



Sunshine Coast
Conservation
Association

Box 1969
Sechelt, BC
V0N 1V8
office@thescca.ca

Ministry of Environment
Water Protection & Sustainability Branch
PO Box 9326
Stn Prov Gov,
Victoria, BC
V8W 9M2
livingwatersmart@gov.bc.ca

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Re: Water Sustainability Act for BC

The Sunshine Coast Conservation Association (SCCA) wishes to thank the Ministry of Environment, Water Protection & Sustainability Branch for this opportunity to comment on the “2013 A Water Sustainability Act for BC: A Legislative Proposal”.

The SCCA is a registered charity whose mandate is to protect biodiversity values within the Sunshine Coast Forest District. Our membership is broadly based consisting not only of individuals and families but also local conservation and community groups. With respect to water protection, we have collaborated with local government and the Sechelt Indian Government District to protect the two primary community drinking watersheds of the lower Sunshine Coast. Our efforts are based on the science that intact ecosystems regulate and stabilize watersheds. Such watersheds not only provide the cleanest and least expensive drinking water but also maintain ecosystem biodiversity. In 2009 we published *The People’s Water: The Fight for the Sunshine Coast’s Drinking Watersheds*.¹

The SCCA applauds the ongoing efforts by the province to modernize the century old Water Act. As the first line of the introduction to the legislative proposal states: “Water is British Columbia’s most important natural resource.” However, given only three weeks to review and comment, our review simply cannot be commensurate with the importance of this legislation to every living entity in our province. We urge the Province to significantly lengthen the public review and comment period in order to strengthen the proposal before it is introduced to the Legislative Assembly. We remind you that according to a 2009 poll: “Canadians overwhelmingly say that our most valuable natural resource is water, more precious than oil and gas, forests, or minerals.”²

¹D. Bouman & A. Scott, Sunshine Coast Conservation Association, 2009.

² Nanos Research, quoted in D. R. Boyd, *The Right to A Healthy Environment: Revitalizing Canada’s Constitution*, 2012, UBC Press, p.5

Following are some of the most pressing changes required to strengthen this proposed draft:

For the Water Sustainability Act to be truly sustainable it must prioritize and protect water for stream health including fish and wildlife and essential human health, now and in the future. Water protection must take precedence over other provincial acts. The Water Sustainability Act must therefore apply to all fresh water (including saline groundwater) and existing and future users including forestry, independent power producers, and the oil and gas industry.

Land and water use decisions must be watershed-based and the hydrology of both surface and ground water identified prior to issuing any new licenses. Existing large-scale well and groundwater withdrawals must not be “grandfathered” or automatically issued licences until it can be determined that the use of the aquifer or adjacent water bodies does not, and will not, exceed recharge rates. In the absence of data the precautionary principle should apply.

In order to protect water supplies for communities and for the environment, Environmental Flow Needs (EFN) should be scientifically quantified in the *Water Sustainability Act* (WSA) and identified as a minimum standard; not as a guideline. The EFN would take into consideration not only quality and quantity but also timing of flows. EFNs should therefore be incorporated in the Water Objectives when Land Use Decisions are made; they should apply to all new licences (ground, surface and short term allocations) and eventually to existing licences as they are reviewed (see below). Critical Environmental Flows must also be legally established as standards. The term “beneficial use” requires definition which should include EFN and at least a minimum standard of conservation.

A strengthened WSA would require a modification of the “first in time, first in right” allocation system as rights to the environment and drinking water to the public will take precedence over non-essential human interests, both of existing and future licences.

Existing licences, including those for independent power production, must be reviewed in shorter time frames than suggested in the Proposal. Those in watersheds that are currently oversubscribed should be reviewed first, followed by those with the oldest licenses; a complete review should be accomplished within five to seven years after the WSA is passed into law. Not only because of the unforeseen effects of climate change, but also to ensure sustainable withdrawals and future consultations with First Nations, the WSA must explicitly state that all licences will be subject to review in a substantially shorter time frame than thirty years!

The WSA must specify that all fees are directed toward water management and governance. Fees for commercial use of any water, including non-consumptive power generation, must, at the very least, cover administration, monitoring, attendant flow assessments, licence reviews and enforcement. The review of existing ground water

users should begin with those consuming the largest amounts of water. Once the pricing structure for all ground, surface and temporary licences is established, the cost to the province would likely be reduced. If higher fees were introduced then portions of public and environmental costs could also be covered.

Violations of a licence must be dealt with promptly; three years to cancel a licence is simply too long. It is imperative that the provincial government provide the resources to enforce all the provisions of a revised WSA.

With respect to watershed management, we support much greater and more meaningful involvement by the public, First Nations, and local government in the management of their community watersheds. Management by local governments must specifically be identified as one of the models in the WSA. It is desirable that the province continues to set minimum standards and plays the leadership role. However, where local governments are required to provide potable water, it is imperative that they decide how the watershed be managed. The province must also provide these purveyors with adequate resources to manage these activities. Furthermore, all regional water managers must be employees of the Ministry of the Environment, Water Protection and Sustainability Branch. It is unacceptable for a manager, for example, to be appointed from the Oil & Gas Commission.

In conclusion, we urge government to lengthen the review and comment period and to accept the public's comments as submitted in the two previous engagements. The citizens of British Columbia expect a tough, enforceable Water Sustainability Act which explicitly ensures that any private rights to water use and land use decisions affecting hydrological processes will not harm the public's interest.

Sincerely,

Jason Herz
Chair

Cc: Premier Christy Clark
Minister of Environment Mary Polak
Chief shíshálh Nation Garry Feschuk
MLA Powell River – Sunshine Coast Nicholas Simons
MP West Vancouver - Sunshine Coast – Sea-to-Sky John Weston
Chair Sunshine Coast Regional District Garry Nohr