

What we heard - Principles & Goals

6 Principles

The Discussion Paper proposed eight principles to underpin a modernized *Water Act*. Over the course of the engagement period, British Columbians provided substantial input on the principles. Although not all WAM submissions commented directly, over 60 percent of submissions provided feedback on the principles. Principles were also discussed at all regional workshops and received extensive review at the First Nations session in Nanaimo.

With the exception of Principle 5, the principles were well-supported by a strong majority of respondents. Principles 5 and 7 attracted comment most frequently. In submissions and at some workshops, respondents questioned whether the frequent use of terms like “investors” implies that business interests are a higher priority than ecosystem maintenance in a modernized *Water Act*.

Principle 5 consistently attracted concern from many sectors, with the strongest reaction coming from Individuals. Overall, a majority of respondents do not support the principle and the language used frequently elicited a strong reaction. In particular, comments indicated that the term “predictable investment climate” should be more clearly defined or removed from the principle.

Principle 7 was supported by most stakeholder groups, although with notable pockets of concern. Like Principle 5, the most common concern communicated was a request for clearer language and definitions of terms such as “investment,” “investors” and “incentives.” Some stakeholders suggested including water re-use in Principle 7 while others identified specific incentives to encourage conservation.

Although Principles 5 and 7 received the highest degree of comment from the stakeholder engagement process, others received feedback as well.

Regarding Principle 1, some respondents requested a clearer definition for the term “sustainable limits,” while others argued that the principle should more explicitly promote the preservation of aquatic systems including wetlands. First Nations indicated that meaningful consul-

Proposed *Water Act* Modernization Principles:

1. BC’s water resources are used within sustainable limits.
2. First Nations social and cultural practices associated with water are respected and accommodated.
3. Science informs water resource management and decision making.
4. Water resource legislation, policy and decision making processes as well as management tools are integrated across all levels of government.
5. Rules and standards for water management are clearly defined, providing a predictable investment climate across the province.
6. Flexibility is provided to adapt to extreme conditions or unexpected events on a provincial, regional or issue-specific level.
7. Incentives are created for water conservation that consider the needs of users and investors.
8. Rights to use water come with responsibilities to be efficient and help protect stream health.

“Principles 5 and 7 must recognize that the concerns of those investing human, social and cultural capital must be addressed along with those of individuals investing paper (financial) capital.”

Individual Submission

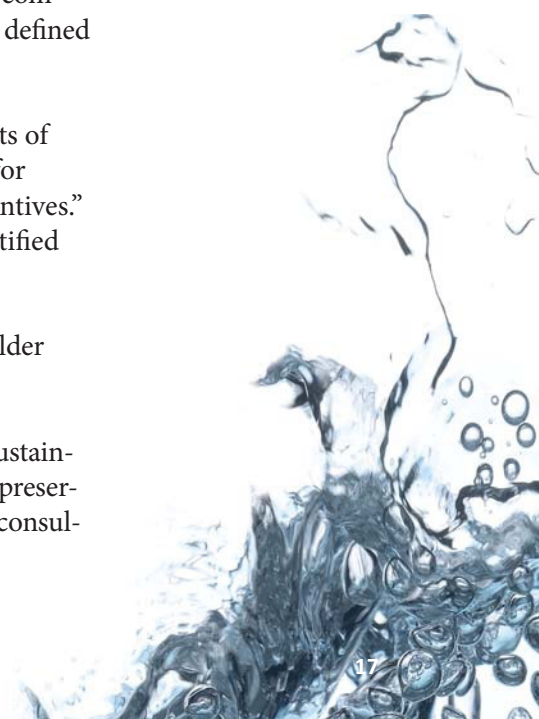
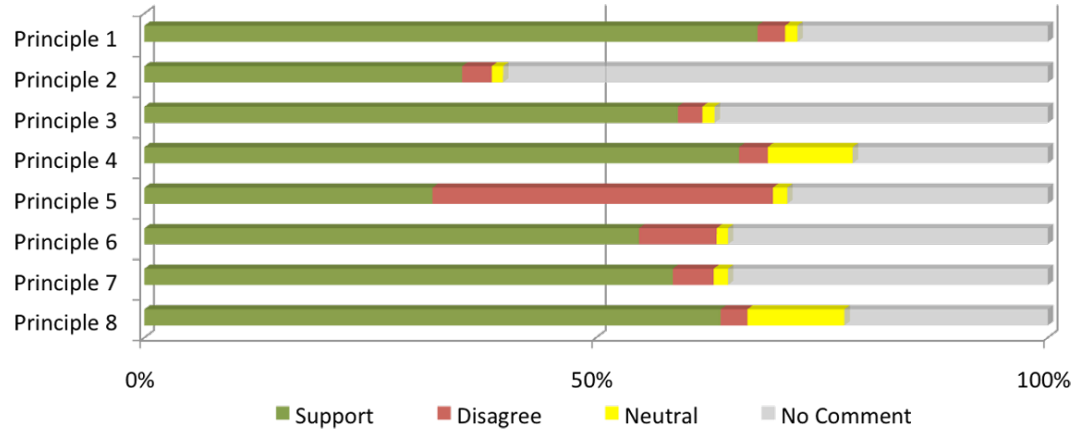


