

OKANAGAN WATER STEWARDSHIP COUNCIL

A Technical Advisory Body to the Okanagan Basin Water Board

MINUTES OF A MEETING HELD THURSDAY, December 10, 2015, AT OKANAGAN REGIONAL LIBRARY, 1430 KLO ROAD, KELOWNA, B.C.

COUNCIL MEMBERS:

Present

Assoc. of Professional Engineers & Geoscientists of B.C.
BC Agriculture Council
BC Ground Water Association
BC Water Supply Association
BC Wildlife Federation – Region 8
Environment Canada – West and North
Interior Health Authority
Kelowna Chamber of Commerce
Ministry of Agriculture
Ministry of Forests, Lands, Natural Res. Ops. (OSNR)
Ministry of Forests, Lands, Natural Res. Ops. (Resource Mgmt)
Okanagan Collaborative Conservation Program
Okanagan Mainline Real Estate Board
Okanagan Nation Alliance
Regional District of North Okanagan
Regional District of Okanagan-Similkameen
UBC Okanagan

Don Dobson
Hans Buchler
Marta Green
Toby Pike
Lorne Davies (alt)
Ian Rogalski (alt)
Rob Birtles (Chair)
Tom Dyas (alt)
Andrew Petersen
Robert Warner
Grant Furness
Carol Luttmer
David O'Keefe
Natasha Lukey
Renee Clark
Zoe Kirk
Carolina Restrepo (alt.)

Regrets

Agriculture & Agri-Food Canada, Research Branch
BC Cattlemen's Association
BC Fruit Growers Association
Canadian Water Resources Association
City of Kelowna
City of Penticton
City of Vernon
Fisheries and Oceans Canada
Okanagan College
Okanagan Forest Sector
Regional District of Central Okanagan

Denise Nielsen/Scott Smith
Lee Hesketh/Linda Allison
Denise MacDonald/Glen Lucas
Brian Guy/Rod MacLean
Andrew Reader/Jason Ough
Andrew Martin
Ed Stranks/Rob Miles
Doug Edwards
Allison MacMillan/Leif Burge
Murray Wilson
Margaret Bakelaar

STAFF

OBWB, Executive Director
OBWB, Water Stewardship Director
OBWB, Office and Project Manager
OBWB, Communications Director
Technical Writer/UBC-O

Anna Warwick Sears
Nelson Jatel
James Littley
Corinne Jackson
Nargiz Rahineova

GUESTS

Associated Environmental
BCWF
Irrigation Association of BC
OCCP
Ratcliffe & Co Law Firm
RDNO-GVW
UBC-O
Urban Systems
Water Cycles Consulting
Westcoast CED Consulting

Nancy Fuller
Natasha Neumann
Tom Walker
Kellie Garcia & Fawn Ross
Jesse Zeman
Bruce Naka & Ted Van der Gulik
Scott Boswell & Tanis Gieselman
James Tate
Jennifer Miles
Craig Nichol & John Wagner
Jonathan Bepple
Glen Zachary & Suzan Lapp
Christine Mettler
Karol Hansma & Victor Cumming

1. CALL MEETING TO ORDER

Rob Birtles called the meeting to order at 1 p.m. and welcomed members and guests.

2. APPROVE AGENDA

**Moved by Marta Green
Seconded by Toby Pike**

"That the agenda for the December 10, 2015 meeting of the Okanagan Water Stewardship Council be approved."

CARRIED

3. ADOPTION OF MINUTES

**Moved by Grant Furness
Seconded by Zoe Kirk**

Discussion: It was noted that the acronym for the Irrigation Industry should be IIABC and not IABC as recorded on page 5. Also, in Mr. Naka's discussion it was recorded that the IIABC convention was held in Kelowna; however, it was held in Richmond. The errors have been noted and corrected in the November 12, 2015 meeting minutes.

**Moved with changes by Toby Pike
Seconded by Lorne Davies**
"That the minutes from the November 12, 2015 meeting of the Okanagan Water Stewardship Council be approved."

