

TO: UBCM Members

FROM: ENVIRONMENT COMMITTEE
Chairperson Robert Hobson, Chair
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POLICY PAPER
#5

2002 Convention

DATE: September 6, 2002

RE: **2002 ENVIRONMENT ACTION PLAN**

PURPOSE

The purpose of the Environment Action Plan is to:

- identify the major environmental issues that are under consideration;
- describe the current status of the issue; and,
- establish a plan of action.

The plan provides a vehicle for the Environment Committee to report on the activities it has undertaken in the past year and an opportunity for the Annual Convention to approve the directions to be pursued in the upcoming year.

UBCM ENVIRONMENT COMMITTEE

The Environment Committee performs three basic functions:

- advocates changes in federal and provincial environmental policy to assist local government in solving environmental concerns at the local level.
- represents local government in the development of environmental policy at the federal and provincial level.
- promotes and shares information on solutions to environmental problems which local governments have implemented.

REVIEW OF ACTIONS

Provincial Government

The new provincial government as part of its review of government policy and the development of ministry service plans has undertaken a number of reviews of environmental issues:

- Streamside Protection Regulation Advisory Committee
- Drinking Water Review Panel
- Advisory Panel on Contaminated Sites
- Environmental Assessment – review of legislation and regulations
- Flood Hazard Management
- Provincial Climate Change Policy

The Environment Committee has been asked in some cases to participate in these reviews and at other times it has been asked as a stakeholder to comment on changes that the provincial government is proposing to undertake.

The Committee has been asked to be involved in the review of the Waste Management Act when it is undertaken and changes to the product stewardship programs as they are developed.

In the past year, the Environment Committee has continued to be involved in a number of implementation processes:

- Joint Industry/Government Contaminated Sites Implementation Committee
- Environment Assessment Advisory Committee
- Greenhouse Gas Forum
- Beverage Container Management Board

Federal Government

At the federal level the Committee participated in meetings with the Honourable David Anderson and Environment Canada on the following issues:

- Endangered Species Act (C33)
- Climate Change Policy

ENVIRONMENT PROTOCOLS

The provincial government re-confirmed the 'Protocol on Sharing Environmental Responsibilities' at the 2001 UBCM Convention. The Environment Committee has worked with the Ministry of Water, Land and Air Protection, Ministry of Sustainable Resource Management, and Ministry of Community, Aboriginal and Women's Services on environmental policy at the provincial level over the past year.

A 'Statement of Cooperation' was signed with Environment Canada at the 2001 UBCM Convention. The Committee has worked with Environment Canada on federal initiatives which could impact on local government.

The Environmental Protocol Committee, which now consists of representatives from both the federal and provincial government, met on several occasions in the past year to discuss issues of mutual concern and to obtain updates on the federal and provincial initiatives.

ENVIRONMENT STATUS AND ACTION PLAN: OVERVIEW OF PROPOSED DIRECTIONS

Outlined below is a summary of the actions proposed in the Environment Status and Action Report contained in Appendix A. The recommended actions are in response to new directions proposed by the provincial government in regard to these environmental issues.

1. DRINKING WATER POLICY

The provincial government on June 4, 2002 announced an eight point action plan to strengthen drinking water protection in the province.

Action: UBCM request legislation/regulation to protect the quantity and quality of community water supplies, both surface water and groundwater.

UBCM request legislation to provide clear protection for drinking water users and suppliers (tenure rights, financial and liability protection).

UBCM request that the provincial government cover all the costs of implementing the new measures to protect drinking water (i.e. water testing; staff training; assessment of water sources etc.).

2. CONTAMINATED SITES

The provincial government on June 4, 2002 appointed a four member panel to review the contaminated sites regulation and legislation.