Figure 6: Overall response to the proposed *Water Act* Modernization principles from WAM submissions*



* As illustrated in the figure above, a number of submissions did not directly comment on all principles. Principle 2 has a particularly low response rate. Those who did comment generally supported the proposed principles, with the exception of Principle 5.

Principle 1

“All decisions regarding resource extraction activities and other activities in consumptive use watersheds need to put the precautionary principle first, meaning that any proposed activity must prove that it will do no harm to water quality, quantity, or timing of flow.”

Herb Hammond
Silva Ecosystem Consultants Ltd.

tation is essential to the process of defining “sustainability.” Many workshop participants and submissions also suggested that Principle 1 should reference the “precautionary principle,” which they emphasize should be employed until “sustainable” is clearly defined within ecologically-based hydrologic limits. A common theme among most submissions and at workshops was an emphasis on taking an ecosystem-first approach to define sustainability.

Although Principle 2 received support overall, First Nations indicated that the language should also reflect their diverse ceremonial and economic interests. First Nations asserted that aboriginal title and rights are protected under Section 35 of the *Constitution Act of Canada*. First Nations indicated that they have unextinguished rights and title that include land and water. Further, they pointed to the principles in the *New Relationship* and shared decision-making as essential building blocks. Conversely, other groups suggested that *Water Act* Modernization is a public trust and suggested that all sectors, including First Nations, will need to change consumption behavior to make sustainable and responsible decisions regarding water resources.

The *New Relationship* is a process by which the provincial government and BC First Nations organizations are working together towards shared goals founded on respect, recognition and reconciliation of Aboriginal rights and title.

Principle 3 was strongly supported by most submissions and in dialogue at workshops. A common theme was support for increased data collection, monitoring and transparent reporting. Some feedback expressed the need for further conversation regarding the definition of “science.” Respondents suggested that science should include indigenous knowledge, best available technology and independent scientific research. As with Principle 1, a common suggestion that appeared throughout submissions and at multi-stakeholder workshops was the need to employ the precautionary principle where science is unclear.

Principle 4 was generally supported by most stakeholder groups and individuals. Submissions and workshop participants expressed strong support for more streamlined legislation, policy and decision-making. Many suggested that a modernized *Water Act* should take precedence over other legislation. First Nations expressed strong concerns regarding provincial jurisdiction to unilaterally govern and manage water in the province and suggested that First Nations should be specifically recognized in the language of the principle. Other submissions cautioned that great care is necessary to “avoid abuse of power at any level” and that changes should be “integrated across all levels of government to address the lack of

integration within each government level.”

Principle 6 was generally well supported in feedback. Some stakeholders who disagreed with Principle 6 encouraged the use of stronger language and more explicit reference to adaptability in the face of climate change. Others took exception to the use of the word “flexibility” suggesting that it may provide loopholes in legislation or enforcement resulting in environmentally damaging development. Conversely, others suggested that “flexibility” might introduce a greater risk to projects that require large capital investment and are made on the basis of a stable water supply. Comments from both perspectives stressed the need for clearly-defined, consistent and dependable standards.