CARRIED

4. BOARD REPORT—Dr. Anna Warwick Sears

Building on the presentation a few months ago by, Anna has been exchanging emails with Pauline Terbasket, En'owkin Centre, and they are working at getting together to develop protocols between ONA and OBWB.

Ann has spent time on calls and sending out emails in order to better understand what kind of water quality is happening throughout the valley. There is a lot of work being done by Environment Canada and ONA, as well as Health Canada. Some of the information collected deals with what is happening on the US side of the border. There is now a new water page on the OBWB website.

The executive summary on the new report by the POLIS Institute on the WSA was presented to the Board. It highlights what is upcoming with the WSA

and what they feel the priorities should be.

Anna recently went through all the Federal mandate letters for all the agencies and edited them down to the sections about water, either directly or indirectly. Nelson will circulate the resulting document to the Council with the thought that Council can look at the letters and see what is implied by the mandate letters and what they might mean to the Okanagan, i.e. opportunities for advocacy.

5. LESSONS LEARNED & APPLICATION TO OKANAGAN EFNs:(James Tate, Ratcliff & Co)

Ratcliff & Co. lawyers, including James Tate, represented the Fort Nelson First Nation (FNFN) with an appeal case questioning the issuance of a Conditional Water Licence to Nexen Inc. The ruling, that cancels the water licence of the natural gas fracking operation in northeast B.C., is a potentially precedent-setting decision from the B.C. Environmental Appeal Board. The license authorized Nexen to divert water from North Tsea lake for use in their fracking operation. FNFN and elders put a lot of effort into driving the case and seeing what was happening in the area. They were the ones who first noticed that effect that the water extraction was having on the Tsea lake system and the surrounding aquatic ecosystem. The concern was that Nexen had received a number of Section 8 temporary water licences and they were extracting large amounts of water out of the system even before a long term licence was granted. The Tsea Lake system is a low gradient system with a lot of beaver activity (which makes it difficult to measure flow).

The appellant was able to bring technical evidence to the Board because the nature of an Environmental Appeal Board (EAB) hearing is that it is a *de novo hearing*, which means, in this case, that a new hearing on the licence would be held whereby the EAB makes a decision on whether the licence should be granted and under what terms and conditions. This provides an opportunity to bring new evidence in that hadn't been dealt with previously and because the original grounds for appeal was that the water licence was technically flawed on a number of grounds the appellant was able to provide that technical evidence to the EAB.

A big hurdle the appellant faced in this case was

the issue of ownership of the land. The Water Act is set up to allow for appeals from people who have private rights, vested rights, downstream, riparian rights but is not worded in a way that would allow a Nation with asserted title interest or rights interest or, as in this case, treaty rights interest in the use of a lake system to be an appellant. This case/ruling provides wider access for a First Nation to bring an appeal to the EAB as a result of the Board ruling, based on the ongoing occupation of the area, that FNFN was an owner, as defined under the Water Act, with a substantial interest in the land.

The decision, which is over 100 pages long and took 20 months to deliver, concluded that:

- The science behind the licence was fundamentally flawed:
 - o The licence was fundamentally flaw in the concept and operation;
 - o The withdrawal scheme was not supported by scientific precedent, appropriate modelling or adequate field data;
 - o The manager's conclusion that the withdrawals would have no significant impact on the environment was based on incorrect, inadequate and mistaken factual information and modelling results.
- The province did not consult the First Nation in good faith (FNFN Treaty Rights were the 2nd ground for the appeal):
 - o The consultation process with FNFN was flawed;
 - o FNFN brought strong evidence of the importance of the Tsea system for the Nation;
 - o The trigger for consultation with FN is the potential for harm, and based on the use (both traditional and current) there was a relationship between water withdrawal and adverse effects on aquatic habitat and treaty rights;
 - o There was no known consultation process (it was an ad hoc, scattered process);
 - o Evidence showed a disappointing approach not in keeping with the honor of the Crown and the overall objective of reconciliation.

