



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia
Protecting privacy. Promoting transparency.

March 12, 2014

Honourable Mary Polak
Minister of Environment
PO Box 9047, Stn Prov Govt
Victoria, BC V8W 9E2

Dear Minister:

Bill 18 – 2014—Water Sustainability Act—OIPC File F14-56712

I am writing to express my concern with respect to terminology used in the proposed Water Sustainability Act (Bill 18). This Bill was tabled in the Legislative Assembly on March 11, 2014, and would repeal and replace the *Water Act*. I understand that the purpose of Bill 18 is to modernize the way BC manages its ground water and surface water resources.

The Bill uses the term “public personal information”. The term “public personal information” is not used in the current *Water Act* nor does it appear in any other BC legislation. The wording of the definition would capture the kind of information found in telephone and business directories, as well as in certain public registries and electronic publications. The definition is nearly identical to the list of prescribed sources of public information in section 6(1) of the Personal Information Protection Act Regulations.

I am concerned that the introduction of this new term in the proposed *Water Sustainability Act* has the potential to create a great deal of confusion in relation to well-established terms used in the *Freedom of Information and Protection of Privacy Act* (“FIPPA”). Public bodies and others may conclude that “public personal information” is a subset of “personal information” as defined in FIPPA. The harm that could result is that a public body might incorrectly conclude that it has the authority to collect, use or disclose public personal information on the basis that “public personal information” is the same as personal information. Usage of the term would be a precedent which may be reflected in future legislation, thereby compounding the problem. In my view, changing the term to “publicly available information” would resolve the problem.

Consistent with our longstanding practice when commenting on a Bill tabled in the Legislative Assembly, I am providing a copy of this letter to the Opposition Critic for your

ministry. I am also providing a copy to the Minister responsible for FIPPA and to the Opposition Critic responsible for that ministry. In addition, a copy of this letter will be posted on my office's website.

Sincerely,

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

pc: Hon. Andrew Wilkinson,
Minister of Technology, Innovation and Citizens' Services

Spencer Chandra Herbert
Opposition Critic for the Environment

George Heyman
Opposition Critic for Technology, Innovation and Citizens' Services