From: Andrew Gage [Andrew_Gage@wcel.org]
Sent: April-30-10 9:01 AM
To: Living Water Smart ENV:EX
Subject: Water Act Modernization Submissions
Attachments: Water Act Modernization Submission.pdf

Please find attached West Coast Environmental Law's submissions on the Water Act Modernization.

Thank you,

Andrew Gage

WEST COAST environmental law

200 - 2006 West 10th Avenue
Vancouver, BC V6J 2B3
www.wcel.org

tel: 604.684.7378
fax: 604.684.1312
toll free: 1.800.330.WCEL (in BC)
email: admin@wcel.org

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

*** **BY E-MAIL@ LIVINGWATERSMART@GOV.BC.CA** ***

Dear Sirs/Mesdames:

Re: Water Act Modernization Process

We agree that the Water Act is in desperate need of modernization, and commend the government for undertaking this process and for many of the proposals put forward in BC's Water Act Modernization Discussion Paper. Further, we are pleased to see the Discussion Paper address so many of the points contained in the Statement of Expectations regarding the Water Act Modernization Process, which we, along with 28 other organizations, sent to the Ministry on January 5, 2010.

These submissions will build upon the specific points contained in the Statement of Expectations, as well as commenting specifically on the Discussion Paper. It is organized to follow the topics in the Discussion Paper.

1. Principles

The 8 principles listed at p. 5 of the Discussion Paper are generally positive. However, missing from the list is the important principle that the protection of stream health and the aquatic environment is paramount to other consumptive uses of water. This principle is implicit in the first of the Discussion Paper's goals, but deserves to be recognized as a more over-arching principle that assists in understanding the other principles (for example, what is meant by "sustainable limits" and what are the reasons for water user responsibilities).

The principles should recognize the importance of transparency and public involvement in decision-making.

We have reviewed a draft of a paper by Randy Christensen of Ecojustice and Oliver Brandes of POLIS concerning the potential to recognize and affirm the public trust doctrine in the *Water Act* Modernization process. We agree with their submissions and would suggest that public ownership of water, and the Crown's and users responsibilities to manage those resources for the benefit of the public, should be recognized as principles.

Finally, we feel that the precautionary principle should be recognized as playing a key role in protecting ecosystem and stream health, as well as the rights of water users, particularly in an era of unprecedented climate change.

In terms of the proposed principles, we agree with what we take to be the intent of all of them, but have some concerns over specific wording or possible interpretations of the following principles (referenced by number):

3. While we agree that science should inform resource management and decision-making, this type of reliance on science claim is sometimes interpreted as being in opposition with the precautionary principle and/or against considering cultural or non-quantifiable concerns. This interpretation is particularly likely given the lack of discussion of the precautionary principle. While we support science informing decision-making, this should not be the only factor considered – particularly when the scientific evidence may be insufficient to make an informed decision one way or the other.

5. While we agree with the need for clearly defined rules and standards, the purpose of this certainty is not primarily to provide a predictable investment climate, but to adequately protect stream and ecosystem health.

6. This principle needs to be interpreted in light of the priority given to ecosystem and stream health. "Flexibility" to address the impacts of changing circumstances on environmental flow is desirable; flexibility to allow the lowering of environmental standards to address changing economic conditions is not.

Goal 1 – Protect Stream Health and aquatic environments

We agree that this is an overarching goal of any new Water Act. Indeed, as discussed above, this goal should be an overarching principle that is central to the Act.

We note, further, that at least in relation to fish habitat, the Province does not have constitutional authority to compromise aquatic habitats without the authorization of Fisheries and Oceans Canada. To the extent that licences issued or other authorizations under the current *Water Act* have compromised fish habitat, those licences are *ultra vires* the province. Consequently there is a constitutional, in addition to a moral, imperative to ensure that the *Water Act* maintains aquatic fish habitat. Where necessary this obligation includes reclaiming water flow from existing water licenses.

The discussion paper discusses 3 main "objectives", with corresponding solutions, under this goal, and we will discuss each in turn.

