

Review of Forest & Range Practices Act (FRPA) and Private Managed Forest Land Act

The following comments cover the main issues faced by the Regional District of Central Kootenay as it relates to forest practices generally, as perceived by the Planning Manager and General Manager of Development Services. They have been ordered by theme, but in no order of importance (Watershed Governance is probably the most important).

Improve Information Sharing/Communication

- Province provide GIS shape file for all Private Managed Forest Land in the Regional District
- Province to provide notification in advance of land being removed from the Private Managed Forest Land Act
- Improve process of notification by property owner when hauling logs on a controlled highway.

Understand RDCK Challenges to Regulate and Enforce

- Difficult to impose regulations around industrial use in rural properties where there are no other controls like zoning. The RDCK has vast areas that are not zoned.
- In some of these areas, there is watercourse development permit control under adopted Official Community Plan, and in others nothing. Where DP areas have been designated, there are few tools of enforcement available. The Province has more effective tools to enforce regulations such as the Water Sustainability Act, but even then they appear to lack capacity to do so effectively.

Improve Land Use Management

- Tie all resource extraction and forest harvest decisions to the [Cumulative Effects Management Framework](#) across the Province, in order that such decisions are supported by scientific data, and respect the complex natural function of these landscapes that are vital to humans and non-humans alike.
- If land designated Private Managed Forest Land in unzoned areas of the regional district then there is even less control on logging activity.
- Mandate all logging exceeding a threshold whether on private land or Crown to adhere to FRPA.
- This would be triggered when proponent is seeking to transport logs on a controlled highway, and the Province could use access control to better regulate activity.
- Improve enforcement of existing regulation. If land being logged is private, large and heavily treed – what oversight is there for logging companies to comply with logging practices as per Forest and Range Practices? Private land is still controlled by various Provincial Acts.
- Local Government Act (LGA) does not mandate zoning in rural areas but does for municipalities – mandating in rural areas may help with this void of land use relation in regional districts

Improve Land Stewardship/Mitigation Post Logging

- Improve enforcement on Private Managed Forest Land
- Professional reliance model does not address the potential impact of logging activity on private land or to private water systems effectively to give social license due to lack of provincial enforcement.
- Private Managed Forest Land Act are not specific and needs to be more prescriptive
- Roads built to engineered standards and design a lesser risk than roads being built on private land off a controlled highway.
- When you have active logging, roads meet engineering standards, whereas if on private land, may not be built to same standard, potentially leading to failure and impacting the watershed
- Suggestion: replant temporary roads after logging with ponderosa pine.

Improved Watershed governance

- The Central Kootenays has the highest number of private water intakes in the Province. We have observed many examples where those intakes are negatively impacted by logging practices in these watersheds
- The Regional District of Central Kootenay seeks to investigate its role in watershed governance with the primary intent and goal to protect watersheds where consumptive water sources are at risk. Consideration must be given to how to best serve the needs of the communities, agencies and overarching interests involved. The Regional Watershed Governance Initiative project currently underway in the RDCK is an opportunity to reflect on how to work collaboratively to increase leverage and influence multi-levels of decision making; expand on the ground effectiveness; and influence the existing provincial structures that guide resource management
- UBCM RESOLUTION B67
- The RDCK recently presented to the Finance Committee (see attached handout)



WATERSHED GOVERNANCE WITHIN THE CONTEXT OF THE RDCK

Current State:

Community liveability within healthy and vibrant watersheds are essential to the RDCK economic, social, environmental and cultural wellbeing. As a local government that manages 19 water systems, with 9 member municipalities and 11 electoral areas, the RDCK is potentially well positioned to respond to the multiple and diverse interests within its watersheds. As an area, the RDCK encompasses 2,315,335 hectares of land that includes 3 major watersheds – Columbia, Lower Kootenay and Pend D’Oreille rivers and 35 community watersheds.

The RDCK currently engages with watersheds and water system protection in a wide range of ways, including monitoring, delivery of services, planning, and engagement with other governments and stakeholders. While it is beyond the political jurisdiction of the RDCK to facilitate watershed governance on crown land, the current lack of oversight, conflicting interests and increasing pressures and challenges faced by residents, communities and municipalities is prompting the RDCK to take action.

