

From: Metherall, Christina [mailto:CMetherall@rdn.bc.ca]
Sent: Friday, January 28, 2011 10:51 AM
To: Living Water Smart ENV:EX
Cc: Finnie, John; Donnelly, Mike
Subject: RDN Response to the Policy Proposal on BC's new Water Sustainability Act

Hello,

Please find attached the RDN staff submission to the Policy Proposal on British Columbia's new Water Sustainability Act.

Regards,

Christina Metherall

Drinking Water and Watershed Protection Coordinator
Regional District of Nanaimo
6300 Hammond Bay Road, Nanaimo, BC V9T 6N2
Phone: 250-390-6586 | Toll Free: 1-877-607-4111
www.rdn.bc.ca

January 27, 2011



Regional District of Nanaimo Submission to the Water Sustainability Act Review

This submission is in response to the call for feedback on the policy proposal on the new Water Sustainability Act.

The Regional District of Nanaimo (RDN) supports the direction of the provincial Living Water Smart initiative and the reform of BC water laws in order to protect BC's natural environment, the health of its citizens, and economic stability. The RDN recognizes that in order to protect this precious resource the province of BC needs to take substantial action to change the way water is governed and managed. The RDN encourages the Provincial government to take the necessary action to support these goals by providing the appropriate resources and enabling legislation.

The Policy Proposal on British Columbia's New Water Sustainability Act contains several promising directions; however some critical components of a sustainable water management framework are excluded. In some areas, there is insufficient detail to determine if the policy directions will make sufficient changes to the existing system in order to adequately protect BC's water resources. The new WSA attempts to establish a provincial framework for water stewardship based on risk and enable an area-based approach for water management. However, to address most of the issues related to water protection and water use requires that water is managed proactively, rather than reactively, and that allocation decisions are made as part of an integrated watershed-based framework. Groundwater and surface water must be recognized as the same resource requiring protection, regardless of use, and a centralized decision making authority must be enabled. The RDN supports the movement to legislation and a system that embraces a watershed focus with all other acts being consequentially amended to be consistent with a new Water Act.

The Regional District of Nanaimo respectfully provides the following comments in support of the goals of the new Water Sustainability Act:

1. Protect stream health and aquatic environments

- In order to protect in stream flow needs, minimum ecological flow needs (and the timing of those needs) would need to be legally established through PWOs and take priority over all other uses

Minimum environmental or ecological flows need to be applied before licenses are granted for extraction. In stream flow needs should not be determined on a license by license basis, but should be based on ecosystem requirements, with no discretion left to either the applicant or the designated individuals. Water use and allocations should come only after a “sustainability

- boundary” of water needed for watershed function – the remaining water is only then “available” for human use (ie licensing).
- Where over licensing has already occurred (in some cases over and above stream flow and therefore certainly over and above ecological flows), license reduction and/or storage requirements to support extraction need to be imposed.
- There should be no new licenses until minimum ecological flows are reestablished.
- Where existing measures are insufficient to protect minimum in stream flow needs, such as Vancouver Island’s Water Allocation Plans, further work must be done to identify these needs and characterize the resource
- In order to protect stream health, the Water Act needs to take precedence over other acts including *Land Act*, *Oil and Gas Act*, *Forest and Range Practices Act* etc. and should consequentially amend other acts that implicate stream health
- Groundwater and surface water are one integrated resource and in stream flow requirements must apply to groundwater licenses where necessary

2. Consider water in land-use decisions

- The scope of the proposed ‘Provincial Water Objectives’ is unclear and further clarity on how they are to be used and the specifics of some proposed “objectives” would assist in understanding their usefulness as a policy tool.
- In order for this tool to be effective, PWOs need to take precedence over other resource legislation, including the *Land Act*, *Oil and Gas Act*, *Forest and Range Practices Act* etc.

3. Regulate groundwater use

- The RDN supports this policy direction, however the proposed 250-500 cubic metres per day threshold to define large withdrawals is too high for sensitive or highly utilized aquifers and will not address the cumulative impacts of multiple smaller extractions. Smaller extractions (greater than 50cmd) require regulation even in non-stressed areas, as the cumulative impacts may eventually lead to problem areas.