Action: UBCM request that any changes to the contaminated sites legislation/regulation be based on the following principles:

- Science Based – contaminated Sites Standards based on latest scientific information;
- Protect Environment – established standards to protect groundwater and other organisms;
- Protect Public Health – established standards for contamination of soil to ensure minimum impact on human health;
- Polluter Pay – clean-up of site is directed at the polluter; no downloading on other levels of government.
- Need for Certainty – local government and landowners understand what is required to clean up a site.

UBCM request changes to the legislative/regulatory framework to assist local government in dealing with contaminated site issues:

- Increased liability protection for local government – joint and several should be changed for local government to proportional liability;
- Recognition of local government land use bylaws in re-location of contaminated soil;
- Protection from off-site contamination issues;
- Protection of local government from reassessment of contaminated sites;
- Brownfield site clean-up program be implemented and paid for by polluter (i.e. gas stations).

3. RIPARIAN ASSESSMENT REGULATION

The Ministry Water, Land and Air Protection has proposed a new regulatory process to protect fish habitat.

Action: UBCM request that a new riparian assessment regulation:

- Provide liability protection for local government when making land use decisions based on a report by a Qualified Environment Professional on fish habitat;
- Ensure that no new responsibilities are downloaded on local government and that all training costs and management costs required to implement the new regulation are paid for by either the federal or provincial government;
- ensure the process is timely and cost effective, from the community perspective;
- ensure an integrated approach is implemented to avoid conflicts between the different levels of government;
- ensure that a balance is maintained between development and protection of the environment.

4. ENVIRONMENTAL ASSESSMENT

The provincial government introduced new legislation in the Spring of 2002 providing greater flexibility and discretion in the application of the environmental assessment process.

Action: UBCM request that a local government's major concerns and interests in a proposed development project be identified in the pre-clearance stage of a project and that these issues be addressed in the assessment of the project.

5. PRODUCT STEWARDSHIP PROGRAMS

The Ministry of Water, Land and Air Protection has outlined a new framework for the operation and management of industry product stewardship programs.

Action: The UBCM request that the provincial government framework for product stewardship programs contain the following measures:

- Fully funded by the industry – (i.e. costs such as, marketing, collection, transportation, and processing the material).
- Maximize the recovery rate of product from local landfills – 85% recovery rate or higher;
- Ensure the consumer has the broadest choice of options – deposit-refund system, eco-fees etc.;
- Ensure the operation of a mixed collection system – return-to-retail, depot and curbside;
- Ensure that decisions related to solid waste management are made with the agreement of the municipal and regional district governments in the area;
- Expansion of product stewardship programs to cover milk containers/milk products;
- Introduction of post-consumer content requirements to promote the development of markets for recycled plastic containers.

6. FLOOD HAZARD MANAGEMENT

The Ministry of Water, Land and Air Protection has indicated that it intends to change who is responsible for the maintenance of dikes and how flood hazards are managed in the future.

Action: UBCM request that the federal and provincial government and First Nations work in partnership with local government in the implementation of an integrated flood hazard management strategy.

UBCM request that the federal and provincial government provide financial assistance for:

- floodplain mapping;
- construction of new flood protection works (dykes, rip rap etc.);
- major dyke maintenance projects;
- emergency flood hazard management.

UBCM request that the province not download added responsibilities for flood hazard management, that there be detailed consultations with local government on any changes proposed and that if additional responsibilities are assigned to local government that adequate financial resources be provided by the province.

RECOMMENDATION

That the 2002 Environment Action Plan contained in Appendix A be approved.

APPENDIX A

ENVIRONMENT STATUS AND ACTION REPORT

ENVIRONMENT LEGISLATION/REGULATIONS/POLICY

The Environment Committee recommends the following streams to the 2002/2003 Environment Action Plan:

TITLE	PAGE
1. <i>Drinking Water Policy</i>	30
2. <i>Contaminated Sites</i>	31
3. <i>Riparian Assessment Regulation</i>	33
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1. DRINKING WATER POLICY

Issue: Local government has three primary objectives in water stewardship - protection of its water source (surface and/or groundwater); ensuring an ongoing supply of water through water conservation and other measures; and ensuring the quality of water delivered to the community is safe.

