

From: Christy Malden [mailto:christy.malden@rdno.ca]
Sent: Monday, February 21, 2011 11:09 AM
To: Minister, ENV ENV:EX
Cc: Foster.MLA, Eric LASS:EX
Subject: Request for Deadline Extention - Water Act
Importance: High

Please see attached correspondence from the Regional District of North Okanagan with respect to the proposed changes to the Water Act.

Hard copies will follow by mail.

Best regards,

Christy Malden | Executive Assistant to the Administrator | **Regional District of North Okanagan** | 9848
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REGIONAL DISTRICT OF NORTH OKANAGAN

MEMBER MUNICIPALITIES:

CITY OF ARMSTRONG
DISTRICT OF COLDSTREAM
CITY OF ENDERBY

VILLAGE OF LUMBY
TOWNSHIP OF SPALLUMCHEEN
CITY OF VERNON

ELECTORAL AREAS:

"B" – SWAN LAKE
"C" – B.X. DISTRICT
"D" – LUMBY (RURAL)

"E" – CHERRYVILLE
"F" – ENDERBY (RURAL)

OFFICE OF: ENGINEERING

OUR FILE No.: 5210.01

February 21, 2011

Ministry of Environment
PO Box 9047 Stn. Prov. Govt.
Room 247, Parliament Buildings
Victoria, BC. V8W 9E2
Attn.: Honourable Murray Coell, Minister of Environment

Re: Open and accountable governance of the Water Sustainability Act Modernization

At the February 16, 2011 meeting of the Regional District of North Okanagan Board of Directors the following motion was passed:

*"That staff be directed to write a letter to the BC Minister of Environment for signature by the Chair of the Regional District of North Okanagan to request the opportunity for comment once the draft legislation for the Water Sustainability Act has been set; and further,
That local Okanagan communities be consulted prior to the finalization of the new Water Act as the proposed legislation criteria could have unacceptable consequences to the effective operation of a water utility and that a copy of the February 7, 2011 Report be forward to the BC Minister of Environment, along with the letter from the Chair of the Regional District of North Okanagan; and further,
That the Ministry of Environment be requested to extend the closing date for comments to March 21, 2011."*

Accordingly, please find enclosed a copy of the Engineering report dated February 7, 2011 that was forwarded to the Board of Directors for their consideration regarding the proposed changes to the *Water Act*.

We respectfully request that you consider an extension to the deadline to allow sufficient time for review of the proposed legislation that will impact our water resources today and for future generations.

Yours truly,

A handwritten signature in black ink, appearing to read "H. Halvorson".

Herman Halvorson
Chair, Board of Directors
HH/pj

enc.: Staff Report dated February 7, 2011
cc.: Eric Foster, MLA



**REGIONAL DISTRICT
of
NORTH OKANAGAN**

REPORT

File No.: 5720.06.06.02

TO: Board of Directors
FROM: Engineering
DATE: February 7, 2011
SUBJECT: British Columbia's Water Act Modernization

RECOMMENDATION:

That staff be directed to write a letter to the BC Minister of Environment for signature by the Chair of the Regional District of North Okanagan to request the opportunity for comment once the draft legislation for the Water Sustainability Act has been set; and further,

That local Okanagan communities be consulted prior to the finalization of the new Water Act as the proposed legislation criteria could have unacceptable consequences to the effective operation of a water utility and that a copy of the February 7, 2011 Report be forward to the BC Minister of Environment, along with the letter from the Chair of the Regional District of North Okanagan.

SUMMARY:

This report has been prepared with the Greater Vernon Water Utility (GVWU) in mind. Other smaller utilities operated by the Regional District of North Okanagan and the Regional District in general, have not been included.

The BC Ministry of Environment (MOE) is undergoing a process called "Water Act Modernization" or WAM. The stated purpose of the process is to update the existing Water Act with the following goals:

- Protect stream health and aquatic environments
- Improve water governance arrangements
- Introduce more flexibility and efficiency in the water allocation system,
- Regulate groundwater extraction and use.

