

From: Anne Sherrod [mailto:anne@vws.org]
Sent: Tuesday, March 15, 2011 12:07 AM
To: Living Water Smart ENV:EX
Subject: Submission on Water Sustainability Act

Attached, please find the Valhalla Wilderness Society's submission on the Water Sustainability Act.

Sincerely,

Anne Sherrod, Chair
Valhalla Wilderness Society

Valhalla Wilderness Society

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Submission to BC the Ministry of Environment on the proposed *Water Sustainability Act*

- **NO to water markets.**

The government knows very well that the province faces severe water shortages due to climate change and the melting of glaciers. Making water a commodity for the profit of private interests is simply unconscionable in view of the circumstances. The use of this proposed law to put forward a mechanism like this, under the pretext that it will help conserve water, smacks of the IPP scandal in which the province opened the doors to a gold rush on BC's streams and rivers. This is not real concern about water shortage, it is using water shortage as a cover under which to advance the economic exploitation of water resources.

- **NO to a new "agency" to manage water.**

The language in the *WSA* materials apparently refers to a special operating agency (SOA) or other partial privatization mechanism. The mechanism is very well known: the government maintains control of policy, while the SOA receives a contract to manage operations, using the resource under its purview to make money to finance its operations. The government receives a low grade in public honesty for not explaining this clearly to the public. The *WSA* documents reek of privatization and yet never discuss it directly.

- **YES to Watershed Reserves that would NOT allow logging in domestic watersheds.**

After being in watershed conflicts for years and studying the problems closely, the Valhalla Wilderness Society has seen that the only hope of true protection is to create zones where the rights of domestic water users are superior to all other uses.

- **The *WSA* materials are almost totally deficient on initiatives to protect water *quality*, especially from logging.**

Erosion from clearcuts, roads and culverts is one of the chief sources in BC of degraded water quality affecting domestic users and fish. There is no mention of regulating this in the *WSA* materials. We are told that the current *Water Act* applies only in areas where the *Forest and Range Practices Act* and the *Riparian Areas Regulation* do not apply. We are told that protection of water quality could be *improved* by "strengthening" the *Act* regarding the dumping of substances in streams; and also by Water Management Plans and Water Management Objectives. To this we must say:

- i. Restrictions on the intentional dumping of substances are not enough. One of the most commonly introduced substances is silt and landslides from logging operations.
 - ii. Without *legal rights* for water users — rights to *quality* of the resource for drinking — no amount of planning will help. Objectives are of no use. These have been pumped out by the hundreds in this province over the last 15 years, and found to have no binding effect whatsoever. In the case of the *Water Sustainability Act*, their effect would be to get the public to accept disguised privatization and exploitative measures in return for promises of plans and objectives that are empty feel-good language.
 - iii. Protecting water must begin with *denying* development projects that can contaminate water; against this fact, the mere *restriction* of *dumping* listed substances in a body of water is grossly insufficient. With the current goals of the BC government to allow industry superior rights to ruin domestic water and wreck fish streams, we must doubt the sincerity of the government to create a law that will reform itself. The protection of water must begin in this province with the rejection of projects such as the Taseko Mine, and the Raven Coal Mine while the province carefully fashions the new legislation. Otherwise we are having *talk-and-log* or *talk-and-mine* of our water.
- **The WSA must protect fish and must apply to power projects. A sincere effort to protect water will STOP permitting IPPs and put the existing permits under review.**

The *WSA policy proposal* is deceptive when it states that new licensees for water power projects “already have terms and conditions in their water license to protect stream health during times of scarcity. As such, the regulations of these water uses will consider licence requirements...” We know for a fact that some of these licences pose a severe risk to fish due to lower water flows, sometimes even removing the water from streams, ie, the GLACIER-HOWSER PROJECT. It appears the government intends for the WSA to exempt IPPs from the new water regulations, in favour of their permit conditions that were made on the basis of ignoring environmental needs.

- **Access to drinkable water is a human right; the province that receives revenues from water licences to domestic water users should apply due diligence to protecting the quality of the rented resource.**

In the late 1990s the Valhalla Wilderness Society (VWS) sued the BC government in order to achieve enforcement of the Watershed Reserves, as well as to force the government to stand by legitimate expectations it had fostered, of “shared decision-making” that would protect the watersheds of the Slocan Valley. The lawyer for the BC Government argued forcefully and successfully that there could be no such thing as “shared decision-making” in the province, since this would take away from the authority vested in the various ministries, to make land-use decisions. The fact that the government had promised this had no effect on the judge, since the promise had no basis in law. The government won the case, which was immediately followed by the logging of numerous Slocan Valley watersheds.

Today, in the discussion paper for a modernized *Water Act*, the province is once again beguiling BC residents with the possibility of “shared decision-making” to protect their watersheds. There is no sign in the various documents on the proposed *WS*, of changing the laws that enabled government to renege on its promises in 1997.

As various groups of residents appeared in court, having been subjected to arrest by the BC government while trying to protect their water, they were told by a judge of the Supreme Court that they had no water “rights.” Specifically, they had no rights to quality, quantity or timing of flow of the resource for which they held a licence. The province had the right to make decisions that had a high likelihood of contaminating their drinking water with silt, causing landslides, and affecting the seasonal quantity and timing of flow of domestic water.

VWS is deeply concerned to read in these WSA documents, numerous statements about increasing the responsibilities and the fees of domestic water users, but *no* provisions about increasing their rights, or prioritizing their rights over other uses.

- **BC residents should have the right to view and comment on the draft legislation so that we can see the specifics of what the government is trying to do.**

The WSA materials are all more or less vague and noncommittal. Unless we can review and comment upon the actual changes to the law, and have our comments recognized in the final result, all this preliminary participation and input by the public could be wasted, as it is too much based upon trying to second-guess what the government means to do.

Sincerely,

Anne Sherrod, Chair
Valhalla Wilderness Society