Environmental Flows

We commend the government on recognizing the importance of maintaining environmental flows – a clear shortcoming in the current Act. By environmental flows we mean "seasonal amounts of water required to protect stream health" and associated ecosystem function.

We are not clear if the Discussion Paper intends to suggest that flow that is retained for stream health may also be available to dilute effluent. We do not agree with this view, which risks undermining stream health by contaminating the very water that is left to sustain the ecosystem.

We do **not** view minimum flows to dilute effluent as an environmental flow: this is a consumptive use of water. In general polluters should have the obligation to treat effluent to a level that does not require dilution. Any flow required for dilution after such treatment should be addressed separately from environmental flows. Adopting such an approach may require incidental amendments to the *Environmental Management Act*, in addition to provisions in the modernized *Water Act*.

In terms of the role of environmental flows in water allocation decisions, we strongly recommend that environmental flow recommendations should be treated as binding on the statutory decision-maker (Option B). We are not convinced that individual statutory discretion, even guided by guidelines, is sufficient to protect ecosystem health.

In reference to Option A, we note that the Discussion Paper references appeals by the applicant, but not appeals by the public, or even other licensees and riparian owners (who have rights of appeal under the current Act).[1] There has been a disturbing trend in some recent revisions to environmental laws to limit public appeals to the Environmental Appeal Board. The appeal provisions should be broadened, not narrowed.

We strongly support not merely considering environmental flow needs, but actually requiring that environmental flows be maintained in water allocation decisions.

Watershed-based water allocation plans

We support conducting water allocation plans to identify and prioritize environmental flows and identify flows available for consumptive use. The development of such plans should not be optional – lack of information in allocation decisions almost inevitably leads to overallocation, since decision-makers lack any informed basis on which to refuse an applicant. Indeed, the failure to measure existing flows has already resulted in many BC streams and rivers being overallocated.

It is not entirely clear from the Discussion Paper how a province-wide plan could provide sufficient detail to safely guide water allocation decisions in respect of a particular water body, and for this reason we are inclined to favour a goal of preparing water allocation plans at a regional level, with priority being given to priority areas.

Minimum environmental flow determinations should be binding upon the decision-maker(s), although it would be appropriate to allow decision-makers to increase the environmental flow based on new information. Other aspects of a water allocation plan could be binding or could be made more discretionary, but in any event should be considered.

Habitat and riparian area protection provisions are enhanced

Obviously this objective is one of great interest to us, and it is unfortunate that it is not more extensively developed in the *Water Act*. While we do strongly support a general prohibition

[1] We note that this is one of the only references to appeals in the Discussion Paper and, as discussed below, the Discussion Paper does not examine the Environmental Appeal Board, and its role in the modernized *Water Act*.

against dumping a wide range of debris or materials into streams,[2] and a corresponding requirement on a dumper to restore stream health, this barely begins to scratch the surface of the habitat and riparian area protection provisions that can and should be considered under the Water Act modernization process.

In particular, we would like to see watershed and aquifer planning with the ability to prevent or restrict development and industrial uses in areas where such activity may compromise water quality or quantity.[3] This proposal is expressed in the Statement of Expectations as follows:

> Ensure that projects with the potential for harmful impacts on water are permitted only in areas identified as appropriate through watershed and aquifer planning.

This might involve amendments to the *Land Act* to allow objectives that are binding on Crown land users to be set in respect of sensitive watershed and aquifer areas. It may also involve further amendments aimed at restricting private land uses.

The Water Act modernization process might also address the major flaws in, and questionable legality of, the *Riparian Areas Regulation* (RAR). That Regulation, as its name implies, is intended to protect riparian areas (in particular in fish habitat). However, its heavy reliance on professionals hired by the developer and a lack of clarity about the powers of the province to provide oversight undermines the environmental protection it is intended to provide (as evidenced by recent cases on Saltspring and in Salmon Arm where professional reports were found to be seriously flawed but the Ministry had limited ability to intervene). Moreover, the RAR is enacted under a section of the *Fish Protection Act* intended to give general direction to local governments, and which does not contemplate the type of detailed regulation contained in the RAR.

