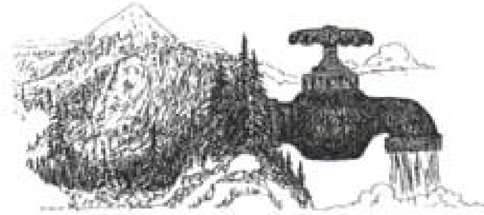
B. C. TAP WATER ALLIANCE

Caring for, Monitoring, and Protecting British Columbia's Community Water Supply Sources
(*Email:* bctwa@alternatives.com)
(*Website:* www.alternatives.com/bctwa)



SUBMISSION TO THE DRINKING WATER REVIEW PANEL

BY WILL KOOP,
COORDINATOR, B.C. TAP WATER ALLIANCE
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OPENING QUOTATION

> *This will confirm our recent telephone discussion in which I expressed concern of the Department of Health in respect to the control of forestry works in watershed areas where domestic supplies can be, and are being, severely affected by logging operations.*
> *As you realize our prime concern is to protect, as far as possible, quality and continuity of domestic water supplies.*
> *It is our understanding that the Forest Service does not, in fact, cannot, enforce requirements laid down in our Act and Regulations hence they have, in many cases, included sets of specific conditions which cover some aspects of sanitation and pollution.*
> *The catchment areas of perhaps the majority of domestic water supplies are not protected by these watershed leases, and this obviously leaves a large number of water systems with very little protection.*
>
> (Letter to the Forest Service, from W. Bailey, Health Branch Director of Public Health Engineering, Department of Health Services and Hospital Insurance, August 30, 1966. Quote from section 4 below.)

1. INTRODUCTION

This submission is meant to amplify upon our initial February 20, 2001 submission (included as Appendix A) to the provincial government, regarding public and stakeholder input for the formulation of the *Drinking Water Protection Act*. We have incorporated more information about the history and legislation of Watershed Reserves which our organization and others are advocating for reinstatement in this *Act*. Recently, we provided the Association of B.C. Professional Foresters and the Forest Stewardship Council with our concerns for advocating commercial forestry activities in domestic watersheds. We have attached these presentations as appendixes to this submission (also available at www.alternatives.com/bctwa). We have also attached eight press releases from early this year, and a petition, signed by almost 60 organizations, in support of full, legislated protection for domestic Watershed Reserves, and our 1999 submission to the Provincial Public Accounts Committee.

Very little has been written about the history, legislation, and land-use issues affecting domestic drinking water sources. This may reflect a political reluctance, particularly by our provincial government, to revisit this issue because the short-term benefit from resource extraction in domestic watersheds has been the only factor considered. What is being overlooked in this one-sided economic equation is that this economic activity has been at the long-term expense and disadvantage of local communities. It is some of the key points of the legislative history of this issue that we hope to unravel, for the *Drinking Water Review Panel,* in the interests of all British Columbians.

We conclude that the *Drinking Water Protection Act* will not protect drinking water sources, on Crown and privately held lands. The *Act* assumes that resource extraction will occur in community watersheds, without a scientific basis for that decision. In its current state, the *Act* could only serve as an interim measure for the protection of domestic watersheds, through its watershed assessment processes and under order from Drinking Water Protection Officers. However, a senior administrator with the Ministry of Health has indicated that the Liberal government may be contemplating removing the heart of the *Act* - the provisions for the appointment of Drinking Water Protection Officers.

2. FEDERAL LEGISLATION ON DRINKING WATER SOURCES IN THE RAILWAY BELT OF BRITISH COLUMBIA

After 1871, when British Columbia became confederated, the federal government assumed control of all lands under its former Ministry of the Interior within what was known as the forty mile limit along the Canadian Pacific Railway line (twenty miles on either side), from the Rocky Mountains to Port Moody, and a three and half million acre block of land in the Peace River area. The federal government formally relinquished and transferred its statutory authority over the Railway Belt and Peace River area to the provincial government, with contingent legislated provisos, in the early 1930s. During the approximately sixty-year period of its governance in British Columbia in these two zones, the federal government passed important conservation- minded legislation:

> Whereas it is expedient that reserves in the Dominion lands in the province of Manitoba, Saskatchewan, Alberta and British Columbia should be made in order to protect and improve the forests for the purpose of maintaining a permanent supply of timber, to maintain conditions favourable to a continuous water supply, and to protect, so far as Parliament of Canada has jurisdiction, the animals, fish and birds within the respective boundaries of such reserves, and otherwise to provide for the protection of forests in the said provinces.... (6 Edward VII, Chapter 14, *An Act Respecting Forest Reserves*, Assented to 13th July, 1906. This became Chapter 78, in the Revised Statutes of Canada, 1927, where the Index section refers to Chapter 78 as a "reservation of water supply".)

British Columbia challenged the federal government over its jurisdiction a number of times, until a federal court finally ruled in favour of the federal government. Provincial legislation was harmonized and clearly implemented the federal ministerial mindset regarding domestic Watershed Reserves in British Columbia. This fact is important to remember, as this became the model for provincial and Canadian policy.

According to federal archivists who summarized the history of the Ministry of Interior's legislation, the framework for the policy of drinking watershed protection stemmed from United States congressional debates in the 1880s and 1890s. The:

> Awareness of the damage to hillsides and river courses resulting from the removal of the forest cover in the western United States led to an amendment in the Dominion Lands Act for the "preservation of forest trees on the crests and slopes of the Rocky Mountains, the proper maintenance throughout the year, of the volume of water in the rivers and streams which have their sources in such mountains and traverse the North-West Territories. (Vict., Chapter 25, Section 5, 1884)

Much of the historical knowledge from the late 1800s regarding the denuding of forested hillsides and associated impacts to forest hydrology was presented in 1976, at a Portland, Oregon court case regarding illegal logging of Portland's Watershed Reserve (outlined in our initial submission).

Two years after the passing of Canadian legislation in 1906, the BC government duly passed legislation under the *Land Act* in 1908, and under the *Forest Act* in 1912, to protect drinking water supply sources. This legislation is the defining moment in the evolution of federal governance and British Columbian maturity.

2(a). THE COQUITLAM WATERSHED RESERVE

Without question, the landmark, precedent-setting case for the institution of domestic Watershed Reserves in Canada began with the establishment of the Coquitlam Watershed Reserve, a 1910 federal Order-In-Council (OIC) for the expanding population center of New Westminster, and its municipal neighbours. The thirteen yearlong, well-publicized issues of this case (1900-1913) set the framework for protection of other water supply sources through the authority of provincial medical health officials. In particular, public awareness and wide-spread support for the Coquitlam Watershed Reserve led to an intense public debate, which eventuated in the

protection of the two neighbouring domestic water supply sources in the 1920s, the Capilano and Seymour watersheds, which belonged to the Greater Vancouver Water District (see *Wake Up Vancouver!* on our website).

The following two quotations demonstrate the institutionalized thinking regarding the protection of drinking water sources. The first pertains to the federal approval and establishment of the Coquitlam Watershed Reserve:

> That ownership and the consequent right to forbid trespass is the most simple means of preventing pollution of the water and is the one that all enlightened communities are striving for. (A.O. Powell, Consulting Civil Engineer, letter to the British Columbia provincial secretary, Hon. H.E. Young, Victoria, December 1, 1909)

The second example is a quote by the federal government's chief engineer for the Kamloops region regarding general intelligence gathered for East Canoe Creek, the water supply for Salmon Arm, during the hyrdrographic survey of the Railway Belt and areas outside of the Railway Belt in B.C.:

> Reservation of Lands. It is needless for me to expatiate here upon the now well informed doctrines relating to the protection of municipal water supply. As I pointed out in my letter of June 7th with reference to this application [for East Canoe Creek], the only safe way to maintain a pure water supply is to protect from settlement every acre of the land within the catchment where the water supply is gathered. (E. Dann, Acting Chief Engineer, Water Power Branch, Department of the Interior, July 17, 1915)

New Westminster first applied to the federal government for the full protection of its forests in 1900. Its Water Department managers, Mayor and Council were very concerned about future impacts and developments from logging and settlement on the long-term purity and quality of its water source, and entreated provincial and federal governments for a complete reservation. After years of concern, authorities for the federal government were very frank about the matter:

> Further reflection has led me to recognise the utmost importance of liberal power being vested in the city of New Westminster to police the areas surrounding the primate reservoir. I have been influenced by the following conclusions:
> 1. That the policing of a water supply district is most effective when exercised directly by the consumers of the water.
> 2. That sanitary control, without fee title, over so large an area is apt to lead to clashes between the city authorities and the owners, lessees or occupants. It entails expense for inspection, gives rise to disputes and generally proves inefficient in results.
> 3. That ownership and the consequent right to forbid trespass is the most simple means of preventing pollution of the water and is the one that all enlightened communities are striving for. (A.O. Powell, Consulting Civil Engineer, December 1, 1909.)

A series of federal OICs were passed over a period of nine years before the final OIC of March 4, 1910. The final OIC addressed the impacts of logging which altered water regimes that were critical for both New Westminster water quality and for BC Hydro's facility for Greater Vancouver:

> Whereas representations have been made to the Department of the Interior from time to time by the City of New Westminster and by the Vancouver Power Company in connection with a reservation of the lands comprising the catchment basin or drainage area of Coquitlam lake in the Railway Belt in the Province of British Columbia;
> And Whereas the City of New Westminster obtains its water supply from Coquitlam Lake and has applied for a large area surrounding the lake to protect and preserve its water from contamination;
> And Whereas an engineer of the Department of the Interior after a personal inspection, reports: "...The rainfall is very heavy over the Coquiltam lake district with a consequent heavy run-off. The water supply of the City of New Westminster and the increasing requirements of the Vancouver Power Company for water for power purposes renders necessary the conserving and protection of the forest

> cover on all land draining into Coquitlam lake in order that the run-off may by gradual and constant." Therefore His Excellency in Council, in view of the Report made by the Departmental Engineer, in view of the necessity for the protection of the water supply of the City of New Westminster, and in view of the necessity for conserving and regulating the run-off of the said watershed is pleased to Order, and it is hereby Ordered, that the land described above, excepting thereout the land sold and to be sold and leased to the Vancouver Power Company for the purposes of its development, shall be reserved from all settlement and occupation and the timber thereon shall be reserved from sale.... (P.C. 394, March 4, 1910, signed by Wilfred Laurier)

Upon the issuance of the OIC, the Department of the Interior posted hundreds of public notices throughout the area about the Coquitlam Watershed Reserve, signed by the Minister of the Interior, which read in full:

> PUBLIC NOTICE is hereby given that the Government of Canada has reserved for special purposes the lands surrounding and in the neighbourhood of Coquitlam Lake as shown within the heavy lines on map below. Any unauthorized person in any manner occupying or taking possession of any portion of these lands, or cutting down or injuring any trees, saplings, shrubs, or any underwood, or otherwise trespassing thereon, will be prosecuted with the utmost vigour of the law.

The ten-year struggle by New Westminster City to obtain the federal OIC had a profound influence on administrative thinking and public perception in the early 1900s. It provided a simple model and practical remedy for communities throughout British Columbia. For example, in the following decade, after ongoing public debate and legitimate concerns about the Capilano Timber Company in the Capilano watershed, similar stringent laws were applied in the Greater Vancouver Water District Act of 1924. It was considered to be an offence, punishable by a fine or six months in prison, if anyone was found "to convey or cast, cause or throw, or put filth, dirt or any other deleterious thing in any river from which the Greater Vancouver Water supply is obtained.

3. TWO EXAMPLES ON THE APPLICATION OF GOVERNMENTAL POLICY FOR THE FULL PROTECTION OF WATER SUPPLY SOURCES

What follows are two applications for domestic watersheds, one for Dawson Creek and the other for Fort St. John. These are provided to illustrate the fact that community water supplies could be and were afforded the special status of full protection.

3(a). DAWSON CREEK

On November 27, 1938, Glen E. Braden, Member of the BC Legislative Assembly, sent a letter to the Hon. Wells Gray, the Minister of Lands, requesting a reserve of lands for the Dawson Creek water supply:

> With reference to our conversation recently regarding certain lands in Dawson Creek area for watershed, I am hereby submitting the description of the property in question ... I would appreciate very much if you would kindly have Inspector Jack Hall of Dawson Creek go over & report these lands as soon as possible so that same can be reserved by the government as the future water supply for the Dawson Creek area.

Unfortunately, Minister Wells Gray had some disappointing news for the MLA, in that the lands were already sold to three separate owners in the 1920s. The important thing to note, is that had the lands still belonged to the Crown, they would have been set aside, without question:

> None of the above mentioned properties have reverted to the Crown and are at present in good standing on assessment roll. As the lands have been disposed of by the Crown it will not be possible to set them aside as requested. (December 1, 1938)

3(b). FORT ST. JOHN

On April 25, 1968, Forest Ranger L.G. Espenant, of Ranger District # 10, Fort St. John, sent a Memorandum to Prince George District Forester, W. Young (who later became the provincial Chief Forester), for what amounts to be the last formal, inter-governmental request for a Watershed Reserve. This occurred during the initial stages of a new crusade, which was intended to remove the full-protected status of watershed reserves:

> Strongly recommend that the attached proposal for a watershed reserve area be submitted to Lands Victoria and to the Prince George Provincial Water Rights Branch.
> As is evident from the pattern of alienation, it will be but a few years before cultivation of the remaining forested area of the Stoddart Creek drainage will result in uncontrolled spring run-off and a dry bed throughout the year. Lakes are scarce in this vicinity, we must prevent Charlie Lake from becoming more stagnant. Fresh water inflow into this lake is insufficient at present.

On July 4, 1968, Prince George District Forester D.E. Ferguson dispatched a memo to the Chief Forester in Victoria:

> Herewith is a proposed watershed reserve submitted by the Forest Ranger at Fort St. John. The proposed reserve is to cover vacant Crown land in the headwaters of the Stoddart Creek drainage which supplies Charlie Lake with fresh water. Much of the land in this area has already been alienated and therefore **steps should be taken to preserve the remaining forest land in this drainage system** [emphasis]. The proposed reserve has been put over vacant Crown land, but if adjoining lots have reverted they should also be included.

J.B. Bruce, Forester in the Management Division in Victoria, wrote back to the Prince George District on July 11, 1968, stating that:

> As you are aware, the establishment of a watershed reserve outside a Forest Reserve is a matter for Lands Service.... Was the request actually initiated by the town of Ft. St. John, or least have its backing? Were the local Water Rights officers consulted for their opinion? Would you supply us with a little more background.

D.E. Ferguson replied on August 14:

> The idea of a watershed reserve was previously discussed with Mr. Ed Anderson of the Town Works Department, who was then to have followed up directly through the Water Rights Branch. A submission was also to be made through the Forest Service to the Water Rights Branch.
> It has now been confirmed that the Fort St. John Town Council is passing a resolution concerning the watershed reserve, which will be forwarded directly to Victoria. We still recommend approval of the reserve.

Finally, on August 21, 1968, W. Hughes, Management Division Forester in Victoria, sent a letter to H.D. DeBeck, Comptroller of Water Rights, with the Department of Lands, Forests, & Water Resources, approving of a watershed reserve for Ft. St. John:

> Attached are copies of a report and sketch from the Fort St. John Forest Ranger's office, of a proposed watershed Reserve covering the headwaters of Stoddart Creek and vicinity.
> Apparently, this request for a reserve originated from an official of the Town of Fort St. John. This department has no objection to the proposed map reserve from alienation under the Land Act, and pertinent correspondence is turned over to your department for any action you may deem necessary.

4. 1967 - THE YEAR OF REVISION BY THE LANDS BRANCH (AND THE RELATED RESPONSE BY THE DEPARTMENT OF HEALTH)

Between late 1966 and 1967, the provincial Chief Forester sent memos to all of his Forest District offices to include new proposed provisions for Timber Sale Licences in domestic water supply sources.

> To All District Foresters, All Division Heads, Forest Service Training School. Circular Letter No. 2691. Re: Pollution Control - Timber Sale Licence. In order to provide a basis for the protection as far as possible of the quality and continuity of domestic water supplies, the following clause is to be inserted in all new timber sale licences:
> P.1. In conducting logging operations on the licence area, no person shall foul or render unfit for drinking and domestic purposes the water supply of any person or community. The licensee shall take precautions to prevent earth or debris being deposited into any watercourse, stream, lake or other source of water supply.
> The inclusion of this clause has been approved at the request of the Department of Health Services and Hospital Insurance on the basis that acting within the District Forester they will be able to use it to control pollution problems reported to them that may be caused by operations on a timber sale. (L.F. Swannell, Chief Forester, September 18, 1967)

The reference to the Department of Health's concern resulted from correspondence to the Chief Forester, L.F. Swannell, on December 6, 1966, whereby the Department of Health Services and Hospital Insurance, after being consulted about the Forest Service's plans to begin logging in domestic watersheds, concluded, reluctantly, that they wanted the following clause inserted into timber sale agreements:

> The licensee shall prevent the deposit of silt, clay and colloidal soil, organic and other residual products into any water courses, stream lake or other water supply.

