

REGIONAL DISTRICT OF NANAIMO

**SPECIAL BOARD MEETING
TUESDAY, NOVEMBER 12, 2013
7:00 PM**

(RDN Board Chambers)

A G E N D A

PAGES

CALL TO ORDER

ELECTORAL AREA PLANNING COMMITTEE

The Board will consider recommendations for the following item, from the November 12, 2013 Electoral Area Planning Committee meeting:

Zoning Amendment Applications No. PL2012-096 & PL2012-097 – Lakes District & Schooner Cove – Electoral Area ‘E’ – Amendment Bylaws 500.384, 500.385, 500.388 (Electoral Area Directors, Except EA ‘B’ – One Vote).

ADMINISTRATOR’S REPORTS

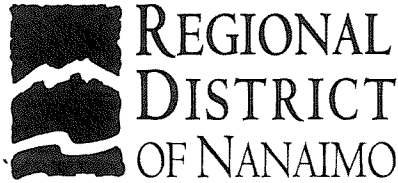
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Water Sustainability Act – Legislative Proposal Response (All Directors – One Vote).

1. *That the Board approve the following recommendations be submitted by November 15, 2013 to the Ministry of Environment in response to their call for submissions on the development of the Water Sustainability Act.*
2. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under “Protect Stream Health and Aquatic Environments”.*
3. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under “Consider Water In Land Use Decisions”.*
4. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under “Regulate and Protect Groundwater”.*
5. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under “Regulate During Scarcity”.*
6. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under “Improve Security, Water Use Efficiency and Conservation”.*

7. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under "Measure and Report".*
8. *That the Board support the Water Sustainability Act Legislative Proposal recommendations under "Enable a Range of Governance Approaches".*
9. *That inclusion of the Aquifer Storage and Recovery as a component of a Community Water Supply System be recognized in the future Water Sustainability Act and related regulations.*
10. *That further development of the legislative language and supporting regulatory framework for the Water Sustainability Act include key stakeholders in a collaborative process.*

ADJOURNMENT



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MEMORANDUM

TO: Randy Alexander, General Manager
Regional and Community Utilities

DATE: November 1, 2013

FROM: Mike Donnelly
Manager, Water & Utility Services

FILE: 5500-22-01

SUBJECT: Water Sustainability Act – Legislative Proposal Response

PURPOSE

To provide an overview and identify key issues associated with the Legislative Proposal for the Water Sustainability Act for the Board’s consideration.

BACKGROUND

The Water Act Modernization Engagement Process initiated in the spring of 2009 is now into its third and final phase and will be moving into the planned Legislative process in 2014. RDN staff participated in meetings held in 2010 to review the first round of proposed changes in the Act. Following this meeting, staff developed a submission on the Regional District of Nanaimo’s concerns and suggestions which was approved by the Board in May of 2010 and submitted to the Province thereafter (see attached report and submission).

Since that time the Provincial government has been working to refine the proposal and assess its implications. Although the Province originally planned to introduce the new “Water Sustainability Act” (WSA) in 2012 the new Act is still not finalized. The province notes in the legislative proposal that “the complexity of developing legislation with widespread implications for British Columbians has resulted in some delays”.

A Legislative Proposal was released by the province on October 18th, 2013 and, has been developed in response to the Ministry of Environment’s engagement process on the Water Sustainability Act. The proposal has changed considerably from its original form reflecting many of the points identified in the Regional District of Nanaimo’s submission in 2010 and of other local governments, organizations and individuals.

There has been a move from the four main goals set out in the original 2009 discussion paper which were;

1. Protecting stream health and aquatic environments
2. Improve water governance arrangements
3. Introduce more flexibility and efficiency in the water allocation system
4. Regulate groundwater extraction and use

to a more comprehensive set of goals that reflect input from stakeholders. The goals as laid out in the legislative proposal are now;

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
7. Provide for a range of governance approaches

It is important to note that the Legislative Proposal as it stands outlines a number of important initiatives that must be defined in legislation and supported by regulations that have yet to be developed. A key recommendation in the submission to the province will be to include key stakeholders in the review of any proposed legislative language and associated regulations as they are developed. Discussions with Ministry of Environment staff leading the WSA process indicate their desire to move forward on these steps in a collaborative process.