Clearly there is great potential for the new Water Act to provide better protection for habitat and riparian areas. Riparian areas tend to be high in biodiversity and provide important wildlife connective corridors, in addition to their value for water habitat, and this can and should be recognized in the new Act. However, more work needs to be done to develop these options.

Goal 2 – Improve water governance

The focus of the Discussion Paper's examination of water governance seems to be almost entirely on who makes water allocation and other *Water Act* statutory decisions. By contrast, the discussion of Water Governance in our Statement of Expectations focuses on a wider range of concerns, including:

- The development of legally binding watershed plans;
- The public's role in statutory decisions;

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[2] To the extent that such dumping alters the character of a stream, such dumping is already, on its face, a violation of section 9 of the current *Water Act*, which prohibits changes in and around a stream, although we acknowledge that the Ministry has not generally interpreted this provision in this way.

[3] There is sometimes concern that such restrictions may amount to an infringement of property or other rights. In actual fact actions that compromise water quality or quantity would amount to an actionable infringement of the province's riparian rights and/or a public nuisance; the property owner or rights holder would not have had the legal right to develop those areas in a manner that would have caused such an effect.

- Aboriginal involvement in decision-making; and
- New municipal powers aimed at water and watershed protection.

The possibility of creating new water governance bodies is an intriguing discussion (and does have some relationship to the issues identified in the Statement of Expectations), but a radically restructured decision-maker that does not have a mandate to consider watershed level impacts on water would miss a key point of the water governance discussion.

Therefore, let us start with the point that whatever governance model is selected, water governance must be viewed as including not just water allocation decisions, but also an expanded mandate and powers to address the relationship between land use and water quantity, quality and health.

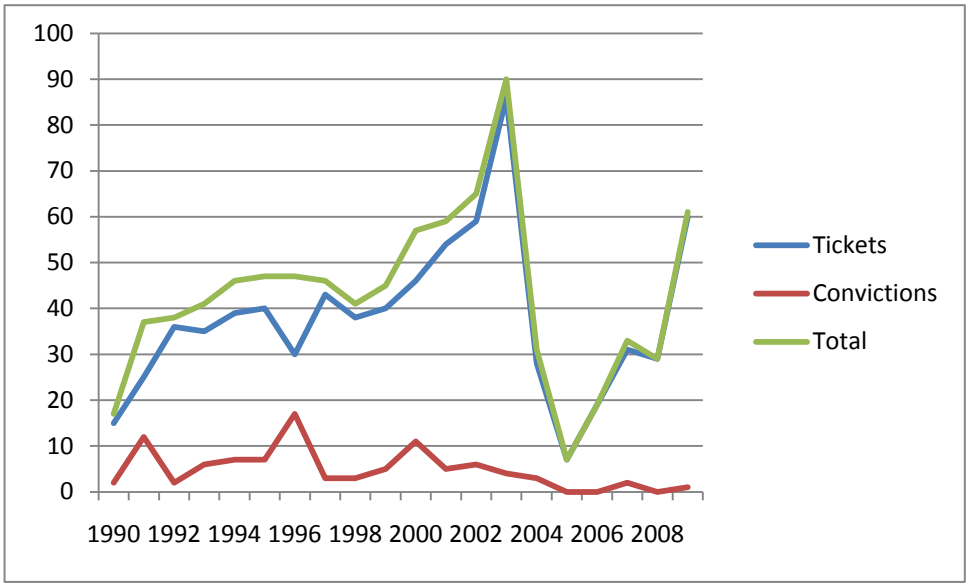
Given the concern about accommodating First Nations, and the importance of public participation, we favour a "watershed agency" approach (referred to as a delegated approach). We would hope for clear provincial standards to guide such local authorities, as well as avenues of appeal where the watershed agency makes decisions that fail to protect stream and aquatic health or which fail to consult key stakeholders.