The next quotation is from the Health Branch Director of Public Health Engineering, W. Bailey, to the Forest Service on August 30, 1966.

> This will confirm our recent telephone discussion in which I expressed concern of the Department of Health in respect to the control of forestry works in watershed areas where domestic supplies can be, and are being, severely affected by logging operations.
> As you realise our prime concern is to protect, as far as possible, quality and continuity of domestic water supplies.
> We understand that timber sales are proposed in the Greely Creek water shed which at present provides ample water of excellent quality to the City of Revelstoke. It is obvious that strict control of any logging operation in watersheds such as this is of prime importance.
> It is our understanding that the Forest Service does not, in fact, cannot, enforce requirements laid down in our Act and Regulations hence they have, in many cases, included sets of specific conditions which cover some aspects of sanitation and pollution. These are apparently to be superceded by a single summary clause in all contracts. This clause will apparently pertain to work within the boundary of "Watershed Leases". However, the catchment areas of perhaps the majority of domestic water supplies are not protected by these watershed leases, and this obviously leaves a large number of water systems with very little protection.
> Since a precedence has already been made to watershed leases we would be very pleased if you would include a section in all timber sale agreements that will provide a degree of control over the methods of operations. We respectfully submit the following clause as indicative of the protection we feel is necessary:
>
>> In any logging operation no person shall interfere with any stream, lake or pond, whereby the water supply of any person or community is fouled or rendered unfit for drinking and domestic purposes by introducing silt, clay, or suspended and colloidal soil particles, organic materials or other residual products in the water.

The “Watershed Leases” in Bailey’s letter, referred to the provincial government’s arrangements with the Greater Vancouver Water District prior to the March 1967 Tree Farm Licence agreement, called the *Amending Indenture*, for the Capilano, Seymour and Coquitlam watersheds. The actual *Indenture* is a 1927 *Land Act* Watershed Lease agreement, whereby the control of Crown lands, for the protection of the forests in the three watersheds, was transferred to the Greater Vancouver Water District for a period of 999 years. The reference to “precedence” in Bailey’s letter referred to the fact that the water supply for half of British Columbians, which had been protected from logging until that time, was about to be logged. His concern was that this action would set a precedent and imperil the remaining domestic watersheds in B.C.

Of course, this was part of the evolving agenda to allow commercial/industrial activities in domestic water supplies. Of particular significance, in terms of critical legislation for the administration of, and legal basis for, watershed reserves was a policy shift in the Ministry of Lands Branch. On October 27, 1967, the Assistant Director of Lands, F.M. Cunningham, sent memos to both W.J. Long, an Administrative Officer with the Lands Branch, and J. Bruce, Management Division, B.C. Forest Service, about the transition from, and changes to, the legal status of domestic Watershed Reserves:

> Attention: Reserves - Mr. C. House. In future, when writing out to a Village, Municipality, etc., advising them that a reserve for watershed purposes is to be established, please include in your letter the following:
>
>> It is pointed out that this Department, through the Forest Service, will retain the right to issue Timber Sales and grant rights-of-way within this reserve area. However, your interests will be protected in that any Timber Sale contracts issued will contain appropriate restrictive clauses. Planned logging will be practiced within the reserve area to ensure that the whole area will not be logged at one time, but rather only small patches of timber will be allowed to be removed. This should minimize erosion and pollution problems.
>
> In addition, the local District Forester will refer all applications for timber sales to you for your comments before such sales are issued. If any clarification is required relative to an application you should contact the District Forester at ________, B.C. (Memo to W.J. Long)
>
> Please find attached a policy memo which is proposed to be implemented in this Branch. (1) Do you concur with the proposed provision to be included in a letter outward to a Village, Municipality, etc., advising them that a reserve is to be established? (2) If this provision is to be incorporated in our letters it would seem that: (a) Any application for a watershed reserve that falls within a Provincial Forest will automatically go to your Service for adjudication; (b) All applications within a P.H.A. [Prescribed Harvest Agreement] would be referred to you for your comments; (c) All other applications will be handled by this Branch without referral. (3) Do you concur?” (Memo to J. Bruce)

In reply, J.B. Bruce sent the following letter to F.H. Cunningham:

> Thank you for your memorandum of October 27 regarding applications for watershed reserves together with a copy of your proposed letter.
> We concur with the wording of your proposed letter and agree in full with your suggested procedures for handling applications for watershed reserves within the three main land areas. (November 2, 1967)

Following this internal policy shift, provisions for community watershed leases under the *Land Act* were weakened in 1970. Since that time the provincial government has been completely reluctant to grant community or municipal requests for the effective protection of their domestic watersheds through the long-term lease of Crown lands for watershed purposes, eg., the Towns of Creston/Erickson, Kimberly, and the Sunshine Coast Regional District, etc.

5. THE *DRINKING WATER PROTECTION ACT* - AN AMBIGUOUS TITLE

Full source protection is the foundation of and prerequisite for high quality drinking water. Intact, forested ecosystems provide the most reliable, cost-effective, and best quality water and stability of water flows. The principle of full resource protection was once supported by federal and provincial legislation (as previously elaborated).

Bill 20, the *Drinking Water Protection Act* (*DWPA*), even after public input at eleven forums and extensive public comment, is at most ambiguous. "Protection" in the *DWPA* revolves around "treatment" of impacted drinking water and properly administered treatment facilities. The most fundamental provision - full resource protection is not included. The *DWPA* addresses water consumers' protection only "after the fact", while continuing to "protect" policies for the exploitation of drinking water resources.

To be fair, the *DWPA* is an attempt, through the implementation of Drinking Water Protection Officers, and watershed assessments, to act as a mechanism to resolve land use conflicts. The central weakness of the *DWPA* is that other government policy, which advocates the exploitation of domestic watersheds for timber, range, mining and recreational interests will still predominate, most notably through the *Forest Practices Code Act*:

> Relationship with other Acts. 2 (1) The authority that is provided by or under this Act is in addition to and does not restrict authority provided by or under any other enactment that may be used to protect drinking water. (*Drinking Water Protection Act*, Part I)
> This is also reflected in another section of the *Act* which elaborates on activities which may "contaminate" subsurface and surface streams in the water supply source:
> Prohibition against contaminating drinking water or tampering with system.
> 23 (1) Subject to subsection (3), a person must not (a) introduce anything or cause or allow anything to be introduced into a domestic water system, a drinking water source, a well recharge zone or an area adjacent to a drinking water source, or (b) do or cause any other thing to be done or to occur, if this will result or is likely to result in a drinking water health hazard in relation to a domestic water system.
> (3) The prohibitions in subsection (1) and (2) do not apply ... (b) if the introduction or activity is authorized or required by or under an enactment or the person is otherwise acting with lawful authority, or (c) in relation to an activity prescribed by regulation that is undertaken in accordance with any conditions prescribed by regulation. (*Drinking Water Protection Act*, Part 4, Drinking Water Protection)

If the *DWPA* is to be effective it will need to carefully define the role that all other Acts have in relation to domestic watersheds, in order to clarify the powers of those Acts with regard to community water supply. We believe that government should repeal all sections of those Acts that permit resource use in critical domestic watersheds, in order to provide the *DWPA* with the necessary teeth to actually "protect" domestic watershed resources.

5(a). DRINKING WATER PROTECTION OFFICERS AND THE POLITICS OF DEREGULATION AND "SUSTAINABILITY" BY THE LIBERAL GOVERNMENT

The closest the *DWPA* comes to addressing drinking water resource protection, is the creation of the Ministry of Health's Drinking Water Protection Officers. Drinking Water Protection Officers would have the authority to initiate watershed assessments for water supply sources in B.C. and would have the power to close a community watershed to any use, which the Drinking Water Protection Officers felt was detrimental to community health. However, following the passage of *Bill 20*, the former government failed to initiate the necessary Order-In-Council to implement the new *Act*. The new Liberal government purposely left the *DWPA* in limbo, citing the need to revisit the legislation because, as the former Opposition House Leader put it during the Legislative Debates, the public did not have enough input into the formulation of the *DWPA*. Hence, the present review of the *Act*.

In other words:

(a) the DWPA was never empowered;
(b) the Ministry of Health was unable to provide for the appointment of Drinking Water Protection Officers;
(c) the status quo has continued in domestic watersheds;

Since the new Liberal government assumed office, it has begun to dramatically alter the structure and powers of former ministries and their guiding legislation, most notably the former Ministry of Environment, Lands and Parks. As of June 5, 2001, the branches of that former Ministry have been divided and reclassified into two separate philosophically and distinct ministries, the Ministry of Sustainable Resource Management (MSRM), and the Ministry of Water, Land and Air Protection (WLAP). The former Water Management Branch has been shelved with the new Water Planning and Allocation Department now under the MSRM, and the new Water Protection Branch with Water Quality, Groundwater and Public safety Sections under the new branch of WLAP. These newly formed divisions are not incorporated as they pertain to responsibilities under the new *DWPA*.

Essentially, the function of the MSRM is to facilitate "management" and "privatization" of the resources now under its mandate - to provide more business incentives and speedier approvals. We have been unable to obtain concrete information from government administrators as to which Department now has the authority over and administration of domestic watersheds. We have good reason to believe they are now under the jurisdiction of MSRM, a situation that we find most troubling.

Furthermore, we understand that at the first meeting of the *Drinking Water Review Panel* on September 28, a senior representative from the Ministry of Health stated to the Panel members that the Minister of Health, Colin Hansen, "doesn't want anything to do with land-use issues". That is an irresponsible position for the Ministry of Health to take at this stage of the review of this legislation. The protection of domestic watersheds by the Health Department is fundamental to the success of the new *Drinking Water Protection Act*. The Minister's position is also at variance with the historical role that Medical Health Officers have had in domestic watersheds.

Unfortunately, there is nothing unusual in this political statement by a representative of the Minister of Health. It reflects the perspective of this government, and of previous governments. We remind the *Drinking Water Review Panel* of the February 20th resolution passed by the Associated Boards of Health in late 1975, and the response to that resolution by the newly reinstated Social Credit government in 1976 (see section 5). This is the resolution:

> #15. **RE: PROTECTION OF WATERSHEDS.** Whereas many domestic waterworks systems depend upon surface supplies as a source of water,
> **AND WHEREAS** many conflicting activities prevail within the watersheds of these surface water supplies which may degrade the water quality and/damage the constructed works e.g. logging, cattle grazing, recreation, mining, residential development, etc.,
> **AND WHEREAS** the Lands Service of the Department of Lands, Forests and Water Resources presently issue permits authorizing various activities within watersheds,
> **THEREFORE BE IT RESOLVED** that the Associated Boards of Health urge the provincial government to enact, or amend, legislation which:
> (a) would authorize the Medical Health Officer to restrict or prohibit any activity within a watershed which he feels may have a deleterious effect on the domestic water supply and, (b) would require the Lands Service to seek the concurrence of the Medical Health Officer before issuing a permit without authorizing any activity within a watershed.

The unsupportive response of Cabinet Ministers of the day, including the Minister of Health, is a black mark on the administration of this province. It resulted in medical health officials losing their intercessionary role of protecting domestic water supplies within the new government policy of exploitation. The only difference, between that time and now, is that the public was kept in the dark about the details in those days. In its present

state, it is clear that the *Drinking Water Protection Act* is intended to reactivate the mandate of the Ministry of Health, and to reinforce the duties of medical health officials in matters which have the potential to impact human health.

In direct relation to the concerns raised by the Associated Boards of Health, we remind the Review Panel of the chronology of events, which led up to this resolution. Within five years of the change in policy regarding logging in domestic watersheds the government had received hundreds of complaints criticizing the decision and was compelled to commission a *Task Force* in 1972, to investigate the "practicability" of permitting industrial and agricultural resource activities in the watersheds. In spite of intense opposition from the Department of Forests, the *Task Force's* investigations and findings ultimately led to the designation (in many cases redesignation) of *Land Act* Watershed Reserves, under the administrative authority of Water Management Branch.

The rest is history, with the re-election of another Socred government and the so-called sympathetic administration era, the Ministry of Forests simply continued its internal policy of authorizing resource activities in water supply sources, ignored the legal land-use designation and continued to override the concerns of public health officials. Successive governments have continued to weaken the mandate of health officials as it pertains to domestic watersheds.

With the advent of Walkerton and the lessons that have been learned in such graphic detail as a result, the 1999 Auditor General's report, the myriad resolutions passed by the Union of BC Municipalities, the numerous committees, task forces, and land use processes regarding domestic watersheds confirm that the status quo is simply not working. We need strong leadership from the Minister and officers of the Ministry of Health in order to safeguard the long-term health and well being BC's communities.

The Vancouver Sun newspaper recently published a weeklong feature on drinking water and sewage disposal in the Greater Vancouver area. In its third segment, Richmond-Vancouver Chief Medical Health Officer, Dr. John Blatherwick advocated a public freeway through the Capilano watershed, the source of drinking water for 40% of Greater Vancouver residents. The B.C. Tap Water Alliance felt compelled to call for Dr. Blatherwick's resignation, which he ignored. Dr. Blatherwick's hasty recommendation is counter to the Greater Vancouver Water District Administration Board's November 1999 resolution, which was intended to protect the long-term health of the region's residents.

Public health officials need to be accountable to the public and should advocate full protection of domestic water supplies, as they have historically. We are very concerned that the cumulative effects of the provincial government's policies and the continual, internal impediments to the protection of domestic water supply sources have taken a heavy toll on BC communities' primary resource. From all to numerous examples in other parts of the world, our society, through its elected government, would do well to address this situation sooner, rather than later.

6. RECENT LEGISLATION PASSED IN THE UNITED STATES TO PROTECT THE LITTLE SANDY WATERSHED

In August 2001, U.S. President George Bush signed important legislation, the *Little Sandy Watershed Protection Act*, to protect the 2,890 acre Little Sandy watershed a tributary drainage of the Bull Run watershed, the source of drinking water for Portland, Oregon. As we mentioned in our initial submission, the Bull Run was protected by another Presidential order in September 1996, and a logging moratorium was placed on the Little Sandy at that time. The legislation for the Little Sandy protects it from logging, mining and public access.

This legislation is extremely relevant to domestic water users in B.C., and the *Drinking Water Review Panel*. It reinforces the arguments put forward by the public for the protection of domestic watersheds. The following is a quote from Republican Senator Gordon Smith, who backed the passage of the *Act*:

> I would say to people who would like to cut timber close to Portland that it is counter productive and frankly Portland has a legitimate concern about its drinking water and protecting the natural resources that are within its view.

7. THE ISSUE OF DOMESTIC WATERSHEDS ON PRIVATELY HELD LANDS AND THE CITY OF NANAIMO'S WATER SUPPLY

The issue of private land management is also critical, as a number of communities and municipalities draw their water supplies from private land. However, the *Drinking Water Protection Act* contains little that specifically relates to the administration of private lands. As far as our organization is concerned, we believe there should be legislation enacted that protects domestic watersheds on privately held land. This will be of concern for many private landowners, for example in Nanaimo's privately held water supply catchment lands.

Two submissions were presented to government last February, one by the Private Forest Landowners Association (PFLA, submission # 196) and one by TimberWest (submission #51) regarding private lands and domestic drinking water sources. The PFLA, in their letter of March 6, 2001, recommended to the former Ministry of Environment, Lands and Parks that:

> It is our expectation that lands administered under the Private Land Forest Practices regulations will be exempt from additional requirements under this new initiative from government. This would mirror the current situation where private Managed Forest landowners are exempt form the Fish Protection Act because there is recognition that the PLFP regulation protects fish habitat.
> Likewise, the drinking water initiative should avoid duplication on matters related to water quality management. Under the PLFP regulation, there are already standards in place to protect water quality and encourage forest owners and managers to dialogue with water purveyors and community interests in the event that water quality is at risk. This process was developed in consideration of the unique circumstances facing owners who manage lands that could have an impact on water quality. Consequently, we have clear expectations and accountability for resolving such issues. Should problems arise, the Ministry of Environment, Lands and Parks has the ultimate power to impose site-specific standards. In other words, the public is assured of protection. We believe that mutual recognition is practical and fair for both fish and water protection.

The second submission, by the vice president and chief forester, Don McMullan, of TimberWest a member of the PFLA, echoed similar advice in his two page letter of February 5, after representatives of his company monitored the first public forum on the DWPA held in Nanaimo:

> TimberWest owns and manages private forest land in over 50 watersheds on Vancouver Island. Almost all of these are licenced domestic water supply areas and twelve of them are Community Watersheds.... TimberWest has major concerns with the introduction of further Regulations which may negatively impact our freedom to manage private lands with no net gain in the protection of drinking water quality.
>
> The proposal suggests that where a "threat" to a water source has been identified, the issue would be referred to local authorities. This would open the door to those who disagree with some aspect of responsible use and will be used to do an end run around existing zoning.
> **We do not believe it would be appropriate for local water authorities to assume control over land use activities on either Crown or private lands within a domestic drinking watershed.** [emphasis]
> Adequate controls are already delegated to appropriate provincial and federal agencies through existing legislation. If there is an issue around the application of existing controls, it should be addressed by way of ensuring that agencies are accountable for the thoroughness of delivery of their responsibilities, not by creating another level of bureaucracy.
> Private property rights must be protected, including the right to restrict access, while ensuring that the overriding objective of providing clean drinking water is delivered.

