From: ***PERSONAL IDENTIFIERS REMOVED***
Sent: June-22-10 2:49 PM
To: Living Water Smart ENV:EX
Subject: Water Act modernisation submission
Attachments: Water act modernisation june 10.pdf

Dear Sirs/Mesdames,

I appreciate that this submission is late, as you asked for comment by 30 April, however I only found your Discussion Paper last week and decided that the issue is so important that I had to make a submission, which I hope may still be useful.

My interest in management of water in BC goes back to working on the Mica and Arrow dams on the Columbia River, then working for many years as an environmental consultant, and becoming familiar with water issues in the Okanagan and the East Kootenay. In addition I own a property on Hornby Island, which has made me sensitive to th groundwater issue.

Thank you for your consideration of the submission.

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Submission on
Water Act Modernisation
by
PERSONAL IDENTIFIERS REMOVED

In this submission I have followed the path laid out in the WAM Discussion Paper.

Goal 1
5.*1 Objectives for protecting stream health and aquatic environment*.
I strongly support all three objectives

5.2 Possible Solutions
Objective one. Environmental flows are considered in all water allocation decisions

I concur that both “standard setting” and “detailed assessment” methods should be used, depending on the region of BC. I suggest that in areas where the water resource is known to be stressed that the “detailed assessment” should be used. In other parts of the province the “standard setting” would suffice, provided that it would be in the power of the Comptroller or Regional Water Manager to require “detailed assessment” of stream conditions even in areas where “standard setting” was used, if they deemed conditions required it.

With regard to the two options for determination of environmental flow, I would prefer that the “environmental flow standards” system is applied in areas where there is a shortage of water seasonally, such as the east coast of Vancouver Island, and the Okanagan and Similkameen watersheds, so that local people know the standard that has been set and can more readily assess any future applications for water and their impacts.

I would accept that “environmental flow guidelines” would be appropriate for most other parts of the province, subject to a switch to “environmental flow standards” where major projects are proposed.

Where water allocations are already at a level where the aquatic ecology of the stream is impaired or threatened, I am strongly in favour of requiring preparation of a “water allocation plan” which would review the historic allocations and adjust them to ensure the retention of the aquatic ecology of the stream.

Objective two. Watershed-based water allocation plans include environmental flow plans and water available for consumptive use.

Water allocation plans should be developed for all areas where it is already known that the water resource is stressed in terms of meeting consumptive demand and the resilience of the stream aquatic systems is threatened. In my

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opinion the priority areas which would immediately qualify are the Okanagan and Similkameen basins, the Gulf Islands, and the east coast of Vancopuver Island south of Campbell River.

I believe that criteria should be developed to define when an allocation plan is required, that priorities be set as to the sequence of preparation of such plans, and that the Comptroller have both the responsibility to require a plan where necessary, and the right to order the preparation of a plan. A plan should not be fixed for ever, but should go through a process of review after a fixed period, say 10 years, to allow incorporation of changing knowledge on flow patterns, water use technology, changes in communities etc.

Once a plan is adopted, I believe that decision makers **must follow** the water allocation plan, unless a public system is built into the plan for review of proposals that compromise it, as happens for an OCP land use plan. This would ensure that the public is informed of potential changes to the allocation plan.

Objective three. Habitat and riparian area protection provisions are enhanced.

I strongly support Option B, the prohibition against dumping with a restitution provision, as Option A only comes into play after dumping has occurred and has been reported, and is too narrow in scope of materials.

Goal 2

6.1 Objectives for improving water governance

I strongly support objectives 1 and 2, but do not fully understand objective 3, so have no comment on it.

6.2 Possible solutions

My choice would be to retain the “Centralised approach” for those areas of the province where the water resource is not stressed, but to move to the “Delegated approach” in the Okanagan/Similkameen, Gulf Islands and the east coast of Vancouver Island from the Campbell River watershed south and to the Gordon River watershed at the south end.

My reasons for this are:

- Where the resource needs increasing intensity of management, I believe this is best applied at the local/regional level, provided standards are set by the province as is intended for the “Delegated approach”. Where the Delegated approach is used, I believe that there should be a charge on all water users in the region to pay for the required extra intensity of management.
- In areas where the water resource does not yet need intense management, it would seem more cost effective to retain the “Centralised approach”.

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As for the scale of watershed appropriate for water planning and management, I believe that the Okanagan watershed to be about the largest for effective local planning. Once the watershed is larger, there is not the same understanding among the resident population of the issues in different parts of the watershed.

With regard to funding solutions, in areas where the " Centralised approach" is retained, I suggest that the province should pay the costs for water management, as at present. In areas where it has been decided to move to the "Delegated approach", I suggest that the costs of management beyond those incurred by the province in providing the services defined in 10.4 should be borne by a fee set per unit of licensed consumption, with the exception that hydro projects not be considered consumptive users, and the setting of fees for them remain with the province.

In relation to accountability, transparency and dispute resolution for the Delegated approach, my suggestions are:

- The members of the Water Board should be elected directly and not be councilors delegated by municipalities or regional districts, as the latter have a conflict in that they are responsible for the land use plans which may not fit with the water allocation problems.
- The Water Boards should have to conduct themselves to the same standards as a regional district, with open meetings, open records of water allocation and of enforcement.
- For dispute resolution, I suggest that a staff administrative decision could be appealed to the Water Board as a whole, provided that it did not conflict with an agreed water allocation plan. If this did not settle the issue, I suggest that the ultimate decision power should still reside with the Comptroller of Water Rights.
- Where a water user is in conflict with a water allocation plan, it should be in the power of the Board to hold a public hearing to determine the merits of the case, and, if supported, to make an adjustment to the plan, subject to review by the Comptroller. Such a hearing should be designed to follow a process similar to that required to change a municipal Official Community Plan.

