From: June Ross ***PERSONAL IDENTIFIERS REMOVED***

Sent: Saturday, January 29, 2011 9:21 AM
To: Living Water Smart ENV:EX
Cc: Strong Communities/Coalitions
Subject: RESPONSE TO PROPOSED WATER ACT AMENDMENTS

I have attached Vancouver Island Water Watch Coalition's response to your proposals. PLEASE read!

Sincerely,
June Ross
Sec. - VIWWC
Editor- www.vancouverislandwaterwatchcoalition.ca

Vancouver Island Water Watch Coalition
11/12, 1850-Northfield Road,
Nanaimo, BC

RESPONSE TO POLICY PROPOSAL
WATER SUSTAINABILITY ACT

I am writing this response on behalf of Vancouver Island Water Watch Coalition, which is comprised of Coalitions from Victoria, Cowichan Valley, Chemainus, Nanaimo, Oceanside, Arrowsmith, Port Alberni, Gabriola Island and Mayne Island.

Although I am appreciative of the opportunity to respond, I must say I am not appreciative of your report! I am, in fact, outright dismayed. At the beginning of the report it is said;

"What we heard...

A strong provincial framework with clear and enforceable standards is needed.

A framework that allows all levels of government and the public to understand everyone's roles and responsibilities…"

Then on page 13 the report says;

What we heard...

"…No clear support for a single governance model.
Inclusive and collaborative structure…"

This report is in fact speaking out of two sides of its mouth at once. The workshop I attended, which was very large in numbers…was VERY clear…**there must be a Provincial Government Framework with clear and enforceable standards.** We need and want and in fact, demand that the general public hold the overriding right to develop any and all regulations that control this Public Trust.

Public Trust Doctrine is also very clear and perhaps the writers of this paper are unaware of this doctrine? The Public Trust Doctrine ensures accountability through decision-making that creates a fiduciary duty in law regarding the management of resources. In this context, a fiduciary duty explicitly means government officials and decision makers responsible for managing provincial or national resources can be held accountable to preserve resources for future generations and act in good faith in management decisions. Where, may I ask, is the government's accountability in this proposal? Where, in this document are our future generations protected? You know the answers to both of these questions are there is no accountability and there is absolutely no protection!

Elizabeth Hendricks of the Polis Project says; "the *Water Act* requires a clear statement of provincial ownership over water, which already exists in the current legal framework. The current *Water Act* limits the rights acquired under a water license. Amending the Act to require the priority of fundamental human or environmental needs over other licensed uses would go a long way to ensure a proactive trust is created.

Second, the precedence of priority uses should be based on public uses and not private interest. The *Water Act* needs to be amended to explicitly prioritize public uses over private or commercial uses."

This report has done neither of these things and in fact in Section 5 discusses the possibility of "tradable permits and water markets"! The water market system is absolutely not the solution. We consider water to be a human right. When you allocate according to the laws of the market, then you see water going to those who can pay the most. So it goes to the highest bidder."
Who gave you the authority to be discussing OUR resource from this basis? This is an absolute NO!

Environment

It was also made clear by the participants at the workshop I attended that the environment gets addressed first. That means streams, rivers, lakes, reserves, aquifers, must have protection so that life, outside of humans, can also survive. The report says;

> *"Ultimate accountability for environmental protection will remain with the Provincial Government. Through the area-based approach, the Provincial Government will continue to establish and coordinate laws, rules, agreements and financial arrangements, including setting provincial objectives and outcomes. It will ultimately be responsible for deciding the institutions, systems and roles for any delegated responsibilities. The Province will also determine the compliance and enforcement framework."*

The provincial government has done an extremely poor job of enforcing existing rules and in providing sufficient staff levels for enforcement. If this does not change I am not the least bit optimistic that there will be any more enforcement than currently…this means…devastation of our environment.

Aquifers
Groundwater

It was very clear from the workshop I was at that there were huge concerns over the lack of mapping of our groundwater resource. Along with this, was the demand that mapping be done and controls applied to stop overdevelopment and to stop the infiltration of chemicals, sewage, garbage and any other source of negative impact on our groundwater, from occurring. Where is this stated in this report?
The report continually refers to "vulnerable aquifers" and "problem areas being licensed more extensively"
How do you know which aquifers are "vulnerable" or where the problem areas are when there has been little or no mapping done?

Section 3 of this report is completely and totally inadequate!

First in time; First in Right

The workshop attended by me did not support this theory at all. I would like to know the numbers that gave this support, versus those that did not. **Section 4**

In closing, the Current Water Act, Sections 27 through Section 29 says;

Licensee's right to expropriate land

27 (1) In this section and in sections 28 to 30, "land" includes an estate or interest in or

easement over land.

(2) A licensee has the right to expropriate any land reasonably required for the construction, maintenance, improvement or operation of works authorized under his or her license.

(3) In addition to the right under subsection (2), the holder of a license that authorizes the diversion of water for domestic purpose or waterworks purpose has the right to expropriate any land the control of which by the licensee would help to prevent pollution of the water authorized to be diverted.

(4) In addition to the rights under subsections (2) and (3) and with the consent of the Lieutenant Governor in Council, the holder of a license that authorizes the construction of a dam has the right to expropriate any land that would be flooded if the dam were constructed and utilized to the maximum height authorized.

(5) The owner of land expropriated under this section must be compensated for it by the licensee, and the procedure to be followed in expropriating land and the method of determining the compensation is the prescribed procedure and method.

(6) If expropriation proceedings relate to land on or in which there are works authorized under a license, an owner or other person must not interfere with the works or prevent the licensee from maintaining, operating, using or improving them so long as the licensee diligently prosecutes the expropriation proceedings.

Source:
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96483_01#section17

Does this mean that the Corporation or individual who has a First Rights License can expropriate an individuals land?

We all remain even more concerned than what we were before all of this so called consultation began. This report, to put it bluntly…does nothing whatsoever to increase belief in a government system that has become so obviously flawed.

Sincerely,
June Ross

For and on Behalf of Vancouver Island Water Watch Coalition
www.vancouverislandwaterwatchcoalition.ca

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