From: ***PERSONAL IDENTIFIERS REMOVED***
Sent: Friday, April 30, 2010 10:06:48 AM
To: Living Water Smart ENV:EX; atamaa1@parl.gc.ca; ***PERSONAL IDENTIFIERS REMOVED***; Conroy.MLA, Katrine LASS:EX; Minister, ENV ENV:EX
CC: ***PERSONAL IDENTIFIERS REMOVED***
Subject: WAM comment submission

Please accept my comment on the Water Act Modernization,

I request that NOTHING BE CHANGED, maintain the Status Quo governance model and Water Act as it stands until the following citizen concerns are addressed within any new Water Act or amendments to the existing one.

I find WAM, its goals, and especially its "principles" as presented at the workshops, to be completely missing the points, and therefore I see the entire WAM as a red herring. Domestic use water allotment accounts for 0.2% of all water allotment in BC. WAMs proposed changes to the Water Act are a way for current provincial government to continue their legacy of acting in the corporate interest while they ignore and disempower through legislation the public interest. This is illegal in a Constitutional Monarchy. Government has not the power nor the right to devest the public interest in water in BC and/or Canada. The Crown has vested in government management of water, the government does not OWN one drop of water in this country. I will maintain my domestic and irrigation water licenses and the rights attached to them.

I hear-by demand that the Parliamentary Secretary of Water Supply and Allocation, John Slater, and the Director of Management and Standards of Water Stewardship, Glen Davidson, increase their mandate, there-by increasing the WAM mandate, to include protection of watersheds and watercourses from resource extraction by business/industry. The government agent is the fiduciary agent who holds in trust for the beneficiary (the public) all Crown resources in Canada. Canada is a constitutional monarchy. The Water Act as it exists today, with my water licenses and attached rights, will supersede all other industry acts, including Forests and Range Practices Act (FRPA), in a court of law.

I am within my rights as a citizen of Canada to demand that the government agents responsible for holding in trust our water, as the Crown has vested the trust of water in government, increase their mandate, and the mandate of any Water Act, to include protection of water from resource extraction and use by industry, and to establish a national Water Policy that establishes water as a human right. Commodification of water for corporate profit is hear-by denounced by the beneficiary (me). I have private rights established under water license, and the government of BC is not the Crown. The Crown is the institution which represents the power of the people above government and above political parties. The Crown, represented by the head state, our Governor General, only allows government and political parties to EXERCISE POWERS IN TRUST FOR USE ON BEHALF OF THE PEOPLE.

I assert that, until the Ministry of Environment and the appointed representatives can address the above and below public concerns, that the current Water Act be maintained unchanged.

1) Watershed protection from resource extraction activities.
By devolving stream protection (stream as defined in the Water Act means all water courses including lakes, ponds, wetlands, streams, creeks, springs, and rivers) in Section 9 of the Water Act to other ministries (including Forestry and Energy and Mines), source protection of our water supplies is abrogated by the MoE.
If the Water Act is meant to protect our water supplies it must override all other Acts in that respect.

Remove the below quoted statement, which is not in line with the role government has, which is to exercise powers in trust for use on behalf of the people. "Adjudicate licence applications for Independent Power Producers in a manner that is consistent with provincial government corporate policy."

All oil and gas drilling requires the use of water for making the drilling mud. Hydrofracking needs even more water and threatens the contamination of water aquifers with toxic chemicals as has already occurred in northeastern BC to some citizens water supplies. One shale gas well requires 8 to 10 million gallons of toxic chemical contaminated water for the hydrofracking process. Hydrofracking is not a licensed use of water listed on the licenses database. Regulate industry not citizens!

The public is demanding watershed/source protection as the first commitment from government to protect our water supplies for our public use of water.

By far the worst effect on our water supplies is the forestry industry, as currently practiced in this province.

The WAM workshop attempted to restrict all discussion to water and purported that the state of our forests, other resource extraction activities or the government corporate policy was relevant. I reject this as totally unacceptable.

2) Committed provincial funding to implement any changes.
All of the policy discussion papers state that funding must be committed to make any of the recommended changes come to fruition. Yet the monies for the MoE has been cut over the next 3 years in the current budget, as have the monies for Forestry, ILMB, Agriculture, Energy, Mines & petroleum Resources.

How the government can with a straight face say the WAM will protect water supplies when in fact there is no committed funding to make this happen is beyond me. It would appear through reading documents that the true intent of WAM is to limit public rights to water and charge them more for water use through increased licenses fees, water rates and so forth.

