



November 15, 2013

Via email: livingwatersmart@gov.bc.ca
Water Sustainability Act
Ministry of Environment
Water Protection and Sustainability Branch
PO BOX 9362 STN PROV GOVT
Victoria, BC V8W 9M2

RE: Proposed Water Sustainability Act

To Whom It May Concern:

The Fraser Basin Council (FBC) would like to thank the Ministry of Environment (MoE) for leading the critically important process to modernize BC's *Water Act* and for the broader commitments and initiatives within *Living Water Smart: BC's Water Plan*. An adequate supply of clean water is key to the sustainability of our communities, ecosystems and economy, which is the mandate of the FBC. Our Board of Directors includes diverse representation from all four orders of government – including First Nations – as well as the private sector and civil society. Ministry staff gave a presentation on the proposed *Water Sustainability Act* (WSA) at the October 3 meeting of the FBC Board of Directors. We are very appreciative of this opportunity.

The FBC supports the three outcomes expected to result from the proposed WSA:

1. Water management is sustainable, efficient and adaptive;
2. Rights for water users, communities and industries are secure and transparent; and,
3. BC's water and aquatic ecosystems are healthy and protected.

The FBC recognizes the importance of making improvements in the seven key policy areas identified in the Legislative Proposal:

1. Protect stream health and aquatic environments;
2. Consider water in land use decisions;
3. Regulate and protect groundwater;
4. Regulate water use during times of scarcity;
5. Improve security, water use efficiency and conservation;
6. Measure and report large-scale water use; and,
7. Provide for a range of governance approaches.

In addition to the general support for developing and implementing the WSA, I offer the following comments on behalf of FBC. First, I should acknowledge that the relatively short period for review and comment, as well as limited staff time and technical expertise did not allow for a comprehensive review of all aspects of the Legislative Proposal.

FBC suggests consideration of the following principles from the *Charter for Sustainability*:

- Aboriginal Rights and Title – We recognize that Aboriginal nations within the Fraser Basin (and BC) assert Aboriginal rights and title. These rights and title now being defined must be acknowledged and reconciled in a just and fair manner.

- Accountability – Each of us is responsible for the social, economic and environmental consequences of our decisions and accountable for our actions.
- Adaptive Approaches – Plans and activities must be adaptable and able to respond to external pressures and changing social values.
- Coordinated and Cooperative Efforts – Coordinated and cooperative efforts are needed among all government and non-government interests.
- Equity – All communities and regions must have equal opportunities to provide for the social, economic and environmental needs of residents.
- Exercising Caution – Caution must be exercised when shaping decisions to avoid making irreversible mistakes.
- Integration – Consideration of social, economic and environmental costs and benefits must be an integral part of all decision making.

Governance Arrangements

There is a strong case for the primary responsibility for water management to reside within the provincial government. If adequately resourced, centralized governance would help to ensure that appropriate regulations and standards are developed, that a strong core of technical expertise and capacity is available to support effective water management across the province, and that provincial oversight would support consistency across different communities and regions of the province. In some circumstances, it may be appropriate to complement primary provincial responsibilities with alternative governance arrangements at local or regional scales. FBC recognizes that different approaches to governance may be appropriate in different areas or to resolve different water issues. The following concepts are suggested for consideration:

- Prior to enabling an alternative governance arrangement, the necessary capacity and degree of readiness must be demonstrated.
- If new governance responsibilities are to be delegated, this should be accompanied with the necessary financial, human and technical resources to support success.
- Local and First Nations governments are well suited for leadership roles in governance.
- Alternative governance arrangements should include mechanisms for collaboration and engagement with the public and a diversity of interests, stakeholders and expertise.
- Accountability mechanisms should be in place to ensure that alternative governance arrangements are making decisions in the best interest of water sustainability.

It is suggested that those areas where there is a high degree of capacity and interest be supported as pilot initiatives, including monitoring the effectiveness of new governance arrangements. As we learn from the pilot initiatives and as capacity builds in other communities, there will be improved competency and opportunity for collaborative water governance in BC. There could be significant challenges if new roles and responsibilities were shared or delegated without adequate resourcing. Therefore it would be worth exploring innovative funding mechanisms that could be enabled by the WSA to help support effective planning, management and governance of water resources and watersheds at local and regional scales.