The Private Forest Landowners Association was formed in 1995. One of the aims of the PFLA was to develop its own land use and forestry regulations with the provincial government. On December 18, 1999, the provincial government signed a Memorandum of Understanding with the PFLA, which outlined its regulations and general initiatives, including general statements about "water quality":

> This Memorandum is intended to provide a basis for continuing the process to implement the terms of reference of the aforementioned regulatory package for private forest land in the Forest Land Reserve and managed forest land in the Agricultural Land Reserve.

Earlier in the year, on January 6, 1999, the provincial government announced in a press release that it was undertaking a new regulatory model for forestry with the PFLA "to protect key public environmental values":

> Landowners will conduct their harvesting, silviculture and road building so as not to harm water quality and fish habitat.... Landowners will work with water purveyors to ensure drinking water is not adversely affected. The Ministry of Environment may require landowners to take action to address water quality concerns. Pesticide and fertilizer use around streams is restricted.

How well some of these promises were being fulfilled regarding the protection of drinking water sources on privately held lands mentioned in the press release is another matter entirely, as witnessed in the case of Nanaimo's watershed. Nanaimo's water supply was featured in the Auditor General's report of 1999. The Report failed to identify the impacts that clearcut logging of more than 80% of its hyrdrographic boundaries and related silvicultural practices have had on its water supply and reservoir. Nanaimo's watershed lands are privately held by forestry giant Weyerhaeuser, who recently secured all of the forest tenures and privates lands from MacMillan Bloedel. According to numerous newspaper articles, Weyerhaeuser has recently applied tonnes of hazardous fertilizer on its plantations. And, according to concerned citizens, laboratory results and investigations into the fertilizer's origins revealed that many toxic waste chemicals had been added to the fertilizer, now distributed throughout the public's water supply. The point that needs to be resolved regarding forestry and other land use practices on privately held lands, is that the public needs to have high quality information on the effects and impacts that those operations have and have had on water supply sources. Only then, can the public make a proper determination on what the long term costs will be, and on implementing effective measures to protect these drinking water sources.

Weyerhaeuser recently announced that it plans to conduct alternative forestry practices and water quality experiments in one of Nanaimo's drinking water subdrainages, Jump Creek. Is this public relations exercise necessary? There have been many experiments already conducted in the province. None have been successful.

Nanaimo's watershed provides ample grounds for questioning the validity of the statements made about water quality by the provincial government and the Private Forest Landowners Association. The public needs to be involved these matters, particularly on Vancouver Island where many watersheds are privately held. Authority must be given to local governments to zone for water protection and Drinking Water Protection Officers must have the legal right to conduct inspections on privately held lands, and to make those inspections public.

8. CONCLUSION, RECOMMENDATIONS

There is a simple and cost-effective solution to the present crisis. Implementation of Watershed Reserves and full resource protection for British Columbia's domestic water supply sources will help immeasurably to simplify the regulatory burden for government ministries and forest companies. Reserves for domestic water supply will eventually restore water quality and flow regimes in areas that have been impacted through government policies, and continue to protect those sources that are still intact.

We recommend that administrative authority for domestic watersheds be re-assigned to the Ministry of Water, Land, and Air Protection, under legislation that implements conservation of, and protection for, domestic Watershed Reserves. Designated Watershed Reserves do not require precious time and budget allocations for strategic planning, management, and oversight, a reality that was not lost on American legislators as they enacted the Congressional Bill that protected the Little Sandy in Portland's drinking watershed.

At present, competing Acts, regulations and policies, which permit industrial uses in domestic watersheds, are at odds with and complicate the *Drinking Water Protection Act*. If, as we have recently learned, the present Minister of Health is opposed to appointed members in the Ministry of Health monitoring and overseeing land use in domestic water supply sources, then designating Watershed Reserves, is the only logical course of action.

Those who have been involved in the management of our domestic water supply sources have had three decades to prove that industrial activity is compatible with the provision of high quality water and stable flows. The results have been ruined water sources at the expense of public health and public taxdollars. Policy still dictates that the liability for providing for clean water in community watersheds is borne by water consumers, not by the government, which permits these land use activities, nor by those who profit from them.

Post Walkerton, we are forced to question government's failure to hold open and formal public forums throughout British Columbia on this fundamental issue.

APPENDIX A: Submission to the B.C. Government on Protecting Drinking Water Sources

By Will Koop,
on behalf of the Society Promoting Environmental Conservation (SPEC),
February 20, 2001.

[Please Note: the last paragraph of section 4, below, has been revised as of April 12, 2001. The Revised Statutes of 1996 **did not** remove the provision in the lease section of the Land Act for "watershed purposes", and is still in existence.]

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1. Introduction

> *It's a strange thing, water. It's so essential. It's been kind of bounced around government, bounced around different ministries, different departments. It really hasn't had its place at the center of the table of land use planning, but its time has come. It is absolutely essential to our human health, and we can't live without it.* (Ian Waddell, Minister of Environment, Lands and Parks, Vancouver Hotel, February 13, 2001.)

We would like to thank the New Democratic Party for initiating this long-awaited process and for the promise of legislation on the issue of protecting drinking water. Protecting drinking water at its source is an issue which has been outstanding for more than thirty years in the province. More recently the findings of the Walkerton commission highlight the absolute necessity of protecting water sources and thereby the people who depend on them.

We nevertheless remain critical of this government's delay over the last ten years in addressing this issue, and the limitations government has imposed on discussion and potential legislation. Government still seems to be unwilling to listen to the public about full protection for B.C.'s drinking water sources, although making that promise before they were elected. Mike Harcourt, before he became premier in 1991, promised that he would introduce legislation to protect drinking watersheds from logging. Most troubling however is this government's recent February 14th announcement, which happened to coincide with the end of the public consultation process on drinking water, to commit the remainder of the provincial forest land base outside of provincial and national

park designations to the "Working Forest". This proposal will include B.C. drinking watersheds in the timber harvesting land base. This is in glaring contrast to Premier Dosanjh's promise to protect the public's drinking water sources made last October to the Union of B.C. Municipalities. The government's new "opportunities" solution would see local communities and municipalities applying for Community Forest Licences in their community's drinking watersheds. This is clearly only a solution for a government eager to download their responsibilities and all potential legal liabilities incurred over the last three decades of multiple use in these watersheds. The ongoing obfuscation of the legislative history which is in place to protect drinking water sources in British Columbia and the introduction of the last minute "working forest" legislation announced on February 14th, is extremely disturbing.

This brief will attempt to provide an historical overview of the issue of drinking water conflicts, in order to help foster a timely solution - full protection of drinking water sources in British Columbia.

2. The legislative foundation and framework for the protection of drinking water - Watershed Reserves and the creation of a long term lease of Crown lands for the full protection of drinking watersheds under the B.C. provincial Lands and Forests Acts of the 1900s

Legislation for the full protection of forested drinking watersheds from industrial exploitation was in existence at the turn of the last century, documented in both provincial legislation and provisions granted to the City of Vancouver, and later to the Greater Vancouver Water District. In order to protect the watersheds from human trespass and prevent further alienation of lands in both the Capilano and Seymour drinking watersheds and to stop the acquisition of timber berths through the privatization of Crown lands, the municipality of Vancouver and it's neighboring municipalities were granted Watershed Reserves under the provincial *Land Act* in 1905 (Capilano, Mar. 31) and 1906 (Seymour, Aug.24). These two Reserves, which were gazetted and placed on provincial atlases, prevented any further applications for timber leases and alienation for any other use. As a result of Greater Vancouver's concerns about protecting water quality, the provincial government later introduced legislation in 1908 which provided British Columbia municipalities the opportunity to obtain a 999 year lease of Crown lands to protect their drinking watersheds from industrial exploitation, primarily logging:

> The Lieutenant-Governor in Council may grant to any incorporated city, owning and operating its own system of water-works, a lease of the vacant Crown lands which form the whole or any portion of the natural watershed from which such city derives its water supply, for such term, not exceeding nine hundred and ninety-nine years, and upon such conditions as may be deemed advisable, and may in such lease define the limits of such natural watershed. (Provincial Statutes, 1908, *Land Act*, Chapter 30, section 47, Leases, subsection 8. Note: the exact wording of this Act remained in effect until 1970.)

A further related provision to enhance this measure was introduced in 1911 under the *Land Act*:

> (55.) The Lieutenant-Governor in Council may, upon such terms and conditions as may be deemed advisable, sell to any city municipality owning and operating its own system of waterworks so much of the unappropriated and unoccupied Crown lands as form the whole or any portion of the natural watershed from which the city municipality draws its water-supply. (Provincial Statutes, 1911, *Land Act*, Chapter 129, section 48.)

These provisions to protect drinking watersheds were further strengthened in 1912 with the creation of Forest Reserves (or watershed reserves) under the new *Forest Act*. The definition of "reserved lands" under the overarching *Land Act* was for "Crown lands that have been withdrawn from alienation under the provisions of this or any other Act." The *Forest Act*, under the direction of the Minister of Lands, provided stringent definitions for the protection of drinking water sources under these Forest Reserves from resource exploitation and human occupancy:

Section 12, Forest Reserves.
(1.) The Minister [of Lands] shall cause an examination of Crown lands to be made by the Department for the purpose of delimitating areas of such lands that it is desirable to reserve for the perpetual growing of timber, and as a result of such examination the Lieutenant-Governor in Council may, by Proclamation, constitute any such area a permanent forest reserve; and upon such proclamation all land included within the boundaries of any such area shall be withdrawn from sale, settlement, and occupancy under the provisions of the "Land Act", and in respect of the "Mineral Act" and "Placer-mining Act and "Coal-mines Act" shall be subject to such conditions as the Lieutenant- Governor in Council may impose. After such proclamation no Crown land within the boundaries of such forest reserve so constituted shall be sold, leased, or otherwise disposed of or be located or settled upon, and no person shall use or occupy any part of the land included in said reserve except under provisions of this Act or of regulations made thereunder.
(2.) Forest reserves constituted in the manner provided in this section shall be under the control and management of the Minister for the maintenance of the timber growing or which may hereafter grow thereon, for the protection of the water-supply, and for the prevention of trespass thereon. (Provincial Statutes, 1912, *Forests Act*, Chapter 17, Section 12. Note: the exact wording of subsection 2 remained in effect until 1960.)

In conjunction with the intent and subsequent establishment of both long term drinking watershed leases and Forest Reserves, associated provisions under the provincial Health Act were revised in 1911. A municipality or corporation, or any purveyor of water, was required to evaluate and report on their water systems and water sources to the Provincial Board of Health:

Protection of Water-supply [22-25].
(22) When the establishment of a system, or the extension of any existing system, of waterworks for the purpose of providing a public water-supply for domestic purposes is contemplated by the Municipal Council of any municipality, or by any person or body corporate, it shall be the duty of such Municipal Council, person, or body corporate, whether incorporated by special or private Act of the Legislature or otherwise howsoever, to submit to the Provincial Board the plans and specifications of the proposed system of waterworks, and an analysis of the water from the proposed source or sources of supply, verified by affidavit stating that the plans and specifications so submitted are those to be used and followed in the construction of such proposed system, that the particulars set forth in the said analysis are true, and that the water analyzed was taken from the proposed source or sources of supply. R.S. 1897, c.91, s.23 (part).

(25) Where in any locality or place it shall be necessary, in order to obtain a supply a water for the consumption and domestic purposes of the persons resident in such locality or place, to enter upon, take possession of, or use in common with the owners any flume, ditch, water system, or watercourse, the waters of which are recorded, diverted, or used for irrigation, industrial, or mining purposes, an officer appointed by the Provincial Board for that purpose shall examine the source of water-supply, the flume, ditch, water system, or watercourse aforesaid, and the locality or place, and shall report to the Provincial Board the amount of water, estimated as nearly as may be, actually required for the consumption and domestic purposes of the residents of such locality and the means and measures necessary to be adopted in order to secure such amount of water so actually necessary; and thereupon the Lieutenant-Governor in Council may, by Order, provide for, direct, and enforce the doing of all acts and things and the adoption and continuance of all means and measures necessary for the securing and the continued supply of such amount of water so actually necessary as aforesaid." (Provincial Statutes, Health Act, 1911, Chapter 98, Sections 22, 25.)

Medical Health Officer (Sections 30-39):
(30) The Council of every city municipality in the Province shall appoint a registered medical practitioner to be Health Officer of the municipality, who shall perform the duties provided for in this Act, in addition to the duties imposed upon such Health Officer under the provisions of the "Municipal Act" and any resolutions or by-laws passed in pursuance thereof. ..."

(36) Where a Medical Health Officer is appointed, he shall be the chief health and sanitary official for the municipality or district to which he is appointed, and shall possess all the powers and authority possessed by any Health Officer or Sanitary Inspector under this Act; and such Medical Health Officer shall perform all duties imposed upon him by any regulations of the Provincial Board, and the fact that similar duties are by Statute imposed upon the Local Board shall not relieve the Medical Health Officer from the performance of such duties. (Health Act, Provincial Statutes, 1911, Chapter 98, Sections 30, 36.)

The Water Act also provided an interlinking mechanism for accountability and for providing the best potable water to local populations:

The Determination of Existing Rights and Claims, and the Creation of a Tribunal for that Purpose.
(9) There shall be and there is hereby created a tribunal, to be named the "Board of Investigation", for the purpose of hearing the claims of all those persons holding or claiming to hold records of water or other water rights under any former public Act or Ordinance.... (Provincial Statutes, 1911, Water Act, Chapter 239, Section 9.)

General Powers and Privileges of Municipalities and Companies using Water for Domestic Purposes.
(100.) Upon the undertaking and works of the municipality or company being approved by the Lieutenant-Governor in Council and a certificate of such approval being granted, the municipality or company may, in the manner hereafter prescribed and upon the terms and conditions and for the purposes mentioned in the said certificate and subject to the obligations hereinafter imposed, enter upon, take, and use Crown lands and other lands howsoever and by whomsoever held.
(102.) The municipality or company may further, upon the terms and conditions and in manner hereinafter provided, ascertain, set out, purchase, and if necessary enter upon, take, and use all such lands as may be necessary for ... (d) Preserving the purity of the water supplied by them to the inhabitants.
(112.) The municipality or company may from time to time make and enforce by-laws, rules, and regulations, not inconsistent with this Act or any rules made hereunder, for ... (i) The purpose of discovering and preventing dishonesty and fraud with respect to the supply of water to consumers. (Provincial Statutes, 1911, Water Act, Chapter 239, Sections 100, 102, 112.)

3. The Greater Vancouver watersheds and the creation of the Greater Vancouver Water District

I know we both agree as to the seriousness of the situation that is likely to develop in all our watersheds, and how very necessary it is for us to preserve our present pure water supply for the use of the public. (F.T. Underhill, Vancouver's chief Medical Health Officer, to the provincial Board of Health's chief Medical Health Officer, Dr. H.E. Young, October 2, 1916.)

Vancouver and its neighbor municipalities wanted to protect their water supplies from human trespass and resource exploitation. This position against logging became particularly entrenched for about decade starting in 1916, when provincial Health Officers and engineers, in reports and correspondence, opposed logging in three drinking water sources, the Capilano, Seymour, and Lynn watersheds. For instance, the Health Officer for the City of Vancouver wrote:

We ask that our watershed might be protected by the Provincial Government, to prevent the removal of timber and also from any possible source of contamination by the erection of logging or shingle camps. (F.T. Underhill, June, 1916)

As a result, the provincial Water Rights Branch conducted a study on the Capilano and Seymour watersheds, and concluded in a 1916 report, that:

> No logging operations on the watershed above the intake can ever be carried on without imminent danger of pollution.
> Aside from the question of pollution during logging, it would materially detract from the value of the Seymour Creek as a water supply to allow the watershed to be deforested. Should the timber be removed and the unchecked erosion would not only increase the amount of suspended matter in the stream but would materially reduce the time of concentration, by eliminating the retention of the run off which the timber effects.
> Any logging would tend to still further reduce the minimum flow and correspondingly increase the amount of the flood.
> Whatever means be adopted by the Provincial Board of Health to prohibit any logging operations on the watershed, it is manifest that sooner or later the City will be confronted by the necessity of purchasing all alienated land and timber.
> CONCLUSION: From a standpoint of public health it is essential that no logging be allowed on the watersheds of Seymour and Capilano Creeks.

