

11.8 Oil, Gas & Mining

Nine organizations from the Oil, Gas and Mining sector submitted comments on the Discussion Paper. These included three submissions from industry associations as well as seven from individual companies. Oil, Gas and Mining stakeholders were also represented at some of the multi-stakeholder workshops. Water security and water use rights were recurring themes that participants from this stakeholder group raised at all sessions. The sector provided the following key messages:

- Ongoing access to clean and plentiful water is essential for future growth. Without sustainable water management, development may be limited in the future because geothermal, mining, oil and gas developments each require significant amounts of water for their operations.
- Oil, Gas and Mining stakeholders make substantial infrastructure investments and require a clear and transparent licensing process to ensure a positive investment climate. This process, in which government maintains a final say, should allow for stakeholder input and balance environmental and economic concerns.
- In many cases, oil and gas developments access water under a short-term approval obtained from the Oil and Gas Commission. A modernized *Water Act* must work cooperatively with other agencies and legislation.
- Saline groundwater use must be addressed differently than freshwater groundwater use under the modernized *Water Act*.
- Government is responsible for governance of provincial resources and allocating appropriate funds to manage water resources. The Canadian Association of Petroleum Producers (CAPP) cautions that funding solutions must be equitable for all resource users and not unduly penalize specific water users or specific uses, nor create a competitive disadvantage for investment in BC.

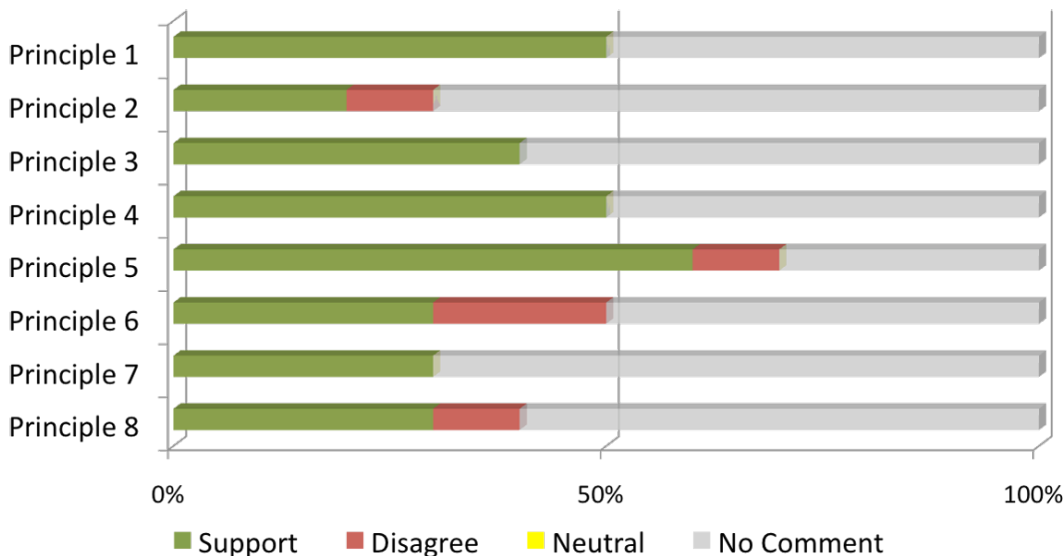
“Large areas of northeast BC are rich in both surface water and natural gas. Decisions to restrict water use must be based on good science conducted within the specific watershed in question. The provincial government must ensure BC remains competitive with other gas producing regions in North America.”

Ted Johnson
Talisman Energy

Feedback on principles

Oil, Gas and Mining submissions provided less feedback on the eight WAM principles com-

Figure 37: Oil, Gas and Mining stakeholder group response to the proposed *Water Act* Modernization principles



pared to most other stakeholders submissions. Of those submissions that did comment on the principles, feedback was supportive. Although other submissions expressed concern with the use of the terms “investment” and “investors” in the Principles 5 and 7, the Oil, Gas and Mining sectors supported these principles and use of the terms. Submissions pointed out that the Oil, Gas and Mining sectors are significant investors and make large infrastructure and capital investments in order to provide essential resources, like fossil fuels, to British Columbians. Some of these investments involve long-term projects that require many years to produce a return.

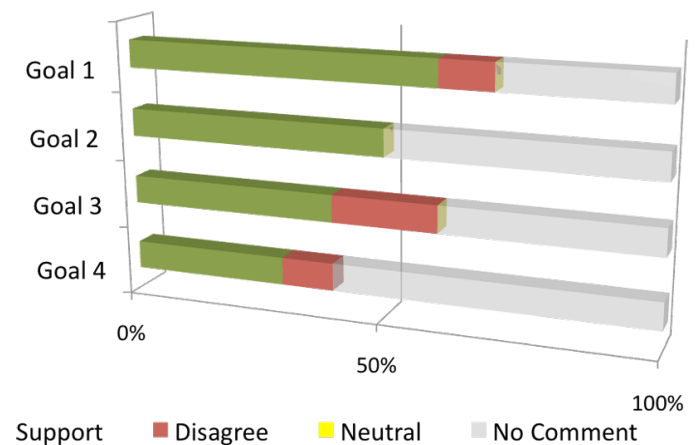
Oil, Gas and Mining stakeholders also suggested additional principles be considered in *Water Act* Modernization. Suggestions included the need for business certainty for existing holders of water rights and the importance of balancing and respecting the needs of all water users, including industry.

Feedback on goals

Similar to their response to the WAM principles, Oil, Gas and Mining stakeholder submissions provided less feedback than most other stakeholder groups. However, most of the submissions that did address the WAM goals expressed overall support.

A number of submissions questioned whether a modernized *Water Act* and regulations will include distinctions based on water quality and resource use. Many submissions from this group suggested that definitions in the WAM Discussion Paper do not adequately address consumptive and non-consumptive use of water resources. In addition, groundwater regulation as proposed in the Discussion Paper did not distinguish between deep saline and fresh water aquifers. This was most often the source of disagreement with objectives for protecting stream health (Goal 1), flexibility in allocation (Goal 3) and groundwater regulation (Goal 4). Oil, Gas and Mining stakeholders proposed that saline aquifers be recognized by (and possibly excluded from regulation) in a modernized *Water Act*.

Figure 38: Oil, Gas and Mining stakeholder group response to the proposed *Water Act* Modernization goals



Stakeholders expressed strong support for retaining a governance model with centralized decision-making (Goal 2), but recommended greater partnerships with regional and industry experts. In submissions, stakeholders maintained that this would improve data-collection and monitoring, and would develop greater efficiencies and better protect existing and future investments.