Principle 8 was well supported by the majority of submissions and in dialogue at regional workshops. Frequently, those who disagreed with the principle did so because they wanted to see stronger language. Some suggested that the responsibility to protect water should be a mandatory component of rights to water use. As with Principle 1, some respondents suggested that Principle 8 should encourage an “ecosystem first” approach, which is broader than stream health. However, the Mining sector indicated opposition to the principle. Mining stressed that additional responsibilities to protect stream health should not create an inequitable burden for individual water users.

Missing from principles

During the WAM engagement process, submissions and workshop participants suggested additional themes that should be included in the principles shaping a modernized *Water Act*. Dominant themes suggested considering the following:

- Water should be a basic human right not a commodity and must be held in the public trust.
- Water for human consumption and ecosystem protection should take higher priority than business interests.
- The true value of water should reflect economic, ecological, social and cultural factors.
- Establish a priority-of-use framework that prioritizes human consumption, food security and ecosystems.
- Employ an adaptive management approach to respond to climate change impacts.
- Include an enforcement principle and create legislation “with teeth.”
- Include public education, clear communication and outreach campaigns to better engage the public.

Principle 6

“Business arrangements and investments are based on the current system and any changes could be very disruptive.”

Richard Deane
Teck Metals Ltd.

“The sixth principle discusses flexibility. While flexibility is often more desirable than rigid and unbending rules, strong guidelines are required to prevent abuse.”

Individual Submission

7 GOAL ONE

Protect stream health and aquatic environments

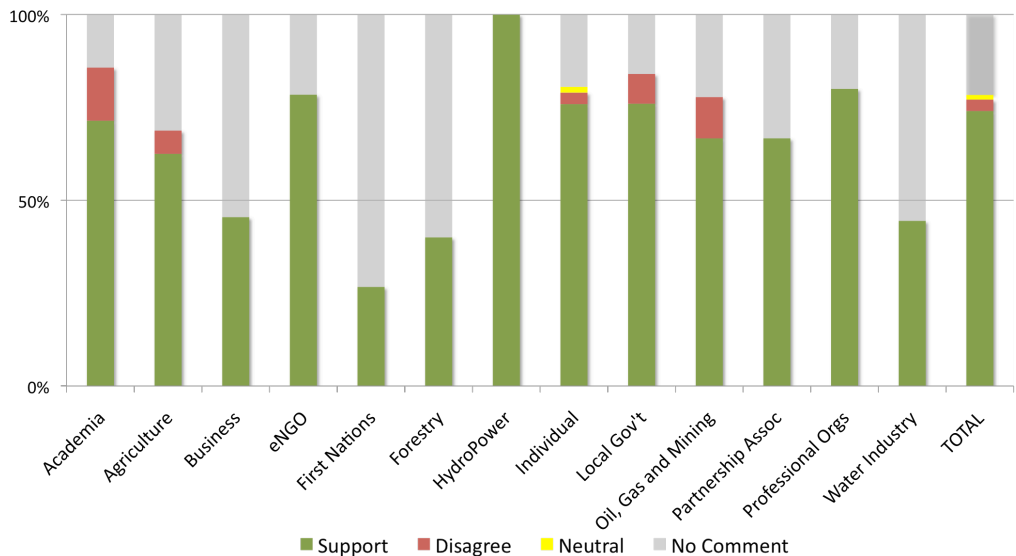
Protecting stream health relies on effective governance, laws, and management to regulate the wide range of activities that may degrade stream health. To protect stream health, the Discussion Paper proposes options for: how environmental flows can be included in decisions; including water allocations plans in the *Water Act*; and improving protection of aquatic habitat and riparian areas. Specific details on Goal 2 including background on environmental flows can be found in the Discussion Paper and are not repeated here.

Overall, strong support for Goal 1 was expressed in written submissions and at the workshops. Protecting stream health and aquatic environments was the goal that was most strongly supported and addressed with greatest frequency and is clearly a priority of British Columbians. Figure 7 illustrates the response to the goal statement of protecting stream health and aquatic environments by stakeholder group and for First Nations. More detail on the comments of stakeholders and First Nations can be found in Section 4 of this report.

“The development of mandatory environmental flow standards is the only effective way to protect stream health.”

