

Instream Flows - Administrative Issues DFO View

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Administrative Issues - DFO

- Level of assessment
 - New facilities vs. Existing facilities
- Regulatory requirements (Fisheries Act, CEAA, NWPA, SARA). Legal challenges (NAFTA)
- Public perception (ability to participate, real consultation)
- FN obligations (DFO has various court mandated responsibilities)

Administrative Issues - DFO

➤ New Facilities

- all aspects subject to review under FA, NWPA and CEAA (likely SARA).
- Limits are not bounded by other regulation or financial liability.
- includes both footprint and operational issues both onsite and off site (roads, T&D).
- Consistent process across Canada

Administrative Issues - DFO

➤ Existing facilities

- various options for consideration.
- 1) Treat footprint and operational issues similar.
 - Apply full regulatory approach to both.
 - Grandfather both provided no changes.
- 2) Apply different approach to footprint and operational issues. (BC approach)

Administrative Issues - DFO

- Existing facilities - BC Approach:
 - Footprint issues: e.g. dam, impoundment
 - Impacts generally predate Habitat provisions of FA.
 - Constant pressure for improvements for fish and fish habitat recovery.
 - BC Hydro - Establishment of compensation and restoration funds in Columbia, Peace and Bridge/Coastal.
 - Major changes to footprints treated as new projects.

Administrative Issues - DFO

- Existing facilities - BC approach (cont.)
 - Operational issues: treated as ongoing impacts.
 - Subject to current regulatory requirements.
 - DFO has negotiated flow releases, issued orders under 22(3), pursued charges under FA at existing facilities which were built prior to 1977.
 - Recognition of existing licence limits, structural limitations.

Administrative Issues – DFO/BC approach (cont.)

- Water Use Planning (WUP) the preferred approach. Currently 22 WUPs are underway or completed at BC Hydro facilities. WUP-like processes have also been conducted at other water facilities.
- DFO is a full participant in process with the expectation of incremental improvements at all facilities.
- WUPs employ Adaptive Management (both passive and active). Each WUP has a prescribed life (5-15 yrs.).
- DFO will provide regulatory review upon completion and will likely issue letter of advice or authorization for operations. These will be time limited in accordance with the review period.