- In order to ensure that water is managed as an integrated resource, groundwater should be licensed and managed in the same manner as surface water
- Significant resources will need to be allocated in order to determine the relationship between groundwater and surface water for proper accounting of water availability for licensing

4. Regulate during scarcity

- During times of water scarcity the intent appears to be to regulate by priority date (i.e. FITFIR) if conservation measures and proportional reductions are insufficient. The FITFIR system should not be an option for regulating during times of scarcity. As recommended in the RDN's initial response to the WAM (April 2010), the challenges of water scarcity should be shared by all users based on priority uses, with preference given to environmental needs and drinking water

5. Improve security, water use efficiency, and conservation

- The use of economic instruments to promote water conservation, such as rebates, and fee based measures where the cost of a license directly correlates to the volume used, is supported.
- The use of water markets is not supported. The province of BC does not have a robust water management system or water governance regime and in this context the use of water markets is very risky. In addition, the market sale of water licenses is not viewed favorably by many residents. The use of water markets without an equitable priority of use system in times of scarcity would lead to unfair use. The establishment of any such water market system would take extremely careful planning and review, and at this point, resources would be better invested in the establishment of more fundamental and publicly acceptable water management structures.

6. Measure and report

- The RDN supports the provincial role in the measuring and reporting of both ground and surface water use to enable science based water management.
- Monitoring and reporting should be required for all licensed water users. The proposal specifies reporting for large withdrawals but does not define the threshold for a large withdrawal. It is important that the threshold is sufficiently low to account for the cumulative impacts of multiple smaller withdrawals (ie. 50cmd).

7. Enable a range of governance approaches

- Although the RDN supports the transition to more participatory and collaborative forms of governance, there is insufficient detail to comment on this policy direction. To truly enable changes to water governance arrangements, the policy proposal must clearly state which activities and decisions will be delegated and the resources that will accompany these new responsibilities.
- There is general support for a form of governance which gives more authority to partner or watershed agencies. However, this new form of governance must be enabled to make decisions and be given the resources to operate.

- It is apparent that there will still be a range of ‘decision makers’ in regards to water. The stratification of decisions regarding water leads to poor management. The authorities for water need to be streamlined and integrated. A unified watershed management agency, that is responsible for decisions regarding water, and incorporates meaningful local input into those decisions, is required.
- In regards to the province being responsible for deciding the institutions, systems, and roles for any delegated responsibility, it is important that this is accompanied with the necessary resources and authority. Many regional districts would like to be involved in water protection, but do not have the capacity, resources, or capability to acquire the resources to do so. Many also do not have the jurisdiction to take on all aspects of watershed management. Currently, for example, under the Local Government Act Regional Districts require electorate approval to create a function to undertake a service.
- To accommodate a single decision making authority related to water would require that the provisions in the new *Act* be linked to amended legislation in other key pieces of resource legislation, including the *Land Act*, *Oil and Gas Act*, *Forest and Range Practices Act* etc.

Comments on Table 1: A Framework for Water Stewardship in BC:

A more proactive approach is recommended.

- In Known Problem Areas a highly level of conservation should be required in order to prevent the transition to chronic problem areas. This will also stimulate less costly and more efficient solutions to potential water supply issues.
- In the case of Chronic Problem Areas (such as the RDN, as identified in Appendix B), restoration of ecological flows is a top priority. Until ecological flows are restored, no new licenses should be issued and controls on timing of extractions and limits on existing water uses may need to be imposed.
- Watershed Sustainability Plans –As a key stakeholder in a chronic problem area, the RDN is concerned that the current measures to support sustainability such as allocation plans are not sufficient, and would need further details on the scope of the Watershed Sustainability Plans and the responsibility for implementation of the plans in order to comment on the suitability of these plans for addressing water supply issues.
- In Known Problem Areas and Chronic Problem areas, further work needs to be done to characterize the water resource. In these areas, it is essential that there is at a minimum, a conceptual understanding of the relationships between groundwater and surface water and a sufficiently detailed water budget completed in order to appropriately manage groundwater and surface water extractions.