

February 26, 2004

Hon. Bill Barisoff,  
Minister of Water Land and Air Protection,  
PO Box 9047, Stn Prov Govt  
Victoria, B.C. V8W 9E2

Dear Minister,

We are pleased that some members of the stewardship community have had the opportunity to meet with WLAP staff in the Biodiversity Branch to discuss the proposed Riparian Area Regulation. It is important to note that the stewardship community does not consider this to have been a proper public process or consultation. The discussion was not transparent or inclusive, and the imposition of confidentiality agreements made it impossible for those involved to obtain needed input from stewardship groups around the province.

The comments contained in this letter reflect the input of at least 20 stewardship and conservation organizations, based on information that has been in circulation in the public domain for several months. More specific comments on confidential documents made available at a Feb. 7 meeting with the Biodiversity Branch and DFO are found in an appended document that will not be made public or circulated. The undersigned are all long-term stewards, most of them volunteering in their communities, working to monitor and protect local watersheds. Some represent larger conservation organizations. Many have professional credentials in the field of riparian protection, including fish biologists, environmental scientists and some former provincial and federal government staff. Most were involved for years in the discussions leading up to enactment of the existing Streamside Protection Regulation.

The stewardship community in B.C. believes that the existing streamside protection regulation is an effective medium for ensuring consistent and enforceable protection for stream systems in all urban areas of B.C. The existing regulation was fully supported by the Union of B.C. Municipalities. We believe that it is essential that the province take the lead in ensuring strong riparian protection, as it is within their authority to set preventative measures to ensure streams and watersheds are not permanently harmed.

The riparian protection approach that the province is contemplating is better than having no riparian protection measures at all. It is a positive move to ensure that developers pay for stream assessments rather than government and taxpayers. We are also pleased to hear that stewardship groups may be included in the monitoring and evaluation process, though it is unclear precisely how this will happen.

The regulation provides guidance for streamside assessments that could be helpful. Having said this, the approach has some serious weaknesses:

1. It does not address the primary mandates of the Ministry of Water, Land and Air Protection to “protect the environment and human health and maintain and restore biological diversity.”

2. It does not take into account the precautionary principle, nor does it use a precautionary approach.
3. It does not deal with groundwater, headwaters, stormwater, slope stability, biodiversity or watershed planning issues and may even hamper current watershed planning processes.
4. It narrowly focuses on fish habitat concerns, not broader watershed values.
5. There are no measures to control the ever-increasing footprint of impervious surfaces, a problem that is at the core of unnatural flow regimes and degraded streams in urban areas.
6. It cannot be truly a science based approach if it only employs: a maximum 30 metre riparian area for protection when the literature points to a need for greater distances to protect many stream functions; the stream assessment model is too narrow and it does not take into account the very different conditions found in urbanized watersheds requiring more specialized protection.
7. It does not ensure consistency in its level of protection, nor does it create a level playing field for all developers.
8. It appears to seriously hamper Fisheries and Oceans Canada's fiduciary mandate to take action against offences under the habitat provisions of the *Fisheries Act*.
9. It ignores the human part of the equation: people will inherently want to maximize the use of their land, yet few have an understanding of the impact those actions have on the landscape.

In addition, there are a number of gaps and questions left unanswered which are extremely worrisome:

1. There should be a clear description of activities that are permitted in a streamside protection zone.
2. It is unclear what role municipalities play in reviewing and approving stream protection measures.
3. It is unknown whether or not the stream assessment methodology has been adequately field tested, given how confidential the discussions surrounding this new regulation have been.

We also have serious concerns about the implementation of a new regulatory approach and we question how a new regulation will be monitored and enforced. Specifically:

- If private environmental consultants assess streams and recommend stream protection measures, what accountability is there to professional bodies and the public? How will needed skills be assured and monitored? Is this simply a downloading of the liabilities and responsibilities of government onto consulting biologists?
- Will a new regulation effectively remove Fisheries and Oceans Canada, the public, stream stewards and city staff from the stream assessment process?

- How will the long-term health of watershed be assessed and assured?
- What is the level of monitoring and auditing of the results and is this science-based?

We ask that you reconsider the decision to move away from a stream protection regulation that enjoys wide support with municipalities, the conservation and stewardship sector and local communities and instead work towards full implementation of existing legislation and regulations. If indeed a new regulation is to be put in place, we ask that the issues, problems and gaps identified above be fully addressed and that proper consultations take place with important stakeholders and the public.

Sincerely,



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on behalf of:

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Dianne Ramage, Maple Creek Streamkeepers  
Elaine Golds, Burke Mountain Naturalists  
Greg Smith, Rivershed Society

cc. Nancy Wilkin, Bruce Morgan, Andy Witt