

B. C. TAP WATER ALLIANCE

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

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May 24, 2009

Hon. Pat Bell,
B.C. Minister of Forests & Range

We would like to thank the Honourable Minister for the brief return email of February 9, 2009, and Southern Interior Forest Regional Executive Director, Larry Peitzsche's return letter of April 22, 2009. Both responses were to our initial letter of November 11, 2008 concerning the Creston Valley Forest Corporation Community Forest Licence to log in four community drinking watersheds, three of which are designated Watershed Reserves (Arrow, Sullivan, and Lister Creeks) and one of which was a Watershed Reserve until being cancelled with no notice (Camp Run).

We would also like to thank the Minister for appointing one of his staff to contact us directly to discuss our concerns on January 28, 2009. For your information, we have included, as an attachment to this letter, a transcript of much of that conversation. As you will see, the substance of the Ministry's subsequent official response dated April 22, 2009 has no bearing, whatsoever, on the discussion between your representative and me that occurred on January 28, 2009. This was in spite of the fact that, according to your staff-person, a report would be prepared for you detailing the conversation. As a result, our concerns, about the government's handling of the Arrow Creek Watershed Reserve, as re-stated in the conversation of January 28, 2009, remain unanswered.

We note your comments, specifically about your, and your Ministry's, "confidence" in awarding a licence to log in community drinking watersheds, which, according to you, are to be "managed in accordance with legislation and to high environmental standards". Nevertheless, in the third paragraph of your email you also acknowledge our concern, with your Ministry's approval of a licence to build roads and log in Arrow Creek, given its legislative status as a "Watershed Reserve". Your email, however, failed to comment about the nature of the Reserves, vis-à-vis their function – to withhold Crown Forest land from dispositions of any kind. Neither did it acknowledge that these two issues – Crown forest dispositions (in this case, for Community Forest) and Watershed Reserves – are mutually exclusive directives.

We also note the statement that logging in the four community watersheds by the licensee has "very strong support from the Creston community". However, correspondence files from the North Canyon Improvement District to the Ministry of Forests & Range, to the Ministry of Health, and to the Creston Valley Forest Corporation over a four month period in 2008 makes it evident that the opposite is, in fact, true:

This document is a statement, prepared by the North Canyon Improvement District (NCID), detailing numerous serious Creston Valley Forest Corporation (CVFC) violations of their 2007 Forest Stewardship Plan (FSP) as it pertains to their proposed logging in the NCID's drinking watershed of Camp Run Creek. This statement is centered on the CVFC's blatant disregard for the public participation process in their proposed logging of a drinking watershed.....

... The NCID is, and has been, a licenced consumptive water-use group with a water licence on Camp Run Creek since 1908. The NCID has relied upon the watershed in question as a primary barrier in their source water protection for a century. The pristine, undisturbed nature of the Camp Run Creek watershed ecosystem has consistently provided the drinking water quantity, quality, and timing of flow necessary for the citizens of North Canyon. There are very grave concerns and outrage within the community that the NCID is being purposely denied an opportunity to defend the watershed for their vital drinking water purposes. The NCID is appealing to the Ministry of Forests and Range, Kootenay Lake Forest District, to order an immediate halt to the CVFC's ruinous logging proposal for the Camp Run Creek watershed....

Copies of the North Canyon Improvement District's nine-page letter to Kootenay Lake Forest District Manager Garry Beaudry, dated February 15, 2008, were sent to the Minister of Forests & Range, to the Ministry of Forests & Range Deputy Minister, the Ministry of Forests & Range Executive Director, to the Forest Stewardship KLFD (Dale Anderson), to the Minister of Environment, to the Kootenay's Section Head of Water Stewardship, to MLA Bill Bennett, and to the BC Community Forest Association.

The Improvement District remains steadfastly opposed to any and all road building and logging of the District's pristine Camp Run Creek drinking watershed (a former Watershed Reserve that was mysteriously cancelled on the whim of R.H. Roberts, a former Ministry of Lands, Parks and Housing Regional Director, who also inexplicably failed to notify the Reserve holder). This is entirely at odds with your Ministry's assurances of strong community support.