The Water Sustainability Act Legislative Proposal has a number of innovative approaches that will assist in meeting water resource issues in the coming decades that are, for the most part, aligned with the approaches detailed in the Regional District of Nanaimo's 2010 submission on the Water Act Modernization process. While not complete and recognizing the lack of supporting regulation with which to gauge the effectiveness of the proposals it is clear that the province intends to make significant changes to the way BC's water resource is managed. The concepts outlined in the Legislative Proposal are likely to provide improved management of the resource, improved land use planning and recognition of interplay between groundwater and surface water and the environment on which we depend.

Below are summaries for each of the initiatives [1-7] and their relevance to our region. Included in each summary is a recommendation for the Board's consideration for inclusion in the Legislative Proposal Response.

(1) Protect Stream Health and Aquatic Environments

Environmental Flow Needs

Emerging as an important consideration for ecological health of both ground and surface water resources is the concept of Environmental Flow Needs (EFN). The Legislative Proposal defines EFN as "the quantity and timing of flows in a stream that are required to sustain freshwater ecosystems, including fish and other aquatic life (i.e. maintain stream health).

Under the Legislative Proposal the use of EFN would be used as part of the approval process for both surface and groundwater use applications. The approach would allow flexibility in determining EFN of a stream or aquifer based on local hydrological and hydrogeological conditions. This proposal would be implemented for new allocations of either surface or groundwater and would not be applied retroactively.

Recent discussions with Ministry of Forest Lands and Natural Resources staff indicate minimum flow assumptions for stream health have changed significantly over the last few years as their understanding of the implications of reduced flows increases. Carefully applied and respecting local conditions the consideration of EFN in land use decision making processes has the potential to become a significant factor in reducing negative impacts on ground and surface water resources.

Prohibiting Dumping Debris

The Legislative Proposal includes an expansion of current prohibitions regarding the introduction of debris into streams and aquifers. Primarily this would be achieved by using provisions currently in place under the "Fish Protection Act".

The approaches outlined in this section are consistent with the RDN Discussion Paper Submission of May 2010 and staff recommend that the Water Sustainability Act Legislative Proposal recommendations under "Protect Stream Health and Aquatic Environments" be supported.

(2) Consider Water in Land Use Decisions

Water Objectives

In order to strengthen the processes tied to land use decision making it will be important to develop a set of goals and objectives to consider as part of the decision making process. The Legislative Proposal suggests the development of Water Objectives would provide that strategic direction for decision makers both provincially and for local governments. Objectives would help provide clarity and consistency in decision making and create a common approach in planning and decision making processes.

Sample objectives noted in the Legislative proposal are focused primarily on water quantity, quality and aquatic ecosystems. The proposal notes that decision makers would be required to consider the objectives and consider appropriate measures to mitigate any associated impacts. The WSA would also provide the authority to create regulations to establish and implement objectives such as who will be required to consider the objectives and under which statutes, and would require local governments to consider the objectives in their planning and decision processes.

The proposal suggests that Water Objectives would focus on environmental conditions rather than on a particular sector (industry/agriculture). This will allow for representative objectives reflecting local conditions.

While the concept of clear objectives with linkages through to local government is desirable it will be important for local government to have a participatory role in their development.

Water Sustainability Plans

The proposed approach suggests utilizing Water Sustainability Plans (WSP) which could respond to conflict amongst users or between users and the environment, provide a framework for promoting a healthy, functional watershed and consider land use activities that may impact both groundwater and surface water resources and guide how those activities are managed. Water Sustainability Plans could be developed for all or part of a watershed, and could consider activities on both Crown and private lands.

Under the current Water Act the Minister can order a designated area to complete a Water Management Plan to address conflicts or risks to water quality. The process for WMP's is generally seen as onerous and cumbersome and has not been widely utilized.