The vehicle to implement these goals is a proposed "Water Sustainability Act". Public engagement to provide input is scheduled to end in February 2011 as noted in Attachment 1. Draft Legislation is scheduled for the summer of 2011, with introduction to the legislature presumably this fall or in 2012. There are several key issues that are quite concerning, and others that support the water utility.

The comment period is drawing to a close, and the legislative formulation program begins. There are significant concerns over some of the direction the current policy document contains. As a significant stake holder in an area provincially identified as critical, we should be able to comment on the draft legislation.


DISCUSSION:

The December 2010 "Policy Proposal on British Columbia's new Water Sustainability Act" [Proposal] and the "Technical Background Report" [Report] provide a number of initiatives that are given in fairly general terms. Depending upon interpretation, some of these initiatives strengthen and some will hinder the GVVU's ability to operate. Some of these points are:

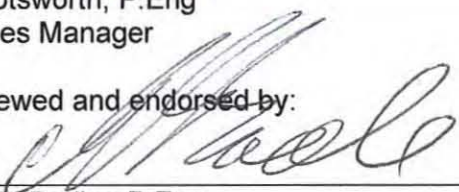
1. The Proposal indicated "...proposal to explore water markets and water rights trading and transfers." In their blog the province indicates "We've heard a great deal of concern from you over the past few days about our proposal to explore water markets and water rights trading and transfers. We've said it before, and because it's so very important, we'll say it again. **We are not proposing the privatization of BC's water.**" [their emphasis]. While privatization is clearly off the table, a water market will significantly change the water rights landscape. The final definition of this proposal needs review.
2. In the Proposal, the Southern Interior has been designated an area of "Significant water supply issues and risk to quality." The current documentation [Attachments 2 and 3] indicate the province intends to "Apply additional measures to respond to known water supply issues and risks to water quality, for example... New conditions for existing and new licences...Use of additional incentives and economic instruments, and voluntary efficiency and conservation measures." The new conditions for existing licences and economic instruments may have a significant impact upon the GVVU.
3. Regulate during times of scarcity. Currently, provincial legislation operates under a process called "First in time, first in right" [FITFIR]. Under this program if water reductions are necessary, the newest licence must cut back first, and the oldest licence is protected the most. The province has discussed a system whereby all the licences are cut back by the same proportion. The GVVU has a mix of newer and some of the oldest licences in the watershed. A change away from FITFIR may negatively affect the utility. The Proposal document indicates: "Deviating from priority date to importance of use will be enabled in exceptional circumstances (e.g., where high importance water uses are at risk, such as municipal water supplies).".
4. The Report [Attachment 4] indicates, "Government will limit all new licences to a 40-year term in areas where there is high demand and pressure on water". While the GVVU has significant water licences for usage and storage, the province may require current unused licence to submit to a 40 year term.
5. The Report states "Government will support communities to do watershed management planning in priority areas." It is believed that Watershed Management Assessments will be downloaded to licencees and especially communities, with the provincial government only providing an approval process, and final approval to the assessments.
6. The Proposal document strongly promotes water use efficiency, and includes the statement "Water users will be required to demonstrate efficiency of use, for example, by matching irrigation flows with crop and soil type". The GVVU has made major gains on this process through the agricultural metering program, and setting a volumetric definition of water allocation.