Oil, Gas and Mining stakeholder submissions also focused on balancing the protection of infrastructure investment with environmental values. Additional challenges identified by this group included the need to ensure that a modernized *Water Act* not only balances

environmental and economic concerns, but also the interactions between the agencies, commissions and legislation that govern water use in BC. As such, some Oil, Gas and Mining stakeholders did not support Goal 3, citing concerns that the changes proposed in the Discussion Paper are not substantial enough to empower governance structures and protect their investments.

What we heard...

from Oil, Gas & Mining

“...the discussion paper does not provide for a differentiation of groundwater based on groundwater quality. Our position is that the quality of the water should be taken into account together with quantity when addressing allocations for the conservation purposes. The recommendation is that the Act allows for a distinction between non-saline groundwater and saline groundwater and regulates accordingly....It is also recommended that any regulation pertaining to saline water use for Oil and Gas related activity is best situated in the Oil and Gas Activities Act.”

Richard Dunn
Encana

“The province currently takes in huge sums of money directly from water (hydro) and indirectly (oil, gas and Agriculture), for this reason the funding should come directly from the provincial government. Down loading delivery of services like this to industry, will harm BC’s competitiveness.”

Ted Johnson
Talisman Energy

“A simple hierarchy such as [proposed in the Discussion paper] may be problematic. Industrial users may need access to some water during periods of scarcity for environmental control, to prevent damage to equipment, and to maintain the viability of long term operations. ...[I]t may be appropriate to treat consumptive and non-consumptive uses differently otherwise measures designed to address consumptive use issues may have unintended impacts on non-consumptive users.”

Richard Deane
Teck Metals Ltd.

11.9 Partnership Organizations

Eleven Partnership Organizations submitted comments on the Discussion Paper. This group included several water councils, committees and watershed and stewardship boards from across BC. This stakeholder group provided the following key messages:

- Collaborative, precautionary approaches to ecosystem level management are required. Efficiency measures that protect current resources are strongly preferred.
- Wetlands are a vital component of BC’s water resources and require urgent protections.
- Water for food production, drinking, and ecosystems protection must be the top priority of any allocation system.
- Current issues need to be considered within a modernized *Water Act* including scarcity, new trends in governance, climate change, cumulative impacts, and watershed management.
- Effective communication is needed from all who manage water. Alignment of water policies is also critical.
- There is a need for further opportunities to participate in the *Water Act* Modernization process, before proposals are finalized.

“Use the precautionary approach to decision-making and set conservative levels.”

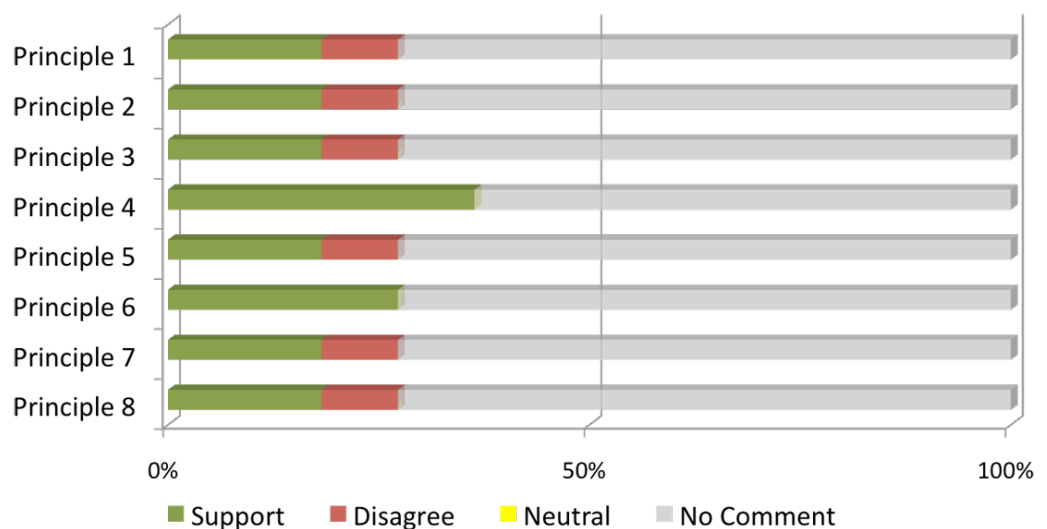
Peter Lamb
Salt Spring Island Water Council

Feedback on principles

Partnership Organizations provided comment on the principles at a lower rate than did other respondents. Submissions by this stakeholder group did, however, provide detailed comments on particular areas of support and disagreement, as well as suggestions for additional principles.

As Figure 40 demonstrates below, levels of support from this group were the same for all principles, except for Principles 4 and 6 for which higher levels of support were reported. Principles 4 and 6 focus on integrated governance and the flexibility to adapt, respectively. Many Partnership Organizations involve the participation of multiple sectors such as agriculture,

Figure 39: Partnership Organization stakeholder group response to the proposed *Water Act* Modernization principles

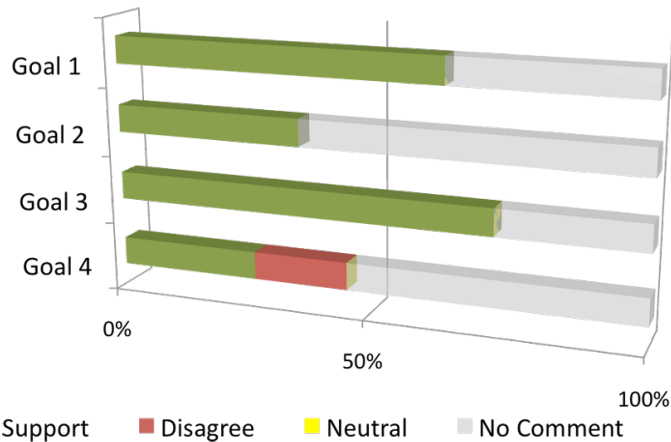


local government and resource development. Perhaps not surprisingly, Partnership Organizations suggested that the principles should reflect the collaborative nature and regional focus of these organizations.

Feedback on goals

Partnership Organizations responded to the WAM goals more frequently than they responded to the principles. Most responses indicated strong support for ecosystem protection and stream health (Goal 1). However, there was divergent opinion on whether environmental flow *guidelines* or environmental flow *standards* should be employed in BC. Stakeholder responses also identified the urgent need for the inclusion of wetlands and their protection in a modernized *Water Act*.