Local government is concerned for the following reasons:

- One of the most basic services that local government provides in a community is water. Resource uses in watersheds, which are not properly controlled, pose a major problem to the health of the community and can represent a major financial cost to the community;
- Local government is required to provide water quality which meets provincial health standards and to ensure that there is sufficient water to meet the needs of the community;
- Local government faces a major financial cost if the quality of the water is changed and it must introduce water treatment and filtration systems or if the watershed is destroyed and it is forced to find a new source of water.

Status: The Minister of Health Services Colin Hansen announced on June 20, 2002 a \$16 million action plan to strengthen drinking water protection in the province.

The Drinking Water Action Plan focuses on eight key principles:

- The safety of drinking water is a health issue;
- Prevention and source protection are a critical part of drinking water protection;

- Providing safe drinking water requires an integrated approach;
- All water systems need to be thoroughly assessed to determine risks;
- Proper treatment and water distribution system integrity are important to protect human health;
- Tap water must meet acceptable safety standards and be monitored;
- Small systems require a flexible system with safeguards;
- Safe drinking water should be affordable, with users paying appropriate costs.

Under the new action plan the Ministry of Health Services will be the designated lead ministry and new positions of drinking water protection officers will be established in each of the regional health authorities. Under the new program source-to-tap assessments will be performed on all water systems in the province. The assessments will be used to identify deficiencies, and establish plans for infrastructure upgrades and replacements.

Two technical committees will be established to provide advice on regulatory changes and standards, further standards for tap water are being considered – a drinking water advisory committee and a groundwater advisory committee.

Action: UBCM request legislation/regulation to protect the quantity and quality of community water supplies, both surface water and groundwater.

UBCM request legislation to provide clear protection for drinking water users and suppliers (tenure rights, financial and liability protection).

UBCM request that the provincial government cover all the costs of implementing the new measures to protect drinking water (i.e. water testing; staff training; assessment of water sources etc.).

2. CONTAMINATED SITES

Issue: Local governments are concerned about the management of contaminated sites for the following reasons:

- Land use management – need to ensure that contaminated sites are cleaned up by the polluters to the point that they can be used for other purposes in the community;
- Increased liability – future problem for local government if no mechanism is in place to ensure proper clean up of contaminated sites;
- Added administrative/regulatory burden - Local government requires due diligence in approving developments. The current contaminated site regulation has provided a framework for those decisions to be made with the confidence that contaminated sites would be dealt with effectively. If that framework does not exist local government may have to implement its own administrative mechanisms to ensure that development on contaminated sites do not create undue risks to the community;

Status: The Ministry of Water, Land and Air Protection has established a four member panel to review the contaminated sites regulation on June 4, 2002. The

panel is made up of Margaret Eriksson, lawyer, Dennis Konasewich, environmental consultant, Peter Lloyd, chartered accountant, and John Sager, Manager, Toxics and Special Waste, and Pesticides with the Ministry of Water, Land and Air Protection. The Panel has collected input from the public on the contaminated sites issue and is expected to provide a final report to the Minister by September 3, 2002.

The recommendations from the panel are to be used to develop a new policy framework for contaminated site regulations in the province and to inform subsequent legislative changes required for the Spring 2003 sitting of the legislature. The government's intent is "the creation of an administratively effective and efficient contaminated sites regime that is performance based, less time consuming and reduces direct government administration and oversight to only those sites that pose a high risk to the environment and human health."

UBCM has written to the review panel outlining a number of specific issues that need to be addressed with respect to the operation and management of contaminated sites. These issues are:

Liability Protection – local government protection needs to be expanded – increased immunity; joint and several liability changed to proportional liability, so as to ensure that local government is only liable for the contamination that it caused.

Soil Re-location – the transfer of contaminated soil from one local government jurisdiction to another can create major problems from a public perspective – there needs to be clear communication, clear accountability as to the use of the soil and recognition that local government land use bylaws are the determining factor in where soil is sent.