UBCM RESOLUTION B67

The RDCK’s interest in watershed governance is supported by the recent UBCM resolution B67:

Whereas UBCM has consistently advocated for providing water purveyors with greater control over the watersheds that provide drinking water to their communities;

And whereas an integrated watershed governance approach that recognizes indigenous water rights and utilizes a collaborative, consensus building approach to decision making could provide a model that addresses community needs while balancing the resource and capacity limitations experienced by local governments and First Nations:

Therefore be it resolved that the Province recognize and support local watershed collaborative governance entities and adequately resource these entities.¹

An overview of watershed pressures and challenges in the RDCK:

- **GEO-HAZARDS:** Recent events within the regional district (e.g. Johnson’s Landing, Kuskanook and Destiny Bay landslides) have highlighted the risks associated with forestry (service roads), mining (acid rock drainage), geo-hazards (landslides, debris flows, and floods), wildfire and drought to watersheds.
- **CLIMATE CHANGE:** The risks are compounded by increased climate change weather related events (more precipitation in the winter, dryer hotter summers) and increased levels of uncertainty. It is difficult to predict what the effects of climate change will be, but preparing for increased resilience and adaptability is critical.
- **GOVERNANCE CHALLENGES:** Fragmented and limited capacity for effective governance is felt at all levels. At the community level, challenges include limited funds, lack of regulatory understanding or interest in becoming compliant with legislation, disintegration and internal conflict impair communities from making good decisions; at the local level, lack of jurisdiction and mandate restrict effective involvement, and at a provincial level the designation of ‘community watersheds’ as defined by the *Forest & Range Practices Act* is limiting and discriminatory, the lack of coordination related to resource allocation decisions and on-going local level capacity limitations hinder good governance.
- **DEVELOPMENT PRESSURES:** Vulnerable and sensitive areas of watersheds (floodplains, valley bottoms, steep slopes) continue to be areas placed under pressure for growth. This increases not only the risk of geo-hazard but also for maintaining the integrity of water sources. While the RDCK is not an area of high growth, establishing a governance entity could enable an increased opportunity for guiding strategic planning and development.
- **FORESTRY PRESSURES:** Local government does not have jurisdiction on Crown land and the forestry industry operates under the Professional Reliance Model which is not effective at supporting conservation and community interests. It is anticipated that a watershed governance entity would support increased and improved negotiation between logging industry and community.
- **UNKNOWN & COMPOUNDED:** Further to the above mentioned pressures and challenges are the compounded and unknown impacts that come with combining years of industrial activity, extreme weather related events, increased development pressure and lack of or limited oversight.

Potential:

When encountering such realities, RDCK communities, staff and elected officials have expressed the frustration and fear over being unable to influence upstream activities and therefore the watersheds as a whole. The challenges of not being able to adequately engage all parties involved, to play a formal role in

the Provincial decision making process, to change behaviours or mitigate damage, underscores the **importance of having an effective, collaborative entity that can convene cross-sectoral oversight**. While the purpose of this study is to understand the role and responsibilities for the RDCK, a space for collaborative dialogue; meaningful engagement; and, informed planning to produce long term strategies and short term responses is evidently necessary.

To create an effective governance structure that can support regional-watershed-level action, the Regional Watershed Governance Initiative will require diverse membership. It is important to have the decision making authority and representational scope of high level decision makers from regional, Ktunaxa Nation, Yaqan Nukiy, Okanagan Nation Alliance, industry, provincial and federal partners. It is recognized that to be effective there must be committed participation from all forms of government, ministries and agencies influencing watersheds.

There is important rationale for building meaningful relationships with the RDCK's Indigenous neighbors. First Nations have unique water interests that have not been historically accounted for and building relationships around water can be an opportunity for reconciliation.¹ In addition to high level membership, it is also important to have the ground level intelligence and experience of community stewardship groups such as the Slocan River Streamkeepers to support in technical and advisory roles.

To effectively protect source drinking water, the ecological functioning of watersheds must “be retained or regenerated”.² Watershed governance encourages a whole watershed/ecosystem-based planning approach that includes consideration of the land (trees and soil), and water (surface and ground) while also effectively engaging all people and parties involved to promote robust and sustainable economic development.³

(Potential) Guiding Principles for the RDCK Watershed Governance Initiative⁴:

1. **Ecosystems-based planning**, which recognizes economic, social and environmental resilience starts from a foundation of conservation and protection;

¹ The Cowichan Water Board is co-chaired by Cowichan Tribes and the Cowichan Valley Regional District. This partnership is recognized as a commitment of moving down a path of reconciliation. Source: http://cowichanwatershedboard.ca/sites/default/files/CWB-Pathways-Report_20Jun2018-DRAFT.pdf

² A Blueprint for Watershed Governance in British Columbia – POLIS, 2012 p 14

³ Ecosystem-based planning focuses first on what to protect and then on what to use. First priority: protect or restore ecological integrity and second priority: provide for balanced ecosystem use across the landscape. Hammond, Herb. Maintaining Whole Systems on Earth's Crown. 2009, Silva Forest Foundation. Slocan Park

⁴ Adapted from A Blueprint for Watershed Governance in BC POLIS, 2012 pages 8 & 13

2. **Transparency and engagement of those involved and impacted**, including rights holders and stake holders;
3. **Evidence based decision making** that uses diverse information sources including traditional, scientific (social, biological, economic) and local knowledge;
4. **Balanced regional growth for future generations** that protects the public interest through collaborative engagement; and,
5. **Sustainable Financing and Capacity** long term engagement and adaptation requires ongoing funding and capacity.