Mike Donnelly
Regional District of Nanaimo

Figure 7: Response to the proposed Goal 1 objectives from WAM submissions by sector



Despite the broad support, several areas of disagreement emerged during a review of the submissions. Written submissions included concerns that maintaining environmental flows, water allocation plans and dumping prohibitions may not be sufficient to protect aquatic environments. Academic and Education stakeholders suggested that the Province lacks the resources to enforce the proposed environmental flow measures. Similarly, a number of Local Government stakeholders noted that they lack the resources to enforce new protections should that responsibility fall to them. Some Individual submissions suggested that proposed environmental flow measures are not sufficient to safeguard stream health and that the governance arrangements proposed in Goal 2 would enable off-loading and poor

delivery of enforcement responsibilities.

Some Agriculture stakeholders suggested that stream health and environmental flow standards could place the health of aquatic environments at a higher priority than food production and food security. The Mining sector expressed concern that the Goal 1 protections as proposed in the Discussion Paper create an imbalance between environmental flows and economic benefits of industrial water use. First Nations generally supported Goal 1, but did not endorse the WAM process which they feel is inconsistent with the *New Relationship*. Forestry stakeholders suggested that existing forest practices legislation already provides sufficient environmental protections.

Regarding how environmental flows should be considered in decisions (Objective 1), the Discussion Paper presented two options—Environmental Flow Standards or Environmental Flow Guidelines. Of those who commented, a strong majority of respondents expressed a preference for standards, with many suggesting that guidelines are too flexible or otherwise not enforceable (Figure 8).

Objective 2 of the Discussion Paper addresses water allocation plans, whether their development should be optional or required and how plans are used by decision makers. Overall, a majority of submissions indicated that decision makers should be required to follow mandatory allocation plans, and noted that these plans are a core foundation for any future success in protecting BC’s water resources. In addition, some respondents qualified their support for mandatory allocation plans, pointing to the importance of collaborative approaches with all stakeholders during plan development, administration and enforcement.

Regarding aquatic habitat and riparian area protection, a large number of submissions supported strengthening prohibitions against dumping debris and materials into streams (Figure 9). However, comments in written submissions suggested there was confusion between the two options as proposed in the Discussion Paper, with a number of respondents questioning the differences between the two.

Other submissions advocated expanding environmental protection beyond general prohibitions on dumping to ensure that all water sources can be protected. Still other submissions, particularly those from resource development sectors, suggested that other legislation already establishes sufficient environmental protections and recommended that any additional provisions must be harmonized with existing legislation to ensure clear responsibilities and avoid jurisdictional overlap.

Figure 8: Response from all submissions to proposed options for how environmental flow should be considered in decisions

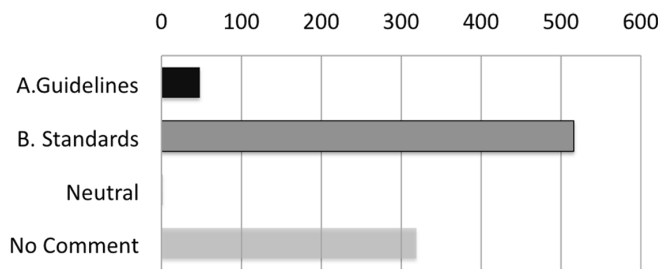
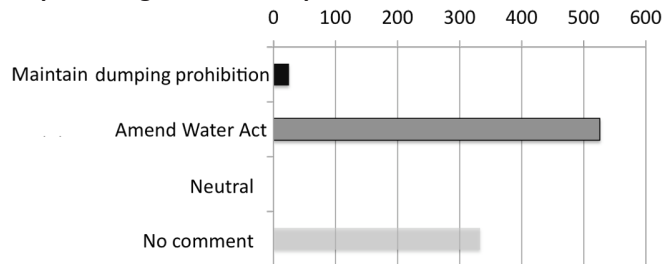


Figure 9: Response from all submissions to proposed options for protecting habitat and riparian areas

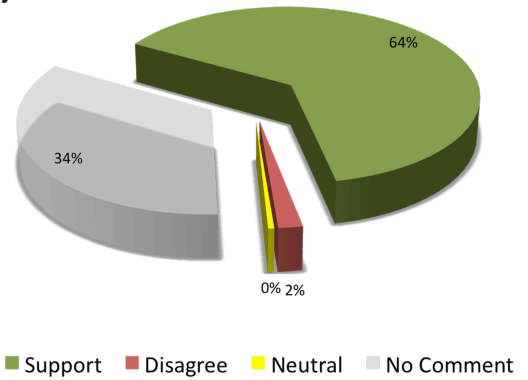


Improve water governance arrangements

Water governance includes the laws and regulations, all levels of government, the agencies and institutions that are responsible for decision-making, and the policies and procedures that are used to make decisions and manage water resources. Governance also includes the way that science, information, community and traditional knowledge inform these laws, policies and decisions.