Missing from the Discussion Paper

We were surprised to find virtually no discussion of the Environmental Appeal Board (EAB) and its role in the Discussion Paper. In addition to not discussing how the different governance arrangements might change the EAB's role in the Act, there was also no discussion of who should be able to appeal and what decisions might be covered under the appeal provisions.

We would encourage an expansion of the public's right to appeal decisions made by statutory decision-makers. Currently the EAB may only hear appeals from riparian owners, licensees and applicants. In addition, we would hope that the new Act would provide increased guidance to the EAB (as with other statutory decision-makers) as to the importance of environmental flows and the government's public interest obligations.

Also missing from the Discussion Paper is any discussion of compliance and enforcement. As you may be aware, we have been critical of the Ministry for declining enforcement levels. On review of enforcement levels specifically in relation to the *Water Act*, we are pleased to note that the levels of tickets issued under this Act in 2009 is comparable to historic levels, although we suspect it has always been an under-monitored and under-enforced Act. However, as with other environmental statutes, there has been a near complete collapse in convictions under the Act (with only 3 convictions between 2006 and 2009). See the following Graph.



Although enforcement budgets and policies are beyond the scope of the *Water Act* Modernization, we do encourage you to better fund enforcement of this statute. However, the modernization could address issues related to enforcement, such as adequate penalties for not compliance, alternative penalties, and provisions to facilitate inspections and information gathering. Moreover, given the drop in enforcement levels we would also urge you to amend the Act to provide for citizen enforcement. The province has recently adopted citizen enforcement provisions – in the form of a public request for investigation – in the *Greenhouse Gas Reduction (Cap and Trade) Act*.[4] However, similar citizen enforcement tools exist more generally in Ontario's *Environmental Bill of Rights*, as well as in legislation in many other jurisdictions.

Goal 3 - The Water Allocation System

We understand the Discussion Paper's stated goal of introducing "more flexibility and efficiency" into the water allocation system as being primarily concerned with addressing the inflexibility and wastefulness inherent in the First In Time, First in Right allocation system. Flexibility and efficiency, then, is aimed at the goals of protecting ecosystem and stream health and freeing up unused water flow that might then be available for other uses. "Flexibility" has sometimes been used to justify a weakening of environmental standards, so it is important to be clear that here flexibility means introducing the flexibility to protect the environment.

We agree that the First in Time, First in Right system has created serious problems with the management of water in BC, particularly since the system has not recognized the need for environmental flows or given any particular priority to conservation uses.

We do view the Discussion Paper as understating the government's ability under the current *Water Act* to address some of the worst of these problems. While it is true that most water licences do not automatically "expire or come up for review", the Ministry has extensive powers under the *Water Act* to review and change the terms of licences, and to reclaim water flow that is not being used for beneficial purposes. In addition to the unknown number of licences which are not being used at all, the term "beneficial use" is not defined in the Act and has not, to our

4 S.B.C. 2008, c. 32, ss. 29-34, these provisions not yet in force.

knowledge, been interpreted by the courts. However, it is difficult to see how inefficient water use could be termed "beneficial", and we would assert that the Ministry can and should amend licences to require water efficiency, and reclaim the resulting unnecessary flow for public use.

Regardless of how the current Act is interpreted, the new Act should address the issue of streams that are currently over-allocated, or which are allocated to the point that environmental flows are not being maintained.[5] This will require reductions in licensee flow in some cases. The Discussion Paper speaks of encouraging or requiring efficiency in relation to "proposed undertakings", and addresses existing water licences only in relation to their "transfer and apportionment." It is unclear if the Ministry recognizes its obligation to address existing licences. We suggest that the new Act define "beneficial" in a manner that makes it clear that the concept requires efficiency, and that use that undermines environmental flows cannot be considered beneficial. We further suggest that the new Act set out a process for reclaiming flow from existing water licensees on streams that are allocated to the point of compromising stream and ecosystem health, so as to ensure that environmental flows are guaranteed.

Water allocation encourages efficiencies in water use

We agree that there needs to be strong requirements for water efficiency for current and future water licences. These efficiency standards should be based upon best available technology for the respective use.