The report/decision demonstrates that full cancellation of a licence is possible and provides a blue print around data collection, the scope of environmental protection plans within a water

management plan, and how the licence needs to be constructed in an enforceable way for decision makers. The decision is thorough and sets out a range of issues for consideration. Mr. Tate concluded with the thought that the decision sets a precedent with the thought that it will help set up some best practices in the Territory and will be of use to water groups beyond north east BC. The report is available at:

<http://www.eab.gov.bc.ca/water/2012wat013c.pdf>

6. DROUGHT: IMPLEMENTABLE ACTIONS & RECOMMENDATIONS (Kellie Garcia, AE)

Kellie has been working on this project for OBWB since April and given the drought conditions this summer, the project was quite timely. Her presentation looked at the opportunities and challenges that the 2015 drought presented, and then looked at the components of drought resilience, the status of drought planning in the Okanagan, and actions that can be taken to strengthen resilience to drought.

The summer 2015 drought allowed OBWB to step up and fill a gap that occurred with the communication and coordination of the drought information. Anna produced and sent out 11 drought updates, and OBWB hosted a workshop and a webinar. At the local level, there were varied responses with most of the utilities going to Stage 1 or 2 restrictions and the utilization of outreach materials to spread the word. In terms of the project, there were chances to talk about the project and get input. Lessons learned were incorporated into the project and many of the communities were able to evaluate their response plan, or lack of plan. The summer drought highlighted: 1) the communication and information gaps; 2) the collaboration required between the many different players; and 3) identified the most vulnerable licensees. Some of the main challenges were: the difficulty in gathering and distributing timely information; confusion about how local suppliers should respond to provincial drought declarations; difficulty in how utilities define and move between restriction stages.

In terms of whether the Okanagan is ready for a multi-year drought, looking at the 18 major Okanagan purveyors it appears only five have formal drought plans. All but one of the purveyors

have water restriction by-laws and have water conservation information on their website. There is not much coordination between the utilities and there is no valley-wide response strategy. What happened this past summer was reactive. There is a good framework/foundation in place for drought planning and response. There has been lots of research and studies done but there are some barriers, including:

- the myth of abundance;
- a mish mash of water providers;
- huge variation between drainages and sources;
- variation between bylaws and policies;
- difficult to show hydrological connectivity.

The recommendations put forth in the report include: 1) information – identifying gaps and collecting the information that is needed; 2) planning; 3) conserving; 4) coordinating; 5) communicating. 14 actions (not final) were identified and feedback is welcome. The recommendations and actions have been evolving and becoming refined over the last several months as feedback was garnered during presentations and talks throughout the summer.

Overall, this year's drought response was reactive but was a good learning experience and showed that there is a good framework in place for responding to drought conditions. OBWB is instrumental in communicating and coordinating outreach but it is up to the individual utilities to make sure there is good planning and that they are ready. Resources and political support need to be dedicated to drought planning response.

7. ROUNDTABLE DISCUSSION

Ms. Clark initiated a discussion on OWSC committees as there were concerns around members' scheduling and time commitments. The question was raised as to whether these meetings could be done through conference calls or perhaps utilizing an hour of the OWSC meeting for breakout sessions of the committees. Mr. Jatel noted that trying to integrate the committee meetings within the larger OWSC meeting would take away from the broader discussions of the OWSC. There was further discussion on committee members being able to call into the committee meetings and it was felt that this method would work going forward. It was also noted that Nargiz

Rahineova, technical writer for OBWB, will be taking notes at the committee meetings and these notes will be distributed to the members, and anyone else who would like to receive them. Also, the committees will be reporting regularly to the OWSC. Concern was also voiced about the representation on each committee and the importance of making sure the committees have diverse representation (Ministry staff, water utilities, suppliers, "boots on the ground", academic) to encourage good, well-rounded discussion.

