B. C. TAP WATER ALLIANCE

Caring for, Monitoring, and Protecting British Columbia's Community Water Supply Sources

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SUMMARY CRITIQUE OF THE AUDITOR GENERAL'S REPORT, PROTECTING DRINKING-WATER SOURCES, AND RECOMMENDATIONS FOR THE PROVINCIAL PUBLIC ACCOUNTS COMMITTEE ON THE PROVINCIAL PUBLIC'S SURFACE SOURCE WATER SUPPLIES

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SUMMARY OVERVIEW

Due to time constraints, the B.C. Tap Water Alliance regrets the fact that it cannot provide the Public Accounts Committee with an extensive critique and overview of B.C. drinking-water sources, which we hope to provide sometime in the near future. In its stead, we hope that this brief summary critique and recommendation point analysis will suffice.

Resource use activities in public drinking supplies on both private and Crown (large tracts of which are currently under tribal treaty processes) land sources are issues that have been outstanding and controversial for well over thirty years in British Columbia. The main public contention and environmental impact issue with regard to this issue, as clearly identified by a poll of communities through the 1972 provincial Task Force on the Multiple Use of Watersheds of Community Water Supplies (the Task Force), has been logging.

> Forestry use conflicts, indicated as the main problems for community water supply users, appear to be concentrated in the Vancouver Island, New Westminster, Vernon and Nelson Water Districts. (April 18, 1973 Task Force memo for the Environment and Land Use Technical Committee)
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> The public is very concerned and cynical about Government's management of community watersheds; on average, 10 to 20 letters a day are received critizing forest practices in watersheds. (Ministry of Forests Briefing Note, prepared for the Deputy Minister of Forests, Philip B. Halkett, For Decision, December 11, 1992)

What has been the Ministry of Forests position on this matter over the years? It has, since the late 1960s, incorporated the Allowable Annual Cut allocations for these areas, areas which now are under the *Forest Practices Code Act*. As the public understands so very well, especially in the rural areas, there is very little that communities can do to prevent the Minister of Forests, the Chief Forester, and District Managers from imposing discretionary *Forest Act* legislation which dispassionately targets drinking water supplies under the commercial logging mandate. The Ministry of Forests has historically dominated resource use policy with the Ministry of Environment, Lands, and Parks to coordinate a policy of Integrated Resource Management of drinking watershed lands, preventing this agency from taking its proper conservation and stewardship role with the Minister of Lands. When communities requested the institution of liability clauses in logging contract agreements in the 1980s, the Ministry of Forests only provided lip service in this direction, leaving communities, municipalities, and regional governments with the financial burden to cover all related costs. One of the prime examples of this onerous condition is with the tragic ruination of Chapman and Grey Creeks on the Sunshine Coast, a history of negligence and dictatorial mismanagement of the public's assets. No one seems to be responsible or accountable for these damages.

Agricultural activities, such as cattle grazing, mining, transportation and utility corridors, are other issues which threaten the public's drinking water quality and resource integrity. Very clearly, despite wide consistent public concern about resource activities, especially since the 1960s, provincial ministry agencies are loathe to reserve these lands, which only encompass a small proportion of the provincial land base, for the sacrosanct protection of drinking water.

THE AUDITOR GENERAL'S REPORT

1. We believe that the most important initiative in the March 1999 Auditor General's report on drinking-water supplies is the recommendation to initiate a lead agency to oversee all legislative policies which relate to land use activities. Such an agency should be instituted as soon as possible, if not sooner, and be given wide Cabinet powers in order to provide the public with the greatest confidence in governmental responsibility and accountability, which have been so amiss over previous decades. We believe this is a step in the right direction, but it must have more than just appearances, the way in which this issue has been delegated in the past.

2. The Auditor General, who was limited to administrative issues only, and to time constraint of post 1995 for *Forest Practices Code* history only, was unable to tackle provincial policy history and future directives. In association with this limitation was the fact that the Auditor General did not review the Greater Vancouver watersheds. The Greater Vancouver watersheds are the drinking-supply for about half of British Columbia's population, and there is no reason why this area should have been neglected in his report, an issue which would have provided him with a rich history of financial information and possible benefit-cost analysis.

Secondly, the three Greater Vancouver watersheds, through the Greater Vancouver Water District Act legislation, provide a basis for examining the application of provincial policy legislation under the *Land Act* entitling a municipality/community with the means of obtaining Crown lands and the powers to prevent resource use agencies control over these lands. Under the original 1927 Indenture with the provincial government, all logging was banned in the Greater Vancouver watersheds, and in 1930 mining was prohibited under a separate but integrated Act. As some members of the Public Accounts Committee may be aware, many other B.C. incorporated towns and regional governments have attempted to gain control over Crown lands with supplications to the Minister of Lands, with the continual sour answer of "no way". This needs to be addressed immediately by the recommended new lead agency.

For many years, since logging began in the Greater Vancouver watersheds under the 1967 Amending Indenture, the Ministry of Forests began to use this policy as a means of promoting logging in other community watersheds:

> Vancouver and Victoria watersheds are prime examples of viability of logging in our arguments with other cities and districts. (A.C. Markus, Ministry of Forests memo, August 31, 1981)

> It has also been suggested that the timber harvesting should be encouraged in this area because of the influential effect for logging controversies in other watersheds. (J.A.K. Reid, Ministry of Forests staff consultant, letter to Assistant Deputy Minister of Forests, September 14, 1981.)