Off-Site Contamination – clean-up of sites needs to include any contamination caused to other properties. The costs for clean-up of contamination of roads/storm sewer connections are downloaded on local government otherwise. Local government faces potential liability for clean-up costs of contamination on utility right-of-ways (high speed cable/telephone/gas etc.).

Property tax implications – nothing protects local government from a downward reassessment of a site based on the decrease in value as a result of the presence of contamination;

Brownfield Sites – need for industry/provincial government program to clean-up sites in small communities, where the property has limited economic value.

Action: UBCM request that any changes to the contaminated sites legislation/regulation be based on the following principles:

- Science Based – contaminated Sites Standards based on latest scientific information;
- Protect Environment – established standards to protect groundwater and other organisms;
- Protect Public Health – established standards for contamination of soil to ensure minimum impact on human health;
- Polluter Pay – clean-up of site is directed at the polluter; no downloading on other levels of government.

- Need for Certainty – local government and landowners understand what is required to clean up a site.

UBCM request changes to the legislative/regulatory framework to assist local government in dealing with contaminated site issues:

- Increased liability protection for local government – joint and several should be changed for local government to proportional liability;
- Recognition of local government land use bylaws in re-location of contaminated soil;
- Protection from off-site contamination issues;
- Protection of local government from reassessment of contaminated sites;
- Brownfield site clean-up program be implemented and paid for by polluter (i.e. gas stations).

3. RIPARIAN ASSESSMENT REGULATION

Issue: Local government concerns related to the development of a new riparian assessment regulation are:

- liability protection – when making land use decisions based on the report of a qualified environmental professional on fish habitat;
- process is timely and cost effective, from the community perspective;
- integrated approach is implemented to avoid conflicts between the different levels of government;
- balance is maintained between development and protection of the environment.

Status: The protection of fish and fish habitat is important to all orders of government and the public in general. The Ministry of Water, Land and Air Protection established the Streamside Protection Regulation Advisory Group (SPRAG) in the fall of 2001 to explore problems that had been identified with the current approach to streamside protection.

The UBCM wrote to the Minister of Water, Land and Air Protection on March 13, 2002 and stated that it would support a regulation that provided the following:

- needed building blocks toward the development of a sustainable community;
- delivery of an integrated ministry program based on the best available science;
- framework for cooperative decision making between the three levels of government, who are accountable for the land, water and fish protection issues;
- flexible and adaptive approach for development – sets clear environmental outcomes to be met and provides for discretion as to how to achieve these outcomes;
- ensures a one window approach to development approval – saving both time and money for the development industry and local government;
- meets the objectives of the Federal Fisheries Act, thus avoiding potential liability problems and delays in the approval process;

- strategic framework for ensuring that the measures used in a community, be it a watershed approach or other process, provide the right balance between fish protection and development in the area.

The provincial government is looking at ways to protect fish and fish habitat in the most cost effective and efficient manner possible, while respecting the growing nature of the communities affected.

The Ministry of Water, Land and Air Protection has suggested the following new approach to protect fish habitat:

- Establish science-based standards for riparian protection;
- Use Qualified Environmental Professionals (QEP) to review development proposals and advise proponents on meeting the standards on a site specific basis in the context of the entire watershed;
- Establish a 30m riparian assessment zone. Any proposed activity within this zone must be assessed by a QEP;
- Put greater emphasis on monitoring (compliance and effectiveness) and enforcement;
- Fisheries and Oceans Canada remains the statutory authority under the federal Fisheries Act. They maintain responsibility for approval of any activity that will result in an impact to fish habitat and approve any compensation plans developed by QEPs on behalf of proponents.

Action: UBCM request that a new riparian assessment regulation:

- Provide liability protection for local government when making land use decisions based on a report by a Qualified Environment Professional on fish habitat;
- Ensure that no new responsibilities are downloaded on local government and that all training costs and management costs required to implement the new regulation are paid for by either the federal or provincial government;
- ensure the process is timely and cost effective, from the community perspective;
- ensure an integrated approach is implemented to avoid conflicts between the different levels of government;
- ensure that a balance is maintained between development and protection of the environment.