To some extent the question of how standards are set may depend on the governance model eventually selected. We would oppose province-wide Codes that prevented greater efficiency standards being imposed by a local watershed authority in areas of low water flow. In general we hope that the new *Water Act* will affirm the ability of decision-makers to require water efficiency measures in the licence itself, even if these are above the requirements of any Code developed in respect of a particular industry.

We are not necessarily opposed to regulations or Codes being developed to establish default rules for water efficiency in a given industry. However, we do oppose a "partnership" model that gives industry a heightened role in the development of these Codes. Industry will inevitably be consulted, but the government should also consult First Nations, local governments, the environmental community, water users and other stakeholders, and it should be government – not government in "partnership" with industry – that determines what level of water efficiency is appropriate.

In principle it is difficult to oppose the creation of "incentives and economic instruments" to encourage efficiency, but the Discussion Paper provides little in the way of detail about what these instruments might look like. At a Nanaimo WAM Workshop break-out group one example given was allowing water users to trade water flow freed up as a result of efficiency measures. The fact that the proposal concerning incentives/economic instruments is presented as an alternative choice to "review rules for the transfer and the apportionments of existing water rights" might support the view that this approach is being considered.

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5 As noted above, we question the constitutionality of licences that compromise environmental flow on fish-bearing streams.

That example underlines the importance of providing details about proposed solutions. A proposal to have unrestricted trading of water rights is not a mere "economic instrument", but a fundamental change to how water rights are allocated, and one which merits additional explanation.

If that is what is being proposed, then the fact that many water licensees hold licences that are for vastly more water than they current use or could use, either from an overly generous original licence or from a change in the use under the licence over the years. Such licensees should not be allowed to trade their excess water rights, which are not connected to the installation of new water efficient measures. Doing so would result in a huge financial windfall while immediately resulting in water flow that was not previously being used coming into actual use, meaning that water bodies which were previously only overallocated on paper, would be actually overallocated.

The options discussed for inclusion in a "review rules for the transfer and apportionment of existing water rights" seem more aimed at administrative efficiencies than environmental benefits, and it is not at all clear to us that these proposals will provide sufficient protection for environmental values.

That being said, there are new rules which could be included to introduce flexibility into the water licensing regime. For example, until relatively recently, the *Forest Act* provided for a take-back of timber harvesting rights on the transfer of various forest tenures. An analogous rule could be introduced for the transfer of water rights. Transfers may also be a good time to re-evaluate terms and conditions in order to adapt to climate change.

We further recommend that a requirement to periodically renew licences be added, so that licenses do not continue indefinitely without examination of the province's changing water needs.

Finally, as indicated above, we do not believe that existing licenses should be insulated from significant changes required to deal with overallocation and to address stream and ecosystem health.

Options to encourage administrative efficiency

The Discussion Paper raises the possibility that certain water uses will be legal without a water licence. In some ways this represents a return to early versions of the *Water Act*, which allowed a right of domestic users to take water without a license. However, the Discussion Paper fails to address very fundamental questions about the implications of these unlicensed withdrawals.

What are the rights of such "permitted" water users against other water licensees? Water licenses under the old Act have guaranteed their users the right to take a specified flow from a stream. If a domestic user, taking water under a permitted use rule, and a licensed user, find that there is a limited flow, do the rights of the large scale, licensed user take priority? Under the current system it would appear that they would.

Similarly, if the new Act guarantees a minimum environmental flow, and a series of licenses reduce the total flow to about that amount, what guarantees will there be that permitted withdrawals will not impinge upon the environmental flow? Moreover, if there are many

permitted users, then what guarantee is there that their impacts will not collectively be significant, particularly for smaller streams.

At the Nanaimo Workshop, Ministry staff suggested that in such cases, the Ministry would have a residual ability to step in and require licensing, but does not seem likely to us that this would occur in any but the most egregious situations. In any event, this approach is not clearly set out in the Discussion Paper.

It is not that these problems are insurmountable. However, until they are addressed the administrative efficiencies of such an approach will introduce a host of new problems.

