

Opinion: B.C.'s water law finally enters the 21st century

By Oliver M. Brandes and Rosie Simms March 20, 2016

Canadians and many around the globe are celebrating all things water this week: March 22nd marks the United Nations' World Water Day. British Columbians might have a little extra reason to celebrate this year.

On Feb. 29, B.C.'s water law regime leaped into the 21st century with the coming into force of the province's new Water Sustainability Act and the welcome retirement of the century-old Water Act.

The new act, 10 years in the making, provides significant opportunities to better protect water for ecosystems and communities, and deserves notice as part of World Water Day festivities taking place across the country. We commend the province for their sustained efforts in making the law a reality.

The act's coming into force is an important milestone. Yet, it is only one part of the long journey to a truly substantial, sustainable water law regime. The Water Sustainability Act is still a work in progress. While several important provisions in the new act have now been 'switched on', like groundwater regulation, many of the most promising and critical features of the new law — the pieces that actually change and potentially improve patterns of water use — have yet to be developed in the necessary further regulations.

So, what are some of the main changes the act introduced on February 29th?

For the first time in B.C., groundwater is now regulated (starting with non-domestic groundwater users), which means that the province is finally managing surface water and groundwater as exactly what they are: one interconnected resource.

Second, there are some initial new legal provisions to ensure that water flows for nature, sometimes called "environmental flows," are better protected. Key features now in force include protections for critical flows so ecosystems and fish can survive during periods of drought, as well as requirements for decision-makers to consider environmental flow needs in future licensing decisions to ensure aquatic ecosystems can thrive over the long run.

However, many of the very best tools in the new act's tool box to protect water for nature — things like water sustainability plans and water objectives — are still being developed in future regulations.

B.C.'s freshwater community is raising an immediate problem with the initial regulations: while the province works to bring the existing 20,000-odd groundwater users

into the legislative regime, requirements to consider environmental flows on these licences are being waived. While there are many practical reasons to try to fast-track this process, we believe it is equally critical to ensure all the hydrologically connected ground and surface water systems get due environmental consideration. The current exemption creates the threat of locking in existing and potentially unsustainable levels of groundwater use, leading to over-allocation and costly conflicts in some already stressed regions like the Okanagan, the Lower Mainland and southeastern Vancouver Island.

Ensuring sufficient water in rivers, streams, aquifers and lakes must be the key priority for government, starting now. The experiences from last summer — from parched creeks and fish in distress, to over-pumped aquifers and declining reservoirs — might only be an early warning of the “new normal” in the years ahead.

A recent forum on environmental flow needs, hosted by WWF-Canada and the University of Victoria’s POLIS project, focused on sharing solutions and discussing the elements required to implement an effective, world-class management regime in the province. This event made clear that significant political will is needed to ensure the necessary follow through in the implementation of the Water Sustainability Act and all the important regulations and operational procedures still to come. Government better understands what a world-class system can look like in B.C., and now needs to make it reality.

Recent research from the UVic highlights the key actions for regulation development needed to put “sustainability” in the new Water Sustainability Act. Some of the most important actions include protecting water for nature with detailed regulations and robust policy; developing and implementing water sustainability plans in priority areas; and producing regular “state of our water” reporting — a (to-date unfulfilled) promise already made by the province starting in 2012.

We certainly hope — and expect — that by the next World Water Day, British Columbia will be further on its way toward water sustainability.

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