Figure 40: Partnership Organization stakeholder group response to the proposed *Water Act* Modernization goals



Response to Goal 2, regarding governance arrangements, was lower than most other stakeholder groups. Responses favoured shared and delegated approaches to governance. Partnership Organizations suggested that water planning should occur at a local watershed scale. Submissions also emphasized the past successes in engaging British Columbians on water issues and the value of collaborative partnerships.

Partnership Organizations indicated strong support for Goal 3, and, in particular, expressed strong support for flexibility for individual water users and decisions-makers to adapt to changing conditions. Similar to many other stakeholder groups, Partnership Organizations supported a shift away from FITFIR allocation to a Priority of Use model based on a hierarchy of uses.

Partnership Organizations strongly supported groundwater regulation objectives in Goal 4 and provided significant comment. Partnership Organizations concerned about Goal 4 point out that regulating groundwater only in priority areas may not take into account the linkages between surface and groundwater and may present a risk for other areas that are currently above priority thresholds. Other considerations for groundwater regulation should include cumulative impacts, phased implementation, and regulating extractions of some residential groundwater use.

What we heard...

from Partnership Organization stakeholders

“There is a need for improved integration in the management of surface and groundwater resources and better integration in the management of water quantity and quality issues....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.”

David Marshall
Fraser Basin Council

“The committee was consequently very concerned to learn that there is currently no wetlands policy in British Columbia. We would strongly urge that [a wetlands policy] be addressed in the current review of the Water Act. The government has set four goals for the Water Act modernization. ... To achieve these, an integrated watershed management approach needs to have wetland ecosystem protection as a cornerstone principle.”

Libby Avis
Somass Estuary Management Committee

“An ethic of conservation should pervade the entire discussion of allocation. The precautionary principle should be employed in the Water Act, not just ‘flexible allocation’ where there are issues of scarcity. Modernization should evolve from the historical FITFIR system, and should consider an allocation for ground and surface water conservation a priority.”

Andrea Barnett
Wetland Stewardship Partnership

“Regulating ALL the withdrawals of groundwater is essential to protecting the health of a stream, the aquatic environment, the riparian area, and the ability to meet the legislation on ‘water flow requirements for ecosystems and species.’”

John Anderson
Nicola Water Use Management Plan

11.10 Professional Associations

Six stakeholders identified as Professional Associations submitted comments on the Discussion Paper. These included three associations and several resource professionals. One of these associations conducted a comprehensive survey of its membership, the results of which were collated and presented as a submission. This stakeholder group provided the following key messages:

- Government investment in management, monitoring, regulation, data and information, compliance and enforcement will help reduce adverse impacts to water in the future. Users should also pay for water as it is a public resource.
- A new and independent Ministry, the Ministry of Water Resources, should be established to administer all fresh water in BC.
- The modernized *Water Act* should take precedence over other legislation that addresses water.
- Surface water and groundwater should be managed as one resource; all groundwater withdrawals must be licensed, especially commercial and industrial uses of groundwater.

“Water needs to be balanced in an environmental, social and economic context. The value of water may change in the future.”

Stephen Joyce and Brian Fast
CWRA BC Branch

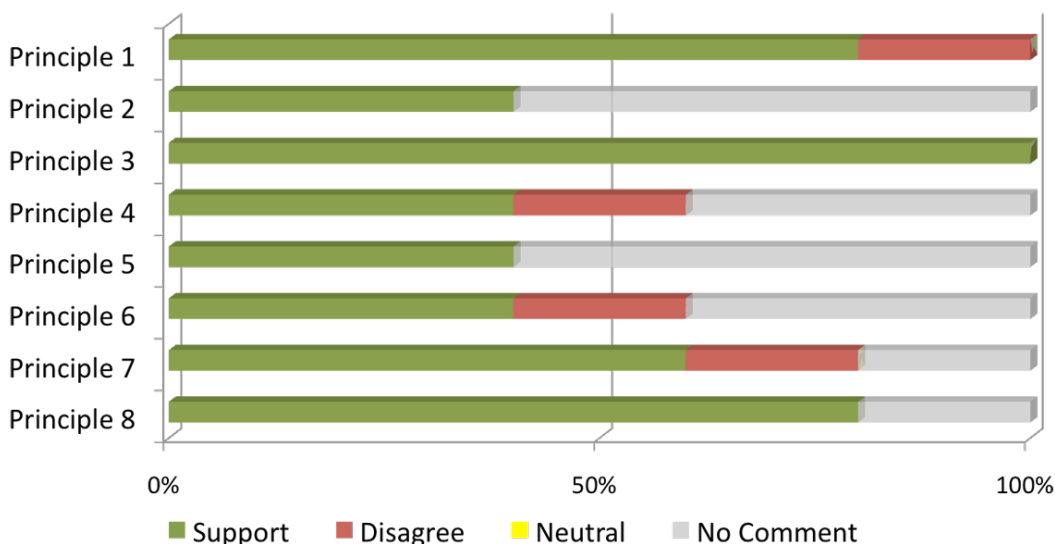
Feedback on principles

Support for the WAM principles among Professional Association stakeholders was mixed, perhaps reflecting the diversity of interests they represented.

Stakeholders in this group all supported Principle 3 and view the use of science as essential to decision-making. They also strongly supported Principles 1 and 8, which focused respectively on the sustainable use of water resources, and that rights come with responsibilities. Response rates among Professional Associations were lower for Principles 2 and 5, which focused on First Nations and creating clearly defined rules and standards, respectively.

Many submissions suggested additional principles. Most commonly, suggestions for addition-

Figure 41: Professional Association stakeholder group response to the proposed *Water Act* Modernization principles



al principles stressed the need for enhancing ecosystem protection.