The development of WSP's would reflect planning processes local governments are familiar with such as Liquid Waste and Waste Management Plans and would include typical steps such as issue identification, terms of reference and public consultation for example.

Water Sustainability Plans could provide a useful structure for local government to participate in the development of watershed protection planning. Watershed protection planning is a key action identified in the Drinking Water and Watershed Protection Action Plan and will be a considerable focus over the coming years. To move forward with watershed protection planning we will require an accepted structure developed to meet both the regional and provincial watershed protection context. The proposed Water Sustainability Plan approach as outlined in the Legislative Proposal points in the right direction in this regard.

This approach is consistent with the RDN Discussion Paper Submission of May 2010 and staff recommend that the Water Sustainability Act Legislative Proposal recommendations under "Consider Water in Land Use Decisions" be supported.

(3) Regulate and Protect Groundwater

Regulate and Protect Groundwater Extraction and Use

Improvements to the province's approach to groundwater legislation and protection are perhaps the most widely anticipated component in the new Water Sustainability Act. In the historical absence of groundwater regulation the resource has not been recognized for the importance it holds with respect to land use planning, resource management and the ecological health it supports. The approach mapped out in the Legislative Proposal provides a much healthier perspective with respect to protection of the resource and affirms the public interest in ensuring a well-managed sustainable resource.

The proposal re-affirms the province's intention to develop regulations for groundwater wells aimed at larger users which has been defined as daily withdrawals equal to or greater than 250 cubic meters per day. This is equivalent to 55,000 imperial gallons a day and would represent a well capacity of 38 gallons a minute or the supply requirement in the peak summer months for about 80 homes a day.

Residential wells would be generally excluded except during periods of "water scarcity", defined later in this report, where there is a general need to reduce use due to events such as extreme drought conditions. Residential users may be impacted by the establishment of criteria set out in a "Water Sustainability Plan" or under an "Area Based Regulation" (discussed later in this report) that are put in place to address watershed level or more specific water resource issues.

The province is recommending that for reasons of simplicity and clarity groundwater licensing will be modeled on surface water licensing using the "First in Time, First in Right" (FITFIR) approach. In the Board's 2010 submission to the Water Act Modernization process it was noted that FITFIR should be replaced with an updated approach. The province suggests that this would be very difficult to change given existing rights and argue that the use of the approach for both surface and groundwater licensing would allow conflicts between surface and groundwater to be resolved under the same system.

The FITFIR system establishes priority based on when the well was registered, or when it can be shown the well was first established. Should future water demands result in "water scarcity", as discussed in the proposal, then it will be important for well owners to have their priority established in order to take advantage of the "First in Time, First in Right" approach.

The registration of all new wells would become mandatory under the Act and owners of existing wells that are not registered would be encouraged to do so. This will be an important step in understanding the groundwater resource given a large portion of existing wells cannot be included in the evaluation of the resource as they are not on record. Registering existing wells would have the added benefit of being included in assessments for large well permit application reviews where regulated wells (equal to or larger than 250 cubic metres per day) are contemplated. Applications for these larger wells must take into account impacts on local wells. Un-registered wells would be more difficult to include in the review, registered wells would be on record and would automatically be included as part of the assessment. This provides a level of protection for residents.

Closed loop geo-exchange wells would be included in the approvals process. These wells are becoming increasingly popular as people look for ways to reduce energy consumption. The construction of these wells is not straight forward and there are implications to groundwater supplies so inclusion of this type of well is a positive step.

There is no discussion on the wells used for Aquifer Storage and Recovery. While this technology is very new to Canada it has become increasingly common throughout the world. This approach to water storage is a key component of the Englishman River Water System water supply strategy and is currently under review to determine its efficacy. Supportive language within the proposed Water Sustainability Act for the use of this technology would be helpful. What form that supportive language could take would come from additional discussion with key stakeholders in the legislative and regulatory phases.