Today, the Greater Vancouver public and its politicians are opposed to future commercial logging in its watersheds, and are left to mop up the long term repercussions from forest management practices. Relatedly, provincial communities have to endure the repercussions of provincial policy from the Ministry of Forests who helped to promote logging in the Greater Vancouver watersheds.

The Greater Victoria watersheds under the authority of the Capital Regional District should have been reviewed as well, as these watersheds provide water to about 10% of B.C.'s population. The public could have benefited by the review of the 1994 court decision which banned commercial logging in the watersheds, and information attending to benefit-cost analysis of logging in these lands. As a drinking supply which provides both the Auditor General himself and the province's capital with drinking-water, it is odd there was no information forthcoming from this source.

3. The 8 case study watersheds in the Auditor General's report are not necessarily representative of community drinking-water sources issues in British Columbia. Resource use conflicts are toned down in the report, and do not get into the long term difficulties and struggles that some communities have had to face in British Columbia. For example, the Sunshine Coast Regional District has already been alluded to, and should have been featured. The May 1998 referendum by its citizens, with a 87% vote to end logging, was treated with disdain by the provincial government, whereby the forest tenure holder is still proposing cutblocks in an area that has been seriously ravaged by roads and clearcutting, with hundreds of documented landslides. Tribal nations, who are trying to protect their drinking supplies, are receiving pressure from District Managers who are allowing contractors to build roads and log in these areas. Pressures upon communities by the Ministry of Forests to log in protected areas by making communities sign on to "community forestry licences", such as Creston, with the Arrow Creek watershed, which residents prevented logging in since the early 1970s. Community volume-based forest tenures in drinking supplies is the new rationale for the Ministry of Forests to make logging 'fashionable'. The intense debate and civil disobedience after all avenues of democratic means were instituted by residents in the Slocan Valley, for instance, for the protection of their drinking watersheds, was not even mentioned in the report.

4. The Auditor General was unable to provide the reader with background information on "Watershed Reserves", a few of which were from his eight case studies. There were about 300 of these "Watershed Reserves" created in the late 1970s and mentioned in the Ministry of Environment's October 1980 Guidelines For Watershed Management of Crown Lands Used as Community Water Supplies (see Appendix for a complete list). There are special management provisions in place for these Watershed Reserves, some of which have prohibitive recommendations, the institutional memory of which the Ministry of Forests has recently tried to privately erase, by secretly including them in the category of the *Forest Practices Code* community watersheds. The recent Attorney General's comments to a 1997 court case in the Nelson Court regarding Bartlett Creek community watershed in the Nelson Forest District, that it was not a category 1 Watershed Reserve, when in fact it was and still is, and that road building and logging was introduced into an area that was under special protection, underlies the serious neglect of providing the public with the history of Watershed Reserves.

INITIAL RECOMMENDATIONS

- that a single lead agency be immediately instituted to govern all issues relating to provincial drinking-water sources, that this lead agency have broad sweeping legislative powers to solve and administer protection of drinking-water sources, and political and technical guidance from this lead agency be independent from resource use agencies. That this agency be given the authority to investigate all governmental information with regard to this subject, and all interrelated subjects. That upon special inquiries, that this lead agency be given authority to make private corporations be forthcoming with information relating to said drinking-water sources.

- that provincial policy be enacted for drinking-water sources. That all provincial Act legislation be comprehensively reviewed and revised to comply with protective legislation specifically for drinking-water sources, and that a task force with the new lead agency be assigned to delegate this process. That the public has an ability to provide this task force with suggestions, which the task force should take seriously.
- that the *Land Act* legislation, from which the Greater Vancouver Water District obtained is 999 year lease of Crown lands, be reenacted, to provide water users the powers to request a reserve of provincial lands for water supply use and long term protection.
- that there be a meaningful, comprehensive review on the history of "Watershed Reserves", both in terms of historic provincial glossaries and special order-in-councils, and the more recent designation of "Watershed Reserves" under the 1980 Guidelines document and provincial Task Force process mentioned above. That a comprehensive review of historic ministerial files on the subject of resource use activities in drinking-water sources be conducted by researchers associated with the new lead agency.
- that the provincial allowable annual cut be severed from the provincial land base on community drinking-water source watersheds, and that the Minister of Forests use his powers to negotiate with existing tenure holders to exclude the said lands from the provincial land base.
- that cattle grazing boundaries for drinking-water watersheds be withheld to the hydrographic boundaries of the said watersheds, in order to maintain the highest integrity for water quality.
- that ground water legislation be enacted as soon as possible, and take special and legal account for activities that impact upon ground water consumption.
- that resource users in consumptive use watersheds be mandated to provide a bond to cover possible damage costs to the user and the watershed environment.
- that the government hold meaningful and well-informed public meetings throughout the province on the subject of drinking-water sources.
- that pending the threat that privatization of the provincial land base has from private corporations, that legislation be enacted to prevent the said drinking-water lands from falling under privatization legislation which may remove the said lands from the public's control.