Water Sustainability Plans and Watershed Assessments

An integrated approach to watershed planning and management could be strengthened by the WSA by enabling the development of Water Sustainability Plans and Watershed Assessments. There is a need for improved integration in the management of surface and groundwater resources, integration in the management of water quantity and quality issues, and integration between land and water resources. Water Sustainability Plans and Watershed Assessments are important tools that could help advance the sustainable management of water resources – environmentally, socially and economically. This is particularly relevant in areas where there are

competing or conflicting uses of water or other watershed resources, where there are strong interactions between surface and groundwater resources, and where management of the land and other resources adversely impacts the sustainability of water resources. Watershed Assessments are a tool that was included in the previous WAM Policy Proposal document but is absent in the more recent Legislative Proposal. FBC encourages reconsideration of the merit of this tool, particularly in watersheds that are experiencing moderate pressures and conflicts, but not to the degree where a full Water Sustainability Plan would be warranted.

Financial Resources

It is recommended that water pricing, resource rental rates and license fees be structured in a way that incentivizes water use efficiency and conservation and also generates new financial resources that would be re-invested specifically in implementing the WSA. Several areas of the Legislative Proposal that would benefit from additional resourcing include:

- Administration of the WSA by the Province of BC (including new management functions such as regulation of groundwater);
- Monitoring and reporting on water use (including compliance and enforcement);
- Supporting alternative governance arrangements; and,
- Developing Water Sustainability Plans.

Water pricing and license fees alone are unlikely to offset the full costs of implementation. However, these potential sources of revenue should be dedicated toward water management so additional funds can be leveraged from other sources. It would also be beneficial if provisions to enable alternative governance arrangements also enabled these new authorities to generate new sources of funding to support their administrative, operational and management functions.

Thresholds for Measuring and Reporting and Water License Reviews

The WSA should apply the precautionary principle with respect to setting thresholds for requiring measuring and reporting and for reviewing existing water licenses. For example, a threshold of water use of 250 m³ or more per day as a basis to require measuring and reporting water use may be adequate in some areas where there are substantial water resources relative to current and projected demand. However a lower threshold may be appropriate in areas where aquifers are vulnerable, where water supply is limited relative to demand, or where groundwater base flows are critical to ensure adequate environmental flows in surface water courses. Similarly, a timeline of reviewing existing water licenses after 30 years may be sufficient in some areas, but inadequate in other areas where there is significant competition or conflict among different water users, where there is significant projected growth in water demand, where there are recurring times of water scarcity, or where there are anticipated reductions in future water supply due to climate change. Area-based regulations could address the need for more precautionary thresholds where appropriate.

Cumulative Effects

A range of land and water use decisions in watersheds result in changes over time to ecological functions, goods and services, such as water quality, quantity and ecosystem health. Presently, no single agency is responsible for monitoring and managing the cumulative effects of land, water and resource development in BC. The effective assessment and management of cumulative effects is critical in achieving at least four of the key policy areas:

1. Protect stream health and aquatic environments;
2. Consider water in land use decisions;
3. Regulate and protect groundwater; and,
6. Measure and report large-scale water use.

FBC is aware that the Ministry of Forests, Lands and Natural Resource Operations (FLNRO) is overseeing several regional cumulative effects pilot initiatives. Therefore MoE, FLNRO and other agencies and stakeholders should continue to collaborate on developing and implementing a Cumulative Effects Assessment and Management Framework.

Informed Decision Making With Data and Knowledge

In order to make informed decisions respecting water resources, it is critically important to ensure that a strong base of knowledge is available, including water quantity and quality monitoring data, trend analyses, and near-term forecasts for water supply, drought, or flood risk. A well-maintained and enhanced hydrometric network is necessary as is improved information and monitoring of groundwater resources. Data needs to be translated into knowledge about environmental flow requirements for watercourses to inform water allocation decisions and license approvals. The context of climate change also suggests the need for a robust network of climate monitoring stations to help track seasonal and annual climate variability as well as longer-term climate change trends, which may impact water supply, demand and quality. Aboriginal traditional knowledge and citizen science may be useful means of supplementing scientific information and knowledge to support water management.

Climate Change Adaptation

Climate change is expected to directly impact water quantity, quality and ecosystem health in different ways throughout BC. Therefore, it is important that adaptation to climate change be factored into a wide range of planning and decision-making processes regarding water allocation and environmental flows to protect streams and aquatic ecosystems.

Additional Details Required

While the FBC supports in principle many aspects of the Legislative Proposal, in some cases, more details are required before FBC could provide more substantive comments and/or specific support. Some examples include:

- Aboriginal title and rights
- Water objectives
- Area-based regulations
- Environmental flows
- FITFIR and water scarcity

These and other key aspects of the WSA will have to be addressed more comprehensively in a future phase of developing and implementing regulations, or through other mechanisms.

Thank you for the opportunity to provide this input to the *Water Sustainability Act* Legislative Proposal. Should you have any questions or require additional information, please do not hesitate to contact me at (604) 488-5358.

Yours respectfully,



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Fraser Basin Council

cc: Wes Shoemaker, Deputy Minister, BC Ministry of Environment