And, to provide clarity, is your Ministry suggesting that, conversely, if a community does not support the community forest operating in its drinking water sources the areas would not be included in the community forest licence? The following indicates otherwise:

1. We know, for example, from the Sechelt Community Forest licensee (Sechelt Community Projects, Inc.) that its Directors did not have, and still do not have, community support to log in the Sunshine Coast Regional District's Watershed Reserves. This was plain to all, especially your Ministry. Yet, from 2003 to early 2008 your Ministry studiously ignored the community's and the Regional District's well-known concerns. This is where the matter rested until the Sechelt Nation finally intervened in early 2008 and the community watersheds became subject to Interim Measures.
2. Secondly, in a telephone conversation with BC Timber Sales top administrator, I was told that the Ministry of Forests and Range intends to log in every community watershed, no matter their given status as Watershed Reserves. In this respect, we are also deeply disturbed by your administration's policy that sanctions logging in community watersheds under the "not unduly" clause of the *Forest Act*. Your administration stands alone in the history of British Columbia's Legislature having apparently decided that our most valuable collective

asset – drinking water supply – is secondary in importance to timber supply.

In Chapter 8 of our book, *From Wisdom to Tyranny*, of which a copy was supplied to your office in June 2006, as well as the Ministers' of Environment and Agriculture and Lands offices, we explain how government, apparently and purposely, withheld relevant information about the Watershed Reserves from Regional and sub-Regional land use planning processes, and, by so doing, contravened legislation that necessitated the input of all Land Status information. This fact should in and of itself make the Kootenay Land Use Plan "illegal", or at least automatically subject to review, with respect to decisions affecting Watershed Reserve lands.

Based on the foregoing, we question your Ministry's award of a Community Forest licence to the Creston Valley Forest Corporation to log in the Arrow, Sullivan, Camp Run and Lister Creek community watersheds. Please initiate the steps necessary to rectify this matter in favour of public health and community sustainability, as the community Watershed Reserve designations intend.

We look forward to your response.

Sincerely,



Will Koop, Coordinator.

- CC. Barry Penner, B.C. Minister of Environment
- B.C. Minister of Health
- B.C. Minister of Agriculture and Lands
- Bob Simpson, New Democratic Party, Forests and Range Critic
- Shane Simpson, New Democratic Party, Environment Critic
- B.C. Green Party
- Larry Peitzsche, Southern Interior Forest Region Executive Director
- Garry Beaudry, Kootenay Lake Forest District Manager
- Dr. Perry Kendall, B.C. Provincial Health Officer
- B.C. Ombudsman
- B.C. Forest Practices Board
- Regional District of Central Kootenay
- The Sunshine Coast Regional District
- Union of B.C. Municipalities
- The City of Rossland
- North Canyon Improvement District
- The City of Creston
- Slocan Valley Watershed Alliance
- Valhalla Wilderness Society
- Perry Ridge Water Users
- Western Canada Wilderness Committee
- David Suzuki Foundation
- Council of Canadians
- Sierra Club of B.C.

Sunshine Coast Conservation Association
Sunshine Coast Concerned Citizens
British Columbia Environmental Network
Vancouver Island Water Watch
West Coast Environmental Law Association
The Creston Valley Forest Corporation
The B.C. Community Forest Association
Creston Valley Advance
Nelson Daily News
Globe and Mail
Vancouver Sun
Victoria Times Colonist
The Georgia Straight
The Tyee

TRANSCRIPT (Wednesday morning, January 28, 2009)

Abbreviations

WK – Will Koop, B.C. Tap Water Alliance Coordinator

MS – Ministry of Forests appointed staff (kept anonymous)

WK – The other big thing, of course, as you know from reading the letter, is the status of the Arrow Creek watershed as a Watershed Reserve under the *Land Act*.

MS – Yes. We are fully aware of that. I'm fully aware that basically that the Community Forest area overlaps three or four community watersheds. However ... according to the legislation the harvesting can occur in the community watersheds.

WK – You mean in the Watershed Reserve?

MS – Watershed Reserves. I'm not one hundred percent sure.

WK – You know that it is a Watershed Reserve.

MS – Actually, no. I didn't read anything in the application that the area overlaps a Reserve area, a Watershed Reserve.

WK – This should be on your Forest Atlas Map, or a Land Survey Map.

MS – Can you hold for a second, I just want to take the Exhibit "A" Map, so there should be something on the Exhibit "A" Map. I can go to the computer and check that.

