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The Honourable Felipe Fuentes
Chair
Assembly Committee on Utilities and Commerce
California State Assembly
State Capitol Rm 5136
Sacramento CA 95814

The Honourable Michael Duvall
Vice Chair
Assembly Committee on Utilities and Commerce
California State Assembly
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The Honourable Nancy Skinner
Chair
Assembly Committee on Natural Resources
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The Honourable Danny Gilmore
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The Honourable Paul Krekorian
Chair
Assembly Select Committee on Renewable Energy
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The Honourable Sam Blakeslee
Vice Chair
Assembly Select Committee on Renewable Energy
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Dear Chairs and Vice Chairs:

It has come to my attention that you may be receiving inaccurate information regarding environmental standards for power production from rivers in British Columbia (BC). As the BC Government's Minister of Environment, I am writing to provide the California Assembly and your Committees with the facts on the regulatory standards and requirements for hydroelectric projects in BC.

First, BC's commitment to environmental protection is clearly identified as one of the BC Government's five priorities, or Great Goals, as we call them: BC will "lead the world in sustainable environmental management, including the best air and water quality, bar none."

BC has world-class environmental standards, and we have a proven track record of excellent environmental management. The BC Government remains committed to ensuring that we have sustainable, environmentally responsible resource development. Regulations and management practices ensure environmental impacts are mitigated and the land is reclaimed.

Any water power project in BC must apply for a water licence under the *Water Act*. If the terrestrial portion of the project (eg. powerhouse) is to be located on land owned by the government (94% of all land in BC is government-owned, also known as "Crown" land), the proponent must also apply for tenure under the *Land Act*. The review of these applications is done through a transparent public process. Information on all applications, regardless of size, is made available on a website (www.frontcounterbc.gov.bc.ca), and the public has an opportunity for input.

In total, a typical run-of-the-river project will require more than 50 permits, licences, approvals and reviews from 14 regulatory bodies, including federal, provincial, local and Aboriginals or First Nations peoples. Some examples of legislation that water power projects must comply with include:

Provincial Legislation

- *Land Act*
- *Water Act*
- *Forest Act*
- *Forest and Range Practices Act*
- *Highway Act*

- *Environmental Assessment Act*
- *Water Protection Act*
- *Wildlife Act*
- *Fish Protection Act*
- *Parks Act*
- *Heritage Conservation Act*

Federal Legislation

- *Fisheries Act*
- *Navigable Waters Protection Act*
- *Canadian Environmental Assessment Act*
- *Species at Risk Act*
- *National Energy Board Act*
- *Migratory Birds Convention Act*

In reviewing applications for water power projects, provincial as well as federal regulatory agencies assess the potential impacts of a proposal, including how it might affect the river's flow, existing land and recreational uses, other resources and First Nations' interests. The project's owner must meet specific fish-centric conditions, and, contrary to representations that may have been made to you by those opposed to hydro-electric development in BC, a project is not permitted to dewater the river, and must maintain adequate stream flows from a biological perspective. Indeed, the typical approach is to locate projects above natural barriers to migrating species or on non-fish bearing sections of streams. Numerous conditions must be met before, during and after construction. From potential impacts on fish and wildlife, to First Nations and any other existing use, every water licence must meet strict environmental criteria, which includes looking at its cumulative effects.

In addition to the strict environmental requirements placed on all water power projects, projects of 50 megawatts or greater must receive an environmental assessment certificate from my office under the BC *Environmental Assessment Act* before they can even obtain the additional necessary permits and licences. The environmental assessment process addresses a broad range of environmental, economic, social, health and heritage issues through a single integrated process. It ensures that the issues and concerns of all interested parties and First Nations are considered together, and that a project, if it is to proceed, will do so in a sustainable manner. It also has an open and transparent process for the review of applications, with information on projects posted on its website.

Input of local and regional governments is a key part of any review, whether through the Environmental Assessment process or through reviews under the *Water Act* and *Land Act*. Issues are identified through consultation with provincial and federal agencies, local governments, non-governmental organizations and the public. Local governments are knowledgeable about community issues and are, therefore, well positioned to help provincial decision-makers resolve these issues.