8. COUNCIL WORK PLAN: Committees and Comments

There were two committee meetings held in the morning (Environmental Flow Needs and Drought Management Planning) and they were asked to address two questions: 1) what do they want the scope of the committee to be; 2) once it is known what the scope will be then who should be invited to participate on the committee needs to be reviewed. A schedule of meetings will be circulated.

With the new regulations coming out in the new year, there may be some specific concerns that will need to be addressed in a timely manner. This may require a juggling of the committee meeting schedules.

It was noted that while some of the committees will play a larger role within the OWSC than others, the process for reporting will remain the same. The Committees will always report back to the Council with their findings and then the Council will present those findings to the OBWB.

There was a concern voiced about the length of meeting (1hr) and the time in between meetings and whether it is beneficial. The question becomes "What is it that [the committee] wants to do". What is trying to be accomplished? The BCWWA has committee work that is done over email; they have separate activity tasks but coordinate joint tasks as well; conference calls. How can committees perform well given the time constraints?

9. ROUNDTABLE – MEMBER UPDATES

Council members and guests were invited to provide an update:

- Mr. Walker (guest): nothing to report.

- Mr. van der Gulik (): IIABC will be holding its annual convention in Kelowna next year. With the groundwater legislation coming into effect in January, the province has asked for a tool that will allow anyone to go online and find out how much water they need for their property. Funding is from OBWB, Investment Agriculture Foundation, and Province of BC. Hope to have a prototype by the end of January. The thought from the Council was that maybe the tool could be demonstrated at a Council meeting.
- Mr. Furness (FLNRO): The Penticton Fisheries Management Group is looking to host two youth ice fishing events: Jan 9 on Idabel Lake and Feb 6 on Yellow Lake.
- Mr. Warner (FLNRO): attended the regional debriefing session on drought. There were 8 general themes prevalent: 1) increase capacity to perform the work; 2) more education; 3) increase communication; 4) regulatory tools; 5) proper funding; 6) preparedness going into the season; 7) compliance; and 8) enforcement. He will be meeting with Ms. Warwick Sears and Ms. Garcia in January. From Shawn Reimer - OLRS is close to minimum flows over Okanagan dam and they are trying to save water. The lake is pretty stable but it could start dropping again as the temperatures get colder.
- Mr. Petersen (MAG): things are quieting down but they are still answering drought questions. Attended the drought debrief and is now waiting on the notes and the plan for moving forward.
- Mr. O'Keefe (OMREA): OMREA has representatives from Revelstoke to West Kelowna plus Penticton (1300 members). Most of the buyers in the Okanagan are internal (within the community).
- Mr. Zachary (guest): nothing to report.
- Ms. Lukey (ONA): the Canadian Okanagan Basin Technical Working (Province, DFO and Okanagan Nation-a table where technical on the ground management decisions are made for the Okanagan lake and river system) and the Bi-lateral Okanagan Working Group exist
- Ms Lapp (guest): she is in the process of finalizing some updates for the Ag Water Reporting Tool and hoping that farmers and large producers will begin to test the tool in February.
- Mr. Dobson (APEGBC): regarding the MCRI, similar to the Okanagan River restoration project, the City of Kelowna purchased some land on the south side of Mission Creek and about 500 lineal meters of dike is being moved. The construction crews have started to remove the top soil from the right of way. They hope to have the dike completely relocated before spring freshet. There has also been a revegetation plan going on. The project was spearheaded by FLNRO fisheries staff in Penticton with contributions from OBWB, Central Okanagan Land Trust, DFO, and others. Okanagan Nation has been involved in the environmental protection plan. WFN has been involved in the archeological side.
- Ms. Fuller (guest): nothing to report.
- Mr. Rogalski (ECCC): name is now Environment and Climate Change Canada. Anna will be distributing some information on the mandate letters. There is some encouraging wording in terms of encouraging watershed protection and lists general stewardship responsibilities. There are a couple of big funding programs that have calls for proposals or expressions of interest: Wetlands Conservation Fund and Habitat Stewardship Fund. More information can be found on the ECCC website.
- Ms. Ekkert (IHA): pass
- Mr. Zeaman (BCWF): BCWF is partnering with UBCO on a conservation application to do with groundwater protection. Hoping to generate some social awareness about natural resource use in the Province. Looking for partners!
- Ms. Kirk (RDOSO): time spent on budgeting, report writing and grant writing.
- Mr. Cumming (guest): nothing to report.
- Mr. Naka (IIABC): at the recent IIABC convention he attended a seminar on water use and reaction to drought response. He felt there was disconnect between the Provincial stages and how they were interpreted by the different user groups. One of the prevalent messages is the need for the right words to be used and gotten out to the public.
- Mr. Boswell/Ms. Gieselman (OCCP): new to the position. They are spending time writing grants, finding projects for the upcoming year and networking.
- Mr. Buckler (BCAC): nothing to report.
- Ms. Green (BCGWA): nothing to report.