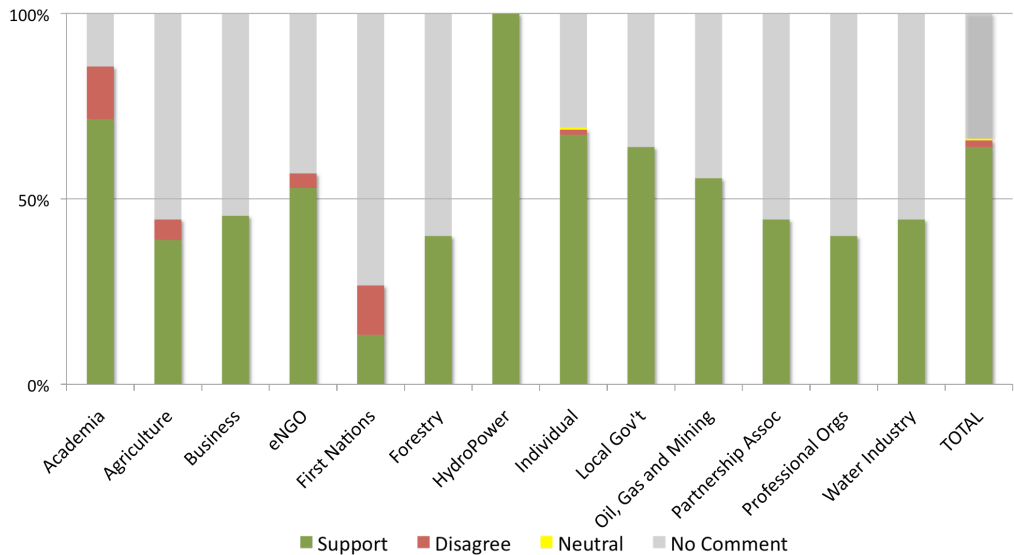
WAM respondents as a whole appeared to interpret water governance as the authority to control water use. The majority of WAM submissions that addressed Goal 2 support updating governance structures. At workshops as well as in many submissions, the current governance arrangements were described as overly complex and not responsive enough to changing climate or the evolving needs of British Columbians. Consistent with comments on Goal 1 regarding protection of stream health, the majority of submissions maintained that there is a need for clear and enforceable standards. Many suggested that new, streamlined governance arrangements play a necessary role in fulfilling this need.

Figure 10: Overall response to the proposed Goal 2 objectives



First Nations expressed the greatest concern about new governance structures. Few First Nations submissions commented directly on the governance models proposed in the Discussion Paper. Those who did comment asserted that Aboriginal right and title must be

Figure 11: Response to proposed Goal 2 objectives from WAM submissions by sector



resolved before First Nations can support any changes to governance structures.

Feedback from Academia and Education suggested that inclusive structures are vital to successful governance improvements. Agriculture and ENGO stakeholder groups raised similar concerns. Submissions from these groups identified specific challenges in ensuring that those affected by changes to the governance structure have a role in determining the new structure, and an on-going place in the new governance model.

The strongest support for Goal 2 came from the Hydropower and Oil & Gas stakeholder groups, as well as from Individual submissions. However, comments from these groups were consistent with concerns from groups who expressed lower levels of support. Regardless of sector affiliation, support seemed to depend on interpretation of options presented in the Discussion Paper. Where groups interpreted the proposed development of new governance structures as being collaborative and including local involvement, there was frequently strong support for the objectives. In spite of high-levels of support for the Goal 2 objectives, stakeholder views were highly varied about what provincial water governance should look like.

Proposed governance approaches

Overall preference for governance arrangements was divided among all three options, which included a Centralized, Shared or Delegated Approach. Although there was no clear preference expressed for a single governance model, most submissions expressed a need for consistent standards, resources and clear enforcement, which some maintained is best coordinated on a provincial level. Most respondents also indicated the desire for greater local-level involvement in planning, which may help reduce local-level conflicts with centralized decision-making.