Precedents:

Within the RDCK, there is precedent of the wide-ranging regional partners and interests working well together on complex issues. As a local government, the RDCK supported the establishment of the Kootenay Lake Partnership (KLP) in 2010, which is a model of collaborative watershed oversight. The KLP demonstrates the region’s capacity for shared work and cooperative engagement as a, “multi-agency initiative to support management approaches for a productive and healthy Kootenay Lake ecosystem”.⁵

And while collaborative watershed governance is still relatively unknown across Canada and within BC, increasingly there are provincial precedents for community watershed collaboration:

- In the spring of 2018, the Nicola Watershed Pilot Memorandum of Understanding was signed as a partnership between Nicola First Nations and the Province, a first for BC.⁶
- In October 2018, residents of the Cowichan Valley passed a referendum to establish the Drinking Water and Watershed Protection Service following the leadership of the Cowichan Valley Watershed Board.⁷
- The Regional District of Nanaimo and their Drinking Water and Watershed Protection (DWWP) program offers a model that reflects the innovation level and relationship structure the RDCK is considering. To establish a strong resilient region wide system for oversight will require time – the Regional District of Nanaimo took 3 years of preparation before going to their referendum to establish a drinking water and watershed protection service.

⁵ <http://kootenaylakepartnership.com/>

⁶ <https://news.gov.bc.ca/releases/2018ENV0012-000484>

⁷ <https://www.cowichanvalleycitizen.com/municipal-election/affordable-housing-water-protection-referendums-both-pass/>

Current role of RDCK in watershed protection:

RDCK role	Example	Tools in use / available	Challenge
Monitoring, storing and reporting	Water quality monitoring, flow of volumes and reservoirs, location of ground (wells & aquifers) and surface (streams & lakes) sources for RDCK systems. Water stewardship groups (ie. Slokan streamkeepers, Living Lakes Canada etc.) play a vital role in monitoring other community water systems and sources.	Fire and geo data: human, social, economic and environmental; Assets: RDCK water systems, improvement districts, private water systems, critical infrastructure; GIS for points of diversion: water licenses, wells; Wildfire interface areas; National Disaster Mitigation Program (NDMP); Water quality monitoring; and Agricultural Water Demand Modelling	How to contain the information and make it accessible
Parks and trails	Parks and trails acquisition strategy	Park strategy & inventory, LIDAR for mapping; park management plans, recreation master plans	
Delivery of services	Capital investment in infrastructure eg. Erickson/Arrow Creek Restoration of wetlands		
Planning and land and resource management	RDCK Sub-division & servicing requirements ALR referrals Watercourse DPAs and floodplain regulations	By-Laws Development Permit Areas Official community plans and Development Permit areas; Zoning, Floodplain Bylaw Referrals on subdivision applications ALR applications	
Mitigating or anticipating & buffering risk from Crown Land use and applications	Retallack recreation application/proposal Ymir logging activity Mining – acid rock drainage	OCP, referrals Official community plans, Crown land referrals	No mechanism for engagement. Limited in how to do this because OCP does not interact with Crown Land activity. And there is no planning on Crown Land happening.

RDCK role	Example	Tools in use / available	Challenge
Access to funding	Providing funds Writing applications Guidance for funding opportunities for small water systems		
Provide guidance / direction	Governance structure guidance How to apply for licenses		
Support protection of wildlife and species at risk	Bull trout protection and advocacy	OCP, referrals Official community plans, Crown land referrals	DPA's & EDPA's
Consumptive water protection	IHA Source Water Protection plans; Water Sustainability Act – Water Sustainability planning		Difficult to navigate, engage and with regards to WSA no actual planning happening; 'community watershed' definition is limiting and discriminatory
Convening of stakeholders	Kootenay Lake Partnership		Limited decision making capacity
Water & Wastewater System Acquisition	Moratorium currently in place		Numerous small water systems need support for long term planning and maintenance

Process:

Overview and update of process: Staff from both the Environmental Services and Development Services departments are collaborating on this issue, with the following progress noted:

- a. In May 2018, RDCK elected officials participated in an afternoon workshop with the POLIS Water Sustainability Project. Following the workshop, the RDCK Board directed staff to, *“develop a Regional Watershed Governance Initiative project plan and identify an allocation for GMDS and SC time to implement the project plan for consideration in the draft 2019 five year financial plan within General Administration Service (\$100).”*
- b. General Manager of Development Services, Sangita Sudan; Water Services Liaison, Tanji Zumpano; and, Sustainability Coordinator, Paris Marshall Smith submitted an application for funding to the Real Estate Foundation (REF) for \$18,750. A final decision from REF is expected in early June.
- c. In January 2019, the RDCK Board approved, *“funds in the amount of \$26,250 from S105 Community Sustainable Living Advisory Service for the Watershed Governance Initiative scoping*

study, to complement the work being done in Area H and I's ground water studies, for the following watersheds:

Bourke, Sitkum & Duhamel Community Watershed (Area F); Arrow Creek Community Watershed (Area B); Ymir Community Watershed (Area G); Argenta Watershed (Area D); Harrop (Area E); and Deer Creek (Area J)“.

- d. A Request for Proposal (RFP) was issued on April 8, 2019 and closed on May 10, 2019. The contract will be awarded on June 21 and the final report is expected in November, 2019.

Scope of the work:

- A. Review & explain CURRENT LEGISLATIVE TOOLS AND POINTS OF ACCESS for local government including, but not limited to:

- i. Interior Health Authority – Drinking Water Protection Act & Drinking Water Protection plans;
- ii. Local Government Act;
- iii. Forest Practices Board;
- iv. Professional Reliance Model;
- v. Reserve Area Designation;
- vi. Emergency Program Act;
- vii. Green By-laws Toolkit;
- viii. Relevant bylaws – zoning and floodplain; and,
- ix. Water Sustainability Act – Water Sustainability Plans and Objectives

- B. WATERSHED CASE STUDIES:

- a. Provide a high level EVALUATION of watershed issues identified within the context of the 6 case study areas:
 1. Bourke, Sitkum & Duhamel Community Watershed (Area F);
 2. Arrow Creek Community Watershed (Area B);
 3. Quartz Creek Watershed (Area G);
 4. Argenta Watershed Area (Area D);
 5. Harrop-Procter (Area E); and,
 6. Deer Creek (Area J)

Consider the different types of systems or water sources for:

- i. level of organization;
- ii. types of activity;
- iii. geo-hazards and pressures present and/or anticipated;
- iv. including types of water systems;
- v. levels of organization;
- vi. jurisdictional landscape and downstream demand and community impact; and,

- vii. include feasibility study work being done in Area H and I's ground water studies.
 - b. Compare & assess PRECEDENTS AND BEST PRACTICES (detailed review of process, policy, stakeholder engagement and partnerships) including but not limited to Fraser Basin Council, Regional District of Kootenay Boundary, Cowichan Valley Regional District, Regional District of Nanaimo, Shawnigan Lake Basin Authority, and Nicola Valley Watershed Roundtable and Memorandum of Understanding. This is understood to be an important and integral part of helping the RDCK define its next steps.
- C. MAKE RECOMMENDATIONS (including identifying preferred option) on next steps referencing STRATEGY DEVELOPMENT that reflect many levels of financial and staff commitment and propose solutions for a long-term RDCK watershed program.⁸
- a. OBJECTIVES – formulate regional objectives for group of watershed issues
 - b. ACTIONS – identify actions to address issues and objectives
 - c. RANK – prioritize each action to support identification of next step

Consultants are expected to have familiarity of and are encouraged to reference current WATERSHED DATA SETS in order to identify critical information and knowledge gaps, including, but not limited to:

- a. Fire and geo-hazard data: human, social, economic and environmental;
- b. RDCK Assets: RDCK water systems, improvement districts, private water systems, critical infrastructure, wildfire interface areas are also an asset we need to consider;
- c. GIS for points of diversion: water licenses, wells;
- d. Priority wildfire risk areas;
- e. Regional flood hazard risk assessment;
- f. Water quality monitoring data;
- g. Priority growth areas;
- h. Agricultural Water Demand Modelling;
- i. Private managed forest land base (GeoBC);
- j. LiDAR;
- k. Private land cadaster; and,
- l. Any additional data sets identified by consultants

⁸ Regional District of Nanaimo, Cowichan Valley Regional District and Regional District of Kootenay Boundary have all established source water protection and watershed governance services through parcel taxation via referendum.