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April 12th 2010

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

Dear Sir or Madam:

I am a member of a water users' community and this is my

Submission to Modernize British Columbia's Water Act.

I present my submission in two parts; namely,

- Concerns about the rules regarding water users' community in the current Water Act, and
- Comments about the Water Act Modernization Discussion Paper.

Concerns about the Rules regarding Water Users' Communities in the Current Water Act

Water Users' Communities

Sections 32, 52, 53, 55, 56, 57, 58, 59, 60 and 61 of the current Water Act regulate water users' communities. I would appreciate if these sections would be consolidated under one chapter in the modernized Water Act.

Power of Water Users' Community — Water Act Section 52

The current Water Act authorizes ~~a~~ water users' communities to refuse the use or benefits of their works to members who are in default in paying assessments or complying with rules of the managers. This authorization is insufficient because the refusal to a member may result in the refusal of the member to grant access to essential common facilities on the member's land. An modernized Water Act may assist water users' communities by requiring the Water Comptroller to cancel the water licence of a recalcitrant member.

Manager of a Water Users' Community — Water Act Section 53

The current Act authorizes a water users' community to remove a manager at any time at a meeting called for that purpose. This authorization could be futile in view of the scarcity of management candidates. A new Act could improve the succession problem

by including rules for the appointment of a new manager by the Water Comptroller or for the authorization of the Community to employ an outsider as manager.

Water Act Sections

Assessment of Members of Water Users' Communities 56, 57, 58, 59

The current Act allows a member to appeal an assessment within fourteen days after the issuance of the assessment roll. Fourteen days is an insufficient time for the preparation and submission of an individual appeal or for a class appeal by several members. I suggest that the modernized code extends the appeal time to one month after the deadline for the payment of the assessment. Only members who have paid their assessment fully should have the right of appeal.

I hope that the new Act will provide water users' communities with more tools for the collection of outstanding assessment principals and interest. Such tools could include the cancellation of the water licence, the registration as financial encumbrance with the land registry, or legal tools that are already available to municipalities or improvement districts for the collection of outstanding fees or land taxes.

Amendment, Recall or Re-Issue of Certificate or
Dissolution of Water Users' Community Water Act Section 61

This section grants unchecked, unlimited and one-sided powers to the comptroller. I believe that problems or conflicts that may necessitate the amendment, recall or re-issue of a certificate or the dissolution of a water users' community should be resolved synergistically by the community and the comptroller. Mediation, arbitration or litigation should be applied only if community, comptroller or both are unable or unwilling to resolve the problem or the conflict.

Comments about the
Water Act Modernization Discussion Paper

Principles Discussion Paper Section 4

Principle	Comment
1 and 2	First Nations and other water users may have to relinquish some or all of their water rights and traditions for the sake of quantitative and qualitative sustainability. A board on which the relinquisher must be duly represented should establish the need for the relinquishment. Relinquishments must be commensurate with the need of sustainability. The relinquisher must be justly compensated for the curtailment of water rights and traditions. A relinquisher must have the right of mitigation, arbitration or litigation.
3	You may want to substitute for the general term "science" precise references to the BC Research Council and the universities in BC. For example, UBC could rigorously investigate the anthropogenic interference with the salmon migration in the Fraser delta and UFV could create a geological and hydrological atlas of the Lower Fraser Valley.
4	The integration should include not only government agencies but also corporate and private landowners. The integration should not be hierarchical; hence, I would like you to substitute another word for the word "level".

5 and 6	Principle #5 speaks about clearly defined rules and standards while principle #6 considers flexibility. I would prefer to have performance standards, which must be observed but not blindly obeyed. Landowners and administrators of public or corporate land should be expected to know the performance standards and to invite government agencies, other landowners and the public duly and promptly to veto deviations.
7	I would prefer a Code for Water and Waste Water. Landowners and administrators of corporate or public land should be expected to comply with the code or to offer alternatives. Government and public must have sufficient time to object to the alternatives. Landowners and administrators of corporate or public land must risk the loss of all water or property rights if they do not comply with the Code or acceptable alternatives. Rebates for water reclamation and non-potable water use should be granted only for demonstration projects.
8	This is a patronizing statement. Rights to use water (and air) are God-given; the Water Act can restrict them for the sake of the common good and the peace between water users but it cannot grant them.

Discussion Paper

Protection of Stream Health and Aquatic EnvironmentsDiscussion Section 5

I prefer Option A "Environmental Flow Guidelines".

Improvement of Water Governance Arrangements Discussion Paper Section 6

On page 1 the Discussion Paper lists the various decisions which the provincial government makes under the Water Act. I would like to add that decisions about water are made not only by provincial agencies but also by regions, municipalities, water users' communities, first nations, private and corporate land owners, citizens, courts, etc. Therefore, a modernized Water Act must be more than a tool for the provincial government; it must be a charter for all decision-makers. A modernized Water Act must assign and define responsibilities, empowerment, accountabilities and funding sources to the agencies or persons who are best suited for making particular decisions on water.

A modernized Water Act should be properly equipped with an index, clear cross references and electronic linkages to make the consultation of the Act easy for decision-makers and to make its interpretation easy for judges.

A modernized Water Act could prevent lengthy and costly conflicts between stakeholders by the establishment of rules for prompt meditation and arbitration.

Regulation of Groundwater Extraction and Use Discussion Paper Section 8

Landowners and administrators of corporate or public land require

- a Code for Water and Waste Water that includes the groundwater regulations of all federal and provincial enactments;
- superimposed zoning for aquifer recharge areas;
- a Geological and Hydrological Atlas; and
- an information system that keeps subscribers informed about water policies and regulations and that accepts field information from subscribers.

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