WAM should be completely scrapped, and the process started over with a logical approach to protecting our water supplies which by definition requires protection from the greatest threats (industry and corporations), not from the smallest (water license holders).

3) Full MEANINGFUL public and First Nation consultation prior to introducing
legislation to change the Water Act, or barring that a referendum on proposed changes to the Water Act.

This public consultation process on such a serious subject as our water supplies is a complete failure. First of all, your WAM Workshops were held through a very limited "invitation only" process. You should have notified every licenses holder in the province of these workshops and PUBLICALLY advertised the workshops at least a month in advance in newspapers all over the province. Relying on computers also marginalizes a significant portion of the public and can only be justified as cheaper than other kinds of advertising. From the public point of view, if you can't afford to advertise the discussion of changes to the water act, then you shouldn't be doing it.

I also object to the division of the WAM workshop public participants into 4 separate groups allowing us to participate in only two out of four topic discussions. The "divide and conquer" theme of control is easily identified by the public.

Meaningful consultation means not only that the government commit to taking into account the comments of the public in their decision making process. It also means that the public consultation continue in the process so we have an opportunity to COMMENT on EACH STAGE of DECISION MAKING BY GOVERNMENT. If the government cannot commit to making changes at each stage to it's policies, based on the consultation, then the entire process is meaningless.

In fact, that is why I want the government to hold a public vote, an actual referendum, on the final changes to the water act prior to those changes being legislated. Full government disclosure is required. The government has LOST THE TRUST OF THE PEOPLE on these matters for the reasons discussed above.

4) No changes to license status for domestic use (surface water or well licenses)
The government says it wants to make domestic use licenses a "permitted" use. The justification for this is that the limited staff could then turn their attention to more critical issues.
If the government can't afford to administer licenses than it should not be granted the powers to manage our water. Period. Management of any of our collectively owned natural resources is the prime charge of government. It is a charge vested in them by the Crown. The government of the day is not the Crown.

Under no circumstances do citizens of rural BC want their water license rights compromised now or in the future. It is the holders of licenses that have the ONLY STANDING in government hearings on new water licenses. I suspect this has much more to do with this change than does the "lack of staff". In fact, domestic use license holders' account for half of all licensed allocations. We stand at the forefront of water protection in all rural areas of BC.

5) Maintain FITFIR as is.
FITFIR is a time honored, working, self-limiting system that deters over-allocation of water supplies. The government in its role as

manager of our water has over-allocated water in many areas of the province according to their maps. What they need to do is attend to their mismanagement, disclose the reasons why they have over-allocated water supplies and fix that process, NOT modify FITFIR.

Protecting instream flows, or as some prefer to refer to this as protecting nature, is of course the basis of any allocation system and would thus have first priority. If the water is not there in the first place, it can't be allocated. But where is the data for guaranteeing instream flows? This is the problem. First, the hydrometric stations in BC are all federal installations over which the MoE has no control. In fact, a few years ago there were 470 such stations in BC, now there are 450. How can relevant data for all allocations in BC be garnered from a shrinking database of information?

Second, there are various ways of determining instream flow requirements. The simplest (i.e., cheapest to achieve) is a monthly low-flow scheme. Unfortunately this is not a recommended standard by scientists who work in the field or by governments like Australia who are struggling with real drought conditions due to the El Nino/La Nina flip.

Our ability to feed ourselves is moving into the public consciousness as a huge issue as we see globalization breaking down. Maintaining FITFIR is very important so established farms and livestock operations have priority water use.

Furthermore, the danger of modifying FITFIR is a very slippery slope. In the ENGO Statement of Expectations IPPs had a higher priority for water use than agriculture or domestic use. This is completely unacceptable. This is a pure and simple commodification of our water supplies to the highest bidder. This must under NO circumstances be allowed. Any resource extraction use must have the lowest priority as such uses have the concomitant problems of destroying watersheds and contaminating water.

6) Include wording in the Water Act that acknowledges water as a human right, collectively OWNED by all as a common resource.

To understand this all one must do is look at the current BC Water Act. Here is the actual wording at the
beginning of the act:
Part 2 — Licencing, Diversion and Use of Water and Related Matters
Section 2—Vesting water in government
(1) The property in and the right to the use and flow of all the water at any time in a stream in British Columbia are for all purposes vested in the government, except only in so far as private rights have been established under licences issued or approvals given under this or a former Act.