It seems to us that if unlicensed withdrawals for domestic uses are permitted, they must have a priority equal or greater than larger scale licensed users and the Act must provide rules for dealing with conflicts. Similarly, unlicensed, but registered (which would be required), withdrawals might be allowed on streams for which a water allocation plan has been prepared where the plan identifies a block of water that will be dedicated as being available to unlicensed users. Once the registration for the stream had exceeded that amount, no further unlicensed withdrawals would be permitted until the plan was amended to allocate further flow as being available.

Solutions along these lines could certainly be explored.

We do support requiring further information from licensees and license applicants, provided that there is periodic auditing of the required information and significant consequences for inaccurate information, and this information is not the sole source of information about withdrawals.

Flexibility in Licensing

The Discussion Paper makes a series of suggestions aimed at allowing adjustments and changes to licenses. The Discussion Paper somewhat oddly refers to decision-makers having the "ability to seek amendments"; the decision-maker would have the ability to make amendments on his own initiative or on application by members of the public, including but not limited to licensees.

We do support, however, allowing amendments to address changing environmental information and to ensure the protection of stream and ecosystem health, as well as for other reasons.

Integration of groundwater and surface water management

We do not support the continuation of the First In Time, First in Right system, or its extension to groundwater. The FITFIR system does not easily lend itself to addressing environmental flows, changing circumstances or water efficiency.

The Discussion Paper seems to suggest that this system could easily be extended to wells based on their date of construction. In respect of surface water, however, water rights have always extended to the date of the licence, not to the date of use of water, and it is not clear why a FITFIR system would retroactively give wells priority over subsequently licensed surface water extractions. With many groundwater aquifers themselves overallocated, such an approach would lock in place the overallocation and the rights of large scale users who should have been aware of the risk that they might compromise the health of the aquifer.

Instead, we favour a modified allocation approach that gives priority to conservation, followed by domestic users. Domestic well users, in addition to using the water for basic purposes, are generally small users who have few alternative sources of water. The province can and should prioritize such use over large scale extractions that are more likely to compromise aquifer health.

Water users required to conserve water when stream health threatened

Where the nature of a stream and/or the allocations made on the stream are such that stream health is frequently compromised, we feel that licences must be permanently reduced and/or amended to ensure adequate environmental flows. This type of licence adjustment may become more common as climate change alters water patterns.

But we also agree that there should be flexibility to address one-time or very occasional changes in flow that compromise stream health or where drought compromises the ability of users to access water. We feel that the Act should confirm the primacy of environmental flow and give guidance to any statutory decision-maker on how to allocate flow in times of scarcity. The question of how allocation should occur is a complex one, and proportionate reductions, hierarchy of uses and priority date all give rise to perceived and actual unfairness. We support an approach which does guarantee (subject to the environmental flow) a minimum flow (based on an assumption of efficient use) to human and stock watering needs (ie. a proportionate reduction or priority date should not deprive a domestic user of a minimum level of flow required to meet their needs). Similarly, we think it is appropriate to severely restrict flow for landscape irrigation and other non-essential uses where required. However, after those uses are addressed, a proportionate reduction may well be the fairest approach.

Addressing long-term water scarcity

We support the use of Water Management Planning to address long term water scarcity. It is somewhat unclear from the Discussion Paper such plans could not be developed either as ordered by the Ministry or at the request of water users and communities. We support such a planning process being as inclusive and transparent as possible. Community interests may go well beyond the water licensees themselves.

Missing from the Discussion Paper

We would like to have seen some discussion about the relationship between water allocation and land use planning. We have frequently been consulted regarding new developments being proposed for areas of known water scarcity. There is currently no tool for the regulation of water use to inform local government zoning and land use decisions. As a result, new buildings are being built which will politically commit the province or local governments guaranteeing a flow of water in areas where the developer knows or should know that adequate water does not exist. We can see extreme examples of this problem in the U.S., with entire cities built in deserts, but the problem exists in BC as well.

A decentralized governance model that involves local governments may lend itself to requiring local governments to consider water availability in zoning and other land use decisions. But regardless, there should be a mechanism whereby water allocation decisions are an input into land use planning, rather than the other way around.