With the initiation of logging in the Capilano by the Capilano Timber Company which was strongly opposed by the City of Vancouver, the Provincial Board of Health, which was also opposed to logging the drinking watersheds, were forced to issue the first provincial regulations to carefully monitor people working in drinking water sources by medical health inspectors, *Sanitary Regulations Governing Watersheds* (April 2, 1918). The Provincial Health Officer later wrote:

> **Watersheds.** The sanitary protection of watersheds supplying more than half of the total population of British Columbia has thus far been accomplished through the drastic regulations formulated by your Board, and enforced by resident Inspectors under the supervision of the writer and the valuable and active co-operation of Dr. F.T. Underhill for the City of Vancouver. Everyone acknowledges that the power of the Empire is in "the silent navy", but few people are aware that locally our future is in the sustained purity of our water- supplies, silently though zealously guarded by our Health Officers.
> During the year just closing we have been called upon to take protective action regarding water sources at Williams Lake, Gambier Island, Valdes Island, and several summer resorts.
> (Provincial Board of Health Annual Report, Dr. H.E. Young, 1924)

The Provincial Officer of Health also encouraged the further protection of the Capilano and Seymour watersheds through the creation of a Game and Fish Reserve, to prevent human trespass by fishermen and hunters:

> In reply to your letter with reference to creating a Game and Fish Reserve, for the further protection of the watersheds of Capilano and Seymour Creek, I heartily concur in your suggestion. I think it would be a step in the right direction, and would greatly assist both Departments in maintaining and protecting our water supply.
> The source of all our trouble undoubtedly arises, to a large extent, from campers and citizens of the mainland desirous of a day's fishing, and unwittingly and unintentionally creating the nuisances which we are so anxious to prevent.
> The reserving of both sheds would not only create a better sanitary condition, but would create spawning pools, and a breeding ground for grouse, pheasants and songbirds, which eventually will be of great value to the whole mainland. I do not think that, looking into the future, the citizens of the mainland should resent the creating of such a reserve, as it means so much for them in the future when the whole lower levels are inhabited and occupied by citizens in the immediate waterfront.
> I suggest that a bill be brought down at the next sitting in the House, creating such a reserve. Your Mr. Young, of the Water Rights Department, has made careful surveys, and has defined very clearly all the watershed areas, and I believe has struck a reserve line, which represents the above areas, and if these boundaries area used, it will accomplish what is most desirable from a water conservation and sanitary

protection standpoint. (F. Fellows, Vancouver City Engineer, to Dr. H.E. Young, Provincial Officer of Health, Sept.24, 1918)

A game reserve was placed on the two watersheds through a special amendment to the *Game Act*.

During the time that the Capilano Timber Co. began clearcutting almost all of their privately held forested lands in the Capilano watershed, the provincial Water Comptroller, E.A. Cleveland, was requested to conduct an inquiry into the growing controversy over logging in the Capilano and proposed logging in the Seymour watersheds. In October of 1922, Cleveland released his official report to the Minister of Lands, *The Question of Joint Control of Water Supply to the Cities and Municipalities on Burrard Inlet*. He summarized that in order for the Greater Vancouver municipalities to control activities in their drinking watersheds they had to become organized, incorporated, and then access title to both the Crown and private watershed lands. As Water Comptroller, Cleveland understood the provincial statutes, the provisions that were in place for Greater Vancouver to protect its watersheds. He also stated to the Minister, in no uncertain terms, that "The pre-eminent object to be attained is the maintenance of an adequate supply of pure (i.e. unpolluted) water - all other considerations are subordinate: and to that end the watershed should be preserved inviolate" (page 93). Cleveland's report, however, was quite unpopular, not only with the Minister of Lands, who was becoming a staunch advocate for the timber industry, but also with the timber industry which was growing at that time by leaps and bounds.

Cleveland's report was not released to the public until 1926 when he retired from his provincial portfolio and became the Commissioner of the newly formed Greater Vancouver Water District. From 1926 to 1927 Cleveland began a process to not only secure all of the privately held lands in the Capilano and Seymour watersheds, but also negotiated with the provincial government to obtain a 999 year *Land Act* lease of Crown lands (an agreement referred to as the 1927 Indenture), both of which provided the Water District with the ability to end all logging and mining in the watersheds. This new and powerful treaty was heralded by Greater Vancouver politicians and residents as the best and most secure way to protect their drinking water from commercial ventures and human trespass. After ten years in office, Cleveland confidently wrote on December 16, 1936:

> "I would not attempt to set a value on the watershed lands in the Coquitlam, [1] Seymour and Capilano watersheds as they constitute an almost invaluable asset of the District permitting the complete and entire control of the purity of the water supply for all time so that neither now nor in the future will filtration or sterilization of the water be required."

4. The transition towards industrial activities in B.C. drinking watersheds

The transition to ignore and extinguish the provincial government's legislated protection of drinking watersheds by the forest industry openly began in February, 1952, at the 5th annual B.C. Natural Resources Conference in Victoria. Foresters within government, industry, and university passed a resolution to counter the provincial government's protective legislation in drinking watersheds with their own sophistry and conceit to begin logging in them:

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[1] The Coquitlam watershed, which provided drinking water to New Westminister City and its neighbors at that time, had been protected from logging by a 1910 federal Order-In-Council. B.C. Hydro's predecessor, the B.C. Electric Railway Co., which provided the impetus for the federal legislation, argued at length that logging would impair the natural forest hydrology and would upset the timing and flow of water into the Coquitlam Reservoir, from which it depended and obtained its diverted water for electric power generation below Buntzen Reservoir. It is interesting to note, that after B.C. Hydro was formed in the late 1950s, this policy to protect the forests surrounding reservoirs which produced electricity was quickly altered to allow for clearcut logging, a policy which is responsible for affecting water timing and runoff regimes and decreased storage capacity due to increased sedimentation, effects which may be further complicated by the advent of global warming. A simple investigation of B.C. Hydro's reservoirs will help the government to understand this dilemma.

> **Whereas** the primary purpose of watershed areas, where surface water is impounded for domestic and industrial water supply, is the production of a continuous supply of water; and
> **Whereas** controlled watershed use, rather than the maintenance of full virgin forest canopy, has the advantageous values for water supply development; and
> **Whereas** the controls and protection required for the water supply against potential or actual sanitary and fire hazards and erosion are required, whether logging is or is not practiced; and
> **Whereas** conservation means use and management of a resource and, and in the perpetuation of the forest resources, places emphasis on forest management on a sustained yield basis; and
> **Whereas** endorsement of the plan by those best qualified to judge, i.e. professional engineers and foresters and other technical men concerned with the resources of a watershed, is tantamount to guaranteeing that the plan provides for all the factors that govern proper use of land;
> **BE IT RESOLVED** that this Conference endorses a programme of forest management on a sustained yield basis for watershed lands where surface water is impounded for domestic and industrial water supply. (Resolution #9)

Much of this determination to log in drinking watersheds arose as a result of a Commission report in the mid-1940s in Seattle's source of drinking water, the Cedar River watershed. For about forty years Seattle City Council had unsuccessfully battled to keep logging out of their watershed. A forester proposed a three man Commission to bring about a resolution to the issue, and after a week's reconnaissance in the watershed in November 1944, the Commission wrote a report which not surprisingly recommended the continuation of logging in the City's watershed. That report was then carefully circulated to universities, colleges, and the forest industry throughout the United States and Canada. Even H.R. MacMillan, the B.C. forestry tycoon, got a copy. An intensive public relations program to log in drinking watersheds then began through Allen E. Thompson in 1948, the forester for the Seattle Cedar River watershed, who promoted the concept of "dual use", with articles published in forestry journals and tours throughout the Northwest United States and in British Columbia over the following 15 years.

This public relations program quickly targeted prominent protected drinking watersheds in the Pacific Northwest. Administrators with the Victoria and Greater Vancouver watersheds were bludgeoned with advice from foresters, that if Seattle could do it, so should they. Both were later logged. Portland's Bull Run watershed, which was protected through federal legislation, the 1904 *Bull Run Trespass Act*, was logged illegally. In fact, the extremes that this public relations program exerted were best exemplified by a secret agenda designed by a District Forester the State of Oregon in 1952 to influence the top most administrators and politicians with the City of Portland to begin logging their protected watershed.

> The source of the City of Portland's famous Bull Run water, an area of 120,000 acres, exists without a management plan to insure it's future.
> Should one half million people depend upon the whims and fancies of Mother Nature for their supply of drinking water? Should the Forest Service as custodians of the area sit back and wait for D-day, the day that a major fire sweeps through the watershed to clean up the old decadent timber so that a new crop of trees can get started? What is the answer? Foresters will undoubtedly agree that it should be opened by roads and carefully harvested under proper management. Such a plan would make the area accessible to fire fighting equipment.... Study has shown the water-retaining capacity of reproduction is greater than that of mature timber. Domestic watersheds have been logged without contaminating the water supply. An important example is that of the city of Seattle's watershed.
> The solution is simple, but the problem is great. For fifty years city officials and Portland residents have been bally-hooing pure Bull Run water from an unmolested watershed. Many are fully convinced that to keep their water pure the watershed must remain forever untouched. There is a tremendous P.R. job to change this thinking of some 50 years standing. The advantages of opening the watershed must be pointed out to city officials and civic leaders in such a way as to win their cooperation. The entire Portland urban population should be appraised of the necessity of proper management. If the initial steps are not take with caution we will undoubtedly experience strong opposition which could easily reach congressional level.
> What is the solution to the problem? First we should arm ourselves with all possible facts and figures to

> bear out our theories and estimates. All other factual data regarding cutting in other domestic watersheds that might apply to the Bull Run should be gathered together.
> The initial approach should be made through Ben Morrow, who is the City Engineer that has been the God-father to the Bull Run for years. Any past action in the area has been done pretty much on Morrow's recommendation.... Someone well versed in the intended program should discuss the needs of better management with him in detail. The fire angle should be played up and revenue returns subdued in this initial discussion. The need of a study to determine what is the best management for the area should be stressed. No attempt should be made to sell him a preconceived plan in this initial discussion. It should be proposed to Mr. Morrow the purpose of the initial study would be to collect factual data on the present condition of the watershed and its environs. If the results of the study do not bring out conclusions that are self evident, ie agreeable to both the city and the Forest Service, the city should proceed as did Seattle, and hire a board of three impartial, nationally recognized experts to make their own analysis of the data and recommend a plan of management.
> If we can win him over, one big hurdle has been cleared. In any event, whether he is won over completely or not, an effort should be made thru him to arrange a future meeting with the utility commissioner and the mayor.
> 2. The second phase is selling the commissioner and mayor on the idea of the need of a study, and if at all possible, get the city to participate in such a study. The discussion at this session should follow the lines of the previous meeting with Morrow. The council members should not be given the impression that we have a definite preconceived objective. This session is visualized as the crux meeting.
> 3. From here out, circumstances will guide the course.
> 4. During this period of planning, "show-me" trips for City Officials and others must be made. These trips should be well planned and include sample logging in Lost Creek as a trip over Aschoff Butte Road.
> 5. Now we are ready for some definite plans.
> 6. If agreement can be reached on some kind of cutting plan, P.R. efforts should be directed toward the press. More "show-me" trips of the press and key individuals will be necessary. (1987 Freedom of Information request)

Throughout the 1950s, the B.C. government began handing out large tracts of Crown lands called Forest Management Licences, later designated as Tree Farm Licences (TFLs), to mostly United States forest companies. During this transition, which ran hundreds of small forestry operations out of business, these companies took the opportunity to remove drinking watersheds from their protected status to be incorporated within the provincial timber harvest land base. As a result of the 1952 resolution by the Natural Resources Conference, and the resulting pressures exerted upon provincial administrators, timber licences suddenly began to be issued in Crown land drinking watersheds around 1960. The long held *Forest Act* provision of 1912 to protect drinking watersheds was suddenly and accordingly changed:

> 33. (4.) Forest reserves ***except lands included in a tree-farm licence*** (emphasis) shall be under the control and management of the Minister [of Lands and Forests] for the maintenance of the timber growing thereon, for the protection of the water-supply, and for the prevention of trespass thereon." (Provincial Statutes, 1960, Forest Act, Chapter 153, Section 33. See above, Provincial Statutes, 1912, Forests Act, Chapter 17, Section 12, for a comparison.)

The controversial establishment of Tree Farm Licenses across British Columbia initiated a series of policy changes which have had disastrous results. Those changes, in conjunction with new administrative instructions to government foresters in provincial forest districts to accept logging proposals in community watersheds in order to maintain the Allowable Annual Cut, were ultimately responsible for the gross impairment of hundreds of "protected" community drinking watersheds in British Columbia.

> There have been a number of instances recently which indicate that the instructions in Section 2.17 of the Management Manual need amplification, particularly in connection with the status of the holder of a Water Licence in relation to disposal of crown timber.
> There is no intent to reserve the timber by granting a water licence; where a party desires protection in that respect it is necessary for him to purchase or lease the area. Although the water licence holder does

> not appear to have any specific legal rights respecting use of timber and it is not necessary to notify him of a proposed sale, it is necessary to ensure that any such sale is subject to no interference with his water rights and improvements if the sale covers the same area. We also have a moral obligation to attempt to prevent pollution or other adverse effect on his water supply.
> We are enclosing a list of leases issued in connection with water supply from which you may note that there is some variation in respect to the legal status of the timber but in all leases the lessees have the right to the quiet enjoyment of their leasehold and can deny the use of these lands to the public if they so desire. It may be noted that no leases for watershed purposes have been issued in recent years, and it is doubtful that any lease of this nature would be granted by the Lands Service at the present time without careful study. It would appear that the present trend is to reserve watersheds against alienation of the land rather than issue leases.
> The existing practice of consulting the District Water Engineer, Municipal Clerk or Irrigation District Manager regarding such sales should be maintained but the letters should be worded to suit the individual cases according to the legal status of the area, and care should be taken not to imply that the party concerned has any timber disposal rights or priorities which do not legally exist. In the case of a timber sale in a municipal watershed reserve, for instance, rather than asking if the municipality has any objection to the proposed sale, it is preferable to state that the sale is proposed and ask if there are any special conditions they wish us to consider for insertion in the contract. (L.F. Swannell, Assistant Chief Forester, December 29, 1960, to all District Foresters.)

At the local level, District Foresters began to implement the new strategy:

> Much of the remaining mature timber in the District is in the watersheds of creeks which are the source of somebody's water supply. This can be an important source of conflicts of interest: between the interests of the industry and the water user. Two alternative solutions to the problem are possible: (1) keep operators out of watersheds altogether, or (2) permit harvesting of timber in watersheds, subject to stringent controls designed to protect the water supply. As you know, we have, within reason, settled on the second choice.
> In many areas we will not be able to supply local industry's needs unless we can invade the watersheds. If, in doing this, we fail to protect the [water] users' interests, this timber reserve will not be available to us much longer. (Memorandum by District forester, J.R. Johnston, Nelson Forest Region, July 17, 1964)

The most strategic shift, in terms of the forest industry's push to log in drinking watersheds, began with the pressures which brought about the logging of the Greater Vancouver watersheds in 1967, when the Water District gained approval from provincial Cabinet to change their *Land Act* lease agreement from full protection to logging under a Tree Farm Licence agreement, called the *Amending Indenture*. Because of this shift, government and industry foresters were able to convince other municipalities and water users that logging was compatible in their watersheds too:

> 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 [the Greater Vancouver watersheds] 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.)

The establishment of a broad-sweeping public relations effort to log in drinking watersheds later began in 1987 with the establishment of the Seymour Demonstration Forest, in the Greater Vancouver watersheds off-catchment area, the Lower Seymour valley. Two former official administrators with the provincial government, Chief Forester Bill Young and Deputy Minister of Forests Mike Apsey (who became the president of the Council of Forest Industries), backed the formation of the Demonstration Forest in 1985. The Demonstration Forest designation and its working committee were later disbanded in 1999 as a result of public scrutiny and objections.

Because the Greater Vancouver Water District was the only incorporation in B.C. with the 999 year *Land Act* lease provision, and because the logging program made the lease seem ineffectual, some of the terms in the legislation, such as the lease conditions for 999 years, were subsequently removed from the legislation in 1970:

> The Minister [of Crown Lands] may, pursuant to subsection (1) ... (b) lease Crown land. (Provincial Statutes, *Land Act*, 1970, Chapter 17, section 9: 2.)
> The Lieutenant-Governor in Council may, for any purpose that he considers advisable in the public interest, by notice signed by the minister and published in the Gazette, reserve Crown land from disposition under the provisions of this Act. (*Land Act*, 1970, Chapter 17, section 11: 1.)
>
> Not withstanding subsection (1), with the prior approval of the Lieutenant Governor in Council the minister may dispose of, by lease, an area exceeding 1280 acres for grazing, commercial, industrial, railway, airport, or watershed purposes. (*Land Act*, 1970, Chapter 17, section 17: 2.)

