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OKANAGAN NATION ALLIANCE

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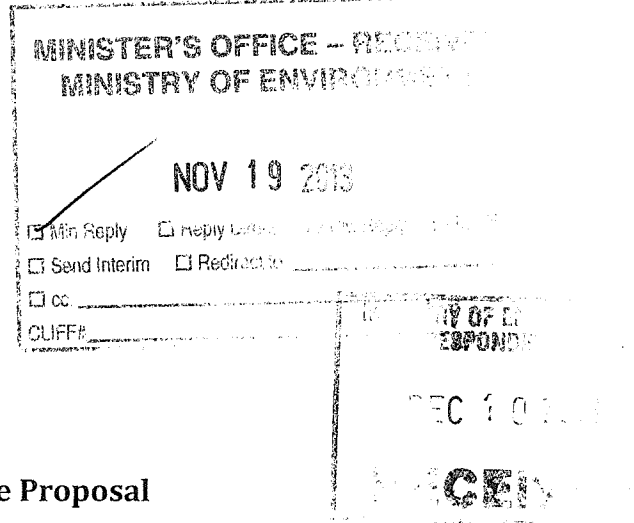
November 14, 2013

VIA E-MAIL

Ministry of Environment
PO Box 9047 Stn Prov Govt
Victoria, BC V8W 9E2
ENV.Minister@gov.bc.ca

**Attention: Honourable Mary Polak
Minister of Environment**

Re: *Water Sustainability Act* Legislative Proposal

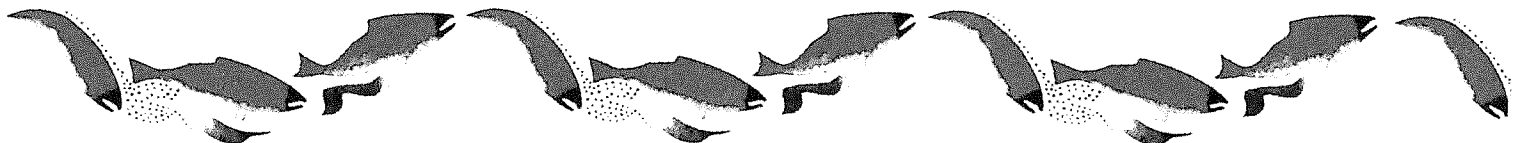


I am writing on behalf of the Okanagan Nation Alliance's Chiefs' Executive Council regarding the draft *Water Sustainability Act* Legislative Proposal released by the provincial government on October 18, 2013 for feedback with a deadline by November 15, 2013.

The Okanagan Nation Alliance ("ONA") is concerned with the extremely limited and poorly conducted engagement process with BC First Nations, including the Okanagan Nation Alliance in regards to the *WSA* Legislative Proposal. While the Province has undertaken initiatives to discuss *Water Act* modernization measures through the hosting of twelve (12) workshops, with three specifically targeting First Nations participation, this does not constitute meaningful engagement with First Nations in accordance with ONA standards. Furthermore, reliance upon 23 written submissions by individual bands, organizations and associations that represent First Nations cannot eradicate the Province's responsibility to meaningfully engage with First Nations. The ONA expects the Province's commitment to "acknowledge First Nations interests and will continue to meaningfully engage with First Nations through development and implementation of the proposed *Water Sustainability Act*" will be upheld in an honourable way.

The ONA has a number of issues it wishes to raise in regards to the *WSA Legislative Proposal*. Some of the key issues that we have identified in our initial review of the legislative proposal include:

1. as previously referenced, the engagement process the Province has undertaken with respect to the legislative proposal does not meet ONA standards on meaningful engagement. To initiate a meaningful



engagement process, the ONA expects to meet with Ministry of Environment officials to further discuss the legislative proposal and its potential impacts to Syilx water interests. The engagement process must include a jointly-developed approach to engagement as the Province moves towards implementation of the *WSA*;

2. the seven (7) policy directives outlined in the legislative proposal make no reference on how the provincial government intends to address First Nations water interests, nor does it make space for First Nations input directly into potential solutions to this issue. While the legislative proposal and the policy directives are intended to create a legislative framework from which potential solutions can arise, the proposal cannot remain utterly silent on First Nations water interests. The ONA proposes that further engagement is necessary to ensure that First Nations water interests are appropriately addressed by any draft legislation put forward by the provincial government;
3. there are several opportunities in the legislative proposal that may be useful in addressing some of the technical concerns regarding Okanagan salmon, fish and fish habitat, ecosystem function and water use and allocation. These issues remain of primary concern to the Syilx, as water and salmon are central elements of Syilx traditions, laws and customs. There may be some technical opportunities to incorporate First Nations values into Environmental Flow Needs and Critical Flow Needs and how these thresholds and values could benefit from traditional ecological knowledge;
4. the Okanagan Nation Alliance has allocated considerable time and resources on the re-establishment of our salmon runs and enhancing fish habitat and our waterways. The ONA has undertaken this work as part of its stewardship responsibilities outlined in our Syilx legal traditions. With this in mind, any proposed governance models must have mechanisms that incorporate and include First Nations values and participation in a meaningful way. Under the legislative proposal, there is space for area-based regulations and watershed governance models to be explored, but yet again, the proposal remains silent on opportunities to incorporate First Nations values and representation. Any proposed governance models must include a First Nations component that is derived from direct First Nations participation in its design and implementation.

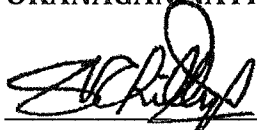
These issues highlight the need for dialogue to occur both at the political and technical levels. The legislative proposal has the potential to address many key issues for First Nations as it relates to the protection and use of water, and how future water usage will impact our sacred lands, fish, fish habitat and ecosystem function.

Much of Syilx territory is located within BC's semi-arid region. Within the Okanagan basin many of our streams and rivers are over allocated in terms of water licensing. The highly competitive nature of water allocation within our territory is harming our environment and way of life. Agriculture, ranching, urban, industrial, energy and other human uses of our water systems need to be balanced with ecosystem function and Syilx values. Large population immigration coupled with real estate developments, tourism and growing First Nation needs have put water use and allocation as one of the largest concerns for the Nation. All issues associated with our water are critically important, as they are directly linked to the health and well-being of our flora and fauna and our continued ability to exercise our constitutionally-protected right to hunt, fish and gather. The ONA wishes to use this opportunity to work with the Province to ensure that the proposed WSA legislation achieves its goal to modernize provincial water laws in a manner that respects First Nations values and interests in a meaningful way.

I trust you will attend to this request in an expedient manner. Please have your staff contact James Pepper, ONA Natural Resources Manager at 250-707-0095 or jpepper@syilx.org to arrange this meeting.

Sincerely,

OKANAGAN NATION ALLIANCE



Grand Chief Stewart Phillip
Chairman

cc: Okanagan Nation Member Bands
Okanagan Basin Water Board
Chairman Michael Finley, Colville Confederated Tribes
Ministry of Aboriginal Relations and Reconciliations
UBCIC Chiefs Council
First Nations Fishery Council