WK – We know that it is a Watershed Reserve. We've done the research on the history of this watershed. I have all kinds of documents from both the Ministry of Environment and Ministry of

Forests. I have old Forest Atlas Maps, I have recent Forest Atlas Maps, I have Legal Survey Maps that show this as a Watershed Reserve. So what we are concerned about, as we state at the end of the first page, is when the Land Use planning process happened in the early 1990s, they ignored the Watershed Reserve status for Arrow Creek.

MS – I think there was a proposal to reserve the Arrow Creek area. However, the area was not selected as a Park.

WK – No, no, no, no. At that time Arrow Creek was a Watershed Reserve under the *Land Act*.

MS – In the 90's.

WK – Oh yes. It's been a Watershed Reserve for a very long time. They ignored the status of that watershed as a Watershed Reserve as they ignored the status of Watershed Reserves under many community watersheds within the Regional area Land Use planning process. That's the point that we are making at the end of that page.

So, what we want – of course we've said this in the book that I've written about these Watershed Reserves – is that we want some kind of statement about why this was done.

And secondly, the *Forest Practices Code Act*, and this is part of what I have written on the second page, ignored the status of this as a Watershed Reserve. And, we understand from our research, of what these Watershed Reserves are, and what their intentions are. They are the same as Ecological Reserves – under the same *Act*.

MS – Basically, there would be no harvesting.

WK – That is absolutely correct. So, this is the reason I am writing this letter to the Minister.

MS – Does this mean at this time that the area is still a Watershed Reserve? I believe that would be the critical question.

WK – It is still a Watershed Reserve, as far as we understand.

MS – Under the *Land Act*. So, then I need to talk to the District staff to check the status of Arrow Creek... I can get that information for sure.

WK – In our recent report, which is on our website, which looks at the history of Rossland City's drinking watersheds, which are Watershed Reserves, we obtained files which state very matter-of-factly what these Watershed Reserves are intended for. And, all of the older Forest Atlas Maps there was always this proviso, this italicized proviso, *No Timber Sales*.

What we have done, just to let you know what our research has shown, is in the book that we wrote almost three years ago, called *From Wisdom to Tyranny: A History of British Columbia's Drinking Watershed Reserves*, is that the Chief Forester, we have the correspondence files from the early 1960s, is he at that time wanted to ignore what the Lands Service was saying, that there is *No Timber Sales*. They basically overrode what the legislation said.

So, they wanted to log in protected drinking watersheds, no matter what.... So this has been going on for quite a long time, logging in places where the Ministry of Forests is not supposed to be logging. And, because it was being done in an underhanded and kind-of secret way, is that it has been very difficult to redress this situation. So what we are doing in this letter is once again stating what the problems are, and that the government has to face this. So, the legislation is very clear on what should not have occurred in this place, but it is occurring anyway. So, it's been a long term controversial trend, and that we are trying to steer the government back into the position where they honour what the legislation is supposed to be all about....

So what we see about this whole problem about logging in Arrow Creek stems [underline emphasis] from the Land Use Planning processes in the early 1990s for the Kootenay-Boundary Land Use plans, and secondly, the *Forest Practices Code Act*.... The problem is there is no acknowledgement in the Boundary Land Use plan, in the *Forest Practices Code Act*, or in subsequent documents following that, that this is a Watershed Reserve.

MS – So does this mean that officially that is not a Watershed Reserve? Is there any mentioning in the Higher Level Plans?

WK – I am telling you it has been ignored.

MS – It's being ignored.

WK – It's being ignored.

MS – I know the history of the Land Use Plan that covered that area, but it was approved when, recently?

WK – We did an investigation, and we looked at all of the Land Use Plans – that's the Caribou-Chilcotin, the Boundary East and West Land Use Plans, the Vancouver Island Land Use Plan, and then the sub-regional planning processes, the LRMPs. We looked at all of them. And, guess what they have in common? They ignored the Watershed Reserves throughout British Columbia.

MS – How come nobody ruled that issue at the time. Because LRMP process is basically the process where all the parties should be involved, and all the comments should be considered, and all the suggestions – it's a pretty lengthy process where all interested parties are taking part in putting their input into the LRMP.

WK – We did an analysis of this, which is discussed in Chapter 8 of the book I did. So, all of these Regional and Sub-Regional planning processes there was a legal requirement for the government to bring all the information on the table. But they didn't do that. So the reason that wasn't being done is because of some early scandals that happened in the early 1980s with the Ministry of Forests. This whole thing is about ignoring the Watershed Reserves.

