

Water Sustainability Act (Water Act Modernization) submission to the Province (Living Water Smart Team).

Submitted by Bryn White, SOSCP Program Manager November 2013

The Province is commended for launching this effort to comprehensively modernize BC's water laws. It has been extremely important to garner input from individuals, groups and communities to make sure that the range of perspectives and insights are accounted for, and to ensure that the modernized legislation is robust, efficient and effective.

Areas of required improvement:

- 1) **The definition of 'stream' is limiting the ability to manage and conserve wetlands.** The current definition only includes one type of wetland – that being a 'swamp'. Given that there is no other wetland protection legislation, the definition in the Act needs to be changed to include all types of 'wetlands', within the Canadian Wetland Classification (marshes, swamps, shallow open water, bogs and fens) and that either through the Regulations or supporting policy that the intent be clarified.
- 2) **Environmental water needs: "flows"**. There needs to be legislated scientific definitions, basic requirements and commitment to ensuring the protection of water flows (Environmental Flow Needs, Critical Environmental Flows and Water Objectives) for surface and groundwater - for fish and other environmental values. There needs to be clear and robust, legally enforceable protection for these critical elements that apply across the province.

The act encompasses both groundwater and surface water within one cohesive framework, but the term 'environmental flow needs' suggests that the quantity of water flowing in surface water is the only parameter of importance for environmental sustainability. Other surface water and groundwater parameters may be equally important for environmental health. Broadening the term will include groundwater and give regulatory flexibility to encompass other critical water parameters as our knowledge of environmental water needs develops in the future.

Provincial water objectives need to prioritize the protection of water for nature and guarantee that environmental flows are enforceable and apply to all sectors equally – no exceptions for any sector or industry.

- 3) **Groundwater regulations need to include activities related to extraction of saline groundwater so that it is subject to licensing and regulation.** Regulating all significant

groundwater extractions, irrespective of the groundwater chemistry, is fundamental to the consistent and comprehensive management of our groundwater resources in BC.

- 4) **Licensing.** New water licenses to be reviewed more regularly than every 30 years. There also needs to be adaptive management and flexibility to adapt to our changing climate. Current water licenses should undergo a review to address sustainability issues. There needs to be increased public participation in the granting of water licenses and an explicit acknowledgement either in legislation or policy that private rights to use water not harm or reduce the public's interest in water resources.
- 5) **Adequately resource the new Act and subsequent regulations. This includes funding, extension, people, and data/information support.** A new water act that is poorly resourced or enforced will not achieve the goals described in the WSA proposal. The Province should ensure that appropriate fee schedules are in place, as well as adequate financial, human, administration and enforcement resources dedicated to successfully support the new Water Sustainability Act. The Province needs to towards a coordinated approach to enforcement and regulation of water related issues under the various acts affecting water. There needs to be a clear mandate and resources for local watershed groups to engage in watershed governance.
- 6) **Ensure that the process for developing Water Management Plans have flexible governance arrangements and is not too burdensome or bureaucratic.** Enable their completion, implementation and provide adequate leadership and opportunities for involvement/initiation by grassroots groups.
- 7) **Land-use and water decisions need to be made in a comprehensive and coherent manner.** There are gaps between Provincial and Local government's regulations and bylaws that the new Act should address to ensure decisions are not at cross-purpose and may result in land-use decisions that negatively impact ecosystems, as well as social and economic health. The new Act and subsequent regulations need to unify water and land regulations and provide clear direction to local government with regards to a range of water related policy and legislation including the Right to Farm, riparian development, source water protection, and others.
- 8) **Finally, provide the opportunity for stakeholders and public to review the new Act draft legislation before it is submitted to the legislature for first reading.**