In 1999, the words "with the prior approval of the Lieutenant Governor in Council" were removed from the *Land Act* section:

> (2) Despite subsection (1), the minister may dispose of an area greater than 520 ha, by Crown grant, for commercial, industrial, railway, airport or watershed purposes. (Miscellaneous Statutes Amendment, No.2, 1999, Chap. 38, Section 40)

5. The provincial Task Force on the Multiple Use of Community Watersheds and the creation of Watershed Reserves

> *We welcome the consideration of integrated use on these areas within the constraints imposed by the objectives of quality water production. As the report states, nearly 2.8 million acres of crown land are currently reserved in community watersheds to a single use. The other resource-use options which are foregone, many of which could be carried out with little or no perceptible deterioration in water quality, represent a substantial cost to the public ownership of these lands.* (J. Dick, Fish and Wildlife Branch, Ministry of Recreation and Conservation, commenting on the draft of the Blue Book, Jan. 27, 1978)

With the initiation of logging in BC drinking watersheds in the 1960s, the public began to frequently complain about the logging and its effects on their water supply in local newspapers and in correspondence to government ministries and politicians. As demonstrated in a 1992 Briefing Note for the Deputy Minister of Forests, these complaints kept pouring in over the years:

> The public is very concerned and cynical about Government's management of community watersheds; on average, 10 to 20 letters a day are received criticizing forest practices in watersheds. (Ministry of Forests Briefing Note, prepared for the deputy minister of Forests, Philip B. Halkett, For Decision, December 11, 1992)

As a result of the growing public controversy over this issue, the government, through the *Environment and Land Use Technical Committee*, a committee of deputy ministers, created the *Task Force on the Multiple Use of Watersheds of Community Water Supplies* (The Task Force) in February 1972. It was the first committee and scope of its kind in North America. As much as the government had initially intended to calm the public's concerns through this Task Force, it failed to do so.

The Task Force, an inter-ministerial committee from Forests, Lands, Water Resources, Agriculture, Health, Municipal Affairs, and Mines, met over the next four years to establish about 300 Watershed Reserves under sections 11, 12, and 13 of the *Land Act*, and to eventually develop guidelines for industrial and agricultural activities in these Watershed Reserves. The Terms of Reference for the Task Force were as follows:

> 1. To investigate the practicability of obtaining wholesome water supply from streams the watershed of which are subject to multiple use, giving first consideration to water supply for Creston area from Arrow Creek.
> 2. To recommend policy and procedures for consideration of such land use conflicts.

A questionnaire was sent out to 325 selected water users throughout B.C. to respond to the growing concerns over land use activities in their drinking watersheds. A cover letter, dated December 29, 1972, urged the continuance of the 'multiple use' concept in their watersheds, without indicating consideration for a corresponding option of 'single' or no use:

> Your Provincial Government has established a Task Force under the Environment and Land Use Technical Committee to investigate the problem of obtaining wholesome water supply from streams whose watersheds are subject to multiple use.
> Is the land that contributes runoff to your community water supply used for any other purpose, such as logging, mining or recreation? If it is we would like your assistance in identifying the problems that such multiple use of the watershed creates for your water supply. It is hoped that policies and procedures can be developed that will allow reasonable use of other resources in water supply watersheds while protecting the ability of the watershed to furnish high quality water for human use.

In a letter dated April 18, 1973, the Chair of The Task Force sent a two page memo to the *Environment and Land Use Technical Committee* summarizing the results of the questionnaire. The Chair provided information on only 256 of 305 respondents, of which 145 were identified as community watersheds, stating that "the information contained in the completed questionnaires will be of considerable value". Out of the 145 watersheds: 91 are used for forestry; 46 for cattle grazing; 25 for farming; and 16 for mining. The Chair concluded that:

> 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.

The Task Force, through the Water Resources Department, gathered statistics on water supply sources, population, and land area, in order to provide a greater understanding of the provincial situation. From 1972 statistics, there were 2, 220,000 residents in B.C., 1,310,000 (or 59%) of which were tapped into the water supply systems in Greater Victoria (9%) and Greater Vancouver (50%), where active logging was proceeding. 110,000 residents (5%) were receiving water from rivers and large lakes. 230,000 residents (10%) were drawing their water from wells or springs. 570,000 residents (26%) were drawing their water from about 175 community watersheds, land areas of which totaled 6118 square miles, being 1.69% of the B.C. provincial land base of 366,000 square miles. 127 of these 175 community watersheds, which totaled an area of 1,059 square miles (0.3% of the Provincial land base), represented 73% of the total community watersheds in the province.

At the second Task Force meeting in October 1972, members were provided with a list of "water sources for communities in the Province including incorporated municipalities, waterworks improvement districts and private water utility companies", along with a list of "watershed conflicts", which included points of discussion on the effects of forestry, mining, grazing, agriculture, recreation, highway and other construction, and the extremes of nature. It was identified that forestry practices contributed an "increase in turbidity and sediments", "changes in taste, odour & colour", "addition of toxic chemicals, oil, gasoline scum or objectionable solids", and "temperature changes to water and increase in nutrients". It was also noted that mining contributed to "lowered water quality (a) by bacterial contamination from camp or mill wastes, (b) by addition of sediments from construction work or mill processes and (c) by altering taste, odour and colour." Some of the conflicts were played down. For instance, the effects that cattle have on bacterial contamination to surface and sub-surface water courses were merely "possible".

With concerns from the Naramata Irrigation District in 1970 about cattle grazing in their drinking supply, which then raised similar concerns about cattle in the watersheds of the Okanagan Valley, very little was done to

address these concerns. Cattle were not removed from the hydrographic boundaries of the watershed, but fences, which were often missing in these watersheds, were put up not too far away from streams and reservoirs:

> The Grazing Division, B.C. Forest Service, has the prime responsibility for administration of Grazing on Crown Land and the management of such. However, a more final result of any controls imposed to limit access to water by livestock would be the effect on the agriculture industry necessitating drastic changes in the method of livestock production, particularly beef.
> It should also be noted that in spite of frequently quoted high coli counts as an indicator of water quality, there is no evidence to prove that the presence of livestock in a watershed area or watercourse is responsible for the introduction of pathogenic micro flora generally believed to be harmful to man. (J.S.Allin, Water Resources Service, July 20, 1972)

There was even disagreement by the Minister of Health, Dennis Cocke, who said that "we should close the Naramata District to cattle" (May 2, 1973), but his counterpart, David Stupich, the Minister of Agriculture, was worried about setting a precedent. Because of pressures from the agricultural industry, Stupich replied to Cocke's concerns:

> It appears to me that everything is well in hand except one member of your Department who insists on stirring up public emotion on this issue. In this regard I would like to refer you to the attached letter from the Penticton Hospital to the B.C. Cattlemen Association stating that they are withholding support from Dr. Clarke and his views concerning the need for excluding all cattle from grazing in watershed areas. It would seem to me that when a man's own peers withhold their support there should be a very careful assessment of that individual's advice in connection with medical matters in the Naramata watershed.

Beginning in 1973, the Task Force began to organize the creation of Watershed Reserves, implemented through the powers of land and forest reserves under the *Land Act*. By 1975 about 300 of these Watershed Reserves were placed on official government land status maps, maps which government resource agencies had to refer to for all land use planning applications.

> A problem which has been brought to the attention of the Task Force relates to the alienation of Crown land, in that, with few exceptions, the watersheds of community water supplies are not recorded on the reference maps of the Lands Branch and, consequently, alienation of land for non-compatible uses can occur without the water supply function of the land being considered in the adjudication process. The Task Force therefore recommends that map reserves be placed on the watersheds of community water supplies throughout the Province, excluding those of users whose source of supply is the main stem of a major river or lake, and excluding also spring and well users, who are essentially drawing on groundwater supplies. (Letter to the Environment and Land Use Technical Committee, April 18, 1973)

As a result of these Watershed Reserves, resource ministries had to make referrals from all land use applications to the Water Branch and to the Ministry of Health. This system started to fail in the late 1970s when Ministry of Forests Districts were no longer sending them, that is mostly to Ministry of Health officials.

> The matter of referrals of land use applications is of interest to this Ministry. We did receive one referral two or three years ago, soon after map reserves were made on a large scale. We thought this practice was worthwhile and would continue but others have not followed. Is it possible that this single application has been made in all this time? (W. Bailey, Director of the Environmental Engineering Division of the Ministry of Health, and a member of The Task Force since May 1972, complaint on May 29, 1978)

> ... we wonder if we can participate with you regarding land use applications insofar as they may affect drinking water supplies. The Medical Health Officers at various locations throughout the province have full responsibility for matters dealing with the quality of drinking water supplies. Since multiple use of watersheds creates the potential for change in water quality, it seems prudent that he be made aware of

situation respecting land use in advance and be given the opportunity to comment. In our view, the appropriate time would be when the land use application is being processed. For consistency of review and policy, it is suggested that these applications be sent to this Division for onward transmission to the responsible Medical Health Officer for comment. (W. Bailey, letter to the Director of the Land Management Branch, G. Wilson, Sept.11, 1978)

In late 1975, during the midst of the Task Force's creation of Watershed Reserves, the Associated Boards of Health passed the following resolution during its annual meeting in the Okanagan:

> #15. RE: PROTECTION OF WATERSHEDS. Whereas many domestic waterworks systems depend upon surface supplies as a source of water, AND WHEREAS many conflicting activities prevail within the watersheds of these surface water supplies which may degrade the water quality and/damage the constructed works e.g. logging, cattle grazing, recreation, mining, residential development, etc., AND WHEREAS the Lands Service of the Department of Lands, Forests and Water Resources presently issue permits authorizing various activities within watersheds, THEREFORE BE IT RESOLVED that the Associated Boards of Health urge the provincial government to enact, or amend, legislation which:
> (a) would authorize the Medical Health Officer to restrict or prohibit any activity within a watershed which he feels may have a deleterious effect on the domestic water supply and,
> (b) would require the Lands Service to seek the concurrence of the Medical Health Officer before issuing a permit without authorizing any activity within a watershed.

In the Spring of 1976, the Minister of Health, R.H. McClelland, who had been appointed by the newly elected Social Credit government, was unsupportive of his department's resolution, calling it "somewhat limiting in its scope". Through a series of letters between ministers, the orders were then handed down and on June 15, 1976, the Task Force's secretary sent a letter to its membership stating that health resolution #15 would be up for discussion and that they would be meeting in two months' time to discuss the issue.

According to the minutes of the August 31 meeting "a consensus had been reached at the previous Task Force meeting that the M.H.O's should not have a veto power regarding proposed land use activities in community watersheds." The minutes go on to state that the Ministry of Forests representative, C.J. Highstead:

> ... suggested that the response from the Task Force to Resolution No. 15 should be that it does not agree with the veto power requested by the Associated Boards of Health, but suggest that the M.H.O.'s get involved in the R.R.M.C.'s (Regional Resource Management Committees). He suggested the emphasis be placed on low key participation by the M.H.O.'s at this stage"

After three years of editing draft texts, the government finally released the *Guidelines for Watershed Management of Crown Lands used as Community Water Supplies* in October, 1980, otherwise known as the "**blue book**". It was to be used as a 'guide' to 'manage' the nearly 300 Watershed Reserves that the Task Force created in B.C. These Watershed Reserves, which promoted 'multiple uses', were unlike the 'single use' reserves under the 1912 *Forest Act*. All of the Watershed Reserves were divided into three categories, according to the watershed area:

> (a) **Category 1**: those under 6 square miles in area. 175 of the 285 reserves are in this category, totaling 323 square miles, or 0.1% of the provincial land base, serving 210,000 people. Because of their smaller area, these watersheds were supposed to receive the highest protection possible.
> (b) **Category 2**: those between 6 and 35 square miles in area. 79 of the 285 reserves are in this category, totaling 1200 square miles, or .34% of the provincial land base, serving 178,000 people. Category 2 and 3 watersheds were to receive lesser protection.
> (c) **Category 3**: those between 35 and 200 square miles in area. 31 of the 285 reserves are in this category, totaling 2800 square miles, or .77% of the provincial land base, serving 123,000 people.

According to Appendix H of the blue book, before any planning for resource use activities could take place in these Watershed Reserves, they had to undergo an Integrated Watershed Management Plan (IWMP), a timely

process where water users, resource users, and government staff would develop agreements for land use activities. Very few IWMPs were ever conducted or finalized, as most led to disagreements, especially by the water users who wanted to protect their watersheds from the multiple use agenda. One of the longest IWMP processes was for the Sunshine Coast Regional District's watersheds, Chapman and Gray Creeks, which had already been heavily logged before the IWMP process began, a process which ran into trouble when voters of the Regional District in a 1998 referendum called for the end of logging in their water supply.

6. Resolutions by the Union of B.C. Municipalities against logging in drinking watersheds

For many years the Union of B.C. Municipalities, at its annual conferences, has tabled numerous resolutions pertaining to the impacts of resource use activities affecting people's drinking water: 1971, #48; 1973, #52; 1979, #100; 1982, A-38; 1986, B-31 and B-32; 1987, B-46; 1988, LR-5; 1989, A-18; 1990, B-42; 1991, B-14; 1993, C-43. Many of the historic resolutions stem from the Regional District of Central Kootenay, where there are widely dispersed concentrations of people, who rely mostly on surface water supplies and springs from nearby mountain forests.

Resolution #48, in 1971, tabled by the town of Summerland in the Okanagan, requested that the government coordinate boards to watch over community water supplies:

> **WHEREAS** municipalities, water improvement districts, irrigation districts and similar authorities are charged with the provision of consistent and safe supply of water for human, agricultural and industrial use; **AND WHEREA**S such provision requires control of watershed systems to yield constant supply in both quantity and quality; **AND WHEREA**S the increasing and varied industrial, agricultural, commercial and recreational uses being conducted in watersheds pose a threat to the prime purpose of watershed management; **THEREFORE BE IT RESOLVED** that for the purposes of ensuring that administration and management of resources within watersheds are coordinated between government agencies consistent with provision of water for human use, the Government of B.C. be urged to establish, by legislation, an authority or board which shall have the single responsibility of coordinating the administration of and management of land uses and natural product utilization within each watershed.

The Vancouver Island Comox-Strathcona District tabled resolution #52 in 1973, to ensure that the privately held lands along the eastern length of their region comply with health standards and proper protection:

> **WHEREAS** it is desirable that watersheds forming water sources for community water supplies should be protected and regulated by competent authority to ensure that quality and quantity of water supply be continuously maintained; **AND WHEREAS** major areas of watersheds are often in private ownership; **AND WHEREAS** it has been ruled by the Department of Health the "Sanitary Regulations Governing Watersheds" issued pursuant to the Health Act are not applicable to privately held lands within such watersheds; **THEREFORE BE IT RESOLVED** that the Provincial Government be requested to establish standards for all community watershed areas; these standards to give the Health authorities a guideline which will enable them to determine any deterioration in water quality whatever the cause; and further that the Health authorities be authorized to enforce the required remedial action.

The 1979 resolution #100, a very strong and pointed comment on protection of water supply watersheds, was tabled by the City of Cranbrook in 1979, just when The Task Force was dotting the i's and crossing the t's on the Guidelines report:

> **BE IT RESOLVED** that the Provincial Government be asked to place a freeze on sales and/or leases of any Crown land in any municipal watersheds to private individuals or companies; **AND BE IT FURTHER RESOLVED** that the Provincial Government aid in reclaiming privately owned land in municipal watersheds in which domestic animals or other conditions could affect the purity of the water.

The deputy minister of Municipal Affairs, R.W. Long, sent the above resolution to Ben Marr, the deputy minister of the Environment, on January 28, 1980:

> Enclosed please find the resolutions endorsed by the Union of British Columbia Municipalities at their 1979 convention. They have been sent to inform you of the position of the U.B.C.M. as it relates to your Ministry, and to obtain your response to the subject matter of the resolutions. In some cases the subject matter of resolutions is familiar, but we are nevertheless interested in your current position. Would you please respond to the resolutions by stating your position on the matter, commenting on the validity of the argument presented in the resolution, specifying any points with which you take issue, and suggesting, where applicable, an appropriate position for Mr. Vander Zalm to take in discussing the issue with U.B.C.M. representatives.

On February 15, 1980, J.D. Watts, chairman of The Task Force, and chief of the Planning and Surveys Division of the Water Investigations Branch, sent a memo to the Director of the Water Investigations Branch, P.M. Brady, to respond to Ben Marr's request for a reply to resolution #100:

> (1) The Ministry of Environment is actively investigating the practicality of placing a freeze on sales and leases of crown land in some 150 watersheds which are currently held under map reserves for administrative purposes. These 150 watersheds are those which are less than six square miles in area and substantially free from present public uses. There are an additional 126 map reserves on watersheds ranging in size from six square miles to 200 square miles
> (2) and (3) As a result of investigations by a Task Force set up to consider multiple use problems of watersheds used as community water supplies, it does not appear practical to place a freeze on, or to overly restrict agricultural and public activities in watersheds much in excess of six square miles in area in which there are extensive existing public and/or resource activities. It is noted that Joseph Creek, the watershed of the City of Cranbrook, the municipality sponsoring this resolution, falls into this category as it is 32.7 square miles in area and contains much agricultural land. In a few of the smaller watersheds, individual municipalities may find it advantageous to buy critical areas of privately owned land within watersheds for protection purposes. However, the Provincial Government should not be expected to participate in this, as it is already making substantial contribution in holding the majority of the land in these areas under map reserve for water supply purposes.
> (4) The Minister, Mr. Vander Zalm, should advise that specific watershed management problems should be referred to the Water Investigations Branch of the Ministry of Environment.