4. ENVIRONMENTAL ASSESSMENT

Issue: Local government is concerned that local communities have an opportunity to identify any concerns (i.e. environmental, social and economic) related to major industrial development taking place in the area and that these concerns be addressed in the development of the project.

Status: The provincial government has recently passed new legislation governing the environmental assessment process. The new Act simplifies the review process and requires the Environmental Assessment Office to focus on the issues under review, rather than on the process to be used in implementing the review (i.e. timelines in which paper is processed etc.). The role of the

Environmental Assessment Office under the new system is to work with the line ministries to determine what the performance standards are for the project proposed and to over see the assessment process.

The new legislation provides greater discretion in the type of projects that may be subject to an environmental assessment review and greater flexibility in the type of environmental assessment reviews undertaken:

- Proponents will be able to determine own terms of reference for review;
- Procedures will vary on a project-by-project basis;
- Consultation procedures will be determined by the Environmental Assessment Office on a project-by-project basis.

The Minister of Sustainable Resource Management will have the ability to determine the policy process; whether or not an environmental assessment is required for a project; and what permits may be required.

The regulations under the legislation will be simplified and the number of regulations reduced.

Action: UBCM request that a local government's major concerns and interests in a proposed development project be identified in the pre-clearance stage of a project and that these issues be addressed in the assessment of the project.

5. PRODUCT STEWARDSHIP PROGRAMS

Issue: Local government is concerned about the development and implementation of product stewardship programs for the following reasons:

- financial cost of implementing and operating industry product stewardship programs are not downloaded on local communities – industry pays the full cost of recycling the products it created.
- Product stewardship programs implemented are effective in collecting and recycling the largest volume of product (i.e. maximizes the diversion rate) - as this will ensure a cleaner environment in the community; reduce local government waste management costs; and extend the life of the landfill sites operated by local government.

Status: The Ministry of Water, Land and Air Protection has introduced a new framework for product stewardship programs based on the following principles:

- Producer/User Pay – responsibility is shifted to producers and consumers; no shift to other levels of government.
- Level Playing Field – all brand-owners treated equitably; all consumers have equitable access to facilities; reduce systemic bars to new participants.
- Performance-based – regulatory clarity; flexibility; minimum government involvement; tailored to specific products; consistent with pollution prevention hierarchy; encourages continued innovation.
- Transparent and Accountable – development process (open/involves stakeholders); industry accountable to government and consumers.

The ministry intends to undertake a review of the 6 stewardship programs it regulates based on this new strategic framework:

- Scrap Tires (1991)
- Lead-Acid Batteries (1991)
- Used Oil (1992)
- Post Consumer Paint (1994)
- Residuals (1996/97)
- Beverage Containers (1970-Litter Act; 1998-current regulation)

The ministry has identified its priority areas for review in the short term (used oil, consumer paint and residuals) and in the medium term (lead acid batteries, scrap tires). The intent is to develop a single regulation which will cover all of the stewardship programs.

The UBCM Executive has written the provincial government indicating that it supports the development of industry stewardship programs based on the following:

- Fully funded by the industry – (i.e. costs such as, marketing, collection, transportation, and processing the material).
- Maximizes the recovery rate of product from local landfills;
- Ensures the consumer has the broadest choice of options;
- Encourages competition in the collection of products;
- Ensures that decisions related to solid waste management are made with the agreement of the municipal and regional district governments in the area.