Goal 4 – Regulate Groundwater Extraction and Use

While we applaud the government for taking the long overdue step of regulating groundwater extractions, we have significant questions arising from the Discussion Paper.

The objective set out at part 8.1 of the Discussion Paper is unusual, in that it has a political limit written right into the objective. The social objective this section is pointing to is the regulation of Groundwater such that aquifers are not over-allocated or otherwise compromised. One possible way of achieving that might be to focus on "priority (critical) areas and … all large withdrawals." However, it is strange to have a particular solution written right into the objective.

Because of this political limit, the solutions for this goal are entirely focused on the question of what is a "large groundwater withdrawal" and what is a "priority area". This is unfortunate, as it ignores some fundamental questions about how licensing only large users might work in practice.

As discussed above, there is a fundamental problem, at least as water licenses are conceived under the current Act, with licensing only some users. The result is that the licensed users have a right to continued flow of water, while the unlicensed users have no right to complain if their flow is cut off. The perverse result would be that domestic users, who are least likely to compromise the withdrawals, and who have the least financial resources to find other sources of water if their water supply is compromised, would have fewer rights to water than large scale users that are far more likely to compromise aquifer health.

At the Nanaimo workshop we were informed that this might be addressed by the ability to require more licensing in a Water Management Plan or by declaring the area a priority area, and thereby regulating all users. However, such planning and designations usually occur as the result of a documented problem, by which time domestic users may already seen their wells compromised. Also, if FITFIR as currently in place were to apply, then the licensed large users would have priority over licenses that were issued after the area is designated a priority area. Small domestic users need rights that they can assert against large scale users. Moreover, preparing such plans depends on political will and finances, and we are not confident that such fundamental questions should be addressed through a planning process.

It is also unclear from the Discussion Paper whether there may be aquifers in which the small scale users themselves are sufficient to compromise aquifer health. When I asked at the Nanaimo workshops what portion of the overall volume of withdrawals originated with smaller users I was told that that information is not available to the Ministry.

Until these questions are answered, it is unclear that the new Act will adequately protect or manage groundwater aquifers.

Thresholds for large groundwater withdrawals

While in principle we prefer the lower of the two thresholds (250m^3/day) as more likely to protect aquifer health, both targets are arbitrary figures. Without the information discussed above, it is not possible to make an informed choice about these thresholds.

Priority Areas

We agree with the idea of a higher level of scrutiny and regulation in areas of the province that have known or potential aquifer health issues. Any and all of the factors listed at p. 32 of the Discussion Paper would be valid reasons for declaring an area to be a priority area. In addition, projections of the impacts of climate change may be a reason for designating an aquifer as a priority area.

Missing from the Discussion Paper

There are particular aspects of the protection of stream health and aquatic environments (Goal 1) which relate directly to aquifer health but which deserve special attention. The current Water Act does contain some provisions intended to prevent the introduction of contaminants into aquifers through drilling and other means. These provisions could be strengthened.

More fundamentally, however, some aquifers, particularly in priority areas, are in need of aquifer mapping and planning, with an aim to identifying and providing legal protection for recharge areas. The Discussion Paper should have included a discussion of source protection in relation to aquifers.

Conclusion

Thank you for the opportunity to comment on the *Water Act*. As will be clear from the above, we are supportive of many aspects of the Discussion Paper, but do have concerns that very fundamental issues have not been fully considered or canvassed. In addition to the points developed in the Discussion Paper, a modernized Act needs to:

- Ensure the protection of surface and groundwater sources of water;
- Address over-allocation and the need for water efficiency for both existing and future water licences;
- Ensure that any non-licensed users have rights that can stand against licensed users and against third parties that compromise their use of water;
- Apply a precautionary principle to address changing circumstances and to ensure that environmental needs are met.

We have reviewed draft submissions on the *Water Act* from the Pembina Institute and support their submissions as well.

Sincerely,

Andrew Gage
Staff Lawyer,
West Coast Environmental Law