During the U.B.C.M. annual meeting in 1982, Nelson City, another member of the Kootenay Regional District, presented a resolution on community water supply watersheds, which was passed as resolution A38:

> **CONTROL AND MAINTENANCE OF WATERSHEDS. WHEREAS** the maintenance of the high quality and adequate quantities of supplies of water is of prime concern to all purveyors of water in the Province of British Columbia; **AND WHEREAS** there is widespread pressure by the Ministry of Forests and the logging industry to open watersheds on Crown lands to logging operations and other developments; **AND WHEREAS** in the past, some logging operations, associated road building and other development have been carried out in such a manner as to damage community water supplies; **AND WHEREAS** at present, authority over watersheds on Crown lands is vested in the Ministry of Forests: **THEREFORE BE IT RESOLVED THAT** U.B.C.M. request the Provincial Government to alter any purveyor of water the right and power to participate with the Ministry of Forests, any other Ministries involved and any involved industry in the planning and execution of any operations within the watersheds of that purveyor and that decisions to proceed with such operations must be made by consensus of the parties involved.

In 1986, the Central Kootenay Regional District presented resolutions B31 and B36 regarding logging on private property and its effects to water supplies, and the other on compensation for damages to water users as a direct result of government approved resource use:

B31. **LOGGING GUIDELINES. WHEREAS** there is a growing concern amongst residents that the Province of British Columbia does not have regulations regarding commercial logging on private property; **AND WHEREAS** the Province of British Columbia does have regulations regarding commercial logging on Crown Land and the said regulations encourage responsible logging practices to the extent of providing protection of community water systems, protection from soil erosion and protection from excessive fire hazards: **THEREFORE BE IT RESOLVED** that the Union of British Columbia Municipalities petition the Provincial Government to develop suitable guidelines that could be referred to by commercial loggers when logging on private property. **ENDORSED BY THE ASSOCIATION OF KOOTENAY & BOUNDARY MUNICIPALITIES**.

B36. **WATER LICENSEE INDEMNIFICATION. WHEREAS** the Provincial Government is responsible for issuing licences for the extraction or use of provincial resources which at time lead to conflicts between the uses licenced; **AND WHEREAS** municipalities, regional districts, water improvement districts and others holding a priority use licence for domestic water supply have found that subsequently issued licences for uses such as logging have resulted in financial hardship to the prior use licensee and have caused deterioration of the prior use of resources: **THEREFORE BE IT RESOLVED** that the Provincial Government be requested to reimburse a prior use licensee where the issuance of a subsequent licence results in financial or resource loss to the priority user and the Provincial Government seek its own reimbursement of costs from the licensee causing damage.

The following year, the City of Nelson passed another resolution pertaining once again to the subject of compensation of injury to water users from those responsible for issuing and performing resource activities in community watersheds:

B46. **COMPENSATION FOR DAMAGES TO WATERSHED AREAS. WHEREAS** there is a growing concern throughout the Province about resource extraction in watershed areas, and the negative impact of such resource extraction on the quality of potable water; **AND WHEREAS** it is difficult, if not impossible, to prove fault in the case of damage to watershed areas: **THEREFORE BE IT RESOLVED** that the Provincial Government be urged to provide no fault compensation for areas damaged by resource extraction. **ENDORSED BY THE ASSOCIATION OF KOOTENAY AND BOUNDARY MUNICIPALITIES**. [Resolutions Committee: The Resolutions Committee notes that this resolution (B36-1986; A38-1982) was previously considered and endorsed. The Provincial Government indicated in response that it should not be held liable or have to pay damages resulting from the use or extraction of resources under licence.The Provincial Government is reviewing the issue and is attempting to propose a policy which would solve the problem.]

Once again, in 1988, the City of Nelson, undaunted by the Provincial Government's lack of response, presented the following resolution on the issue of compensation from damages to their water supply:

LR5. **COMPENSATION FOR DAMAGES TO WATERSHED AREAS. WHEREAS** there is a growing concern throughout the Province of British Columbia regarding resource extraction in watershed areas because of the possible negative impact of such resource extraction on the quality of potable water and because of the difficulties, extreme costs and virtual impossibility of litigation in the event of damages; **AND WHEREAS** the preservation of watershed areas and the potable water resources they contain is vital to the health of a community, repairs must be instituted immediately in the event of damage: **THEREFORE BE IT RESOLVED** that: (a) The Provincial Government establish a no fault insurance pool to pay for costs for immediate repairs to such assets and water supply areas and water supplies damaged through resource extraction; (b) The funding for such an insurance pool come from resource extraction companies through posted bonds or similar funding and through royalties and stumpage fees paid to the Province; (c) Liability for the damage to be apportioned through an arbitration board decision and the fund reimbursed accordingly. Such arbitration board to be established prior to resource extraction being instituted. The composition of the arbitration board to include municipal (regional) representation for the area affected, technical expert acting for the

> municipality (region) affected, appropriate ministry representative, the industry involved plus a fifth party to be chosen by the other four members as an impartial voting member.

According to an October 19, 1989 draft letter from the Director of the Ministry of Forests Integrated Resources Branch, J.A. Blickert, the Ministry of Forests had formulated policy, through a series of revisions for the previous 18 months, on "Reparation of Damage to Water Supplies and Delivery Systems":

> The purpose of this policy is to identify mechanisms for reparation of damage to water supplies or delivery systems necessitated as a result of timber harvesting (including road construction, silvicultural treatments and protection activities) or range activities and to clarify responsibilities.... RESPONSIBILITIES (2.0) The District Manager will determine the value of any bond which he may require to be posted by the forest licensee or range tenure holder to ensure the integrity of water supplies and delivery systems.... FOREST LICENSEE/RANGE TENURE HOLDER (2.0) The forest licensee or range tenure holder is responsible for immediately notifying the District Manager of any damage to the water supply or delivery systems which has been identified.... (3.0)... The forest licensee or range tenure holder must also provide alternate water supplies to licensed users, where it is possible and reasonable, during short term water supply disruptions (a few hours) related to such actions. (4.0) The forest licensee or range tenure holder may be required to post bonds or provide proof of adequate liability insurance to cover, in whole or in part, the costs of remedial action to water supplies and water delivery systems required during the term of the forest licence or range tenure document. In the case of the forest license this provision will extend past the term of the license to include the period of time required for the next crop of trees to reach the "free to grow" stage.... WATER LICENSEE ... (4.0) Water licensees must share in accepting reasonable, but not undue, risk associated with adjacent uses of Crown land." [Date: 89/08/29]

While these policies were slowly formulated by the Forest Service, with input by the Ministry of Environment, pressure from the Kootenay Regional District continued to mount. This is evidenced in a letter to Dave Parker, the Minister of Forests, dated May 16, 1989, from the Executive Director of the U.B.C.M., Richard Taylor:

> There is one issue that I would like to expand on and that is the issue of logging in watersheds. This is an issue of longstanding concern with local government and one on which the UBCM has forwarded a number of resolutions to the Provincial Government.... even though Ministry staff feel the problem has been addressed ... we have a continuing expression of concern that deserves close scrutiny.

The Ministries of Environment and Forests recognized for decades, internally, the concerns and opposition, specifically regarding logging in the community and domestic watersheds in the Kootenay Region. Watershed reserves had been established on only the larger population communities, but smaller communities, and isolated groups of water users, did not have their watersheds protected. Unfortunately, even the Category I watersheds were not in a protected state, despite the assurances from The Task Force since the 1970's.

Alliances, such as the Slocan Valley Watershed Alliance, formed in the early 1980's, was formed to protect residents' watersheds for water supply from conventional forestry practices. The Slocan Valley, which is a long narrow valley, with steep forested mountain slopes, has proven to become prone to slides after logging. The Slocan Alliance organized a provincial conference in 1984, For the Love of Water (FLOW), and another in 1988, around the issue of water protection. These conferences, especially the 1984 conference, created a provincial awareness of watershed protection.

Disputes raged within the Slocan Valley concerning the principal forest licencee, Slocan Forest Products, who had the Allowable Annual Cutting rights for most of the valley. In Springer Creek, a Category II watershed, the source of Slocan City's water supply, and home to Slocan Forest Products sawmill, the Forest Service was obligated to conduct an Integrated Watershed Management Plan, a process which ended up in a heated and prolonged debate. Because of the lack of intelligent participation on the IWMP, the Slocan Alliance eventually withdrew from the process. The battle over the Springer Creek IWMP reached Dave Parker's desk, the Forests Minister, who sent a letter off to Environment Minister Bruce Strachan. Strachan replied, on July 19, 1989, that,

after being tipped off, these matters were culminating in provincial concerns which were headed for the U.B.C.M. annual meeting, a matter which needed serious attention:

> In general, the process which has been developed and the working relationship between our Ministries on these plans is good. The Slocan Valley Development Guidelines were reviewed by the Environment and Land Use Committee in 1985 and have evolved to accommodate the concerns of all participants since that time. I am advised that Ministry staff will continue to pursue the preparation of integrated watershed management plans once the Slocan Valley Watershed Alliance has completed their proposed guidelines. As you suggest, decision-making authority must remain with the mandated government agencies. There is, however, a growing consensus both within and outside of government that clearer legislative authority is required to protect community water supplies affected by the upstream resource use. This matter is likely to be raised at the Union of B.C. Municipalities meeting in September. I would suggest that this matter should be the subject of a joint submission to the Environment and Land Use Committee by our Ministries and the Ministries of Municipal Affairs, Recreation and Culture; Health, and Energy, Mines and Petroleum Resources, as soon as this can be arranged.

In June, during a forum in Creston, NDP opposition leader Mike Harcourt even stated that he would introduce legislation that would protected forested drinking watersheds from future logging. At the September 19-22, 1989 U.B.C.M. annual convention in Penticton, the Regional District of Central Kootenay gave an oral presentation from a five page brief entitled “Logging in Watersheds”. The presentation captivated the audience, in which representatives from provincial government agencies participated:

> My presentation today is based on my exposure to the logging in watersheds in the interior parts of the Province. Our interior valleys, in the main, are very narrow valleys with very steep mountains on each side. The only places to build homes or communities are on the alluvial fans which were built up over many years from actions of creeks and rivers in the areas.... The added hazard of logging on steep slopes - - again in our watersheds - - is increasing more and more... the preservation of water is paramount to our lives. Water, as much as the air we breath, is so essential to our everyday life that we react - - sometimes violently and with anger, and understandably so - - when it is threatened. Increasingly water is being diminished in quantity and quality by resource extraction for the benefit of others.... We are, generally, very pleased with our mountain water both in purity and quantity. Suddenly we find someone wants to log our watershed. Visions of muddy debris-filled creeks from hastily-built roads; all sorts of activity above us from machinery and humans. We will have to boil our water, install filters to protect our hot water tanks and washing machines; next comes chlorination or other treatment demanded by the health authorities because our watersheds are invalid and violated. Worse than that, everyone knows that when the trees are gone, the water goes as well; the snows melt, the creeks pour out volumes of mud, silt and logging debris, our dams and reservoirs fill up an then the water stops. When it rains, the rush starts all over again, for a brief period. Then one day there is no water. We are certain in the knowledge that the Forestry cannot assure us that the quality and quantity of water will continue. There are no guarantees to protect our water during logging or for years after the contractor has moved on to another watershed. There are - - as Mr. (Reiner) Augustine will tell you - - checks and balances in place; community involvement; the integrated watershed management plan; but there are no guarantees and involvement in making the decisions.... When Forestry issues the guidelines and signs the contracts and is in control of the terms of the contracts, it would appear that they should then assume the responsibility for the consequences. This Ministry should recover the costs whatever they may be for repairing damage done through performance bonds required at the time of the contract signing. The repairs should be made immediately, the logging stopped and then the investigations and questions asked.... As the Agricultural Land Reserve protects our farm lands - - or was supposed to - - a similar piece of legislation - - without the loopholes - - should protect our watersheds and landscapes. It goes without saying that the Minister of Crown Lands should be the first to insist that logging on ‘our’ land should be an example of what should be done in forests. The prime resource in a watershed must be water - - both for its quality and continuing quantity. It is suggested that watersheds be removed from the management of the Ministry of Forests. It is suggested that legislative changes be made to place watersheds under the control and watchful eye of the Ministry of Environment, Water Rights Branch and the Ministry of Health. All other resource extraction need be subservient to the maintenance of

> water quality and quantity. If logging must be done in watersheds - - and since only a very small percentage of forest is in watersheds, it is doubtful that it should be - - then very stringent rules and guarantees must be put in place and only very specialized type of selective logging be allowed. The Minister of Forests (Dave Parker) - - who is viewed increasingly by many as the Minister FOR Forestry - - has shown no great concern for us. The Council of Forest Industries - - the greatest pressure lobby and special interest group in the Province - - is concerned because we want to prevent the destruction of our watersheds. We are called ANTIS.... We note, with empathy and sympathy, the concern of Lower Mainland residents that their watersheds [construction of the natural gas pipeline through the Coquitlam watershed] are to be invaded by a pipeline that serves some distant place. We honestly hope that the assurances and comments that "all will be well" that are being made by politicians and proponents of the pipeline, will work out. From experience, permit us to doubt.... It is indeed most encouraging to see and to hear from all over the Province speaking out on this issue: speaking out in real concern for our vested interests in our watersheds. We must be gaining when the Premier (Vander Zalm) speaks out on a matter contrary to his Forests Minister and states that "clearcuts are a disaster". We encourage his active viewing of this Ministry and his participation in protecting one of our most precious assets. We urgently need legislation to control many of the issues that the forest service has made no mandate to supervise. We require legislation to place the protection of our watersheds where they rightfully should be under the Water Rights Branch of the Ministry of Environment and under the Ministry of Health. Even with the imminent change in Ministers, without changing the responsibility of preserving our community watersheds, we face a continuing losing, confrontational battle.

As Bruce Strachan forecast, the acrimony and intensity of the concerns by water users over the years, despite the 'planning processes' in place for watershed reserves and non-watershed reserves, culminated in this address to the Union of B.C. Municipalities. Immediately afterwards, Strachan sent off a letter to the Minister of Forests to implement (yes, that's right) another inter-agency committee to resolve the issue of resource use in community watersheds. The following is a letter, which mentions this process:

> I have received a copy of a letter from the former Minister of Forests, the Honourable Dave Parker, in response to a letter from the former minister of Environment, the Honourable Bruce Strachan, regarding the formation of a committee to study the watershed management planning process. The Ministry of Health considers the protection of community watersheds to be an important issue, and the Ministry of Health would be most interested in participating in this process. (From the assistant deputy Community Minister of Health, to Wes Cheston, the assistant deputy Operations Minister of Forests, November 29, 1989)

7. The post-Task Force inter-ministerial committees on drinking water and the development of the Forest Practices Code Act for Community Watersheds - 1989-1996

Due to the concerns raised through the Union of B.C. Municipalities, the Inter-Agency Community Watersheds Management Committee was subsequently established in early 1990. The first Committee meeting was held on February 1st in the Boardroom of the Ministry of Forests Financial Services Branch. Members of the Committee were: Sharyn Daley, Ministry of Environment Hydrology Section; Don Rekston, Ministry of Environment Hydrology Section Head; John Bones, Director, Ministry of Environment Integrated Resources Planning; Barry Willoughby, Ministry of Health Manager of Drinking Water Program; Mitch Fumalle, Ministry of Municipal Affairs Assistant Director of Programs, Development Services Branch; Rolf Schmidt, Ministry of Municipal Affairs; Sandy Currie, Ministry of Forests Planning Forester, Resource Planning Section; Gordon Erlandson, Ministry of Forests Public Involvement Consultant, Integrated Resource Branch.

Out of this process, which fizzled out in 1991, was another committee, the Community Watershed Guidelines Committee, which first met in September 1992. As a result of continued concerns, the government planned to

hold public workshops in different sectors of the province for input on preparing new guidelines for resource activities in drinking watersheds, a document which was to replace the 1980 blue book guidelines for Watershed Reserves. As one government staff member put it, "this will be the first time in a technical document such as this is put through a public involvement process" (November 18, 1992, memo to Don Kasianchuck). Meetings were held in about 7 or 8 localities in southern B.C. in 1993.

In conjunction with this process, the Technical Advisory Committee (TAC) was formed to bring about the new guidelines, with representatives from the Ministries of Forests, Environment, Lands and Parks, Health, Energy, Mines and Petroleum Resources, Agriculture, Fisheries and Food, Transportation and Highways, and a separate representative from the forest industry. According to a backgrounder produced for the TAC, it stated that because logging and cattle grazing had been taking place over the last two decades, it would become difficult to end these activities:

> For example in the Okanagan and Kootenay Lake Areas more than 50% of the allocated harvestable timber lies within watersheds licenced for community watershed use.... There is a cost to society and to local communities in discontinuing present uses and in continuing present uses at the expense of water quality and quantity. The challenge of watershed management is to maintain the quality and quantity of water from these sources as the primary goal while realizing the value of the timber, mining, agriculture and recreational resources within the watersheds.