Feedback on goals

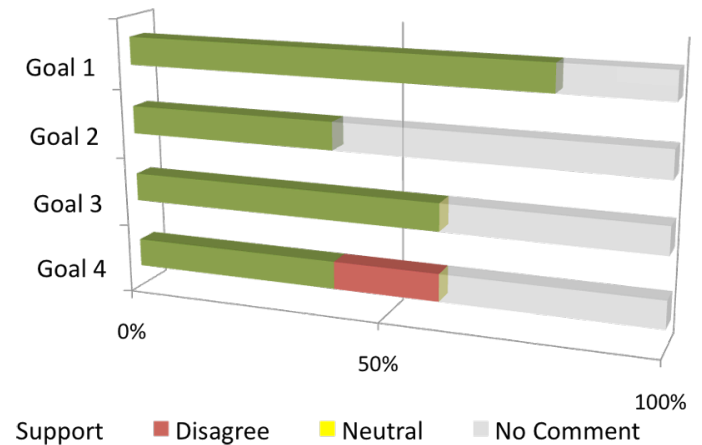
Professional Associations strongly supported Goal 1, regarding the protection of stream health and aquatic ecosystems. However, fewer Professional Associations provided feedback on Goal 2 and many wanted more details about the proposed governance arrangement before commenting. Those who did comment on Goal 2 typically supported a Shared Approach as the preferred governance option. Submissions recommended that the provincial government should retain accountability but be informed by and utilize collaborative processes where practical. Some respondents stressed the need for establishing watershed reserves in all consumptive-use watersheds.

Professional Associations also provided a number of suggestions for funding new governance arrangements. Some suggested that water governance should be self-funded by a system of taxes or fees and fines for violations to generate revenues which are directed back into funding the water program. Others recommended that a graduated fee structure should be developed for all new applications for water licences.

Professional Association stakeholders strongly supported Goal 3, regarding the introduction of flexibility and efficiency in allocation. In particular, they strongly supported using incentives and economic instruments to encourage efficiency.

Goal 4, groundwater extraction, was generally supported by Professional Associations. However, some respondents expressed concern with groundwater protection as proposed in the Discussion Paper. A number of submissions suggested broadening the scope of Goal 4 to include all extractions as well as all commercial and industrial uses of groundwater.

Figure 42: Professional Association stakeholder group response to the proposed *Water Act* Modernization goals



What we heard...

from Professional Association stakeholders

“Where possible, minor adjustment to Regional District boundaries should be made to better align with watershed boundaries. In areas where watersheds boundaries span Regional Districts, delegates from each district should be present on the watershed level partner institution...”

Canadian Water Resources Association
Vancouver Student and Young Professionals Chapter

“Groundwater and surface water interactions need to be defined and monitored.”

Gilles Wendling
GW Solutions Inc.

“New applications for all water licences, would undergo a mandatory, rigorous review process before being approved. Such a review process would include things such as: the appropriateness of the intended use of the water; the available water supply both short and long term; the environmental impacts of such water withdrawal; the short and long term public interests; and other relevant aspects.”

Fred Marshall
Marshall Forestry Services

“[The Environment Committee supports] management of water resources on a watershed, rather than regional basis; and the inclusion of groundwater protection in the legislation.”

Association of Professional Engineers and Geoscientists of BC

11.11 Water Industry

Although the Water Industry made only nine submissions, their memberships and customers are many. For example, the BC Water and Waste Association represents several thousand members and the Water Supply Association of BC has just under 50 members which serve over 230,000 individuals. Other submissions were from individual companies that serve many customers. The sector provided the following key messages:

“The BCGWA strongly believes that detailed well construction and groundwater protection regulations are needed now. We represent an industry with little to no regulation. We are seeking to work toward a ‘level playing field,’ which will allow a reasonable living for our members and provide a sustainable, quality groundwater resource for all.”

BC Ground Water Association

- Water Industry stakeholders support the use of environmental flow guidelines, which
 - are more flexible than standards.
- Sector-specific codes should be developed to encourage efficient infrastructure
 - and practices. The use of incentives and economic instruments should be used to encourage water efficiency.
- Water quality is a concern and the Water Industry supports stronger prohibitions
 - against the dumping of contaminants into streams.

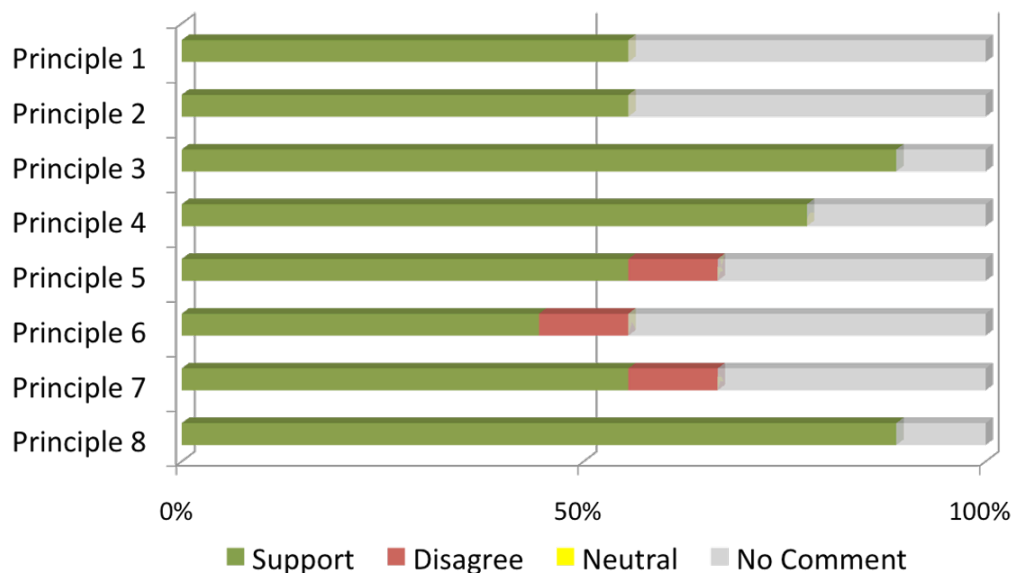
Feedback on principles

A majority of the Water Industry submissions supported the eight principles. However, a minority disagreed with Principles 5, 6 and 7 (clearly defined standards; flexibility; and incentives, respectively), which is consistent with many other stakeholders groups. Some respondents disagreed with Principles 5 and 7 because of the terms “investment climate” and “investors” and stressed that water should not be viewed as a commodity. Responses to Principle 6 suggested including a reference to changing water supply that considers longer growing seasons and an expanded water supply requirement.