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7. The Proposal includes the creation of an "Agricultural Water Reserve". This will help protect most of the water licences the GVWU currently has.
 8. The province intends to regulate large ground water extractions. In general it is thought that this will protect existing large ground water users such as GVWU.
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Submitted by:


Al Cotsworth, P.Eng
Utilities Manager

Reviewed and endorsed by:


Arnold Badke, P.Eng.
General Manager, Engineering

Approved for inclusion:


Greg Betts
Administrator

Attachments:

- 1 BC Policy Water Act Modernization Process From Proposal
- 2 Water Sensitive Ecosystems From BC Technical Background Report
- 3 Three Levels of Action Areas From BC Policy Proposal
- 4 Highlighted Text Boxes From Technical Background Report

Attachment 1

Water Act Modernization Process

From BC Policy Proposal

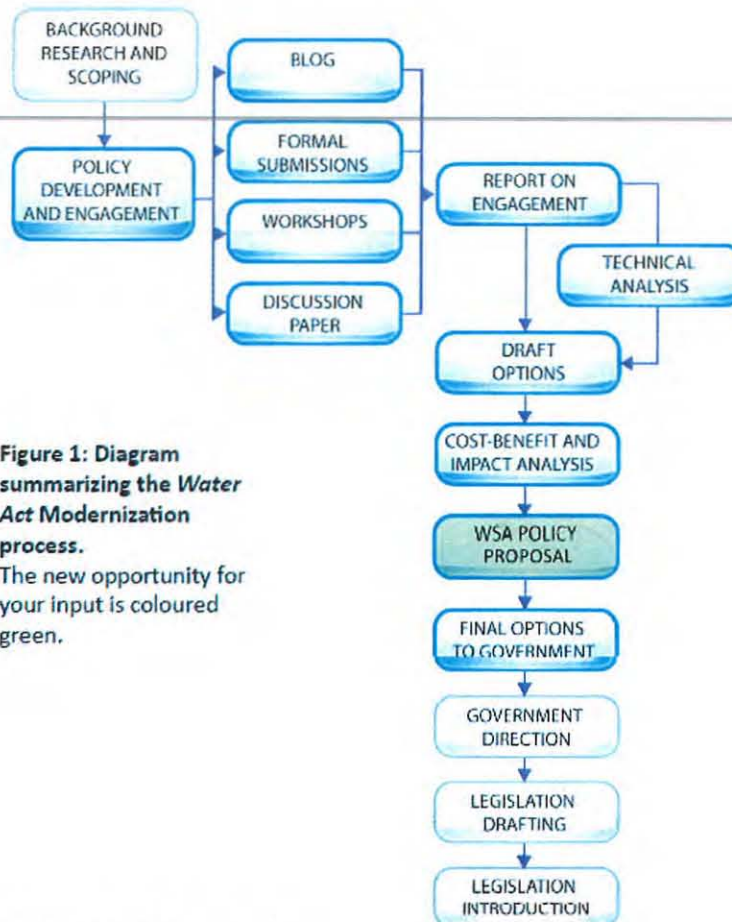


Figure 1: Diagram summarizing the Water Act Modernization process.
The new opportunity for your input is coloured green.

There are four key phases of *Water Act Modernization*:

Phase 1 – Scoping, jurisdictional review and background research (complete). I

Phase 2 – Engagement and policy development (Winter 2009 – February 2011). This phase began with the launch of the Living Water Smart Blog in December 2009, and was soon followed by the release of the *Water Act Modernization Discussion Paper* and a *Technical Background Report* in early 2010. Regional workshops were held in the spring of 2010, and public submissions were gathered, analyzed and collected into the *Report on Engagement*, released September 2010.

Responding to British Columbians, this phase has been extended for feedback on a Policy Proposal for a new *Water Sustainability Act* (WSA). Beginning in January 2011, Ministry of Environment staff will explain key features of the WSA in greater detail on the [Living Water Smart Blog](#).

Phase 3 – Request for legislation and legislative drafting (spring – summer 2011). Final recommendations will be submitted to Government for consideration

Phase 4 – Bill introduction and approval.

