

An Investigation into the Ministry of Forests, Lands and Natural Resource Operations Administration of the Riparian Areas Regulation in British Columbia

Since the *RAR* was enacted in 2005, our office has received complaints about the protection of riparian areas. These complaints raised more general concerns about how the provincial government was administering the *RAR* which ensures that riparian areas are both considered and protected in residential, commercial and industrial development.

The Investigation

In June 2013 a systemic investigation into the Ministry of Forests, Lands and Natural Resource Operations administration of the *RAR* was announced. We examined internal reports, monitoring and compliance information, briefing notes, and correspondence from the ministry. We met with ministry staff responsible for the *RAR* and with employees from each region. The investigation involved consulting with local governments, professional associations, interested groups such as environmental groups, and we invited public input.

Conclusion

The title of the report, “Striking a Balance” reflects the main message of the report. The *RAR* attempts to balance various competing interests – development and environmental protection, professional reliance and government oversight.

The report makes 21 findings and 25 recommendations aimed at improving the administration of the *RAR* and reinstating the balance - part of the original intent when the *RAR* was developed. Twenty four of the 25 recommendations have been accepted.

One key area in which we made findings and recommendations is around oversight by the ministry. We found the ministry had not met its own goals for reviewing reports and for conducting site visits. Because of this, the ministry did not have sufficient information to draw conclusions about the level of compliance with the *RAR*. This monitoring role is a key part of any professional reliance system – the government needs to make sure the qualified environmental professionals (QEPs) conducting the assessments are doing the work properly, and that proponents are correctly implementing measures to protect the riparian area as recommended in the report. The ministry has accepted our recommendation to conduct increased site visits, and although it has not accepted a recommendation to review all reports when they are submitted, it has committed to doing so for at least two years.

Another key area where we made findings is the availability of public information. When a ministry reports on the key aspects of the operation of a program it fosters public transparency and accountability. The ministry has done very little public reporting on the *RAR*. There was one public report in the eight years the program has been operating. Recommendations have been made, which the ministry has accepted, that the ministry update its public information and report annually on its activities related to the *RAR*.

For copies of the report or more information:

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Key Recommendations

Local government compliance:

R1 The Ministry of Forests, Lands and Natural Resource Operations review, by October 1, 2014, local government implementation of and compliance with the *Riparian Areas Regulation* and report publicly on the results of that review.

The Professional Reliance Framework:

R5 The Ministry of Forests, Lands and Natural Resource Operations take steps to amend the *Riparian Areas Regulation (RAR)* to ensure that successful completion of a training course is mandatory for all individuals who are eligible to conduct assessments under the *RAR* and that a list of individuals who have successfully completed the course is publicly available.

Monitoring and Compliance:

R10 The Ministry of Forests, Lands and Natural Resource Operations review all of the *Riparian Areas Regulation* assessment reports submitted to the ministry each year. [NOT ACCEPTED]

R12 The Ministry of Forests, Lands and Natural Resource Operations take steps, on or before October 1, 2014, to have the *Riparian Areas Regulation (RAR)* amended to allow the ministry to postpone notification to local governments until its reviews of assessment reports are complete and any required amendments to reports to ensure compliance with the *RAR* assessment methods have been made.

R15 The Ministry of Forests, Lands and Natural Resource Operations develop a system that:

- (A) tracks, in a centralized and accessible way, the results of compliance monitoring
- (B) records whether non-compliance is referred to another agency and, if it is, how that agency responds to the non-compliance

Public Information and Access:

R17 The Ministry of Forests, Lands and Natural Resource Operations, by June 30, 2014, update all its publicly available information to accurately reflect the ministry's responsibility for the *Fish Protection Act* and the *Riparian Areas Regulation*.

R21 The Ministry of Forests, Lands and Natural Resource Operations work with the Ministry of Environment to make *Riparian Areas Regulation* assessment reports and their associated electronic mapping files available to the public through EcoCat or a similar publicly accessible, searchable electronic database by October 1, 2014.

Concerns and Complaints:

R22 The Ministry of Forests, Lands and Natural Resource Operations establish a clearly documented and accessible process that allows people to raise concerns or make complaints about the operation of the *Riparian Areas Regulation*.

Background

The *RAR* is part of the legislative and regulatory framework which protects the natural environment in British Columbia. It is part of an effort to protect fish habitat in an area where it is at high risk – urban areas of the province. Riparian areas – the area of vegetation and habitat on either side of a stream or other water body – provide fish habitat. The *RAR* relies on three levels of government – federal, provincial and local.

The *RAR* applies to 15 regional districts in B.C. including municipalities and other local governments falling within their boundaries– these regional districts cover about 17.5% of BC's land mass where approximately 74% of the province's population. The pressures of development and urbanization on this land mass can affect riparian areas. The areas where the *RAR* applies includes regional districts on most of Vancouver Island, in the Lower Mainland (not the City of Vancouver), the Thompson-Okanagan – but not northern B.C., the West Coast of the Island or most of the Kootenays. The *RAR* applies to commercial, residential and industrial development in riparian areas.

On March 11, 2014, Bill 18, the *Water Sustainability Act*, was introduced. Bill 18 updates and renames the *Fish Protection Act* to the *Riparian Areas Protection Act*. This reflects the continued importance of protecting riparian areas.