Feedback on goals

The Water Industry did not provide extensive feedback on the goals; however, those who did comment supported all four. With regard to Goal 1, which focused on protecting stream health, submissions expressed a preference for environmental flow guidelines rather than standards. Water Industry submissions also supported the development of

Figure 43: Water Industry stakeholder group response to the proposed *Water Act* Modernization principles

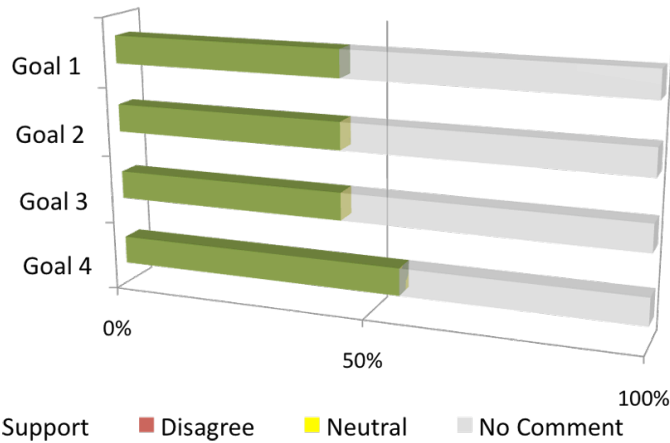


water allocation plans at the discretion of the regional manager, rather than mandatory planning.

With respect to improving water governance arrangements (Goal 2), nearly half of respondents supported a Centralized Approach to governance. However, Water Industry stakeholders requested additional clarification and opportunities to comment further on this aspect of *Water Act* Modernization, which they suggested is not fully described in the Discussion Paper.

The majority of Water Industry stakeholders supported the Goal 3 objectives that call for the development of legal mandatory codes for efficient infrastructure and practices for individual sectors as well as the use of incentives and economic instruments to encourage water efficiency. With respect to water allocation systems, the majority supported moving from the FIT-FIR allocation system towards a Priority of Use approach.

Figure 44: Water Industry stakeholder group response to the proposed *Water Act* Modernization goals



Water Industry submissions also expressed strong support for the regulation of groundwater extraction and use with the majority supporting regulation in areas of known quantity concern. However, expanding groundwater regulation to include all extraction was also preferred. Water quality was also a repeated concern, along with the need to manage groundwater and surface water as one resource.

What we heard...

from Water industry stakeholders

“Corix believes that while a fair approach needs to be used to address allocation issues, particularly in areas subject to seasonal water shortage, a transition needs to occur that includes a clear policy for pricing water both in licensing allocations and for actual water consumption. Only when water consumption in the province, particularly in areas with competing interests, is measured and priced to reflect its true value will the water resource be used in the most effective and efficient manner for the benefit of both human requirements and natural ecosystems.”

Corix Utilities

“In most watersheds, the large water utilities that rely on those water resources have no jurisdiction on land use approvals, regulation, or enforcement on Crown Lands. Yet they control the water levels within the creek, report to the drinking water regulator, are responsible for providing safe drinking water, and have to deal with the damages and abuses created by the decisions of other Provincial Ministries. Provincial government tools for inter-Ministry decisions at the start of a land use decision process are needed.”

Water Supply Association of BC

“BCWWA recommends the province abandon the First-in-Time, First-in-Right (FITFIR) approach to water allocation, and replace it with surface water and groundwater allocation decisions based on the relative value of water for various uses. To ensure consistency throughout the province, the new Water Act should outline the water allocation planning process needed to effectively determine the value of water in each watershed/aquifer.”

BC Water and Waste Association

12 Individuals

In total, 710 individuals submitted comments on the Discussion Paper. A significant portion of Individual submissions were guided by one of four different letter-writing campaigns. These 387 letters were typically submitted via email and are referred to as “shared-form submissions.” Although shared-form submissions were based on pre-formatted letters, most included individualized content. Additionally, 323 unique submissions unaffiliated with shared-forms were received from Individuals. Although responses from individuals were highly diverse, submissions from this group as a whole provided the following key messages:

- Government must protect BC’s water resources at an ecosystem level and should employ the precautionary principle where science has yet to determine areas of impact.
- Ecosystem-level protections are key to ensuring access to clean water for all purposes. Standards must be enforceable, but allow for collaborative and innovative improvements.
- Water for food production, drinking, and ecosystems protection must be the top priority of any allocation system.
- The overall validity of the *Water Act* Modernizations engagement process is questionable given the short timelines and perceived lack of awareness of the WAM process. Further opportunities to participate should be provided before proposals are finalized.

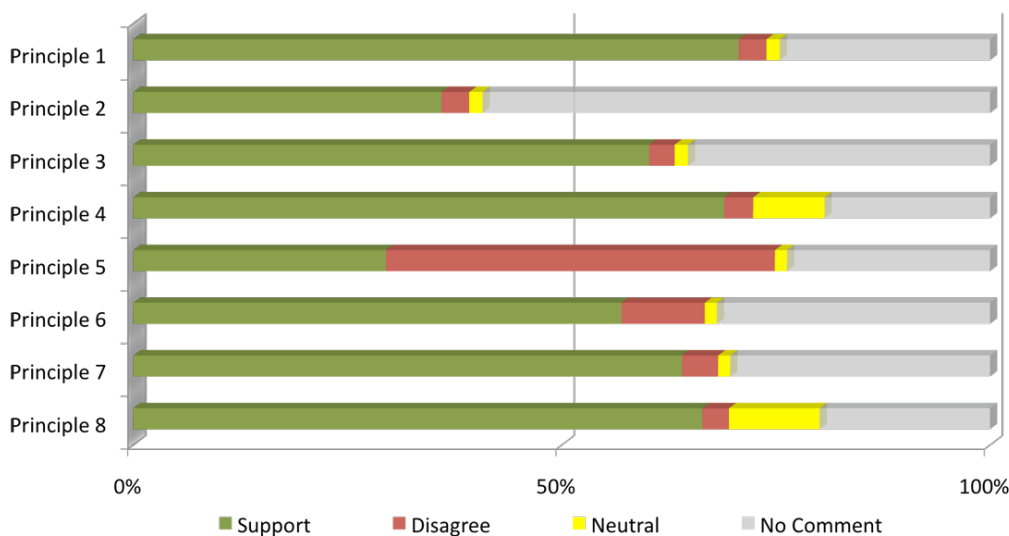
“The precautionary principle must be applied to the Water Act to protect ecosystem and watershed health.”