The end result of these committees was the *Forest Practices Code Act* for *Community Watersheds Guidebook* released in 1996. This document was to replace the 1980 (1984) *Guidelines for Watershed Management of Crown Lands Used as Community Water Supply*. What this new document didn't include, however, was any mention at all of the term "Watershed Reserves", which had been created through provincial legislation, under the *Forest* and *Land Acts*, and the significance they have in terms of land use designations and planning processes. This omission is significant. Considered critical to the watershed protection program, Government had implemented resource use guidelines for the Watershed Reserves in the late 1970s and early 1980s and reserve policy under the Lands, Parks and Housing Act. Watershed Reserves had a special legal status and were under the mandate and powers of the Minister of Lands, not the Minister of Forests. What was done under the *Forest Practices Code Act* was to roll together the Watershed Reserves, identified by the 1970s Task Force "blue book", together with many other non-Watershed Reserves which totaled about 650 community watersheds. All of the 1996 FPC community watersheds were suddenly under the control of the Minister of Forests and the *Forest Practices Code*, with no separate categories to distinguish the two of them. All of this was done without notification to the water users.

The result of this process was utter confusion. Not only government staff, who were not cognizant of the history regarding Watershed Reserves, but also the courts, were confounded by the lack of historical information on provincial land use planning, which is critical to an understanding of the existing legislative scheme. The petition by the Valhalla Wilderness Society on the logging in two Category 1 Watershed Reserves, for Bartlett and Mountain Chief Creek watersheds, fell on deaf ears in 1997, simply because the judge was not provided the complete information by the Attorney General's Department. Justice Paris ruled that not only did the Minister of Forests have the upper hand on decision making over Watershed Reserves, but that these two watersheds, contrary to the information in government files and land status maps, were never designated as Category 1 Watershed Reserves. That decision should have been appealed.

8. The recent protective legislation of drinking watersheds in the United States and British Columbia

The 1990s was an important decade for drinking watershed in the United States and Canada, where significant decisions were made, after years of intense public protest, to end logging in drinking watersheds in four major cities. In 1994, a judge ruled that logging in the Greater Victoria watersheds should end. In 1996, president Clinton declared that logging in Portland's watershed, the Bull Run, should end. In 1999, the City of Seattle declared that it too would end logging in the Cedar River watershed, and begin to remove hundreds of miles of logging access roads. In 1999, the Greater Vancouver Regional District passed the following resolution on November 10, to end logging in the three Greater Vancouver watersheds:

1. The primary purpose of Greater Vancouver's watersheds is to provide clean, safe water.
2. The watersheds will be managed to reflect and advance the Region's commitment to the environmental stewardship and protection of those lands and their biological diversity.
3. The Region's management plan will be based upon the minimum intervention absolutely necessary to achieve the Board's objectives.
4. The management plan will contain policies to return areas disturbed by human activities as close as possible to the pre-disturbance state consistent with the primary goal of protecting water quality.
5. The decision-making process will be transparent and open to the public.

These were all very important and timely decisions. However, there was great damage done in these watersheds as a result of road building and logging, damage which could have been, and should have been prevented long ago. These decisions should be an important standard for this provincial government, as it looks to protect British Columbia drinking watersheds through legislation.

9. The Auditor General's report and the present process

Many praise the B.C. Auditor General for his report on *Protecting Drinking Water Sources*. After all, it, and the recent Walkerton Commission seem to have brought us to this point in history, where we may have an opportunity to bring about effective legislation to protect the sources of B.C. drinking watersheds, and for much needed groundwater legislation.

The Auditor General's report, however, has its limitations. Many of these limitations were a result of the Terms of Reference for the provincial audit on drinking watersheds. For instance, it may not have provided enough details on each of its eight case studies, such as the issues recently addressed concerning the application of toxic fertilizers in the privately held lands of Nanaimo's watershed. It was unable to develop the legislative history on protecting drinking watersheds in British Columbia, and subsequent historical summaries on this issue. It overlooked studying both the Victoria and Greater Vancouver watersheds, studies which could have provided valuable insights, and new direction away from the Auditor General's quasi-support of continued resource use activities. In 1996, there were about 650 community watersheds for larger communities identified by the government under its selective definition for *Forest Practices Code Act* Community Watersheds. Now there are about 465 community watersheds. How do the eight case studies in the Auditor General's report adequately reflect the hundreds of drinking watersheds in B.C.?

The last question becomes particularly relevant in the government's recent public consultation process held in ten B.C. communities, the last two of which, in Vancouver and Kamloops, were added on due to public concern. Each of first eight meeting locations was held to reflect the eight case studies in the Auditor General's report. Though this plan of attack may have some merits, the meetings failed to provide the public with critical and relevant information. There were no detailed maps showing the drinking watersheds in each of the locations. There were no studies provided on government reports of these or neighboring drinking watersheds, such as the many studies conducted over the years on Norrish Creek, greater Abbotsford's drinking source. There were no maps showing all of the drinking watersheds of the region. For instance, during the Kelowna process, the public should have been provided with maps showing the many drinking watersheds in the

Okanagan, an oversight pointed out by this author on a number of occasions to government staff. There were no statistics provided on B.C. community watersheds, almost no information at all. How can citizens be able to make informed decisions, and how can they prepare their written submissions, without adequate information?

The most troubling consideration came at the tail end of this public consultation process, when the Minister of Forests, Gordon Wilson, announced the discussion paper to introduce proposed legislation which would grant the remainder of Crown lands not currently under Parks status to the "working forest". The government should have announced this legislative proposal at the beginning of the public consultation process on protecting drinking water, rather than at the end, because we now are aware of the government's real intentions. How can the government bring about meaningful and effective legislation to protect our drinking water sources, when the government has decided to dedicate them to perpetual logging and other resource activities? Until this is resolved, we can have little faith in the government's apparent promise to protect our drinking watersheds.

10. Conclusions and Recommendations

This report does not pretend to be exhaustive, and excludes technical comments on important water quality issues and oversights in the government's legislation, and has no meticulous critical rendering of existing regulations under legislative Acts which guide the everyday resource use activities in drinking watersheds. That needs to be done, but who is going to do that and provide the necessary legal costs to do so? This report merely attempts to bring in some relevant history on this critical issue, to demonstrate that this is a critical and longstanding issue, to demonstrate that it has been subject to profiteering, summary information for the most part which is not known to the public.

What we do know is that our drinking watersheds have and are being ruined as a result of this and previous government administrators. As we write, plans are either being drafted or executed for more logging in drinking watersheds. What are we going to do to address this situation in a meaningful way? We have already asked for a moratorium on land use activities in drinking watersheds in one of our recent press releases, in order to bring about a meaningful process, a process which should ultimately bring about the end of these activities to protect our drinking water sources.

In this respect, we are asking the government to implement protective legislation through the creation of Watershed Reserves, a point brought about in a petition signed, so far, by 46 provincial groups (see attachment), the petition which we presented to the Minister of Environment, Lands and Parks, Ian Waddell, on February 13, less some 25 additional signatories (see appendix below). These Watershed Reserves will have the original meaning these words convey, originally conveyed in the 1912 *Forest Act*, for single use, for water only, not the interpretation and neglect of them brought about by the 1972 provincial Task Force on the Multiple Use of Community Watersheds. A Reserve for water, not a reserve for industrial uses. This legislation will grant the public confidence that it so richly deserves, legislation, which over the long term, will enhance water quality, and defer costs associated with the damage to watershed ecosystems, and related costs for the implementation of expensive water treatment processes and to health costs.

The Auditor General recommended the formation of a lead agency to govern the use of drinking watersheds in British Columbia. We would agree with that, for obvious and important reasons, and so do many others.

> And the final thing in our area: the Ministry of Health did not take part in the process, and they're being seen as a key player in this whole program. The second recommendation, designate a lead agency -- this, we believe, is probably the most important of all of the recommendations. Of the 26 recommendations, if only one is adopted and it's this one, we will see a significant improvement in our ability to do our jobs, because a great number of the other recommendations will likely follow from that lead agency. The information that you've heard today from the Ministry of Environment and the directors' committee leaves me with just two words, and those are "utter dismay." This we see as by far the most important recommendation in the whole report. The recommendation on accountability reporting -- we believe it's valuable. But we hope that the provincial health officer will concentrate very

> much on source protection, because that's one area where the Ministry of Health is not well involved. We believe that the Ministry of Health does an excellent job in helping us make sure our water supply is risk-free from our intake to the tap, but they are not involved in helping us in any way in keeping our source-water protected." (Mike Stamhuis, Director of Engineering, North Okanagan Water Authority, Public Accounts Committee meeting, November 7, 2000, pages 1647-1751)

Currently, the Ministry of Environment, Lands and Parks are assuming the role as lead agency, as they stated in the Nanaimo public consultation session on January 26. However, until the powers over provincial forest lands and associated provincial legislation with the Ministry of Forests is removed, and until the Allowable Annual Cut is removed from these areas, and until other ministerial Acts related to the use and powers over Crown Lands are removed concerning drinking watersheds, and controlling powers over Crown Lands are ultimately vested in the Ministry of Environment, Lands and Parks for the protection of drinking water sources, we will have no confidence in this ministry as the lead agency for drinking water sources as it currently stands. We wish that we could simply trust the government to protect our drinking watersheds, but history has clearly shown us otherwise. Within this framework, there must also be legislation passed which addresses the issue of land use activities on private lands, and in this sense, we must all cooperate to protect our drinking water. If there is to be a lead agency, then it must also be independent from the discretionary powers of provincial Cabinet and the premier, all for the protection of the most valuable asset we can have, pure, clean water.

Finally, two of the more important considerations. First Nations must be consulted in a meaningful way on this issue, between all levels of government. Drinking water sources must be protected, by all governments, including First Nations. Secondly, the threat of privatization and implications associated with the North American Free Trade Agreement should be addressed immediately, and legislative provisions should be administered in light of these threats on drinking watersheds.

This government, including its successor, needs to bring about ways to restore public confidence in their proper administration over land use issues in British Columbia, and what better way to begin, than by legislating Watershed Reserves for the single use of drinking water.

APPENDIX B - Petition by B.C. provincial groups

PROTECT THE SOURCE OF DRINKING WATER
BY LEGISLATING WATERSHED RESERVES

February 20, 2001

Forests play an important role in the protection and replenishment of water, our most precious natural resource. Many of B.C.'s sources of drinking water have been damaged by industrial development such as logging, road-building, mining and grazing.

Many watersheds throughout B.C. are in crisis because of these activities and under existing legislation there is no protection for the source of water.

Health must come before profit. Water needs to be preserved, not treated after it has been compromised. The citizens of this province are demanding the kind of protection offered by more effective, less harmful non-chemical water treatment solutions. These solutions cannot be utilized in the absence of the high quality source water that intact forests provide.

We urge the B.C. government to protect the source of drinking water by legislating "Watershed Reserves". Watershed Reserves would protect the source of water and be in areas that have no logging, road-building, mining or grazing by specific legislative enactment prohibiting these uses in any forms. Watershed Reserves would reduce the provincial AAC (Allowable Annual Cut) by approximately 2%.

Water quality is one of the most important issues facing the community. Every citizen in this province deserves to drink clean water. The most important way to provide clean water is to protect the source.

Protecting water sources by legislating Watershed Reserves will leave one of nature's richest legacies for our communities, our children and future generations - clean water.

SIGNED:

The Society Promoting Environmental Conservation (SPEC)
B.C. Tap Water Alliance
Valhalla Wilderness Society
Trailblazers
Western Canada Wilderness Committee (WCWC)

Goat Mountain Water Users Association
Sierra Club of B.C.
Georgia Strait Alliance
The David Suzuki Foundation
Sinixt Nation
Perry Ridge Water Users Association
Health Action Network Society
Canadian Earthcare Society
Red Mountain Residents Association (Hasty Creek)
Shawnigan Lake Watershed Watch
Canadian Reforestation and Environmental Workers Society (CREWS)
Reach for Unbleached

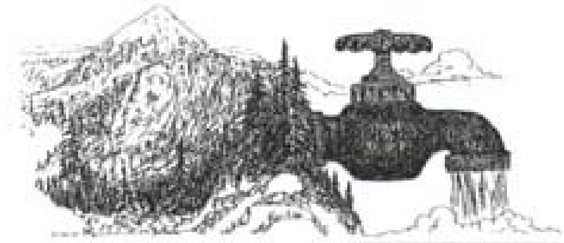
Nelson EcoCentre
Stikum Crescent Bay Waters Users
Halfmoon Bay Greenways

The Save Salt Spring Society
The Friends of Richards Creek
Rivershed Society of BC
Sunshine Coast Conservation Association
Sunshine Coast Water First
Carmanah Forestry Society
Turtle Island Earth Stewards
Council of Canadians - Mid Island Chapter
Granby Wilderness Society
Tuwanek Ratepayers Association
Elliot/Anderson/Christian/Trozzo Water Users Committee
The Burke Mountain Naturalists
Friends of the Watersheds (Greater Vancouver)
West Coast Environmental Law Association (WCELA)
Friends of the Slocan
Silva Forest Foundation
Fraser Headwaters Alliance
Comox Valley Project Watershed Society
Friends of the Cat Stream
Qualicum Beach Environmental Committee
Vancouver Island Earth Works Society (VIEWS)
Canadian Association of Physicians for the Environment
Ecological Health Alliance
Citizens for Choice in Health Care
Association of Whistler Area Residents for the Environment (AWARE)
Carbon Monoxide Information Network (COIN)
Victoria Branch of the World Federalists of Canada
Sitkum Creek Water Users
Bourke Creek Water Users
The Mission Chapter, Council of Canadians
Kitto Creek Water Users
Slocan Valley Watershed Alliance
Friends of Cortes Island
Winlaw Watershed Committee
Forest Futures
Shuswap Environmental Action Society
T. Buck Suzuki Environmental Foundation

APPENDIX C: 8 PRESS RELEASES – JANUARY TO MARCH 2001

B. C. TAP WATER ALLIANCE

Caring for, Monitoring, and Protecting British Columbia's Community Water Supply Sources
P.O. Box #39154, 3695 West 10th Ave.,
Vancouver, B.C., Canada. V6R1G0
Email: bctwa@alternatives.com
Website: www.alternatives.com/bctwa



January 8, 2001 – *For Immediate Release*

SAVE THE ARROW - WATER FOR THE MILLENNIUM

Vancouver - At a time when the threat to drinking water quality is paramount, and with recent controversial headlines about water treatment for the Erickson Improvement District (EID), the NDP government may be granting a request by the recently created Creston Valley Forest Corporation (CVFC) to replace its 15 year non-renewable forest license for a long term, 99-year renewable license to log and road the 7,900 hectare Arrow Creek Watershed Reserve.

The Arrow is the community water supply for greater Creston, and has been a source of pristine water supply for 86 years. The recent announcements by the regional health inspector, Dr. Andrew Larder, over his insistence that the EID must apply chlorine as a disinfection treatment for its 2,000 residents is likely linked to the threat of future logging and its repercussions on water quality in Arrow Creek, an issue completely overlooked in recent media headlines.

About 30 years ago, when the Social Credit government announced its intentions to log the Arrow, local residents strongly opposed the plans, and were successful in protecting their water supply from industrial development until the mid-1990s, when the logging moratorium was lifted. Despite ongoing protests, Forests Minister David Zirnhelt later approved a volume-based "community" forest license to the CVFC in 1997, of which the Arrow comprises about 70% of its operating area. The CVFC intends to access the highly merchantable old-growth forest in the headwaters of Arrow Creek, a condition partially related to its current debts to both the Royal Bank and the provincial government.

The current Forests Minister, Gordon Wilson, MLA for Powell-River/Sunshine Coast, may himself have to make a decision on the long term forest license. Coincidentally, most of Wilson's constituents within the Sunshine Coast Regional District, whose water supplies in Chapman and Grey Creeks were decimated by logging practices, are asking the provincial government for control and public ownership of their watershed lands. A public referendum was held on May 2, 1998, where 88% of the Regional District voters requested that there be an end to logging and mining in their water supplies, which the government has been reluctant to implement. 30 years ago the EID, which distributes water to greater Creston, applied to the government for a long term lease of Crown lands to gain control over resource development, but was denied. In 1927, the Greater Vancouver Water District obtained a 1000 year lease of Crown lands for its water supply, and then implemented policies against logging, mining, and public access.

Last October 27, at the annual meeting of the Union of B.C. Municipalities in Victoria, Premier Dosanjh promised B.C. residents that he is committed to protect drinking water: "I want to work with you to ensure every one of our citizens has access to safe, good quality drinking water."

"What does the Premier mean, and what is the government's definition of safe, good quality drinking water?," questions Will Koop, coordinator of the B.C. Tap Water Alliance, and researcher for the Society Promoting Environmental Conservation (SPEC). "This sounds just like another promise, in a series of broken and ill-defined promises cast by politicians over the last 35 years."
In May 1989, during a three day conference in Creston, the NDP opposition leader, Mike Harcourt, addressed the conflict about the community watershed logging controversy in Arrow Creek and in the Kootenays. He promised that if his party formed the next government, he would institute a "Forest Products Act, which would stop logging on lands, especially in [water supply] watersheds, used by communities". The NDP government, like previous governments, is responsible for continuing to undermine community drinking water sources by allowing industrial development, like logging and road access. These resource use policies have impacted water supplies, divided communities, and forced the ordinary citizen to demonstrate and even serve jail sentences. "If the Premier is truly committed to the people of greater Creston, he will deny the request for a 99-year forest license and immediately halt any future logging plans in Arrow Creek," Koop says.

