



Highlands District Community Association  
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Water Sustainability Act,  
Ministry of Environment,  
Water Protection and Sustainability branch,  
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Victoria, BC V8W 9M2  
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November 15<sup>th</sup>, 2013

**Re: The Water Sustainability Act – Legislative Proposal**

On behalf of the Highlands District Community Association (HDCA) I am writing to submit our comments on the legislative proposal – The Water Sustainability Act.

On September 5<sup>th</sup> 2013, the HDCA wrote to the Premier of BC to express our concerns about the vacuum of regulation for ground water, especially as it relates to the interconnection between land uses above valuable aquifers and the quality of ground water stored in those precious aquifers. It would seem that currently there exists a lack of a level playing field between residents in rural districts dependent on ground water, such as ours, versus large urban areas that are able to restrict land use on, and access to, their water storage areas. This distinction highlights the need for a larger role by local government in ground water decisions and a consultative process involving all levels of government, as well as concerned citizens.

On November 13<sup>th</sup>, 2013 the HDCA received a letter from The Deputy Minister of the Environment, Wes Shoemaker, indicating that the above referenced letter would be considered with other comments received on the Legislative Proposal. He also invited us to submit further comments.

While the HDCA is encouraged by the Government's initiative in moving forward in this direction, we are concerned by the number of areas left unaddressed in the proposal currently. Detailed comments enumerating areas requiring more work are attached. The HDCA is also concerned whether the Government will show, not just by legislation, but by appropriate resourcing and actions that it will match legislation with full and appropriate measurement and enforcement provisions.

For the Highlands District Community Association,

*J S Richardson*

J S Richardson  
Chair, HDCA

Attach.

cc:

- Mayor and Council, District of the Highlands

**Water Sustainability Act for B.C.**  
**Legislative Proposal**

**Background**

The Highland District Community Association (HDCA) is a volunteer community organization in the District of Highlands located near Victoria on Vancouver Island. Its purpose is to engage residents in social and community inter- action activities, through events such as Christmas Fairs, Highland Fling, Community Clean Up and the hosting of all candidates meetings etc.

HDCA however is equally interested in the well being of the community and takes an active interest in such areas as the protection of our natural heritage, whether it be the stewarding of our lakes, streams or parks. Recognizing that water plays a significant role in this context we are pleased to offer our observations on the Water Sustainability Act (WSA) for B.C. - Legislative Proposal.

At the outset we congratulate the Province in taking this bold step to update the Water Act. The demands of society, whether it be through population increase, development pressures, or the impacts of climate change, calls for a revamp of the Water Act that acknowledges the situation and charts a path that involves decision makers and citizens alike as partners in the resolution. The HDCA, given it is a citizen organization, has a particular perspective that seeks to contribute as a community voice for we believe that community groups will play an ever more important role in sustainability related issues and community stability.

**Recommendation**

That the WSA reinforce the role of community groups. While reference is made to NGOs in the proposal it is timely for the province to acknowledge the cumulative benefit of the contribution of community and stewardship groups throughout B.C. The alignment of local government and the stewardship groups is the most effective partnership to address community sustainability issues.

**Response to the WSA**

This regulation is long overdue. It is interesting to note that groundwater regulation was first proposed in 1960, some 53 years ago and that British Columbia remains the only province in Canada that does not regulate groundwater. That said the proposed regulation is most welcome. With specific reference to the WSA, the act as currently envisaged lacks clarity as to whether the WSA would have the enforcement ability to

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prevent the dumping of toxic waste upon an aquifer which is a source of groundwater for domestic consumption.

To provide context the Federal Government awarded a contract to Tervita Corporation (Tervita) to transport 150,000 cubic metres of contaminated soils containing poisonous metals and materials from the Esquimalt Graving Dock to a waste disposal site above a fractured bedrock aquifer serving the Highlands community. In spite of the concern expressed by the community and without local engagement of substance, the contract continues with 60-90 trucks arriving six days a week at the site in South Highlands. While the cells receiving this material are engineered to contain toxic waste permanently the question remains how secure is this situation, and why should the local government absorb the long term risk should the cells fail?

It would appear that the relevant piece of legislation is the *Fish Protection Act*, and even there no reference is made of toxic waste. So we have the uncomfortable situation whereby the Federal and Provincial governments have approved this project yet there appears to be no authority in the proposed WSA to prevent such deposition given a future situation of a similar nature.

### **Recommendation**

That the WSA provide the authority in its legislation to prevent the deposition of toxic waste upon bedrock aquifers, particularly fractured rock aquifers that are highly vulnerable to contamination.

### **Application of the WSA**

The province is to be commended in developing legislation that broadens the scope and flexibility and provides the tools to manage the water resource. However it is important that to achieve "buy-in" on the WSA it is clearly understood by the layman and professional alike. The proposed WSA cannot be implemented in isolation, but rather identified as a central piece of legislation that operates in conjunction with several other acts such as the *Water Protection Act*, *Drinking Water Protection Act*, *Fish Protection Act* and the *Environmental Protection Act*.

### **Recommendation**

The provision of a WSA Guidebook that explains the WSA, what it does and what it does not do would provide a roadmap for the layperson to establish the relationship to other acts and when those acts are triggered in a particular situation. The purpose of the Guidebook is to assist local governments, industry and communities to know where to turn for information, how to contact and who the decision makers are.

### **Saline Water excluded from Groundwater Legislation**

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It is concerning that saline water be excluded from groundwater regulation. How will this decision be arrived at, will there be sufficient scientific evidence to govern the decision? Is this proposal intended to facilitate the fracking industry for the extraction of shale oil gas.

### **Recommendation**

That the decision to exclude saline water from the proposed groundwater regulation be given a second look before finalizing the WSA. What is the role of science in determining whether groundwater is saline or not. Decisions should not be made on a political basis.

### **First in Time First in Right (FITFIR) Water Allocation**

While historically FITFIR was a convenient method of allocation when there was less pressure from competing interests the contemporary challenges facing water managers suggests the need for flexibility to be able to re-allocate senior licences where more pressing needs dictate. This decision cannot be taken lightly but based on sound scientific evidence.

### **Recommendation**

Support the concept that the re-allocation of senior licences would supersede the FITFIR ruling in cases of critical water distribution. This decision has to be based on sound science and not driven by political interference.

### **Water Ethic**

While not mentioned specifically in the WSA legislative Proposal, it is clear that treating water purely as a commodity rather than recognizing the underlying need for a water ethic that ensures the health and well being of natural systems and humans alike is perhaps what has got us into problems in the first place. There is a need for a fundamental change in our thinking and in that regard we can learn much from First Nations when they express the importance of a sacred relationship with water and the responsibility to protect it as stewards.

### **Recommendation**

Identify in the front end of the WSA once finalized the need for a water ethic that embraces the values of Traditional Ecological Knowledge. As climate change impacts the water cycle and increasing demands on a limited resource become obvious, the rationale for a water ethic that encourages the wise use of water will become self evident and second nature for all of us.