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A graphic of a water splash, with water droplets and bubbles, positioned above the main title.

Governance and Water Act Modernization in British Columbia

**The Need for Whole System Change
A BRIEF OVERVIEW**

December, 2009

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Overview

- Key concepts
- Why worry about governance
- Who does what?
- BC's Water "Muddle"
- Living Water Smart - commitments for change
- Key challenges to reform
- Options and priorities going forward





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Governance

....the process of societal decision
making...

Who -- What -- How

&

Accountability

Constitution of Power



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Key Definitions

Governance-the process of decision making (including taking action) and holding those making the decisions accountable

- *Focus on ends* - does the right thing

Management-operational, on-the-ground activity to regulate a resource and conditions of its use

- *Focus on means* - does things right



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Why governance matters

- Builds social resilience to adapt to change
- Leverages expertise and additional resources for management
- Clarifies roles and responsibilities - increases accountability
- Needed to protect and enhance ecological goods and services especially when power is diffuse and fluid
- Reduces conflict and increases public confidence



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Who does what in BC? (theoretically)

Federal and Provincial Governments



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Provincial Constitutional Responsibilities

- Primary responsibility for water management in Canada

“Heads of power”

- Water as a form of “public lands”
- Property and civil rights
- Management and sale of public lands

In Practice

- Allocating and allowing withdrawal of water
- Land use activities - licencing, resource activity, pollution etc.
- Devolving urban responsibilities to municipalities/regions
- Drinking water/source protection
- Waste/environment Management



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In an ideal world

Federal Government

- Engage (and enforce) *Constitutional* responsibilities -- fisheries, navigation, First Nations, infrastructure, national issues, international engagement, trade and export
- Good Science and data -- climate change, hydro-ecology, adaptation, water use
- Support institutions and processes that “think like a watershed” and build resilience through resources and best practices and information exchange

Provinces

- Manage adaptively -- Ecosystem based allocations and integrated land-water use in the face of a changing climate
- Source Protection and Conservation -- as priority water “infrastructure”
- Address cumulative impacts -- by enabling decision making at the watershed scale and require whole system thinking
- Share governance and enforce the rules -- those affected by decisions should have meaningful input and power



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BC's Water "Muddle"

- Lack of effective enforceable regulations
 - IFNs, conservation, groundwater use, pollution
 - Regulations managed through registered professional accountability on a sector basis
- Some tools exist, just not used
 - Watershed planning enabled in legislation
Section IV - Water Act - No plans completed!
 - Drinking water plans enabled in legislation
Drinking Water Protection Act - No plans produced!
 - Fish protection Act
Few streams covered



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BC's Water "Muddle" cont.

- Lack of integration of land and water use planning
- Multiple agencies responsible for water management in individual watersheds
 - Crown lands- multiple provincial government agencies
 - Private lands- multiple local government jurisdictions
 - Fisheries- federal government
- Decisions are highly discretionary, uncoordinated and not related to ecological function



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BC's Water "Muddle" cont II.

- Does not effectively recognize aboriginal rights and title
- No overall authority for monitoring ecological indicators and managing watershed as whole systems - who is minding the store?
- Limited public participation
- No independent oversight
- Jurisdiction fragmentation
 - Many players, little coordination



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***Governance alone cannot correct
inadequate water management,
but poor governance will almost
certainly prevent effective
management***



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Living Water Smart-promises and potential

The WAM process and new *Water Act* recognized as crucial to a new BC regime - key promises:

- Legislation will recognize ecological flow requirements
- Government will support watershed planning (in priority areas)
- Water laws will provide for community involvement
- New approaches to water management will address the impacts from a changing water cycle



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Common characteristics of reform - lessons from elsewhere

- Emphasize collaborative engagement with a variety of stakeholders
- Focus on the watershed as the appropriate scale for water management (and governance)
- Secure resource for crucial activities
 - monitoring, compliance and enforcement, protection and restoration and investment in green infrastructure
- Embed conflict avoidance and resolution mechanisms



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Main Challenges for Reform

... no easy answers ...



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Balancing “*harmonization*” vs “*subsidiary*”



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Decentralized collaborative watershed-based governance

- France's Water Agencies and "Water Parliaments" (European Union)
- Murray-Darling Basin Initiative (Australia)
- Conservation Authorities (Ontario)



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Reform Options





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Discussion point

To what extent do we want to endorse a specific “model” or just principles for consideration?



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Role and extent of *market mechanisms*



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Spectrum of market mechanisms



Chile active trading and constitutionally protected water rights

Alberta and Australia have embraced water markets with varying degrees of active water trading (but with some basic environmental considerations)

California markets balanced by public trust doctrine and Endangered Species legislation

South Africa and the EU more cautious, emphasizing constitutional reforms and explicit social priorities



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Discussion point

To what extent does this group want to make specific recommendations about the role of markets?



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Deciding on the level of *integration and collaboration*



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Discussion point

If we want explicit collaboration do we expect resources and support to follow?

What level of integration - across water (likely)? across sectors (more difficult)?



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SoE

- a) Provide water for the future by ***facilitating watershed protection plans.***
- b) Provide for ***meaningful public participation***
- c) ***Respect First Nations and Aboriginal Rights***
- d) ***Enable New Municipal Powers, Roles and Requirements***
- e) ***Use a Transparent and Participatory process to Develop the Law***



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Other priorities - “minimum asks”

- Change public attitudes that water is a free good to water as a strategic crucial natural asset and a *public trust*
- Emphasize conservation, stewardship, and reuse and attend to cumulative impacts -- *whole system thinking*
- Set minimum standards and enforce the rules
- Engage public (those affected) in water management -- *shared governance*
- Enable decision making at the watershed scale
- Establish overall audit/oversight -- *accountability*