

General Streams Consultation Summary

SECTOR	CONCERNS	MELP RESPONSE
Independent Forest Landowners Assoc., Truck Loggers, BC Federation of Woodlots Assoc.	<ul style="list-style-type: none"> • PFLA concerned that they are afforded the same exemptions as provided to forest companies operating under the Forest Practices Code. • Woodlot owners are generally subject to FPC so have no direct concerns regarding general streams. 	<ul style="list-style-type: none"> • Exemption not relevant to this regulation. • Agree that activities under FPC are not covered under Instream Flow Regulation
Council of Forest Industries	<ul style="list-style-type: none"> • Sought confirmation that all forest industry activities under FPC are exempt from FPA. 	<ul style="list-style-type: none"> • Legislative counsel consulted on confirmation of exemption status • Agree that activities under FPC are not covered under Instream Flow Regulation
IWA	<ul style="list-style-type: none"> • Not concerned provided that the regulation does not affect forest sector jobs, logging costs and worker safety. • Concerns about this regulation providing an opening for third party intrusion into forest activities. 	<ul style="list-style-type: none"> • Most of the activities in and about streams associated with the forest industry are governed by the FPC and therefore exempt from the FPA. • Agree will not affect existing water licences for sawmills and pulp mills.
BC Environmental Network	<ul style="list-style-type: none"> • Requires some clearer bounds around the exercise of discretion. • Prefer an overall requirement that fish needs must be considered. • What are the criteria to determine “incremental impacts” of proposed amendments, particularly in relation to over subscribed streams? • Concerns that discretion and the “may consider” option will not protect fish. • Implementation needs a more definite, shorter timetable. • To avoid conflict of interest, Government should specify acceptable consultants. 	<ul style="list-style-type: none"> • Agree. Supporting policy and training to be provided. • Disagree. Intent of FPA is to place mandatory consideration only under specific circumstances. • Incremental impacts are those arising out of the amendment application. • Disagree. Supporting policy will guide exercise of discretion. • Disagree. Implementation strategy fully utilises our capacity. • Disagree. No clear evidence that this is an issue.

Mining	<ul style="list-style-type: none"> • How is the application of the Mining Exploration Code affected? • Concerns that the applicant may be required to provide information and data at great expense with no surety of outcome of application. • One stop shop would reduce red tape and delays. • Definition of fish habitat is too broad – does not address areas where grade is >20%, or at higher elevations. • FPA overlaps other legislation, why is it necessary? • Is there any statutory authority for the red and blue lists? • How will Native land claims affect the GS? 	<ul style="list-style-type: none"> • There is no effect, section 3 and 4 of the Water Act Regulation prevail. • Disagree. The IFR does not “raise the bar” on requirements already included in sect. 12 of the Water Act. • Agree, ministry is working towards streamlining its processing. • Disagree. Definition does not specifically exempt certain topological characteristics but is intended to be reasonably applied. • Disagree. The FPA places the needs of fish into the decision making parameters of the comptroller or manager. • The red and blue lists are not supported by legislation nor regulation. Guidelines will be developed with MEM involvement to further define affected fish species. • Effect of land claims is uncertain, but IFP does not impact rights.
Placer Miners	<ul style="list-style-type: none"> • Concerned that any more legislation or regulation has not been justified based on past experience of the benefits of existing programs such as the federal fish habitat management policies. • Will there be any more designation of Heritage Rivers. • Uniform enforcement by ministry personnel is essential. 	<ul style="list-style-type: none"> • Disagree. Regulation and policy will provide provincial framework for protection of fish and fish habitat. • No impending designations. • Ministry guidelines to assure consistent policy delivery.
Natural Gas Producers	<ul style="list-style-type: none"> • No concerns when general streams proposal considered at face value. • Suggest that definition of fish habitat include riparian areas. • Some concern regarding thresholds for instream flow, withdrawals and information requirements. 	<ul style="list-style-type: none"> • Agree • Definition does include “areas in and about streams” • Agree. Guidance will be provided in policy. Information requirement in