The current Liberal government is not the Crown. Since we live in a Constitutional Monarchy, here is the order of authority:
• The Crown is the institution, which represents the power of the people above government and political parties.
• The Crown, represented by the head state, retains the powers of government, while the governing party exercises the powers of government.

• The Crown, however, only allows the government and political parties to exercise powers in trust for use on behalf of the people.

Maude Barlow of the Council of Canadians made this point very eloquently in the October 2009 edition of the CCPA Monitor when she was describing the recent victory in Ontario where citizens defeated a government plan to put a garbage dump directly on top of the aquifer that contained their drinking water supply. Following are her words: "Under common law, a tradition followed in all provinces and territories except Quebec, water is recognized as a public trust. It belongs collectively to all, and governments must manage water in the public interest. Governments do not have the authority to make decisions affecting collective resources that violate the public interest."

MOE must take into account the public interest in your resource management activities. Allowing our watersheds to be destroyed is NOT in the public interest. Setting up an "environment for investors" is not in the public interest. If you do not the public will demand in a court of law that our water supplies are protected from your mismanagement.

MOE principles as presented at the WAM workshop failed to cover the most basic and important fact regarding water, namely that it is a human right.
Instead we see MoE talking about "higher economic value" as a basis for prioritizing water allocations. This is repugnant to the public.

The Water Act in Section 9 devolves water protection to the FRPA when forestry activities are occurring. The FRPA states that protections of environmental or economic values can only be applied "…without unduly reducing the supply of timber from British Columbia's forests…" This is one of the main reasons that the Water Act must be modernized in the true meaning of the word. The placing of commercial interests above the protection of our human right to water is simply illegal.

"Historically, all peoples in all times have protected their watersheds. Access to quality water for drinking and washing is not only the basis of human health, but of all human settlement. Access to quantity of water is the basis for all agriculture and business.
To place the commercial interests of logging above the protection of citizen rights to clean and dependable water supply, as new forest regulations do, is not a particularly defensible position.
The principles of legal pluralism explain that when statute law meets traditional wisdom head-on, unrelenting agitation from the public is only to be expected and solutions must be sought to end this conflict."

MOE must write into the Water Act the basic fact that access to water is a human right, that water is owned collectively by all and that water will be managed in the public interest by government.

7) Local decision making power on all water allocations

Local history, common sense and traditional First Nation values must play a role in water use decisions. This will only happen if local decision making authority is incorporated in the Water Act. Something that does not

exist at the present time nor is proposed in the WAM documents.

The WAM seems really to be an attempt by government to escape their responsibilities to manage our water effectively. This includes the following responsibilities:
a) developing databases of province-wide water information (including that related to groundwater aquifers) that is necessary for proper management,
b) developing water use and water protection plans for all areas of the province based on the solid data collected above,
c) basing water allocations on the developed plans based on the real data
d) dedicating the funds necessary to carry out all three levels of action including staff, equipment and IT systems that are necessary for this work.

There is no proposal in WAM for the government to undertake any of these activities.

Somehow, standards for maintaining in stream flow will be developed without sufficient scientific stream flow data, groundwater will be regulated without sufficient aquifer location or volume data, the plans that were mandated to government development in both the Water Act and the Drinking Water Act will instead be handled by some privatized Water Agency or by local interest groups.

And the funds will come from increased license fees (for everyone, not just for industry) and from forcing municipal, regional district, community and private water systems to increase their rates and perhaps from increased property taxes. This is not acceptable to the public.

I can only suggest that the government must look at how they are subsidizing resource extraction activities by using tax dollars that could go to water protection. This subsidization includes not only charging ridiculously low royalty rates for oil, gas and minerals extraction, subsidizing road building for all such activities, but also either not charging for water use or charging (again) ridiculously low rates for water licenses. None of this is acceptable.

Citizens have reached the point where they no longer trust government management practices (practices that are little more than thinly veiled privatization schemes).

8) We do not need legislation to protect us from ourselves.

There will always be debates about water use, yes. But local communities can handle that. They always have and they always will. Water allocation is not really the problem that MoE makes it out to be in WAM documents. What the problem really is, is lack of protection of our entire BC water supply from resource extraction and related activities.

What citizens do need from government is legislation with teeth to protect our watersheds and pristine water systems from destruction by resource extraction activities, including IPPs.

Sincerely, ***PERSONAL IDENTIFIERS REMOVED***