This section of the proposal also provides additional requirements for well drillers and pump installers that improve safety and construction of wells. This includes the installation, redevelopment, testing, and disinfection of a new supply, mandatory submissions of well records, well pump installations and regulation for the storage of possible contaminants near wells.

This approach is consistent with the RDN Discussion Paper Submission of May 2010 and staff recommend that the Water Sustainability Act Legislative Proposal recommendations under "Regulate and Protect Groundwater" be supported and that that recognition of Aquifer Storage and Recovery as a component of a Community Water Supply System be recognized in the future Water Sustainability Act and related regulations.

(4) Regulate During Scarcity

This portion of the proposal addresses the possibility that there may be times when flow levels drop to the level that significant or irreversible harm to aquatic ecosystems may occur. This is referred to as Critical Environmental Flow (CEF). The proposal suggests that there would be regulations in place that would allow for the short term curtailment of water use for both surface and groundwater users.

The regulatory structure in such an event would be based on the FITFIR concept. This would mean that users with shorter tenure would be affected more significantly than would those that have senior tenure. These powers are already in place for surface water, the proposal would extend them to groundwater use.

It is proposed that the Water Sustainability Act would allow for the use of water by people and domestic animals or poultry for basic needs during times of scarcity regardless of the priority established under FITFIR.

The regulation during times of scarcity is consistent with the RDN Discussion Paper Submission of May 2010 and staff recommend that the Water Sustainability Act Legislative Proposal recommendations under “Regulate During Scarcity” be supported.

(5) Improve Security, Water Use Efficiency and Conservation

Beneficial Use

Language within the proposal broadens the scope of existing legislation to require license holders (both surface and groundwater) to ensure they are using the licensed volumes beneficially and efficiently. Under the new Act licensees could be required to provide water conservation audits and decision makers would be given the authority to require a licensee and any other water user to take the necessary steps to ensure water is used efficiently and without waste.

This approach improves the regulatory authority to require efficient use of the licensed water. Measuring withdrawals of licensed water is dealt with separately under “Measure and Report” later in this report.

Agricultural Water Reserves

The proposal contemplates the establishment of Agricultural water reserves which would help preserve currently authorized water uses and protect future water supply needs for agricultural use. Water resources defined within such a reserve could not be used for alternate purposes other than for agricultural uses.

The intent would be to consider such reserves for lands within the Agricultural Land Reserve or those lands zoned for agricultural use outside of the ALR.

Review of License Terms and Conditions

Currently water licenses are approved with no expiry date. The proposal considers the implementation of a 30 year term for existing and future water licenses. This power would be discretionary and would give the decision maker the ability to review the license and respond to improved water efficiency, conservation practices and available technology, improved knowledge of the water resource, the licensee’s beneficial use and other factors as determined in the regulation.

This approach provides for a review mechanism to allow changing water resource issues to be addressed while allowing certainty of supply for the licensee.

Power Purposes – 40 Year Term

The language in this section is a new concept introduced since the Water Act Modernization process in 2009. It has been put in place to address water use for the purpose of generating electrical power.

Area-Based Regulations

In the province of British Columbia there are limited tools to respond to ongoing and emerging water resource issues in an organized and timely manner. This section of the proposal provides some additional tools and authority to respond to those issues.

Area Based Regulations would employ a suite of tools, some existing and some new, to establish a specific area addressing a specific concern. These would include regulations associated with;

- Critical Environmental Flows
- Drought Management
- Efficiency and Conservation Measures
- Orders
- Storage
- Water Objectives
- Water Sustainability Plans

Some examples of where an Area-Based Regulation could be implemented are;

- Limiting access to water resources where those resources have been shown to be fully committed.
- Require drilling authorizations prior to well drilling.
- Require measuring and reporting by licensees who would normally be exempt.

While significant work remains with respect to legislative language and regulation development, the concept of an enhanced ability to work through significant water resource issues from a local perspective is a positive step.

