

Statement of Support for B.C. Water Sustainability Act and Regulations

November 13th, 2014

ATTN:

Hon. Michael de Jong (Minister of Finance and Chair of Treasury Board)

Hon. Mary Polak (Minister of Environment)

Hon. Steve Thomson (Minister of Forests, Lands and Natural Resource Operations)

Re: Ensuring meaningful and adequate engagement with First Nations and providing sufficient resources for implementation of the B.C. Water Sustainability Act

Water is critical to life. It is also essential to economic and community prosperity. Protection of precious water resources must be a priority. British Columbians welcome the new *Water Sustainability Act* (WSA) for its improved freshwater protection and opportunities for modern water management and governance.

It is critical that the WSA and its regulations are brought into force and implemented in a timely manner, as the changes articulated in the legislation are long overdue. We write now to urge you to take action on two critical issues essential to the success of WSA implementation:

- 1. Ensure First Nations' interests are meaningfully and adequately addressed in the development of regulations supporting the WSA through direct consultation on a government-to-government basis.** Recent Supreme Court decisions recognizing and affirming aboriginal rights and title indicate First Nations must be full participants in developing the legislative framework and decision-making processes around land and water use. First Nations have not been properly consulted during the WSA drafting process and concerns remain high that consultation for the current regulatory development processes will not be satisfactory. The WSA has implications for constitutionally protected aboriginal rights and title and thus requires a high level of engagement at the individual nation level. To ensure First Nations' interests are meaningfully engaged in the development of regulations supporting the WSA, First Nations must be consulted directly on a government-to-government basis. This serves to not only help satisfy the Crown's legal obligations, but also works to establish relationships of trust. It is this relationship that ultimately forms the basis upon which the Province and First Nations can advance mutual interests and reconcile the past.
- 2. Provide adequate and sustained funding for the new water law regime.** Important decisions about water licence pricing (including groundwater) and resourcing the implementation of the WSA are underway. We believe that the WSA must be fully implemented to achieve its promised benefits. Sufficient resources must be made available to support not only development of the new and necessary regulations, but also their implementation. We recognize that financial resources are limited and the new regulations will have cost implications. The current review of water licence pricing offers a good opportunity to generate the needed resources. At a minimum, full administrative costs associated with drafting and implementing the regulations should be recovered from water users in the province through the increase in water licence pricing currently being considered.

Given the vital importance of fresh water to our communities, our economy, and British Columbia's future, this Statement of Support seeks to assist the Province in addressing two existing challenges facing the successful implementation of the WSA.

This statement is the result of a recent workshop attended by a diversity of organizations—including First Nation groups, watershed boards, funders, stewardship groups, academia, and experts in policy and law—working on issues related to water sustainability, both across the province and regionally. This group of water leaders has been meeting regularly since 2009 to facilitate collaboration and help create an innovative and robust water law regime in B.C. As hosts of the recent workshop, Oliver Brandes (omb@uvic.ca) and Raluca Hlevca (water@polisproject.org) can be contacted for further discussion or questions regarding this Statement of Support.

Prepared by: Adaptation to Climate Change Team (ACT), Simon Fraser University; B.C. Wildlife Federation; Canadian Freshwater Alliance; Convening for Action Vancouver Island (CAVI); Living Lakes Canada; Nechako Environment and Water Stewardship Society; Organizing for Change; Partnership for Water Sustainability in B.C.; POLIS Project on Ecological Governance, University of Victoria; Real Estate Foundation of B.C.; University of British Columbia–Okanagan; Watershed Watch Salmon Society; WaterWealth; WWF–Canada

cc:

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