	<ul style="list-style-type: none"> • Uncertainty about value of General Streams section – overlap of existing legislation, additional bureaucratic loading. 	<p>proportion to the scope of the application.</p> <ul style="list-style-type: none"> • Disagree. Section 5 of FPA provides statutory authority for existing policy and practises.
Petroleum Sector	<ul style="list-style-type: none"> • What are threshold periods for withdrawals and triggering of approval requirement? • Add a section 2(d) to allow for information or methodologies from application. • What is definition of “qualified” in reference to sections 4(d)(iv) and 7 (l)? • Why two different processes to determine instream flows? 	<ul style="list-style-type: none"> • Water Act governs requirements for approvals. Withdrawal periods determined on available water supply. • Agree. Suggested change incorporated. • Changed to “expert” in (d)(iv), parties will agree on acceptable expert. • Differences in streams or climatic/geographic areas dictate.
Cominco	<ul style="list-style-type: none"> • Are there any impacts on Waneta dam or power plant upgrades? • PAC should be included as “other”. • Does this mean more regulation? • Timelines for referrals and approvals should be included in regulation. 	<ul style="list-style-type: none"> • Staff advised that proposed regulation does not increase the level of fish and fish habitat considerations. Columbia, Kootenay and Pend Oreille rivers will not be designated as sensitive streams. • Agree. Change incorporated. In addition, consideration mandatory for application arising from PAC. • Proposed regulation codifies existing policy and practises. • Agree. Timeline for referrals included. Disagree with respect to decisions.

Independent Power Producers	<ul style="list-style-type: none"> • Suggest adding to regulation section 2(d) information provided by the applicant, if prepared by a qualified professional. • Timelines for referral (30-75 days) should be included in the regulation • Water licences should have a maximum term of 30-35 years 	<ul style="list-style-type: none"> • Agree. Change incorporated. • Agree. Change incorporated. • Agree in certain circumstances, but beyond the scope of FPA.
BC Hydro	<ul style="list-style-type: none"> • Include an exemption in regulation for applications submitted under a Water Use Plan. • Applicant should be provided with review comments and opportunity to amend application as required. • Some potential for additional costs to provide instream flow data, monitoring flows and diversions, developing mitigation strategies and providing habitat compensation. 	<ul style="list-style-type: none"> • Disagree. But regulation amended to ensure that manager considers WUP. • Agree. Provisions are contained in regulation. • Agree. Additional costs, however, are balanced with benefits of new licence.
West Kootenay Power	<ul style="list-style-type: none"> • Concerns that Instream Flow Regulation applies only to fish without regard to socio-economic assessments, particularly in considering efficiency upgrades. • Appeal process should be reasonable • How are other values than fish taken into account, or are they considered at all? 	<ul style="list-style-type: none"> • Agree. Regulation focuses on fish but does <u>not</u> diminish the consideration of broad interests, including socio-economic values, available under the Water Act. Changes incorporated • Agree. Appeal to EAB still available. • Consideration of other values and concerns are still within the scope of the decision makers' authority under Water Act.