In general, the legislative and regulatory approach used in this section aligns with the RDN Discussion Paper Submission of May 2010. Staff recommend that the Water Sustainability Act Legislative Proposal recommendations under “Improve Security, Water Use Efficiency and Conservation” be supported.

(6) Measure and Report

The Legislative proposal contains improvements in the management of the water resource under measuring and reporting. Currently there are few requirements for measuring actual water used under a license. The Water Act does provide authority to require measuring but it is our understanding that this is not typically used.

Information gathered from measuring of withdrawals is key piece in understanding the cumulative impacts on surface and groundwater resources. Without that information assumptions must be made which typically rely on the licensed volume rather than actual withdrawals. Resulting conclusions can then be compromised when assessing the water resource health. Recent work done on the RDN Water

Budgets provide an example of this lack of specific use information resulting in stress assessments that require further work to fully quantify.

The proposal notes that regulations would identify who, of both surface and groundwater license holders, would be required to install and operate measuring devices, what would be measured, how often and the need for a qualified person to take measurements from a well.

This approach is consistent with the RDN Discussion Paper Submission of May 2010 and staff recommend that the Water Sustainability Act Legislative Proposal recommendations under “Measure and Report” be supported.

(7) Enable a Range of Governance Approaches

While not complete enough for detailed comment at this stage the Legislative Proposal signals change in the way the province would work with other levels of government, individuals and organizations to effect change. They propose a framework that would support a range of approaches to governance with respect to roles, responsibilities and accountability that would essentially allow increased flexibility in approaching water resource issues locally.

Improved governance models that addressed localized water resource issues and spoke of a higher level of local government involvement formed a significant part of the May 2010 RDN Discussion Paper Submission. Staff recommends that that the Water Sustainability Act Legislative Proposal recommendations under “Enable a Range of Governance Approaches” be supported.

ALTERNATIVES

1. That the recommendations be submitted by November 15, 2013 to the Ministry of Environment in response to their call for submissions on the development of the Water Sustainability Act.
2. That the Board provide alternated direction to staff.

FINANCIAL IMPLICATIONS

There are no financial implications at this time.

SUSTAINABILITY IMPLICATIONS

The fresh water resource in BC cannot be expected to be viable into the future if use continues to be governed by a legislative and regulatory framework over a century old which considers water as an almost unlimited resource. Climate change, population growth, increased pressures from industry and agriculture have already negatively impacted the resource, continuing along the same path will only result in further degradation.

The Legislative Proposal concepts supporting the new Water Sustainability Act outline a number of actions directed at a new emphasis on the protection of ground and surface water in BC. While conceptual in nature at this time the framework is thoughtful, flexible and structured to anticipate a changing environment.

SUMMARY/CONCLUSIONS

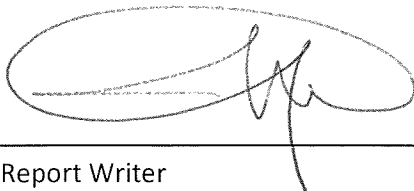
The Ministry of Environment has requested submissions from British Columbians on their proposals for a new Water Sustainability Act. The Legislative Proposals are in response to consultations throughout the province in 2009/10.

An overview of each of the seven key action areas in the Legislative Proposal is covered in this report. In general the actions provide for the development of a regulatory framework that will provide enhanced protection of the provinces water resource and an improved governance structure that will allow for localized solutions.

The province requires all feedback to be submitted by November 15th, 2013.

RECOMMENDATIONS

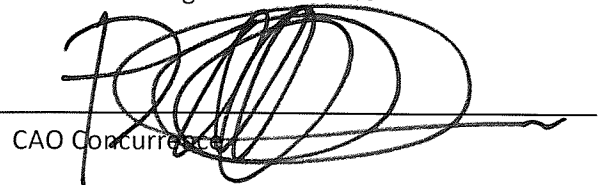
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10. That further development of the legislative language and supporting regulatory framework for the Water Sustainability Act include key stakeholders in a collaborative process.