To me, the benefits of sharing roles for water stewardship are to bring responsibility closer to the communities dependent on the resource for their consumption and environment. Once there are disputes over allocation, the solutions will be accepted better if there is community understanding of the issues involved.

The downside is that the Water Boards might be captured by special interest groups that did not reflect the overall needs, requirements and ambitions of the communities. For this reason, and until a trial period had elapsed, I believe that the Comptroller should retain the power to dismiss a board and administer the water Board area directly. Precedents exist for retention of this power in the

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dismissal by the province of school boards that refuse to develop appropriate budgets, or fail to meet provincial standards in their district.

Goal 3
7.1 Objectives for introducing more flexibility and efficiency into the water allocation system
I strongly support all 4 objectives

Objective one
Options to encourage water use efficiency
Option A . The wording of this option confused me in that it appears to relate to "proposed undertakings" but then states that "the potential for licence cancellation exists", which would imply an existing project is being reviewed. I consider it essential that existing licences be reviewed in terms of their effective use of water, and that the same review be made of new applications.

Option B . The work of this option is required, but the option is too passive to be successful on its own, for without effective review and enforcement it will not be effective.

Option C . The use of incentives and penalties would certainly help to make water management more effective, however their use would require introduction of effective measurement of water use. This should be a component of the option.

Option D . In my view, review of the rules for transfer and apportionment of existing water rights is an essential component of the modernization of the Water Act. Unless this is done most of the other measures will be for naught, especially in those areas of the province with water shortages.

In conclusion, I believe that none of the above options will do the job on their own, there are elements in each which are essential for the modernization to be successful.

Options to encourage administrative efficiency
I support Options F rather than E. If Option E was adopted, it might still cause problems in areas with water shortages, while Option F has more flexibility.

I support Option H, so that a total record of water users and water use is developed. The record of users could be important if there was a pollution event.

My recommendation would be to allow extraction for domestic use (one dwelling and an accessory building only, but including home businesses such as B&Bs) and stock watering in fields only as permitted uses not requiring a water licence. Extraction rates for these would be set by the province based on its regulatory

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experience. Should projected demand due to multiple dwellings or irrigation requirements exceed the set levels for domestic use, then licences should be required.

The only controls that I can envisage are periodic checks by the regulatory authority, with the penalty being required to take out a licence with an annual fee.

The permitted status could be protected by the right to convert to a licence if water shortages develop on the stream affected.

A question, if it is decided to go with permitted uses, would the registration have to be changed every time a property was sold, or would the permit be linked to the property rather than the owner?

Options to encourage administrative and water use efficiencies
I support all the options as appropriate for the right of use of the water. I have two queries:

- Option N, I presume the self registration is intended to be mandatory. Is that what is proposed?
- Would these requirements be expected of permitted holders? I presume not to reduce administrative burden?

Objective 2
Options to provide water users and decision makers the flexibility to adapt
I agree that all the items listed warrant adjustments to existing water licences, and I support changes to the Act that would recognize the need for flexibility in administration of licences to accommodate them.

Objective 3
The water allocation system integrates the management of groundwater and surface water resources where required in problem areas.
This change is long overdue, and would be welcomed by all familiar with water resource management in BC.

The FITFIR concept can only be maintained where there is an abundance of water and little competition for its use. I believe strongly that the Water Act should move to the “priority of use” concept, particularly in areas of water shortage.

Since the Water Act was established BC has seen remarkable population and economic growth, which now begins to impinge on the FITFIR concept. As the growth has been supported by the province it only makes sense that the province should now ensure that water is now available to meet that growth. This will require abandonment of the FITFIR concept in favour of water allocation planning.

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Objective four
Water users will be required to conserve water during drought or when stream health is threatened

Options A, B and C all have merit and could be applied depending on the size of the stream affected and the severity of the drought. Option A would appear to apply to smaller streams, while Options B and C appear more designed to apply to watersheds. In any given situation I would prefer to start with Option B, then, if a drought persists to move to Option C.

Option D will be attractive to existing licence holders, but to retain it removes flexibility to the water manager in dealing with changing conditions of demand or water supply.

Options to address long-term water scarcity
Where long term water availability is an issue, I prefer Option E, as in my experience in BC it would take a long time for the parties involved to voluntarily consent to initiating preparation of a plan addressing water scarcity. There are too many conflicting interests in drought prone areas to make a community initiative work, in my view.

Goal Four

8.1 Objective for regulating groundwater extraction and use
I very strongly support the regulation of groundwater extraction and use in priority areas.

8.2 Possible Solutions

Objective One
Options for determining thresholds for large groundwater withdrawals
I support Option B, which represents a large subdivision, but feel this would still be too high in an existing or future priority area where groundwater is not so abundant.

Options for determining priority areas to regulate groundwater
I believe that all the options listed merit definition as priority areas for the regulation of groundwater extraction. I strongly support the early definition of the Okanagan and Similkameen basins, the Lower Mainland, the Gulf Islands and the east coast of Vancouver Island as priority areas.