Individual Submission

Feedback on principles

Similar to other submissions, most individual responses did not specifically address every WAM principle in detail, but instead commented generally on all the principles, and then focused on specific areas of concern. Collectively, the majority of Individual submissions strongly supported seven of the eight principles. This support is in keeping with the key themes of submissions by Individual stakeholders, which called for an ecosystem first approach including responsible and enforceable protection of stream health and aquatic ecosystems. Many submissions challenged the definitions of terms such as “sustainable

Figure 45: Response to the proposed *Water Act* Modernization principles, all Individual submissions

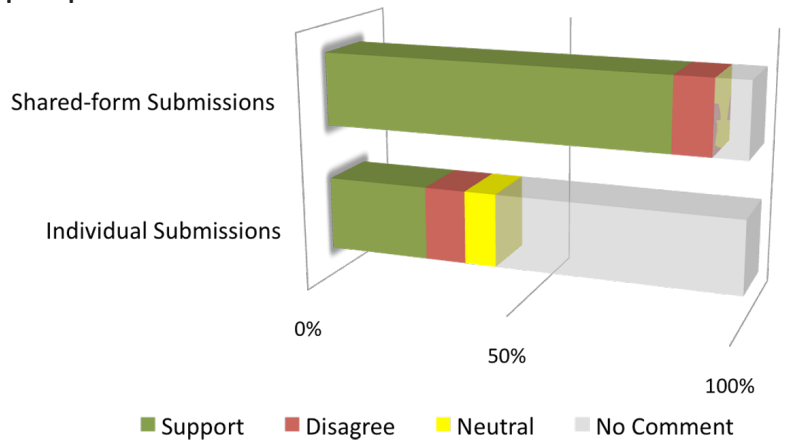


“Water is a right of all living beings. Human beings need to take priority not private interests.”

Individual Submission

limits” and advocated the use of the pre-cautionary principle in allocation, impact and planning decisions. However, when shared-form submissions and unaffiliated Individual submissions were reviewed separately, different levels of support emerged. Shared-form responses addressed on the principles at a much higher rate and expressed much stronger support for most principles than the balance of individual submissions.

Figure 46: Shared-form and unaffiliated responses to the proposed principles



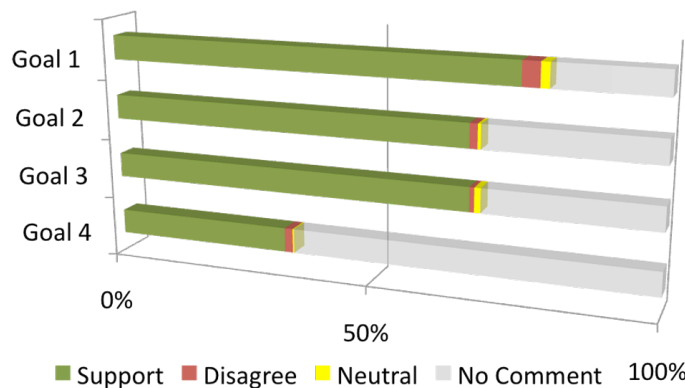
In contrast to strong support for most of the principles, a majority of individuals disagreed with Principle 5 citing concern over the definition of the term “investment.”

Feedback on goals

As a whole, Individuals indicated a high level of support for the WAM goals. Shared-form submissions commented more frequently and expressed strong support for all goals. Unaffiliated Individual submissions commented less frequently, but those who did respond expressed support for all goals.

Individual submissions strongly supported Goal 1 and expressed a preference for environmental flow standards in Objective 1. Submissions also strongly supported standards-based required water allocation plans, which decision makers must follow. Submissions identified complementary relationship between enforceable standards and the ability to effectively protect water resources. Some of these submissions also called for the creation of Watershed Agencies as legal entities that would oversee and enforce these standards-based plans. Individual submissions also supported increased dumping prohibitions.

Figure 47: Response to the proposed Water Act Modernization goals, all Individual submissions



Disagreement with Goal 1 focused on how these options are defined in the *Water Act Modernization Discussion Paper*. Submissions and workshop feedback from Individuals maintained that environmental flow standards must be collaboratively developed with all water users, if they are to be followed and enforced.

In submissions and work-

shops, Individuals maintained strong support for improving water governance arrangements (Goal 2). However, feedback did not indicate a clear preference for what arrangement governance should take.

Shared-form submissions sometimes indicated that governance concerns were a key motivation for the organization of these submissions. However, the shared-form submissions did not agree on a favoured form of governance. Unaffiliated Individual submissions preferred the Delegated or Shared Approaches.

Figure 48: Shared-form response to the Goal 2 governance options

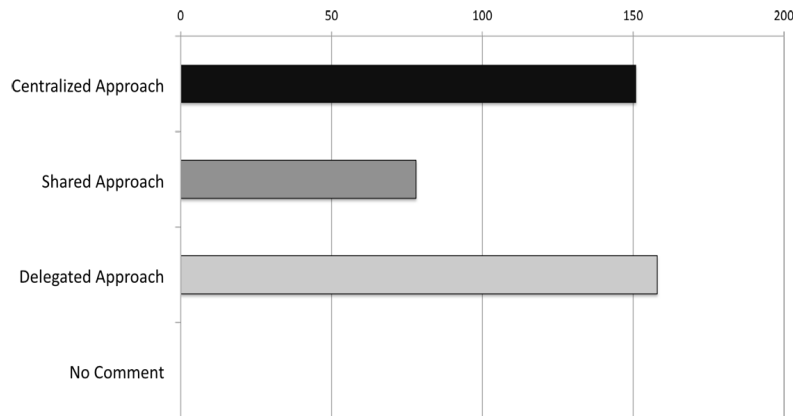
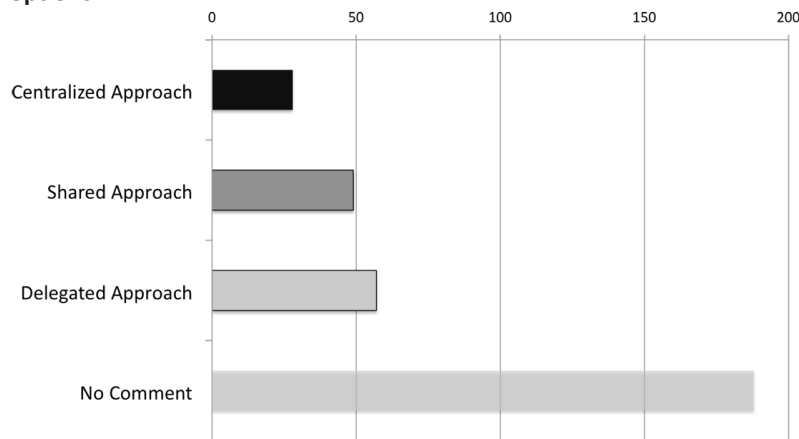