Report Writer



General Manager Concurrence



CAO Concurrence

TO: John Finnie, General Manager
Regional and Community Utilities

DATE: April 22, 2010

FROM: Mike Donnelly
Manager of Water Services

FILE: 0135-20-MOE

SUBJECT: **Water Act Modernization – Discussion Paper Submission**

PURPOSE

To provide the Board with an overview of the Water Act Modernization process and staff comments on the Water Act Modernization Discussion Paper released by the Ministry of Environment in February 2010.

BACKGROUND

The Ministry of Environment is undertaking a review and update of the Provincial *Water Act*. This is the first review of its kind since the inception of the Act in 1909. Referred to as the “Water Act Modernization” (WAM) process, the Province has embarked on a program to change the Act in order to address current and future challenges for provincial freshwater resources.

Since 1909, pressure to make changes to the Act has increased with population growth, industrial and agricultural expansion, conflicting demands for the water resource and an antiquated surface water allocation licensing structure.

The Discussion Paper notes the population of BC will increase by an estimated 1.4 million people in the next 25 years. The needs of an increased population will necessitate changes in how water is allocated/licensed, how land and water are utilized with regard to stream and aquifer health and sustainability, how water resources and supplies may be affected by climate change and a new direction with respect to the licensing of groundwater.

The four key goals outlined in the Discussion Paper include;

1. Protecting stream health and aquatic environments
2. Improve water governance arrangements
3. Introduce more flexibility and efficiency in the water allocation system
4. Regulate groundwater extraction and use

To achieve these goals the Ministry of Environment has developed an ambitious stakeholder consultation program, which is currently underway. The Ministry’s intent is to present changes to the legislation in late 2010. The review process phases include:

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

Phase 2 – Engagement and policy development (Fall 2009 – Spring 2010) (underway)

Phase 3 – Request for legislation and legislative drafting (Summer – Fall 2010)

Phase 4 – Bill introduction and approval.

As part of the Phase 2 – Engagement and policy development, the Ministry is hosting a number of meetings to discuss the possible changes and to solicit feedback. RDN staff attended the session held in Nanaimo on March 5th, 2010. The Ministry has established an April 30, 2010 deadline for providing feedback on the WAM.

Development Services and Regional and Community Utilities staff have reviewed the Discussion Paper. Staff comments are outlined in the attached *RDN Submission to the WAM Review*. Staff also met with Oliver Brandes of the POLIS Project on Ecological Governance at the University of Victoria, who is a member of the RDN Drinking Water Watershed Protection Advisory Committee, to discuss the broader implications and challenges associated with the modernization of the *Water Act*.

The resulting comments are primarily concerned with the suggested governance options, updating water allocation rights and the need to be responsive to changing demands and environmental conditions. Key concerns/comments include:

Stream Health

Currently water allocation plans that identify environmental flow requirements for streams exist for Vancouver Island. It is important that these plans be updated to reflect changing conditions and that they include the groundwater resource as part of the water budget considerations. Adherence to environmental flow standards would be an effective and efficient approach to protecting stream health and to limit impacts on groundwater resources.

Water Governance Framework

While the Province states they will continue to be accountable for the protection of water resources in the public interest there are options outlined in the Discussion Paper that include a greater level of participation by local government in planning and decision making. A shared approach with stronger local involvement would enhance the decision making process but would bring financial and capacity challenges to local government that would have to be resolved equitably.

Improved water governance should also include the streamlining of water laws with other natural resource statutes, making them easier to understand, use and enforce.

Water Allocation

The existing approach simply apportions rights based on the application date for the water License (First in Time - First in Right). This approach does not provide the flexibility to manage the resource effectively or equitably. An alternate approach should take into account environmental protection, equitable sharing of the common resource and be based on an adaptive approach that recognizes changing conditions.

Regulate Groundwater Extraction and Use

Currently the Province does not regulate groundwater extractions. The Discussion Paper suggests that the Water Act include regulations that would govern the larger groundwater extractions while exempting small scale extraction and use of groundwater for domestic purposes except in critical areas or where aquifers are under stress.

