

Water Allocation Transfer System Upgrade Recommendations

Project Team	Rec #	Project Completion	Implementer	Implementation Target	Recommendation	Status at-a-glance			Status
						Implemented	In Progress	Not Under Consideration at this time	
WATSUP	1*	4-Aug-09	GoA	23-Nov-10	Within 12 months of the receipt of this report by the Government of Alberta, where major basins are without an Approved Water Management Plan, the Director identify an amount of Protected Water as an interim-WCO under a water allocation licence, and: Water management plan, defining an appropriate level of Protected Water in a WCO, be developed and maintained for each of the seven major basins, and in consultation with WPACs and other stakeholders, for subsequent approval by Cabinet, and: (1) in deciding the proportion of water to be defined as Protected Water, consideration be given to instream flow science, riparian habitat, water quality, fish and wildlife habitat, source water protection, seasonal streamflow and non-consumptive recreational purposes. (2) In all open basins, Protected Water should be set at a level of low risk to the river.		●		<p><b>*NOTE*</b> The updates below are provided by the identified implementer(s) and do not necessarily reflect the interpretation of the Alberta Water Council</p> <p>WATSUP recommendations are being considered as part of the implementation of the Water Conversation Action Plan and the Water for Life Action Plan renewal. Under the Water Conversation Action Plan, AEP will explore approaches for establishing protected water and taking a provincial-level policy approach to water and wastewater re-use in the short-term. These actions will support the longer-term action of optimizing the water management system by taking actions on the water demand and supply sides, and enhancing overall system clarity.</p> <p>A water management plan for the Milk River Basin (Alberta) is currently being developed and is scheduled to be submitted for approval in June 2016. Phase one of the plan focuses on water allocation transfers and considerations for new water allocations, Phase Two will focus on developing a strategy for the protection of the aquatic environment and recommendations on water conservation objectives and holdbacks as required.</p>
WATSUP	1-b*	4-Aug-09	GoA		<b>Non-Consensus Addition to Recommendation 1:</b> Within the first-in-time, first-in-right system, WCO licences be made senior to other water allocation licences.				
WATSUP	2	4-Aug-09	GoA		Once established, the level of Protected Water set in a WCO licence be publicly reviewed within 10 years of the date of the Approved Water Management Plan, and: (1) the review be conducted through a transparent and inclusive process involving WPACs and other stakeholders for the seven major basins. (2) If the review determines that instream needs are not adequately protected or other changing needs in a basin are not being addressed, a strategy be developed to protect and achieve the WCO.				
WATSUP	3	4-Aug-09	GoA		For the SSRB, a strategy be developed as soon as practical and in consultation with WPACs and other stakeholders, to minimize the risk to the WCO licence by implementing initiatives to achieve, maintain and enhance the effectiveness of the WCO.				

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WATSUP	4	4-Aug-09	GoA		The Government of Alberta participate in the water transfer market where necessary and acquire licences, preferably senior to achieve the WCO in each major basin.			
WATSUP	5	4-Aug-09	GoA		For each water allocation transfer, the Government of Alberta retain the full 10% holdback authorized under the <i>Water Act</i> unless there are circumstances where the Director determines other opportunities would achieve a greater environmental benefit, and: (1) water conservation holdbacks be applied to the basin WCO licence until the WCO is achieved, (2) water conservation holdbacks be applied to site-specific WCO licences on a reach, tributary or stream for the purpose of addressing the needs of sensitive parts of a basin, where appropriate to do so.			
WATSUP	6	4-Aug-09	GoA		Allow private parties to acquire and hold licences under the transfer provisions of the <i>Water Act</i> for the purpose of achieving WCOs. The purpose of such WCO licences cannot be changed if they are not subsequently transferred.			
WATSUP	7	4-Aug-09	GoA		Assess the potential of private parties to manage WCO licences or Crown water held in reservations for WCOs.			
WATSUP	8*	4-Aug-09	GoA		Allow legal entities to acquire licences, beyond those required to achieve the WCO, for non-consumptive use including instream flow use in a basin up to a cumulative limit of 2% of the "allocatable water" available to the market above the Protected Water level (WCO).			
WATSUP	8b*	4-Aug-09	GoA		<b>Alternative Non-Consensus Recommendation 8:</b> In an open and fair market system, legal entities, subject to the same rules as all other participants, should be able to acquire an unlimited amount of licences for instream flow use.			
WATSUP	9	4-Aug-09	GoA		That the Government of Alberta develop a water allocation transfer market with the primary objective to reallocate water efficiently, having directly set aside a level of Protected Water, and: The market be subject to the principles of efficiency, transparency, due process, flexibility and 'does no significant harm.' The onus is on the proponent of any application for a licence, transfer or other change to prove 'no significant harm' to the aquatic environment.			