How will the changes affect how we do work? Water Use, unused licences, new terms might include:

- New requirements to address or mitigate potential impact to others – well drilling , water for irrigation
- Introduction of adjustable extraction limits in response to seasonal or long term climate variation
- Regulating discharge of water after use

Attachment 2
Water Sensitive Ecosystems
From BC Technical Background Report

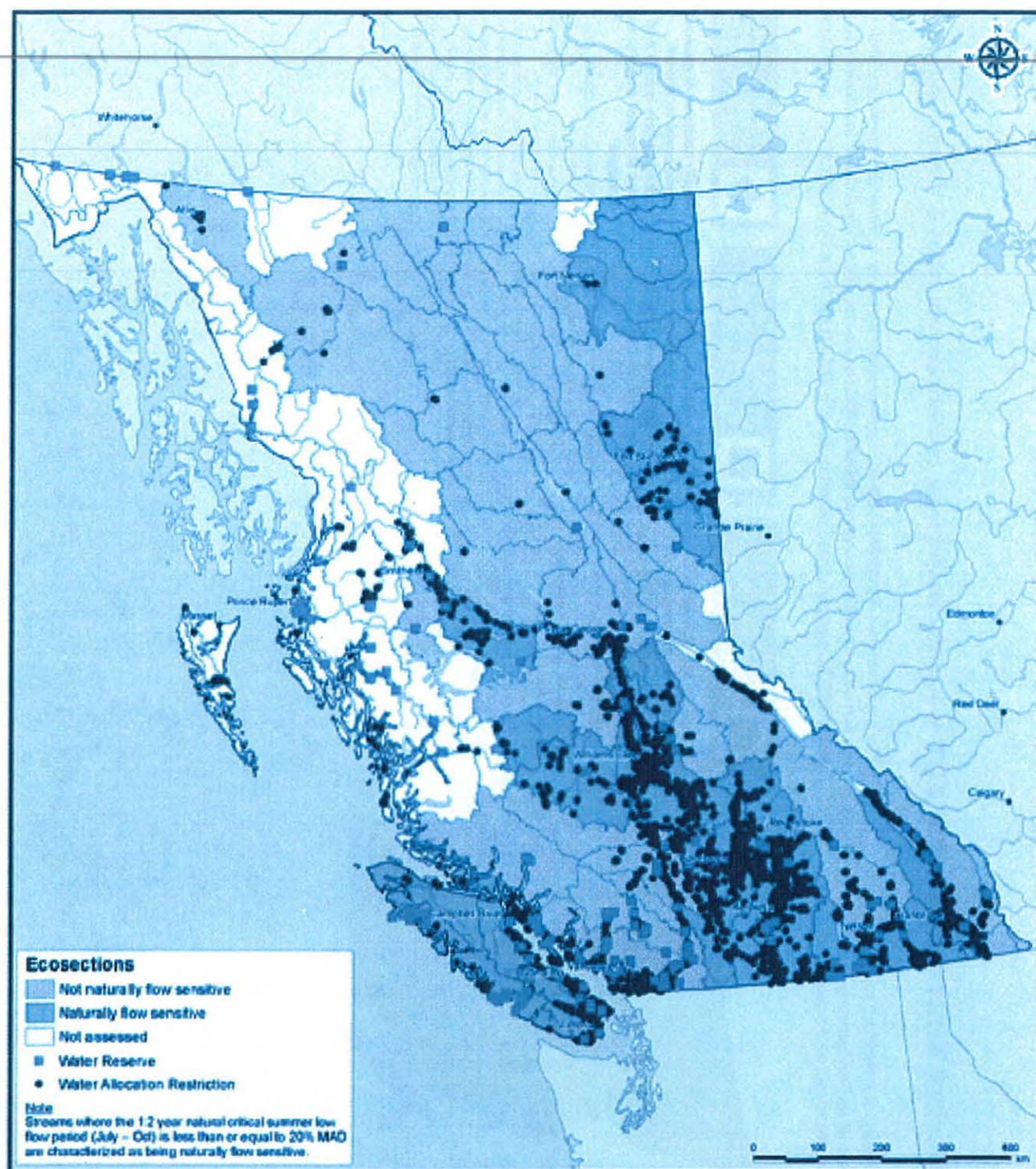


FIGURE 1b Ecosections that are naturally flow sensitive are displayed with an overlay of water reserves and water allocation restrictions to illustrate the potential for water use conflicts in British Columbia.