MS – I'm not really familiar, I didn't go into the details, basically, regarding that Watershed Reserve. But my question is, is Arrow Creek still a Watershed Reserve under the Land Act, or it's not?

WK – It's still an active status.

MS – So, I will have to check that. If it does, it will probably be a different story. However, there is no information in the Application.

WK – That's correct.

MS – ... I am not one hundred percent sure about that Arrow Creek area, but I believe it was part of the management area. And, actually, I think that I am going to check the status of this Arrow Creek Watershed Reserve to see if it is still protected.

WK – Could you let me know what you find out?

MS – Absolutely, I will. However, just to let you know, in the case that it is not, that means that we didn't do anything wrong. I mean, from the legal perspective. I fully understand your concerns. However, when we are doing this, when we are wording the Community Forest Agreement, we are basically checking all the current legislation, everything should be consistent with the current legislation. And, it seems to me that what we checked so far regarding the Creston Community Forest Agreement that everything was done according to the legislation. However, I didn't know, to be honest, I didn't know about this active status of this Arrow Creek Reserve, and I will have to check that....

WK – There is another report we have on our website that goes into the Watershed Reserve history for Chapman Creek on the Sunshine Coast, which is also a Community Forest application. And, just to let you know, I did a report, it's about one hundred pages, it's called the *Community Forest Trojan Horse*. And the Ministry of Forests, the government was aware that it was an active Watershed Reserve status, but that status was, as in this one, ignored completely, as with all the others. So, this is an old trend, an old controversial trend....

MS – Just to let you know, what I talked to you about, I will have to provide a brief summary of what I talked to you about, and I have to make the recommendation should the letter be sent to you signed by the Minister or you are basically satisfied with what we've talked about. I guess you indicated at the beginning that you would like to receive a written response from the Minister.

WK – On the points that we made. When you get a hold of the book, just look on page 113. There's an old Forest Atlas Map of Arrow Creek, and it shows three protection designations.

MS – How old is that map?

WK – From the early 1940s.

MS – That was quite a long time ago. Is that still applicable?

WK – I'm just telling you. This is the legacy in British Columbia. This is part of the scandal of what is going on now. You see, the policy and the legislation protected the public's drinking watershed sources. The forest industry didn't like that. In the United States there were over three thousand protected watersheds, in community watersheds. That changed in the early 1960s. And when they started changing it over there, they started changing it over here. And, there's a lot of interesting cases.

For instance. Portland City's watershed, the Bull Run Watershed Reserve, which is an old federally-protected watershed that goes back to 1892. The [U.S.] Forest Service went in there in the late 1950s illegally – illegally went in there. And, this ended up in a court case, and the judge said in 1976 that the Forest Service acted illegally. You see, this stuff has been going on all over the place. They just want to get after the timber. It doesn't matter, so they ignore all these things.

So, if you go to page 113 of the book, there are three separate protections.

- One is a Game Reserve, where there is no hunting allowed in the entire watershed.
- The second is a Health District which prevents people from accessing the watershed, they cannot go within the boundaries of it.
- And third, it's a Watershed Reserve, where there's no logging allowed.

They had three, separate protections. So it's all on that old Forest Atlas Map.

MS – Okay. Made some notes about that. So, basically, your major concern is issuing Community Forest Agreements in the area that overlaps a Reserve. It doesn't really matter that it's not Creston. You are only mentioning Creston only because Arrow Creek is in the area of the Creston Community Forest Agreement. However, your letter would be pretty much the same for any other Community Forest Agreement that overlaps a potential Watershed Reserve.

WK – That's correct.

MS – Well, I will take a look at that, so see what is going on with that Watershed Reserve, and I will probably have to write my report to the Minister's office regarding our conversation, and I have to briefly clarify your major issues.

WK – ... The B.C. Tap Water Alliance has been going on for twelve years. We've been raising the issue of the Watershed Reserves for quite some time. We have never had any proper response from the government yet.

Just to also let you know, there was a court case in July of 1997 about two Watershed Reserves. The Ministry [of Forests] was giving a license to Slocan Forest Products to log in the Slocan Valley. And you know what the government did for the court case? It shredded the files, and then told the court the Reserves never existed. But, we have lots of evidence to show that it did.... The government acted underhandedly, and we understand this history intimately. So, nothing new there.