Water power development in BC is not permitted to include the use of parks for roads and transmission lines. Provincial parks are protected by law. Since 2001, the BC Government has established 57 new parks, 138 conservancies, one ecological reserve and nine protected areas, and has expanded approximately 50 parks and six ecological reserves protecting more than 1.9 million hectares of additional land. Today, 14.26 percent (or 13.5 million hectares) of BC is protected – more than any other province in Canada.

The BC Government has not introduced, nor has the Legislature considered, any amendments to park boundaries to accommodate water power projects. To date, one water power proposal has proposed a transmission routing through a provincial park. It was rejected because it did not meet the strict environmental criteria set forth in the Provincial Park Boundary Adjustment Policy, nor did it have sufficient support from the public, some First Nations and local government.

BC is blessed with a wealth of potential clean and renewable energy resources. This naturally leads to many proposals and applications for power project development. However, just because a proponent has made a proposal and applied for a licence does not mean that the proposal will meet with BC's strict environmental standards and be awarded a licence. In fact, more applications have been denied or withdrawn than have been approved in recent years.

BC and California have been working productively together on climate and environmental issues at the highest levels. A Memorandum of Understanding to protect our climate and oceans that included joint commitment to decisive action on greenhouse gas emissions and the development of more renewable energy and transmission was signed on May 31, 2007.

BC is an active participant with California in a number of major projects, including the Western Climate Initiative and the Western Renewable Energy Zones Initiative. Our shared goals of greenhouse gas reduction and increasing the amount of renewable electricity in the west requires that we not arbitrarily reject low impact renewable sources. BC's responsible development of our hydroelectric, wind, biomass and geothermal resources can make a contribution to our achieving our common commitment to lead the world in sustainable environmental management.

Further information on BC's regulatory environment, is available as follows:

- A document prepared by our Environmental Assessment Office that addresses specific criticisms of our Environmental Assessment Process which were contained in a West Coast Environmental Law document that has been distributed by the Hydropower Reform Coalition is attached;
- A Guidebook for independent power producer development which details regulatory and legislative requirements for water power and other power project development is available at: http://www.al.gov.bc.ca/clad/IPP_guidebook.pdf;

- Information on status of Crown land applications and reasons for decisions (includes water power projects) is available at:
<http://www.arfd.bc.ca/ApplicationPosting/index.jsp>;
- BC's laws and regulations are available at: <http://www.bclaws.ca/>;
- The Environmental Assessment Office Website has documentation on all power project reviews. The project reports and the specific requirements that proponents must meet as a condition of their EAO certificates are available at: www.eao.gov.bc.ca;
- Water licences include requirements for minimum flows and environmental monitoring and other measures for environmental protection. All water licence information is available at: ftp://ftp.env.gov.bc.ca/pub/outgoing/lic_images/ (where licences can be found listed by licence number) and http://a100.gov.bc.ca/pub/wtrwhsc/water_licences.input (where specific streams or water licence types, e.g. water power, can be searched to find specific licence numbers for specific projects);
- A document on "Opportunities for Local Government and Public Participation in Provincial Regulatory Processes for Independent Power Producers' Projects," is available at:
<http://www.empr.gov.bc.ca/EAED/AEPB/AEPS/Documents/MiniGuide.pdf>, and describes the regulatory processes and requirements of the provincial *Water Act*, *Land Act* and *Environmental Assessment Act*.

If you or your Committee staff have any questions about BC's regulatory requirements, please feel free to contact my office or any of the following provincial government staff:

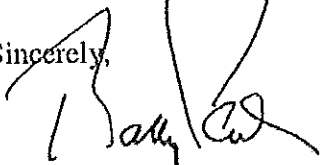
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Sincerely,



Barry Penner
Minister

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Honourable Ron Cantelon, Minister of Agriculture and Lands
Honourable Joan McIntyre, Minister of State for Intergovernmental Relations
Mr. Doug Konkin, Deputy Minister, Ministry of Environment
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