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WATSUP	10	4-Aug-09	GoA		In addition to the <i>Water Act</i> requirement, and at a minimum, the Director shall use the following criteria to determine 'no significant harm' to the environment or a third party: (1) the size of the transfer, diversion point and rate relative to the size of the stream. (2) changes to timing. (3) <i>Environmental Protection and Enhancement Act</i> water quality effluent standards in terms of what concentration can be released into a stream given its flow.			
WATSUP	11	4-Aug-09	GoA		That the water allocation transfer market meets the following criteria: maximizes productive and allocative efficiency, minimizes administrative and transaction costs, assures healthy aquatic ecosystems and economic development, facilitates change and innovation, and is robust.			
WATSUP	12	4-Aug-09	GoA		Develop a market governance structure with clear accountability and authorities including delegation of operational responsibilities to a market administrator or Crown agency to oversee the water allocation transfer market. The administrator would be responsible for oversight and accountability, monitoring, and transparency of the market. The Government of Alberta is responsible for regulatory decision-making and enforcement and statutory requirements.			
WATSUP	13	4-Aug-09	GoA		To encourage the market to meet its objective, the <i>Water Act</i> be changed to require an applicant to use a transfer (not an amendment) to change the purpose of a water allocation licence greater than a cumulative 2% of the <i>original</i> licenced allocation.			

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WATSUP	14	4-Aug-09	GoA		<p>To improve its understanding of the amount of unused licensed volume in each major basin, the Government of Alberta, in consultation with stakeholders, develop a decision tree to review existing licences to clarify if they are 'in good standing' and are tradable, and: (1) To determine the water that would be available for transfer, the Government of Alberta broaden the existing definition of 'in good standing' to the following four categories of licences: Licences that are fully active (water has been diverted within the previous three years). If there is no water use record, the licence would be subject to an 'in good standing' review. If the licence was 'in good standing' it would be eligible for transfer and would proceed through the application process. A transfer would be subject to a 10% holdback, where the WCO has not yet been met. (2) Licences that are 'in good standing' (have been inspected). These licences would be eligible for transfer and the 10% holdback would apply in instances where the basin WCO has not been met. (3) Licences that were active up to a certain date but not used within the previous three years. The licence would be subject to an 'in good standing' review. The Director would apply the 'reasons for wanting to hold water' policy, referred to below. A transfer would be subject to either a 10% or 25% holdback. (4) Licences where all or a portion of the allocation was never diverted. Licence would be subject to an 'in good standing review, and the 'reasons for wanting to hold water' policy. The 25% holdback would apply to a transfer or the licence could be cancelled.</p>				
WATSUP	15	4-Aug-09	GoA		<p>That the Government of Alberta develop criteria that clarify the circumstances when licences would be permitted to hold unused water. This list of reasons would form the policy informing the Director regarding what should be taken into consideration when determining reasonable prospect of use. If a licensee cannot demonstrate a reasonable prospect of use, the licence or a portion thereof should be cancelled and the volume put towards a Crown Reservation to be allocated at the discretion of the Director.</p>				