Submissions and feedback from workshops suggested that effective water governance should be efficient, inclusive, harmonized with other acts, and retain authority and responsibility. Comments from all groups revealed support for streamlining processes and clarifying jurisdiction. A majority of submissions supported strategic water planning on a watershed level, but suggested that establishing watershed boundaries may be an area where conflict will arise. The need for a clearer, consistent, and transparent communication plan with regards to decision-making was also expressed.

Figure 12: Response to options for improving water governance, all submissions

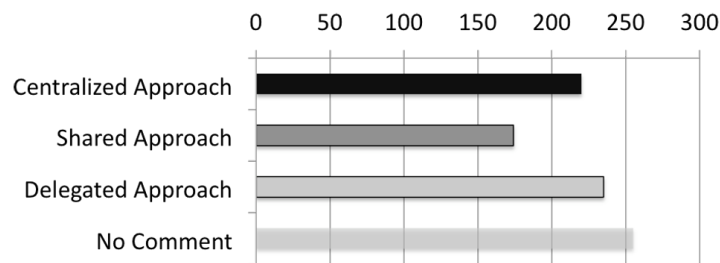
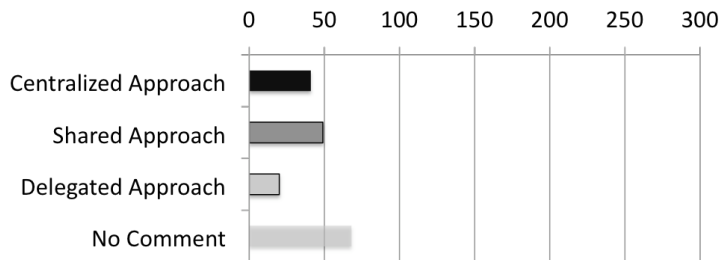


Figure 13: Response to options for improving governance arrangements, excluding Individual submissions



Individuals provided the bulk of feedback on governance models. Their high level of support for the Delegated Approach to decision-making was in contrast with the Centralized or Shared options preferred by most other groups. When Individual responses are removed, as in Figure 13, the Shared Approach is the most strongly supported.

Submissions that supported the Shared or Centralized Approach indicated that maintaining a central agency with more opportunities for including local knowledge and experience is preferred. Those who supported the Centralized Approach maintained that a Shared or Delegated approach could create jurisdictional overlaps, resulting in inefficiencies and introducing a higher level of risk to the infrastructure investment climate.

Supporters of the Delegated Approach envision that a delegate-run central agency would work in a provincial framework and be guided by collaboratively determined, mandatory, provincial standards. Submissions that are supportive of a Watershed Agency support a semi-independent governing body. This body would include representatives from all groups within the impacted area and would collectively determine how water is used, ensuring that water is managed responsibly.

Funding source suggestions

Regarding funding options for a new governance model, many respondents called for a self-sustaining funding structure. Feedback suggested appropriate resourcing for data collection, monitoring wells and infrastructure in order to meet conservation objectives.

Suggestions for specific approaches on how to fund these programs were varied and often partnered with concerns for the impact of funding models on specific user groups. An underlying sentiment among submissions was that funding solutions should be equitable.

Although some feedback from submissions and workshops supported licence fee increases, support was not consistent. Licence holders were concerned about additional costs. Most frequently, feedback from submissions and workshops suggested a more aggressive water pricing policy or a user-pay approach, such as the inverted block pricing structure which is used in the pricing of electricity. This suggestion was met with concerns from traditional large-scale water users, like those in the Agriculture stakeholder group, who stressed that increases in water pricing might reduce their competitiveness and viability. Some large-scale users, like those in the Hydropower stakeholder group, proposed alternative fee structures that price water based on consumptive use, not volume, so as to avoid penalizing non-consumptive use or use of non-potable water by industry.

Others recommended that pricing changes not be based entirely on willingness to pay, but should instead consider a collaboratively determined priority-use structure that reduces costs for priority consumptive uses like drinking water and food security. It was clear from many submissions that any introduction of water pricing models should protect BC's water as a public resource.