NEW WATER SUSTAINABILITY ACT — healthy watersheds, resilient communities & thriving industries

AREA BASED APPROACH:

Three levels of action based on risk, competing demands and scarcity

The proposed act **RECOGNIZES** BC's geographic diversity, hydrologic variability and uneven population distribution, **RESPONDS** to provincial challenges and localized issues, **SECURES** BC's water dependent future and **FULFILLS** 19 *Living Water Smart* commitments.



WATER SUPPLY & QUALITY GENERALLY GOOD

Apply province-wide measures, for example:

- Formula-based instream flow assessments for all new groundwater and surface water allocation decisions
- Regulate groundwater use
- Require more efficient use of water through incentives, economic instruments and voluntary efficiency and conservation measures
- Establish water reservations for agriculture
- Enable shared and delegated decision-making
- Consider provincial water objectives when making land, water and other resource use decisions



WATER SUPPLY & QUALITY ISSUES CAN BE MITIGATED

Apply additional measures to pre-empt emerging water supply and quality issues, for example:

- Water resource assessments
- Area and sector based conditions for new licences
- Continued use of incentives, economic instruments, and voluntary efficiency and conservation measures
- Additional reporting requirements



SIGNIFICANT WATER SUPPLY ISSUES & RISKS TO QUALITY

Apply additional measures to respond to known water supply issues and risks to water quality, for example:

- Watershed sustainability plans
- New conditions for existing and new licences
- Use of additional incentives, economic instruments, and voluntary efficiency and conservation measures
- Additional information, increased monitoring and reporting, periodic reviews

Attachment 4
Highlighted Text Boxes
From Technical Background Report

TEXT BOX 1a Living Water Smart Actions that Relate to Protecting Stream Health and Aquatic Environments

- By 2012 all land and water managers will know what makes a stream healthy, and therefore be able to help land and water users factor in new approaches to securing stream health and the full range of stream benefits.
- By 2012 water laws will improve the protection of ecological values.
- Legislation will recognize water flow requirements for ecosystems and species.
- Government will require all users to cut back their water use where stream health is threatened.
- Wetland and waterway function will be protected and rehabilitated.

TEXT BOX 2a Living Water Smart Actions Relating to Water Governance

- By 2012, water laws will improve the protection of ecological values, provide for more community involvement, and provide incentives to be water efficient.
- Government will support communities to do watershed management planning in priority areas.
- By 2012 new approaches to water management will address the impacts from a changing water cycle, increased drought risk and other impacts on water caused by climate change.
- Government will work with other provinces to share ideas and resources to improve water conservation and collectively help communities adapt to climate change.
- Tools to incorporate traditional ecological knowledge into information and decision making will be developed by 2015.
- Government will publish a report on the state of our water by 2012 and every five years after that.

Text Box 3a: Living Water Smart Actions Relating to Water Allocation

- Government will require all users to cut back their water use in times of drought or where stream health is threatened.
- Government will limit all new licences to 40-year terms in areas where there is high demand and pressure on water.
- Government will support communities to do watershed management planning in priority areas.
- By 2020, water use in British Columbia will be 33 percent more efficient.
- By 2012, government will require all large water users to measure and report their water use.
- Government will require more efficient water use in the agriculture sector.
- Government will secure access to water for agricultural lands.
- By 2012 new approaches to water management will address the impacts from a changing water cycle, increased drought risk and other impacts on water caused by climate change.

TEXT BOX 4b Living Water Smart Actions that Relate to Groundwater

- By 2012, government will regulate groundwater use in priority areas and large groundwater withdrawals.
- By 2012, water laws will improve the protection of ecological values, provide for more community involvement, and provide incentives to be water efficient.
- Legislation will recognize water flow requirements for ecosystems and species.
- Government will support communities to do watershed management planning in priority areas.
- By 2012, government will require all large water users to measure and report their water use.