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WATSUP	16*	4-Aug-09	GoA		<p>That the Government of Alberta establish a five-year amnesty program to facilitate the movement of unused water with no reasonable prospect of use to the water allocation transfer system. The program starts from the date of an Approved Water Management Plan, or from the date of an approved interim WCO in basins that have yet to develop a water management plan, or from the date set by the Minister, and is subject to the following: (1) The Director will apply a 25% holdback on transfers of unused water until the WCO is met after which the Director may use his discretion as to whether a holdback is required. (2) Transfers of unused water will be subject to the 'does no significant harm' criteria. (3) If an application for unused water to be transferred is not made within five years and approved within 10 years, the licence will be cancelled and, depending on the Director's discretion, be applied to the WCO until it is met and then held by the Crown for future allocation.</p>				
WATSUP	16b*	4-Aug-09	GoA		<p><b>Alternative Non-Consensus Recommendation 16:</b> That the Government of Alberta cancel the unused water portion of licences and prioritize the reallocation of this water to meet Protected Water objectives.</p>				

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WATSUP	17	4-Aug-09	GoA		<p>To ensure that the water allocation transfer system contributes to the hydrological integrity of a basin, the Government of Alberta maintain and improve the system to measure and track the volume, quality and timing of return flows, with recognition of licence size and the significance of return flows, and: For all new licences a diversion right, a consumptive right, and return flows be identified and made clear to the licensee, and; For all existing licences, return flow, including entitlement to the net consumptive volume of a licenced allocation, be determined by the Government of Alberta according to the terms of the licence in consultation with the licensee, and; The water allocation transfer system encourage water conservation and water reuse, and regulatory requirements on return flow not act as a hindrance or disincentive to conservation and efficiency efforts. The Government of Alberta should manage withdrawals and return flows in such a manner that there is no significant harm to river health. Licensees should be permitted to increase their use of return flow subject to the implementation of strong initiatives to achieve the WCO in all major basins and enforcement of the 'does no significant harm' principle.</p>				
WATSUP	18	4-Aug-09	GoA, all licensees		<p>That all licensees delivering water for 'community supply' are required to prepare a Water Shortage Response Plan, and: The Government of Alberta encourage all licensees to have Water Shortage Response Plans to assess their risk of not having water and to address situations of water scarcity and drought. Licensees may consider the use of short-term assignments or temporary transfers to address drought or other water scarcity situations.</p>				
WATSUP	19*	4-Aug-09	GoA		<p>That the Government of Alberta develop a three-tiered application and approval process for water transfers as follows: Class 1 - no discretion required on part of Director, Class 2 - minimal discretion on part of Director, Class 3 - full discretion on part of Director.</p>				

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WATSUP	19b*	4-Aug-09	GoA		<b>Alternative Non-Consensus Recommendation 19:</b> The Government of Alberta develop a three-tiered application and approval process for water transfers that does not erode the rights of persons to file Statements of Concern or appeal the Director's decision.				
WATSUP	20	4-Aug-09	GoA		To ensure the integrity of the application process, a random review and assessment be conducted for Class 1 and 2 applications for transfers to ensure the applications were sound and factually correct and any deficiencies corrected.				
WATSUP	21	4-Aug-09	GoA		Develop criteria for determining who has standing to appeal an approval of Class 2 and 3 transfers. The Provincial Government should investigate whether the 'public interest standing' might be considered a threshold test for WSGs and WPACs and other environmental groups to appeal the Director's decision to allow a transfer.				
WATSUP	22	4-Aug-09	GoA		To inform the market, the Government of Alberta should publish information on transfer decisions to increase public awareness and transparency.				

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WATSUP	23	4-Aug-09	GoA		<p>That the data and information needs of the water allocation transfer system be identified and measures taken to build the appropriate systems where there are current gaps; however, this work shall not interfere with or delay implementation of other recommendations in this report. (1) To ensure a robust data and information system, the Government of Alberta develop a staged approach (by sector, basin or size of licence) to apply metering and reporting requirements on all licences. (2) The Government of Alberta establish a comprehensive electronic licence inventory and make it available electronically to the public and the market administrator. (3) That the body established to oversee the market construct and populate an accessible electronic market information platform that provides as close to real time information on recent purchases, offers for transfer, and bids for transfer. It should be as simple and easy to access as is commercially reasonable to do: (a) Determine the types, level, and uses of information required to support the market platform and ensure that such information is accessible to market managers and participants. (b) Balance the need for commercial confidentiality by determining how much public information on nature, size and implications of transfers is needed for market transparency. (c) Upgrade the current decision-making tools and models to support the information needs of the water allocation transfer system and market participants.</p>				
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