

Professional Reliance Review by B.C. – APB Briefing to Members – 04 July 2018

The BC Ministry of Environment and Climate Change released an independent final report on June 28th, 2018 that is said to provide a “Review of Professional Reliance in Natural Resource Decision-Making”. The professional review was initiated last fall and it was a hot topic for discussion at the April 2018 APB and CAB conference and annual general meeting. The APB is pleased to note that the purpose and distinction of our organization was recognized in the review. The advocacy service that the APB provides can be problematic for regulatory organizations, such as the College of Applied Biology (CAB) as it “...creates conflicts of mandate that hinder effective performance of both roles” (p. 48).

This report puts the professional reliance model under scrutiny as there has been a purported loss in public confidence in the process. Professionals have voiced concerns about the current professional-reliance model where conflict arises between their allegiance to the science and ethics while feeling pressured to modify, temper, or reveal only partial findings that reflect poorly on a project. Presenting unfavorable results could also lead to a loss in further business opportunities. These pressures are real and the APB feels that these concerns are not being adequately addressed by the regulating bodies under the current approach. It is for these reasons that the APB welcomes the intent behind the review and the effort it takes to repair a system.

The APB recognizes that many on the side of industry have been critical of the report (e.g., “Association for Mineral Exploration Responds to BC Professional Reliance Report” - GLOBE NEWSWIRE, June 28, 2018), while those on the side of environmental advocacy have been more supportive and pleased with the outcome (“B.C.’s big opportunity to fix under-regulated industry is here (and you’ve probably never heard of it)”, The Narwhal, June 23, 2018). The Engineers and Geoscientists BC identified “a number of positive recommendations” but also notes that some of the sweeping changes “raise a number of concerns”. The CAB identified a specific concern regarding the recommendation to establish an “Office of Professional Regulation and Oversight”.

The APB is committed to the practice of objective science in the public interest. It is neither pro nor con -industry, nor pro nor con any political interest. It is committed to the application of science as is stated in the Code of Ethics and we are also in support of the intent of the Stewardship Principles developed by CAB.

The report is identified as final. However, the Government of BC has indicated that further consultations will occur over the summer before it implements “tangible changes” to the body of governance that oversees professional reliance. **The APB is letting its members know that we intend to become actively engaged in this process.** It is our goal to bring the voice of professional biologists to the discussion table. This is something that only the APB can do –we have the unique privilege of being able to advocate on behalf of professional biologists and other biology professionals. **The APB is your voice for science in policy.**

Professional biologists have and shall continue to maintain a role in natural resource management, but we must *re-gain* public trust in the work that we do. The APB agrees with the general theme outlined in the introductory sections of the report that the current model of professional reliance needs an overhaul. The APB agrees that greater oversight on professional-reliance is needed but remains open to discussion on what kind of approach to take. It is not clear how a new oversight body (R1) can serve to address the kinds of problems that our members have expressed. We do not believe that the current recommendations have fully identified the means to repair the professional reliance approach but note several promising highlights in the review under R2 to “Legislate critical

elements of professional governance”. This includes requirements for professional development and whistleblower protection, but we remain tentatively optimistic until the final details are flushed out in the discussions that are to follow.

A gold standard for science has always been peer-review. The modern peer-review process started over 350 years ago with the establishment of *Philosophical Transactions* by the Royal Society of London in 1665. Professional reliance goes back as far as 1947 in BC (Forest Practices Board Bulletin #14, 2013) or earlier if considering the original Professional Engineering legislation. We mention this point as there is an implied use or application of science through professional reliance. For example, the CAB code of ethics states that we must “Provide objective, *science-based*, unfettered, forthright and intellectually-honest opinion, advice and reports in applied biology” (Emphasis added). The ASTTBC code of ethics Principle 3 and 10 both reference science into the practice. This gives license to science in the professional reliance model, but it is difficult to equate the science of peer-review with the science of professional reliance.