The regulation of groundwater is an important step in providing a sustainable ground and surface water resource. As such, all large extractions should be regulated with smaller, residential extractions being registered as outlined in the proposed Phase 2 of the Ground Water Protection Regulation. Large scale extractions are defined in the Discussion paper as a range between 100 m³/day to 500 m³/day. These are very high thresholds and lower limits would be more beneficial in the management of the water resource.

ALTERNATIVES

- 1) That the Board receive this report for information and submit the attached *RDN Submission to the Water Act Modernization Review* to the Ministry of Environment.
- 2) That the Board provide alternate direction to staff.

FINANCIAL IMPLICATIONS

There are no financial implications associated with submitting comments to the WAM review.

SUSTAINABILITY IMPLICATIONS

The Provincial Water Act is not well positioned to address water allocation issues at this time and will certainly not meet the increased pressures of an increasing population and climate change. There is a need to make changes to the Act to address these pressures as soon as possible.

CONCLUSIONS

The Ministry of Environment has embarked on a comprehensive review of the *Water Act* and has focused the review on four goals: protecting stream health and aquatic environments, improving water governance, making the allocation system flexible and efficient, and regulating groundwater extractions.

The Ministry is currently consulting with stakeholders across the province. April 30, 2010 is the deadline for providing feedback on the Water Act Modernization Discussion Paper. Staff have attended one of the Ministry's workshops on this matter and have reviewed the Discussion Paper. Comments from RDN Development Services and Regional and Community Services staff are attached as the *RDN Submission to the Water Act Modernization Review*.

RECOMMENDATION

That the Board receive the Water Act Modernization staff report for information and submit the *RDN Submission to the Water Act Modernization Review* to the Ministry of Environment.

M Donnelly

Report Writer

J Finnie

General Manager Concurrence

C Mason

C.A.O. Concurrence

Regional District of Nanaimo Submission to the Water Act Modernization Review

This submission is in response to the call for feedback on proposed changes to the existing Water Act.

The Regional District of Nanaimo (RDN) supports the direction of the provincial Living Water Smart initiative and the reform of BC water laws in order to protect BC's natural environment, the health of its citizens, and economic stability. The RDN recognizes that in order to protect this precious resource the province of BC needs to take substantial action to change the way water is governed and managed. It is important that any changes made to the Water Act support the goals of Living Water Smart and provide for the conservation, protection, and management of BC's water resources.

The RDN supports the goals outlined in the Water Act Modernization Discussion Paper and encourages the Provincial government to take the necessary action to support these goals by providing the appropriate resources and enabling legislation. The RDN appreciates that the Water Act is focused primarily on water allocation. To address most of the issues related to water protection and water use will require that a broader approach be taken that integrates water allocation with watershed management. An adaptive, integrated watershed-based approach to water management that recognizes groundwater and surface water as the same resource requiring protection, regardless of use, is required. The RDN supports the movement to legislation and a system that embraces a watershed focus with all other acts being consequentially amended to be consistent with a new Water Act.

The Regional District of Nanaimo respectfully provides the following comments in support of the goals in the WAM Discussion Paper:

1. Protecting stream health and aquatic environments

- Legally binding Water Management Plans must be developed, particularly in priority areas. Although local governments and other stakeholders will be involved and perhaps even take the lead in some areas, water is a provincial resource and the province needs to provide a framework, resources, and capacity for managing it.
- Groundwater is connected to surface water and stream health is impacted by groundwater extractions. Regulating groundwater extraction is an important component of protecting stream health.
- The development of mandatory environmental flow standards is the only effective way to protect stream health. The responsibility for identifying environmental flow needs should not be left to the discretion of designated individuals or the license applicant. Adherence to environmental flow standards should be required with no exceptions for all water users, regardless of water use. The development of water allocation plans will save resources in the long term, improve consistency, and increase administrative efficiency.
- A significant issue impacting stream health is the regulatory inconsistencies for protection of surface water and associated habitat. The rules for how water and habitat are protected are different depending on the water use. In order to protect habitat, all water users need to adhere to the same requirements.
- In order to protect stream health, the Water Act needs to take precedence over other acts and should consequentially amend other acts that implicate stream health.

