



Columbia Power Corporation  
Suite 200, 445 – 13th Avenue  
Castlegar, BC V1N 1G1  
Canada

15 November, 2013

Log No.: OE-13-068-L

Water Sustainability Act  
Ministry of Environment  
Water Protection and Sustainability Branch  
Po Box 9362, Stn Prov Govt  
Victoria, BC V8W 9M2

Re: Water Sustainability Act Legislative Proposal – Columbia Power Comments

Dear Sir or Madame:

Columbia Power is a Crown Corporation that reports to the Minister of Energy and Mines. Columbia Power's primary mandate is to develop and operate commercially viable, environmentally sound and safe power project investments for the benefit of the Province and residents of the Columbia Basin.

Columbia Power jointly owns (with the Columbia Basin Trust) and manages three hydro generating stations on the Columbia and Kootenay Rivers with an installed capacity of 454 MW. A fourth hydro generation with a capacity of 335 MW, owned in a partnership with Fortis Inc. and the Columbia Basin Trust, is currently under construction on the Pend d'Oreille River.

We have reviewed the Water Sustainability Act Legislative Proposal and in general support the proposal. In particular, we strongly support the continuation of the *first in time first in right* system of rights allocation. This allocation method supports the certainty about our water rights we need to operate our business. It is essential to our ability to deliver on our mandate and is the basis for the many commercial agreements we have entered into with other hydro generation owners who also have facilities on the same rivers and that require coordinated operations.

Our main concern with the proposal relates to the proposal for Water Sustainability Plans. There is some indication that the development and implementation of a Water

Sustainability Plan could affect the rights of existing water licence holders. If existing rights are diminished to serve a broader public interest, then those licensees' whose rights are diminished should be compensated.

The requirement for compensation should be detailed in the legislative regime. The legislative regime should also recognize that the participation by stakeholders in plan development can be a significant undertaking if it is to be effective and so there should be some provision for participant funding.

Environmental Flow Needs (EFN) are already incorporated in our projects. These originated from the environmental assessment process during the project development stage and were based on site specific studies. We strongly support a flexible approach to determining EFN based on site specific conditions.

The legislation should be clear that EFN should not be a consideration when amending an existing license to accommodate project changes that do not have an incremental impact on fish and fish habitat. If there are incremental impacts, then any EFN should be relative to the incremental impact. Investment in hydro projects requires certainty that their water rights will not change during the term of the license.

The legislative proposal also deals with critical environmental flows (CEF). The legislation should be clear that provisions for orders requiring CEF deal only with restrictions on consumptive use water licenses. As was indicated during the sector consultation call on the proposal, storage license holder should not be required to provide downstream augmentation flows to meet CEF needs. There are powers under other Acts such as the *Fisheries Act*, that are more appropriate for dealing with fish protection flows in such circumstances

Thank you for the opportunity to comment on the legislative proposal.

Sincerely,



Llewellyn C. Matthews  
Director, Environment

- c. Frank Wszelaki, Columbia Power  
Les MacLaren, Ministry of Energy and Mines