The APB has no plans to advocate for peer-review under a professional reliance model, but it must be understood that the science of peer-review has a distinct level of reliance that qualifies as science proper. Professional reliance is more about ensuring that applicable regulations are being followed, but surely science has a pivotal role in developing and monitoring the standards that are necessarily outlined in the regulations? A professional reliance model must seek means to advance science in the process and we are not seeing evidence of this being flagged as a priority. **It is disconcerting that the role of science in professional reliance is not mentioned in this review.**

The role of science in managing the province’s natural resources is in the public interest. Sustainable resource management can only be accomplished through the use and application of the scientific method. Evidence, conclusions, and recommendations from studies that are systematically defensible and publicly verifiable must be presented and weighed by decision makers who are informed on matters concerning the management of natural resources (i.e., science-based decision making).

However, the APB also shares and supports the concerns that have been raised about natural resources by First Nations communities, such as described in the response letter that was submitted to the review process from the Lhtako Dene Nation. Hence, the APB understands that science is not the only voice to be heard but surely we can agree that scientific evidence must be used in matters concerning environmental protection. Climate change, cumulative effects, species at risk, spread of disease, and habitat loss are real issues that professional biologists are dealing with. The public needs a professional reliance approach that is well designed to address these challenges. The APB wants the public to know that its members have expressed deep concerns about conflicts of interest and pressure to produce reports that are not in full agreement with their findings.

Right-to-practice was one major question on everyone’s mind during the 2018 joint APB and CAB AGM in Richmond BC. Professional biologists will be disappointed to learn that this issue is not addressed in the review and there are no recommendations concerning right-to-title versus right-to-practice. This is problematic for several reasons. There is an imbalance in power in the decision-making process among professional organizations, with some having only the right-to-title. An unintended, but real, perception of prestige that comes with right-to-practice risks confusing the matter if some professions remain as right-to-title only. Further, the respective roles of biologists, agrologists, engineers, technologists and foresters in relation to natural resource management are not

always entirely clear. This imbalance must be addressed for professional reliance to work and ensure that an integrated and interdisciplinary approach is achieved.

There is a key piece of oversight concerning the standards of professional biology on the issue of right-to-title. The report does not mention the Trade, Investment, and Labour Mobility Agreement. This agreement means that professional biologists from BC and AB can apply for Alberta Society of Professional Biologists (ASPB) membership and sidestep the normal CAB application review process. As a result, **standards for professional biology in BC are not actually set in this province** but are established in AB where the standards are lower, given that a report is not required as part of the ASPB accreditation requirements. Reporting is an important part of scientific work and we feel that this standard, or some form of it, should be renegotiated as part of the oversight in this professional reliance review. This loophole needs to be closed to harmonize standards across jurisdictions.

The Recommendations

Climate change is not discussed in this report other than under the title of the ministry that commissioned this report, the Ministry of Environment and Climate Change Strategy. Cumulative effects are mentioned but only cursorily addressed in R105 as something that needs to be clarified. Under R115 “Clarify riparian objectives” there is a statement regarding the incorporation of “local cumulative effects into the methodology”. However, cumulative effects assessments are not a localized problem by definition. Cumulative effects assessments look at the larger network of interaction between localized parts and it is widely recognized that environmental impacts extend well beyond the localized situation.

We agree with the statement in R33 that “There is often little baseline data on resources to inform resource management decisions”. Greater investment in scientific research can fill this gap but **the review does not make any recommendations for investment in science**. The second point under R33 suggests that there should be a requirement to follow Resources Information Standards Committee (RISC) inventory standards. The APB is concerned with this recommendation because many of the RISC standards are 30+ years out of date and there are examples where the “best” standards are in conflict with peer-reviewed published science; we suggest replacing “best” in BMPs with “beneficial” as a more apt terminology. **However, the more up-to-date “Develop with Care” BMP documents are not mentioned.**

R19 is about liability and states that “Professionals in the natural resource sector are not normally required to carry professional liability insurance”, but most of us do. Professional biologists need a model that allows independent scientific work to be conducted openly without fear of repercussion. Professional liability insurance does not safeguard against the pressure that many of us have experienced to put industrial progress ahead of environmental considerations. Whistleblower protection (under R2) might address this problem, but there is a stress associated with being put in the whistleblower position even when legislated protections are in place. Whistleblowing is a complicated issue and so we look forward to learning if there are alternative creative solutions in context of what a new professional-reliance model might look like. Systems should be in place to safeguard professionals to ensure that whistleblowing is rare and a last resort measure with adequate protections.