2. Improve water governance arrangements

- There is general support for a different form of governance which gives more authority to partner or watershed agencies. However, this new form of governance must be enabled to make decisions and be given the resources to operate.
- Enabling some of the activities and responsibilities as a governance option requires further consideration. Some local governments may want involvement or to take on some of the responsibilities but very few have the capacity, resources, or capability to acquire the resources to do so. Many also do not have the jurisdiction to take on all aspects of watershed management. Currently, for example, under the Local Government Act Regional Districts require electorate approval to create a function to undertake a service.
- For the purposes of drinking water and watershed protection, Regional Growth Strategies, Official Community Plans, and land use legislation regulated by the Province must be updated or amended to be consistent with watershed plans, and then applied and enforced.
- Municipalities and Regional Districts should be empowered and resourced to manage threats to drinking water sources.
- The responsibilities and authorities for water need to be streamlined and integrated.

3. Introduce more flexibility and efficiency in the water allocation system

- Water allocation decisions must be based on priority uses and environmental protection.
- Water licenses should be treated as temporary rights to access a resource and access to the resource should be adaptive and based on an updated prioritization of uses and equitable sharing among a consumptive pool of users.
- All existing licenses should be reviewed. Licenses that are not being used should be cancelled.
- The challenges of temporary water scarcity should be shared by all users based on priority uses.
- The current *priority of use* hierarchy set out in the *Water Act* for surface water allocation is archaic and no longer relevant to modern requirements. Precedence must consider watershed protection, environmental needs and water sustainability as priorities if we expect to retain water resources for other uses. Ecological needs, rivers, lakes, streams, and wetlands need to be identified as priority uses.
- The water allocation system needs to be adaptive to consider the long term implications of climate change and other changing conditions, such as population growth, that will affect the sustainability of the resource.
- A license application and approval system that identifies water needs based on efficient infrastructure and practices must be in place in order to encourage water-use efficiency.
- All water users (groundwater and surface water users) above a small threshold (Ontario uses 50 m³/day) should report water consumption and quality information in order to support water management activities, including the development of water budgets, watershed planning, and conservation activities.
- The water allocation system needs to be tied to land use.
- The cost of a water license should be directly correlated with the volume of allocation in order to support the administration of the system and promote conservation.

4. Regulate groundwater extraction and use

- Groundwater needs to be regulated. Currently, even when an aquifer is under stress, there is no ability to stop more water from being extracted. Groundwater must be adaptively managed, in conjunction with surface water, to respond to changing conditions.
- In order to promote conservation, groundwater extraction needs to be licensed and reported similarly to surface water.
- The Groundwater Protection Regulation needs to be completed and support the goals of the Living Water Smart vision and a modernized Water Act.
- The "abundance of groundwater in some parts of BC" (p31) should not be a justification for BC to propose the highest thresholds in Canada. This thinking may lead us closer to a water crisis in parts of BC.
- The proposed thresholds for regulating groundwater extraction are too high. A lower threshold for regulation (ie., 50 m³/day) is recommended.
- Small water extractions need to be acknowledged in order to budget for the cumulative impacts of groundwater extraction. The regulation of large groundwater extractions is sufficient if the whole area is on a common system, but in areas where there are a significant number of individual domestic users, domestic use needs to be accounted for as it is a critical component of the water balance, and essential for proper water management. Reporting of individual domestic use is not recommended. However, domestic consumption could be accounted for through mandatory submission of well drilling records. This would protect the domestic users by ensuring that their access to the resources is incorporated into water management plans.
- As noted above, the FITFIR system is archaic and should not be considered as an allocation option for groundwater.
- Groundwater extraction regulation should apply regardless of industrial use (ie., oil and gas should not be excluded).