Figure 49: Unaffiliated Individuals response to the Goal 2 governance options



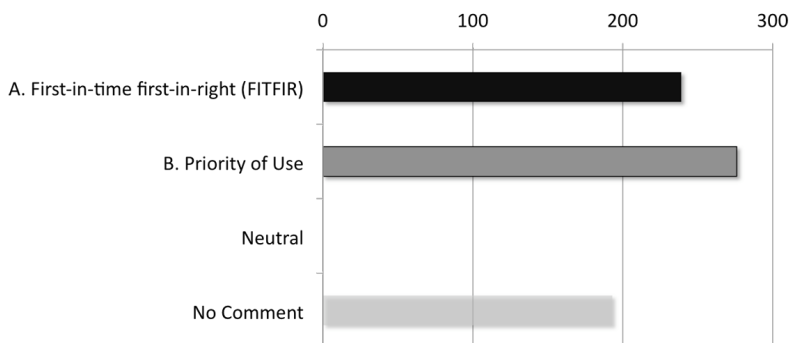
“The delegated approach is preferable because it encourages local community participation in water governance. It is also more flexible and can account for regional differences in water availability, uses, and social demographics. If watershed agencies are to function effectively, however, it is important that they have very clearly defined roles, responsibilities, and methods to be held accountable to the public.”

Individual Submission

Submissions indicated that individuals had differing interpretations of each governance option. Although preferences varied, it was clear from comments that individuals generally seek a standards-based, collaborative authority with shared-benefit solutions, in which all water users are represented.

Some unaffiliated Individual submissions supported a strong centralized provincial planning and authority approach. Like some other stakeholder groups, comments from those who supported the Centralized Approach suggested that a Delegated Approach could dif-

Figure 50: All Individuals preference for water allocation options in Goal 3



fuse authority and responsibility to the extent that environmental protections would be impeded.

Individual submissions indicated a high level of support for a flexible water allocation system (Goal 3). However,

some comments maintained that flexibility can only be effective within a framework of clearly defined standards. With regard to water allocation approaches, FITFIR and Priority of Use are both strongly supported by respondents. Comments in engagement workshops and submissions indicated that support for FITFIR is related to food security and drinking water protection as well as security for individual licensees. Like the Agriculture stakeholder group, many of these individual submissions indicate openness to a Priority of Use system in which food production and water for human consumption is highly valued.

Only about a third of Individual submissions commented on groundwater regulation (Goal 4). Those submissions that did address groundwater strongly supported regulation. As in other stakeholder groups, some Individual submissions maintained that groundwater regulation should be applied more broadly, not just for large withdrawals and in priority areas. Individual submissions also suggested that applying conservation approaches only to areas of concern or in times of shortage is reactive and inefficient. Respondents maintained that BC's water resources should be better protected by applying precautionary conservation to all areas of the province before times of water shortage.

What we heard...

from Individual stakeholders

"WATER is to be clearly recognized as a BASIC HUMAN RIGHT and part of COMMONS- common public resource HELD IN TRUST by government to manage and represent public interest."

Individual Submission

"In allocation, ecosystem needs come first, followed by a modified version of FITFIR that acknowledges the need for setting priorities and sharing the resource where water scarcity arises"

Individual Submission

"Your attempt to "commercialize" water is abominable. You make no attempt at comprehensive review, passing the buck that it is in another ministry, "not your department". Do a correct review or you will face the ire of the public for a blatant attempt at grabbing the water from the common (people)."

Individual Submission

"I disagree with turning water into a commodity. I do however support legislation which protects our watersheds and water systems from industry. I believe in continued water rights for all citizens. I also feel that not enough time was given for public input for such a potentially sweeping change that the new water act could create."

Individual Submission

"We must have a licensing/permitting system that prioritizes water uses, such as ecosystem and domestic uses above irrigation uses for golf courses and lawns."

Individual Submission

"If water is to be used from surface or wells it should be licensed - no exceptions."

Individual Submission

13 First Nations engagement report

A total of 16 submissions on the Discussions Paper were received from First Nations. Feedback was provided by a variety of individual bands, tribal associations and provincial organizations, as well as interest-based advocacy groups. Approximately 60 First Nations attendees participated at the First Nations-specific workshops or at the multi-stakeholder workshops in March/April 2010. First Nations participants in the WAM engagement process communicated the following key messages:

- First Nations have concerns around constitutionally protected rights and title and question provincial ownership of water.
- First Nations maintain that the WAM engagement process is not consultation and state a risk of legal action if the province does not fulfill its legal obligations.
- First Nations consider the WAM process to be far too compressed, not allowing enough time to understand the proposals, prepare and participate.
- Water has the utmost importance and is of high spiritual and economic value to First Nations.
- First Nations have a desire to co-manage water resources, including strategic engagement in planning and decision making in the context of the *New Relationship*.

First Nations in BC are diverse and dialogue at workshops highlighted that diversity and the regional variability of water-related interests. Water is fundamental to First Nations culture and plays a substantial role in communities and sustaining economic development. Aboriginal rights and title and the *New Relationship* were also topics raised in submissions and at the workshops.

Many First Nations indicated that the principles of the *New Relationship* should apply to the WAM process. The *New Relationship* is a process in 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. Aboriginal title and rights include the ability of First Nations to make decisions about their lands and resources, and to benefit from the resources that are used or extracted. First Nations maintain that Aboriginal rights to water flow from the historic and on-going connection of First Nations to their traditional lands and resources.

According to many First Nations WAM submissions, it was too early to envision an appropriate process to comment on the specific goals and principles laid out in the Discussion Paper. First Nations also asserted that Aboriginal rights and title must be addressed before meaningful participation in the WAM process can occur.