- Ms. Miles (guest-RDNO-GVW): working on their remote reading water reading project. They are buying new meters and hoping to do some testing to compare the performance of the new meters versus the old meters.
- Mr. Davies (BCWF): a couple of clubs have donated to the MCRI.
- Ms. Clark (RDNO): wrapping up the end of the year and they have a number of projects that are being looked at for the upcoming year.
- Ms. Neumann (guest): nothing to report.
- Ms. Mettler (guest): they have gotten confirmation that one of the two grants applied for has been funded for the Social Life of Water in the Okanagan Exhibition. The Osoyoos Lake Water Science Forum summary is done and waiting for final approval. It will be up on the OBWB website when it is approved.
- Mr. Nichol (UBCO): nothing to report.
- Ms. Rahineova (UBCO/OBWB): nothing to report.
- Mr. Littley (OBWB): attended a two day PNWER workshop on mussels. \$500 million in costs per year can be prevented if we can prevent mussels from entering the Pacific Northwest. It will save the Okanagan \$43 million/year if we can keep them out of the Okanagan. Last year the province spent \$900,000 on roving inspection stations. The plan for the upcoming summer is excellent and will cover off most of what OBWB has been asking them to do. However, he is not sure how much money was requested. Last year, Alberta spent \$1.5m and is now asking for \$3m. The US Federal Government has allocated \$4m to the Army Corps of Engineers to implement a perimeter strategy in the Pacific NW US. He is gathering information on what the Invasive Species Council of BC and PNWER is doing in order to put together a common ask and a comprehensive memo to lobby the Federal and Provincial government to take action. He will also be working with the Zebra and Quagga Mussel committee.
- Ms. Jackson (OBWB): compiling feedback from MWW/DMM campaigns. Working with a research company to do a survey and a follow up to the MWW pledge and understand if those that took the pledge followed through and if not, why. Looking at a survey on how we move forward on the mussel issue, i.e. support for a user pay system or taxation on manufacturers of boats—wanting to hear from boaters. Reminder that if anyone has water related events or news to pass the information along to Corinne and she will get it out to a wider audience.
- Mr. Jatel (OBWB): working on BC Work, Aquarius, and Hydrometric Stations. In the new year, they will be hosting a workshop on water data with the hope of better understanding some of the needs and gaps. There is some good modelling but the hydrometric stations are still required to provide the models with the data.
- Mr. Birtles (IH): at the provincial level, they have taken the DRAFT off of the Ground Water at Risk of Containing Pathogens document. Health Canada may bring in a maximum acceptable concentration of manganese. He will report out details as they become available.

10. NEXT MEETING

The next meeting of the Okanagan Water Stewardship Council will be a joint meeting with the Okanagan Basin Water Board on Thursday, January 14, 2016 from 12:30 to 4:30 at Okanagan Regional Library, 1430 KLO Road Kelowna.

11. ADJOURNMENT

The meeting was adjourned at 4:30 p.m.

Moved by Andrew Petersen

“That there being no further business, the meeting of the Okanagan Water Stewardship Council of December 10, 2015 be adjourned.”

CARRIED

CERTIFIED CORRECT:

Chair

Executive Director