<p>Columbia Power Corp</p>	<ul style="list-style-type: none"> • Concerns that proposed regulation elevates general streams to ‘sensitive’ stream status. • Concerns regarding discretionary powers of regional managers. • Concerns that priorities on fish and fish habitat fail to recognize social and economic interests thereby jeopardizing financial viability of future projects • Increased compliance costs. • Concerns that recent NAFTA rulings regarding enforcement may be applied to GS. • Imposition of licence conditions in amending licences could amount to expropriation of rights. • There is uncertainty in the scope and application of the regulation. • The regulation elevates importance of fish and fish habitat. • Balance needed between fish and other interests 	<ul style="list-style-type: none"> • Disagree. The decision making test for sensitive is higher and includes reverse onus provisions. • RWMs have broad discretionary powers under Water Act. Supporting policy will guide. • Disagree. Fish and fish habitat values not given priority, but one of the many factors that ought to be considered by the statutory decision maker. However, changes to regulation made to clarify consideration of broader values. • Agree, under limited circumstances. • Agree. Ministry compliance strategy will address appropriately. • Disagree. However, clarity added that regulation applies only to incremental impacts arising from the application. • A ‘purpose’ statement has been included to clarify scope. In addition, policy, implementation training and a guide will be produced to direct the application of regulation. • Disagree. The importance of fish and fish habitat is defined by the FPA and Fisheries Act of Canada. A ‘purpose’ statement included to clarify. • Agree. Changes made to clarify consideration of WUP and PAC as a whole. Added section that must consider Columbia Basin Mgmt Plan. A ‘purpose’ statement included to clarify.
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BC Federation of Drift Fishers	<ul style="list-style-type: none"> • Support the designation system but have concerns that IFR doesn't go far enough. Sensitive stream designation is the preferred classification. • Concerns that agriculture community has a strong and effective lobby to divert focus on fish and fish habitat 	<ul style="list-style-type: none"> • Disagree. Regulation provides strong fish and habitat protection with sufficient discretion to allow creative decision making. Sensitive only where important. • Development OIC has considered support and concern from all interest groups.
Fraser Basin Council	<ul style="list-style-type: none"> • Instream flow regulation is important in improving consideration of instream flows • Process for determining other regionally significant species is unclear • Concerns that staff and funding considerations may limit a abilities to respond to 30-day referrals • Suggest more definition of First Nations consultations, public notification and consultations, conflict resolution and monitoring and enforcement • Concerns over provisions for future effects of hydrological change, and linkage to groundwater and storm water management and water quality impacts 	<ul style="list-style-type: none"> • Agree. • Agree. Will be supported with clear policy direction and guides. • Agree. Change made to include additional time "where practicable" • Disagree. These elements are beyond the scope of the FPA and regulation. They are, however, considered within the broader scope of the Water Act. • Agree with concerns but beyond the scope of the FPA and this regulation.
Outdoor Recreation Council	<ul style="list-style-type: none"> • What effect on existing licenses? • Need to know all requirements for an application in advance. • Concern that IFR is not proactive, and responds only to remedial issues. • Will there be any change of emphasis on purpose of a license? 	<ul style="list-style-type: none"> • Existing licences not affected. • Agree. • Disagree. Compliance and enforcement are inherent in licensing process. Will prepare guidelines on policy to assure consistency. • Provision will be made for licenses for conservation and flow regulation.
Assoc. of Prof. Biologists	<ul style="list-style-type: none"> • How does bank vegetation apply to fish habitat definition? • Uncertainty regarding definition of a qualified professional. 	<ul style="list-style-type: none"> • Included in definition of habitat. • Agree. Change made to mutually defined "expert"

<p>Agriculture Council, BC Cattlemen's Association and other industry members</p>	<ul style="list-style-type: none"> • Concerns regarding impacts on existing water licenses. • Concerns that there may be considerable increased costs to provide information. • Economic considerations must be applied as well as fish needs? • Need better definition of regionally significant species. • Ditch maintenance should not come under IFR. • Concerns regarding opportunities to amend existing licences. • Concerned about routine maintenance of storage works. • Want 'second' priority for available water to be reserved for agricultural lands. 	<ul style="list-style-type: none"> • Existing licences not affected. • Agree. Additional costs, however, are balanced with benefits of new licence. • Agree. IFR amended to include reference to other values. • Agree. Guidelines will be developed to assist in defining affected species. • Agree. Ditches are not streams by definition. Accepted farming practices exempt. • Clarified - consider only incremental impact arising from amendment as well as what constitutes amendment. • Routine maintenance does not involve amendment thus regulation does not apply. • Ministry is reviewing its policies to secure water for ALR lands that currently do not have water rights.
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