Action: The UBCM request that the provincial government framework for product stewardship programs contain the following measures:

- Fully funded by the industry – (i.e. costs such as, marketing, collection, transportation, and processing the material).
- Maximize the recovery rate of product from local landfills – 85% recovery rate or higher;
- Ensure the consumer has the broadest choice of options – deposit-refund system, eco-fees etc.;
- Ensure the operation of a mixed collection system – return-to-retail, depot and curbside;
- Ensure that decisions related to solid waste management are made with the agreement of the municipal and regional district governments in the area;
- Expansion of product stewardship programs to cover milk containers/milk products;
- Introduction of post-consumer content requirements to promote the development of markets for recycled plastic containers.

6. FLOOD HAZARD MANAGEMENT

Issue: Local government has the following concerns regarding effective and efficient flood hazard management:

- Safety of the local community;
- Development in floodplains;

- Financial cost of undertaking major repairs to dike systems – many local governments do not have the tax base to undertake repairs of this nature;
- Increased liability risk and financial costs to local government;
- Downloading of new requirements without matching financial resources.

Status: There are presently 122 dying authorities that the ministry provides advice and assistance to in maintaining the existing diking system; approximately 61 of the authorities are local governments. Currently six government ministries and two agencies (Provincial Emergency Program and Land and Water BC) have some responsibility for development on floodplains and/or dike operations and there are seven pieces of provincial legislation which cover flood hazard management.

At the present time there are only two sources of funding to manage dikes which protect existing development: levies through the diking authorities (used for routine maintenance) or funding through the provincial government (used for major repairs or flood damage). Provincial funding to assist in undertaking major repairs to existing dikes is committed only until 2003/04.

The Ministry of Water, Land and Air Protection is faced with three key issues related to flood hazard management:

- New development on floodplains;
- Orphan dikes;
- Existing dikes and development.

In the case of new development, one of the options that the ministry is looking at is establishing province wide standards for dike maintenance and flood hazard management and mandating that local government meet these new requirements. The following changes are being considered:

- Eliminate MWLAP approval and appeal function for individual floodplain bylaws and provide general standards.
- Designate floodplains by ministerial order and provide prior conditions and standards for application by local government.
- Use zoning bylaws as a tool to regulate floodplain areas.
- Encourage long range planning through regional growth strategies and official community plans.
- Increase regional district's responsibilities for emergency planning in rural areas.
- Strengthen local government enactment of floodplain bylaws and ensure appropriate land use planning in areas subject to natural hazards.
- Limit disaster funding assistance in designated floodplains to buildings which have been properly floodproofed.

In the case of orphan dikes there is a need to determine their status and who will manage them. Orphan dikes, are dikes that were commonly built in response to emergencies without provision for ongoing operation and maintenance and have no diking authority which is responsible for maintaining them. In many cases orphan dikes were not built in accordance with the provincial standard. The province has determined that the direct costs of maintaining orphan dikes is

estimated at \$500,000 annually and that approximately \$11 million (1998) would be required to undertake major repairs and an additional \$17 million to rehabilitate structures. The ministry is looking at a range of options for orphan dikes, two of the options are making arrangements to bring them under a diking authority or removing the dike structure to avoid major damage in the event of a future flood.

Finally, in the case of existing development and dikes there is a need to develop an integrated approach to floodplain management and a need to ensure that the financial resources required to maintain and upgrade the existing dikes is in place. Cabinet will need to determine what its flood hazard management strategy will be in the future, how the ministries will work together to meet this strategy and how the needed financial resources from the provincial government will be provided.

The UBCM Executive has requested that the “downloading screening filter” in the Community Charter be used by the Ministry of Water, Land and Air Protection in its decision making process to determine its future approach on the dike management issue.

Action: UBCM request that the federal and provincial government and First Nations work in partnership with local government in the implementation of an integrated flood hazard management strategy.

UBCM request that the federal and provincial government provide financial assistance for:

- floodplain mapping;
- construction of new flood protection works (dykes, rip rap etc.);
- major dyke maintenance projects;
- emergency flood hazard management.

UBCM request that the province not download added responsibilities for flood hazard management, that there be detailed consultations with local government on any changes proposed and that if additional responsibilities are assigned to local government that adequate financial resources be provided by the province.