Our immediate and top-priority recommendations for this report are:

1. Request a forum to review these recommendations by continued engagement with the concerned public and qualified professionals. **A report that is based on opinion alone cannot serve as a framework for developing a professional reliance model to ensure that the province's natural resources are managed accordingly.** A systematic approach is needed with methods to integrate the voice of professionals into the professional reliance model.
2. Bring science to the table. Science must be given a top role in professional reliance and informing policy.
3. Listen to the voices of the diverse respondents and provide evidence that their input is being included. We reviewed many of the respondent letters and points of feedback and we are disheartened to learn that many of the thoughtful insights were ignored. We would like to thank those that took the time to provide input and we want you to know that we heard you.
4. A plan for implementation with commitments to invest in the resources that are needed to support professionals to do what we have been trained to do. A command and control approach will not work and we need a professional reliance model that values the leadership, the excellence, and commitment that our professional members are making to engage on matters concerning the conflict between sustainable management and continued degradation of the provinces natural resources.
5. Include provisions to define what is a Qualified Professional and safeguards to ensure that Qualified Professionals are used. This includes all sectors (Consulting, Government, Private Industry and Non-Government Organizations).
6. Clearly define the roles and responsibilities of the Government Oversight Organization discussed in the Report. With regards to the College of Applied Biology, Government appoints lay-councillors to the Council; it is similar with the other professional organizations. It is not clear how the two relate and will be implemented. This is a tectonic shift in direction and the process must be explicitly laid out.
7. Discuss why right-to-title was not address and what CAB has to do to get to right-to-practice.

It is understood that some of the specific points that we raise in our analysis of the professional reliance report may be viewed as falling outside the scope of the review process that included:

- Review of the five self-governing professional organizations that were created by provincial laws and that grant exclusive rights and privileges.
- Review of the way that professional reliance model engages natural resource management and relies upon professionals in context of the administration of applicable statutes, regulations, and policies between government, professionals and the professional associations.

However, the lines of demarcation are not clear as indicated by reference to particulars in the review (e.g., RISC standards). Policies created by government, how they are administered in relation to law, and the way that professionals navigate through the process necessarily require a broader discussion on the role of science in the decision-making process. Particular examples are found under the sections addressing the *Forest and Range Practices Act* (FRPA) and *Government Actions Regulation* (GAR) and the *Water Sustainability Act* (WSA). R90 “Improve documentation and rationale” references

“transparent and well documented decision-making process” and yet the role of science is not mentioned. Surely objectives established under FRPA, such as s. 5 to “conserve the productivity and the hydrologic function of soils”, are founded on scientific rigor and mediated through the professional reliance model? **We do not accept the idea that science-based decision-making falls outside the scope of the review. Science is framed into the codes of ethics of regulatory organizations and it is implied by the objectives of administration under the current model of professional-reliance.**

The APB shall continue engagement with its members following on the January 2018 internal members survey that was submitted to Minister Heyman in our initial response letter¹. The APB stands by the recommendations in our response letter in addition to the actions we formulate herein. A first step has been made with these recommendations but the engagement process is likely to be lengthy, complicated, and debated as there are 121 recommendations. Fixing professional reliance on this platform could potentially fail with too many recommendations being open to interpretation and in the attempt to address too many things on multiple fronts. It could be argued by the regulating bodies, government, and industry that many aspects of the recommendations are already in place and in need of no further address.

Please keep posted on the government engagement website² for updates on scheduled opportunities for further engagement that is likely to involve meetings, online surveys, and other multi-media forums. The APB will also keep our members informed as we move forward in our mission to represent professional biologists in BC. It is one of our core objectives to advocate for the use and application of biological sciences for the management and conservation of provincial resources.

Thank you,

Mark Thompson, MSc, MEd, RPBio
President



#300 – 1095 McKenzie Ave.

Victoria, BC V8P 2L5

T: 250 961 9520

F: 250 483 3439

E: info@professionalbiology.com

E direct: president@professionalbiology.com

¹ https://professionalbiology.com/wp-content/uploads/2017/10/APB-Professional-Reliance-Review-Submission-January-2018_website.pdf

² <https://engage.gov.bc.ca/professionalieliance/>