crown which is the institution which represents the power of the people above government and political parties. The Crown only allows the government and political parties to exercise powers in trust for use on behalf of the people. Under common law water is recognized as a public trust. It belongs collectively to all, and governments must manage water in the public interest. Governments do not have the authority to make decisions affecting collective resources that violate the public interest.

According to common law "…the common law riparian rights doctrine entitles the owner of land that borders on a surface water source to riparian rights, such as access to water "in its natural quality and quantity," and domestic water use rights on the land itself." (Eau Canada (UBC Press 2007), 'Trading our Common Heritage?')

• Secondly, there needs to be a broadened scope of discussion for true water protection – include land use (like resource extraction activities) since you can't protect the water without considering the land. Public involvement, including First Nations' perspectives and practices, needs to be respected and accomodated. This is what needs 'modernizing' to truly update current practices to be consistent with a modern democracy.

Sincerely,
PERSONAL IDENTIFIERS REMOVED