



## Cowichan Tribes

5760 Allenby Road Duncan, BC V9L 5J1  
Telephone (250) 748-3196 Fax: (250) 748-1233

December 2, 2013

Honorable Mary Polak  
Minister of Environment  
PO Box 9047, STN PROV GOVT  
Victoria, BC V8W 9E2

Dear Minister Polak;

### **Re: Proposed Water Sustainability Act Legislative Proposal**

Cowichan Tribes would like to express our general support for the letter submitted by the First Nations Fisheries Council (FNFC) and the letter submitted by Cowichan Valley Watershed Advisory Board regarding the proposed Water Sustainability Act Legislation Proposal (WSA). Staff attended several workshops that were FNFC initiatives: *Water for Fish Stewardship Initiatives* and *Strategic Framework to Set the Direction for Successful Water Management*. One of the main purposes of these workshops, held throughout the Province was for BC First Nations to be able to discuss their concerns and considerations regarding water and water resources. These workshops heightened our awareness of the current lack of practical First Nation control over our water resources in this province. Cowichan Tribes co-chairs and have staff that sit on the Cowichan Watershed Advisory Board and have done so since its inception in January 2010. Cowichan Tribes also sit on each of the subcommittees of the board and are active in providing recommendation to the board.

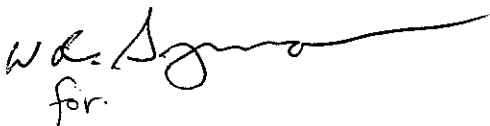
The current *Water Act* (circa 1909) is based on a colonialist approach where First Nations' interests are dismissed outright. Revamping or modernizing the *Act* is long overdue, and we want to express our concern that this process needs to be based on Aboriginal Rights and Title to the water in our territory. Furthermore, the Province must not assume it has sole jurisdiction over water, nor that it is the sole authority to delegate management of the water in our traditional territory. Water issues transcend jurisdictional boundaries and are not the responsibility of just one governing body. Despite our prior submission stating that First Nations must be in full partnership with other jurisdictions with an interest in water governance, this approach still continues to be ignored.

Clean and safe drinking water is an important and often scarce resource for Cowichan Tribes members living on reserve. Cowichan Tribes continues to deliver drinking water to over 100 homes on reserve. Jurisdiction and management of water resources in our territory is extremely important to us. As of yet, we have not been meaningfully consulted or engaged in the process of modernizing the current *Water Act*. Staff attended one meeting provided for Coastal and Vancouver Island First Nations during your 'consultation' process in Nanaimo in April 2009. At that meeting all the First Nations attending clearly pointed out that the meeting was for information only and it was NOT consultation. Consultation is based on a long period of engagement and the first stage of any meaningful consultation is to discuss and agree upon what the consultation process will look like. The Province has not yet even achieved this first step.

The on-line public consultation process that was to be carried out in several weeks, from this October up to December 2, 2013, including First Nations is not acceptable to Cowichan Tribes. First Nations are NOT the public. Cowichan Tribes requires a separate and distinct consultation process. It is the duty of the province to consult on activities that could impact Aboriginal Rights and Title, and we know that the forthcoming Water Sustainability Act has great potential to impact Aboriginal Rights and Title. We expect our Title and Rights interests to be recognized and that consultation and accommodation by the Province take place at the HIGH range of the consultation and accommodation spectrum.

We also have great concern over the emphasis on retaining 'First in Time, First in Right' (FITFIR) for surface water users. Ensuring environmental flow needs requires constraining the use of allocated water. Cowichan Tribes were FIRST here using water in the Cowichan Valley watershed and have been here since time immemorial. Constitutionally, this puts us FIRST IN TIME, FIRST IN RIGHT.

Please contact myself or Cowichan Tribes' Referrals Coordinator, Helen Reid, at 250-748-3196, or at [referral.coordinator@cowichantribes.com](mailto:referral.coordinator@cowichantribes.com) at your earliest convenience.



for

Harvey Alphonse  
Chief, Cowichan Tribes

HA/hr