

Water Allocation Transfer System Upgrade (August 2009)

Rec #	Recommendation	Implementer(s)	Implementation Target	Last Status Update (Year provided)	2018 Status	Comments from Latest Update (Please include any new comments in track changes)
1*	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.	Government of Alberta	23-Nov-10	In progress (2016)	Pending – uncertain	WATSUP recommendations were reviewed and considered when the department initiated a general water allocation system review in 2010-11. Progress and learnings led to the decision by government at the time to engage with Albertans more directly on water issues through a provincial Water Conversation. 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. The department developed, and continues to review as required, administrative guidelines for the transfer of water allocations and related policies. There has not been a published response to the specific WATSUP report(s) recommendations and a comprehensive response for these recommendations is not being developed. However, the recommendations continue to be acknowledged and are considered throughout the ongoing regulatory/policy development work being undertaken by the department; this includes periodic review of policies or guidelines as specific issues arise via applications for transfer.
1-b*	Non-Consensus Addition to Recommendation 1: Within the first-in-time, first-in-right system, WCO licences be made senior to other water allocation licences.	Government of Alberta				
2	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.	Government of Alberta				
3	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.	Government of Alberta				
4	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.	Government of Alberta				
5	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.	Government of Alberta				
6	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.	Government of Alberta				
7	Assess the potential of private parties to manage WCO licences or Crown water held in reservations for WCOs.	Government of Alberta				
8*	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	Government of Alberta				

	water" available to the market above the Protected Water level (WCO).					
8b*	Alternative Non-Consensus Recommendation 8: 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.	Government of Alberta				
9	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.	Government of Alberta				
10	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.	Government of Alberta				
11	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.	Government of Alberta				
12	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.	Government of Alberta				
13	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.	Government of Alberta				
14	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	Government of Alberta				

	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.					
15	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.	Government of Alberta				
16*	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.	Government of Alberta				
16b*	Alternative Non-Consensus Recommendation 16: That the Government of Alberta cancel the unused water portion of licences and prioritize the reallocation of this water to meet Protected Water objectives.	Government of Alberta				