Feedback on principles

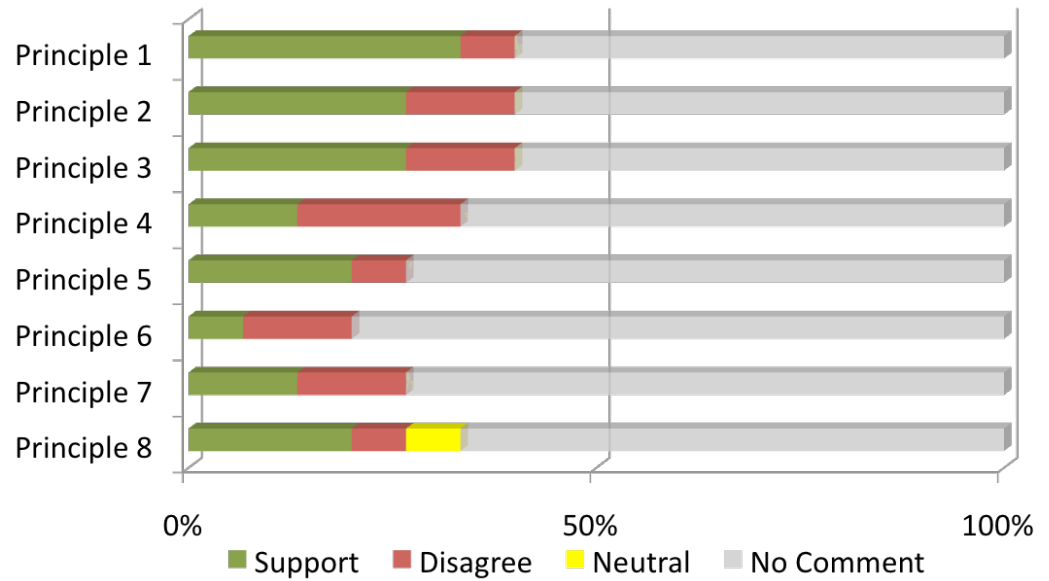
Although specific feedback on principles was limited in written submissions, First Nations provided detailed comment on the WAM principles at workshops. Dialogue at the Nanaimo workshop, in particular, focused heavily on principles and participants worked to document underlying assumptions for moving forward. Participants indicated that establishing clear, meaningful principles is essential to setting a strong foundation for a modernized *Water Act*.

“I believe that a perfect opportunity exists here that would allow for the province and First Nations to work cooperatively on the modernization of the *Water Act*.”

Ken Cossey
Tsawout First Nation

For more information on the *New Relationship*, please click the blue text.

Figure 51: First Nations response to the proposed *Water Act* Modernization principles



In general, First Nations participants expressed concern that the principles as proposed place too much emphasis on business and investment certainty, but not enough emphasis on maintaining ecosystems. This sentiment was demonstrated by the support for Principle 1, regarding protection of stream health, and dissatisfaction with Principles 5 and 7, which emphasize the needs of investors.

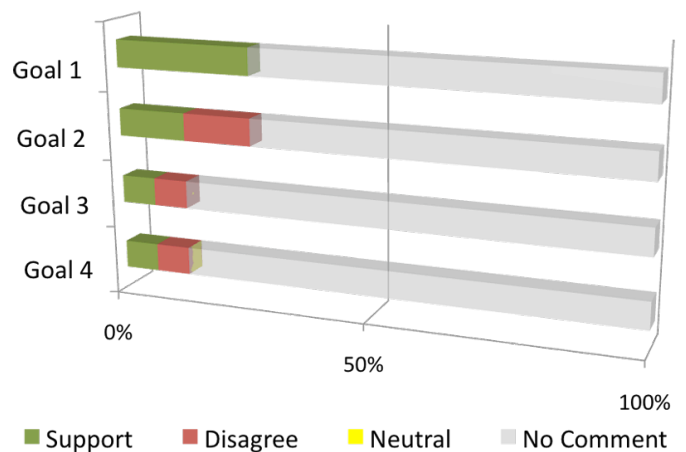
First Nations also proposed that Principle 2, regarding respect for First Nations social and cultural practices, be revised to include respect and accommodation of their economic interests. At engagement workshops, First Nations maintained that traditional ecological knowledge, supplemented with the best western science, should be used to guide water management and decision making.

WAM submissions indicated a high level of disagreement with Principle 4, regarding integrated governance, because First Nations were not clearly included in this principle.

Feedback on goals

In submissions, First Nations did not directly respond to many of the WAM goals or objectives. The areas with higher levels of comment were Goal 1 (protection of stream health) and Goal 2 (improve water governance arrangements). Although response rates were low, it is notable that Goal 1 and its objectives to protect ecosystem values was an area where First Nations submissions

Figure 52: First Nations response to the proposed *Water Act* Modernization goals



expressed no disagreement.

With regard to Goal 2, First Nations submissions and workshop commentary indicated strong concerns about constitutional rights and title. First Nations questioned the jurisdiction of the provincial government to claim ownership of water and the authority to manage water resources. A number of First Nations submissions expressed a desire to co-manage water resources with the Province, including strategic engagement in planning and decision making.

First Nations submissions and feedback at engagement workshops also expressed a strong desire for further opportunities to participate in the WAM process once their concerns about that Aboriginal rights and title are addressed.

What we heard...

from First Nations

“Inherent throughout the discussion paper is the assumption that the Province has jurisdiction over all the water in BC. We are asking for shared decision making and in order for this to start taking place First Nations must have ‘Duality of Ownership’. The assumption that First Nations do not have ownership of the water denies Aboriginal Rights and Title. First Nations must be in full partnership with other jurisdictions with an interest in water governance, therefore duality of ownership is essential.”

Chief Lydia Hwitsum
Cowichan Tribes

“[T]he ONA Chiefs Executive Council firmly asserts that WAM does not meet the legal standard of consultation with First Nations, and the engagement which is contemplated in WAM has an impossible short timeframe for meaningful input and legal standards.”

Grand Chief Stewart Phillip
Okanagan Nation Alliance

“...many Indigenous communities rely on groundwater (through wells, etc.) and efforts to regulate ground water stand to impact Indigenous communities. We protest the notion that the Water Act could be “modernized” by providing the province with authority over groundwater- provincial title cannot be determined until Aboriginal Title has been settled. ... We encourage the province to address the legal implications of our Aboriginal Title and Rights over water, and the legal implications of continuing to move forward in amending the water legislation without taking recommended steps.”

BC Union of Indian Chiefs

“[BC needs to] ensure that as the legislative process proceeds, that issues raised by First Nations can be addressed, where a First Nation(s) so chooses, through mechanisms such as shared decision-making arrangements, coordination agreements, harmonization agreements etc., and that the legislation is reflective of these arrangements and the evolving Indigenous role and legal reality”

Regional Chief Jody Wilson-Raybould
BC Assembly of First Nations

“First Nations share the BC government’s objective of improving water governance and protection, if they are achieved on the basis of recognition of Aboriginal title and rights, and with the full involvement of First Nations. ...In developing plans for water management, use or allocation, First Nations traditional knowledge and community use of any stream must be given high consideration and First Nations must be included in the development of such plans.”

First Nations Summit

“The shared decision making as referred to in the New Relationship has never been fully implemented and the Water Act would be a good place to make the legislative and policy changes to use Shared Decision Making. If processes could be put in place for a true shared decision making model, consultation would be almost unnecessary or would be a very minor task as all the considerations would have taken place at the Shared Decision making phase.”

Kekinusuqs, Dr. Judith Sayers