The B.C. Tap Water Alliance is declaring 2001 the turnaround year for B.C. community drinking water. About one and half percent of the provincial land base is home to people's drinking water supplies, and for more than thirty years B.C. residents have fought and failed to protect their source of drinking water.

"It is time for the people of B.C. to make a dramatic change for new government legislation which will make mandatory complete community water supply watershed protection. It is incumbent upon the leaders of this province to protect the health and future of all citizens, and to stop industrial development in drinking water supplies, by ensuring the public's right to clean, pure water," Koop added.

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Creston's Sullivan Creek drinking water source over 20 years ago. There's already been enough destruction from logging in B.C. community watersheds. If Mazumder wants to experiment in alternative forestry, he shouldn't do it in watersheds that provide people with their drinking water."

A December, 2000 Creston Valley Forest Corporation (CVFC) report, states that "direct sales to Wyndell (Box and Lumber) and Galloway (Lumber Co. Ltd.) will continue through to the new year." CVFC is preparing to log the pristine 7900 hectare Arrow Creek Erickson Watershed and is asking the BC Government for a 99-year logging license.

"B.C. Municipal Affairs Minister Jim Doyle, previously Minister of Forests, began negotiating a reduction in stumpage fees for CVFC last October. Health Minister Corky Evans is a staunch advocate of logging in drinking watersheds in the Slocan Valley," said Koop. "On Jan 12 Doyle and Evans forced the Erickson Improvement District into receivership when local residents refused to allow chlorination in their up-to-now unlogged watershed. On January 15 Evans claimed CVFC can "produce both wood and good water from the same land."

In a January 15 article in the Creston Valley Advance, now CVFC manager of operations Jim Smith said, "there is no connection between the logging practices of the CVFC and the Erickson chlorination issue." In 1976 Smith and fellow Creston Valley residents opposed logging the Erickson Watershed.

"We believe there is a connection between the order to chlorinate Erickson's water and logging in the watershed. Six months after the BC Government gave a license allowing CVFC to log the Erickson Watershed in June 1997, the Health Ministry most likely ordered the Erickson Improvement District to chlorinate because of the negative impact of logging on water quality," said Koop.

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B. C. TAP WATER ALLIANCE

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

P.O. Box #39154, 3695 West 10th Ave.,
Vancouver, B.C., Canada. V6R1G0
Email: bctwa@alternatives.com
Website: www.alternatives.com/bctwa

The B.C. Tap Water Alliance and the Society Promoting Environmental Conservation (SPEC) Press Release

January 24, 2001 –*For Immediate Release*

Environmentalists Give Thumbs Down on Dosanjh's Drinking Water Protection Plan

Vancouver - SPEC and the B.C. Tap Water Alliance are disappointed that Premier Dosanjh's proposed *Drinking Water Protection Plan* fails to protect watersheds that supply drinking water to the majority of BC residents. "A Sierra Legal Defence Fund report card just gave the BC government a "D" for its protection of drinking water, " said Will Koop, SPEC's provincial watershed campaigner. "Based on this proposed *Plan*, we give Dosanjh's government an F."

On January 19, the day after Sierra Legal issued its report card, the government released its *Plan* just a week before the start of province-wide public information meetings, the first scheduled for Jan. 26 in Nanaimo. The *Plan* assumes that current "multiple use" activities such as roadbuilding, logging, mining and cattle grazing on Crown lands will continue. *The* Plan also forces 3500 local communities to pay consultants for years of costly watershed assessments.

"The solution that Dosanjh is proposing in his *Drinking Water Protection Plan* assumes continuation of potentially harmful activities in domestic drinking water supplies, " said Koop. "What Dosanjh is calling "protection" is just a euphemism for business as usual. His *Plan* also forces communities like Creston and Erickson to log their own watersheds; a practice long-recognized as harmful to water quality." Columbia Brewing Company currently uses Creston's water to make Kokanee Beer.

The BC government, moreover, is refusing to implement a 1999 BC Auditor General recommendation to create a lead government agency to oversee issues on drinking water. This agency would independently oversee the Forests, Mines, Agriculture, and Environment ministries which permit industrial activities in community watersheds. Health experts have for many decades criticized the provincial government for implementing policies on logging, mining, and cattle grazing that negatively impact drinking watersheds.

At the January 26 Nanaimo public information meeting, Environment Ministry and other government officials will face a barrage of concerns about logging on drinking watersheds on Vancouver Island and the Gulf Islands. Nanaimo residents are trying to stop forest giant Weyerhaeuser from dumping toxic chemicals which leach into the community water supply from the company's tree farm operations. In recent years Weyerhaeuser has poured at least 44 tonnes of toxic chemicals in the Nanaimo watershed.

"Premier Dosanjh has an opportunity to implement legislation to protect the sources of BC's drinking water by removing these watersheds from the Provincial Forest land base, by creating Crown Land

Watershed Reserves, and by reintroducing legislation that gives communities control of their watersheds," said Koop. "The provincial government gave Greater Vancouver just those kind of powers to protect the GVRDwatersheds in 1927. The legislation must also address privately held lands."

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P.O. Box #39154, 3695 West 10th Ave.,
Vancouver, B.C., Canada. V6R1G0
Email: bctwa@alternatives.com
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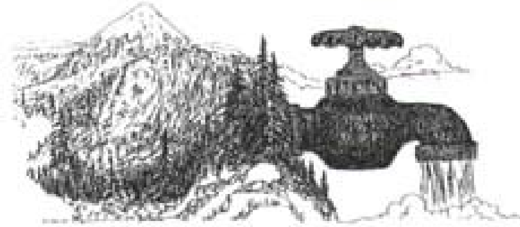

The B.C. Tap Water Alliance and the Society Promoting Environmental Conservation (SPEC) Press Release

January 30, 2001 – *For Immediate Release*

Immediate Moratorium Called for Logging in Provincial Dinking Watersheds

Vancouver - SPEC is demanding that the provincial government implements an immediate moratorium on logging, mining and cattle grazing in community drinking watersheds across B.C. Community watersheds represent only 1.5% of the provincial land base. SPEC's demand follows Premier Dosanjh's promise to introduce legislation to protect public drinking water sources. On January 25, Dosanjh and BC Environment Minister Ian Waddell released a Drinking Water Protection Plan as the first in a series of province- wide public consultations that began on Vancouver Island.

"At the first public consultation meeting on January 26 in Nanaimo, Environment Ministry staff claimed that logging approved through the *Forest Practices Code* protects drinking watersheds on Crown lands. That assumption, however, doesn't hold any water," said Will Koop, SPEC BC Watershed Campaigner. "The *Forest Practices Code* as applied to community watersheds is a joke. If this is the Environment Ministry's way of protecting water supplies, then this government is incapable of protecting BC's drinking water in a fundamental way."

The Environment Ministry, which is taking the lead in pushing for watershed protection, also advocates resource developments in community watersheds which resulted in forcing communities, like Erickson, to pay the high cost of treating their water. "Only a moratorium on logging and other activities in community watersheds, and immediate restoration in logged

watersheds, will demonstrate the Premier's good faith in his promise to protect drinking water sources," said Koop.

On January 31, the government is holding a third daylong consultation meeting in Kelowna. In 1996 Kelowna residents contracted illnesses related to cryptosporidium, a pathogen identified in cattle feces that finds its way into water supplies. Although the meeting may focus on Kelowna's situation, Koop is concerned that critical information on more than 60 other community watersheds in the Okanagan and Shuswap regions that also have watersheds threatened by cattle grazing and logging, will be ignored.

"The recently approved Okanagan/Shuswap LRMP (Local Resource Management Plan) process fails to protect the sources of drinking water for the Interior. The LRMP supports cattle grazing and logging," said Koop. "The Lillooet LRMP, currently under consideration, is adopting the same resource-based formula as the Okanagan. Despite what we have been told, the Ministry of Forests is calling the shots, not the Environment Ministry." The provincial Chief Forester and 40 District Forest managers have discretionary powers to dictate resource activities.

Forest companies which want to resume logging and road-building in the Clinton Creek Provincial Watershed Reserve, which supplies drinking water to Clinton, are being opposed by the High Bar First Nations Band. Industrial logging 10 years ago so damaged the Clinton Creek headwaters, that the High Bar Band wants no resumption of logging in an area from which they draw their drinking water.

"We will only gain confidence in the Environment Ministry's role as the lead agency in drinking water protection, when arbitrary powers to dictate land use practices such as logging and cattle grazing are removed from the Ministry of Forests," said Koop. "This includes severing the Forest Ministry's requirement for logging plans and an Allowable Annual Cut on drinking watersheds."

Public meetings to discuss the province's proposed drinking water protection plan is being closely watched by numerous groups including the BC Tap Water Alliance, the Valhalla Wilderness Society, the Georgia Strait Alliance, First Nations and local municipalities.

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B. C. TAP WATER ALLIANCE

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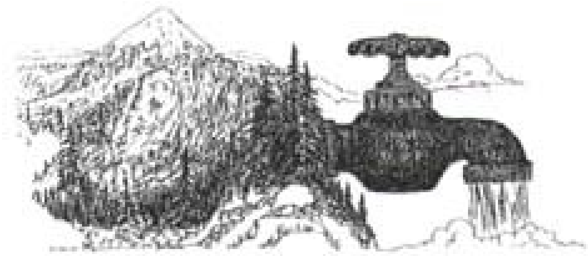
British Columbia's Community Water
Supply Sources**

P.O. Box #39154, 3695 West 10th Ave.,
Vancouver, B.C., Canada. V6R1G0
Email: bctwa@alternatives.com
Website: www.alternatives.com/bctwa



The B.C. Tap Water Alliance and the Society Promoting
Environmental Conservation (SPEC) Press Release

February 22, 2001 – *For Immediate Release*

SPEC Backs Medical Health Officer Peck's Call for Protection of Drinking Watersheds

Vancouver - BC deputy provincial health officer Dr. Shaun Peck is correct in demanding that BC drinking watersheds be protected from logging and pesticide use. Citing at least 28 outbreaks of water-borne illnesses in BC, Peck is calling for tough legislation to protect BC watersheds. Peck notes that the Greater Vancouver and Victoria watersheds have a unique advantage over other BC watersheds because they are publicly controlled and their local governments prevented logging and other industrial activities. Peck's comments come just as the BC Environment Ministry completed a public consultation process on its draft Drinking Water Protection Plan that Environment Minister Ian Waddell is proposing as the basis of new legislation to protect drinking water.

"We support Dr. Peck's concerns about logging in watersheds," said Will Koop, SPEC Watershed Campaigner. "Many BC medical health officials have recommended a stop to logging in watersheds for almost a hundred years, yet our provincial governments, which have known of their concerns, have failed to implement those recommendations."

Koop has submitted a 33-page response (see websites) to Waddell's draft Plan that details how the forest industry has unduly influenced provincial legislation and regulations covering community watersheds. SPEC and a coalition of 37 other community groups across BC want Waddell to protect drinking watersheds by creating Watersheds Reserves that exclude industrial activities such as logging and mining.

"We are disappointed by Forest Minister Gordon Wilson's February 12 Working Forest scheme that would give away control of community watersheds to logging companies," said Koop. "Wilson not only appears to be out of step with Dr. Peck's findings, but also with his own constituency where the Sunshine Coast Regional District held a referendum demanding the same control over their drinking watersheds that Vancouver and Victoria now enjoy."

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B. C. TAP WATER ALLIANCE

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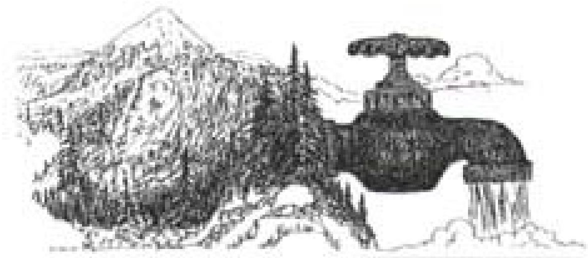
P.O. Box #39154, 3695 West 10th Ave.,
Vancouver, B.C., Canada. V6R1G0
Email: bctwa@alternatives.com
Website: www.alternatives.com/bctwa



The B.C. Tap Water Alliance and the Society Promoting Environmental Conservation (SPEC) Press Release

March 12, 2001 – *For Immediate Release*

Old Socred Scandal Still Drives BC Drinking Water Protection Policy

Vancouver - The proposed new *Water Protection Act* will have little effect on protecting drinking watersheds from logging, cattle grazing, mining and other commercial activities. In his submission to the BC Environment Ministry's consultation process on the draft *Drinking Water Protection Plan*, SPEC watershed campaigner Will Koop released information about how a previous Social Credit government tampered with the *Forest Act* in 1960 and allowed forest companies to construct roads and clearcut Forest Reserves which had been set aside for the single purpose of supplying high- quality drinking water.

Koop's submission profiles a century of BC drinking watershed legislation and controversies about logging and cattle grazing. In response to renewed calls for water protection, the provincial government is proposing a new Act during the upcoming Legislative session.

"The old Social Credit government was involved in a scandal for granting forest corporations access to Watershed Reserves which had been secured for the public's long term benefit. Why was the legislation altered, and who was responsible?" asks Koop. "That was the government whose forest minister was jailed in 1958 for conspiracy and accepting bribes for granting a Tree Farm License to a forest corporation. The *Forest Act* amendment circumvented the Watershed Reserve designation and allowed the wholesale degradation of our drinking watersheds, so that companies could profit at the public's expense. This is a significant issue that merits a public inquiry."

When the government created the 1912 *Forest Act*, it created simple and powerful legislation under a section called Forest Reserves. This section provided the Minister of Lands with a mechanism for protecting watersheds from development, commercial activities and human trespass. These Watershed Reserves provided communities with premium protection and high quality water. Like those who passed the legislation almost 100 years ago, forest ecologists today recognize that intact old forests and undisturbed soils provide the highest quality drinking water and the best- regulated water flows.

"The original *Forest Act* and accompanying legislation was sufficient to protect drinking water sources," says Koop. "Environment Minister Ian Waddell doesn't need to reinvent the wheel. His proposed *Water Protection Act* does little to protect drinking water. Government has no success stories to tell about the multiple- use of community watersheds. All Waddell needs to do is reaffirm the fact that fully protected watersheds produce the highest quality water, and then re- legislate Watershed Reserves. That way, all drinking watersheds will have the same standards of protection, and our judiciary will no longer find itself in the untenable position of fining and imprisoning its citizens, as those in the Kootenays, for simply trying to protect their drinking water, a basic necessity of life."

SPEC is sponsoring a province- wide petition for legislated Provincial Watershed Reserves. Approximately 50 organizations have already signed the petition.

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Appendix D - Articles presented to the Association of B.C. Professional Foresters' newsletter

The B.C. Tap Water Alliance and the Association of B.C. Professional Foresters (renamed, Association of B.C. Forest Professionals)

As a result of the letter from the B.C. Tap Water Alliance to the Association of British Columbia Professional Foresters (ABCPF), dated February 15, 2001, which is found under *Press Releases and Correspondence* in the home page of this website, the ABCPF contacted the Tap Water Alliance on June 15, 2001 for us to provide a 700 word article in the ABCPF newsletter, *The Forum*, which was scheduled to appear in their September/October 2001 issue:

> I am writing in response to your letter of February 15, 2001 requesting the Association of BC Professional Foresters help advocate single use in BC's drinking watersheds. Our Executive Director, Van Scoffield, RPF wrote you back explaining that the letter was referred to the association's Stewardship Advisory Committee.
> Council has endorsed the committee's recommendation which is to request from you a 700 word article for our professional magazine Forum, highlighting your concerns. We would place your article along side another article which would be a fact based article highlighting the current government legislation and policies governing the protection of drinking water. Both these articles would be preceded by a short introductory piece highlighting the issue and why it is important to our members.
> As a result, we initially submitted an article, composed of a series of quotations by professional foresters on the issue of logging and drinking water supply watersheds. The communications manager of the ABCPF, Dwight Yochim, did not approve of our format, and requested that we make an alternate submission. After a lengthy discussion on the telephone, we decided to make a second submission, with the proviso in the second article, that we print the first article on our website, as shown below.

On September 21 we learned that the ABCPF editorial board decided to postpone printing our article in the September/October Forum issue until they consider featuring it in a future edition on the topic of "watershed management", a euphemism by foresters and government for industrial and agricultural activities in domestic watersheds (watershed management may also be defined as management for "single use", or complete conservation for water supply purposes only). The ABCPF also requested that the provincial government present an article on this topic, which was supposed to have run alongside our presentation. The ABCPF Editorial Board will be running our final, or third submission (below), in their upcoming newsletter for March/April, which was approved for printing on February 1, 2002.

First Submission (July 3, 2001, by Will Koop, Coordinator, B.C. Tap Water Alliance)**.**

Thank you for the invitation to present a short article for the ABCPF newsletter on the issue of resource activities in domestic watersheds - an issue close to my heart.

I wish to express my real concern about the role the Association has had in the ruination of many watersheds in British Columbia, which are the sources of our drinking water. Following many years of research, I have learned, much to my dismay, that helpless 'ordinary' citizens have been systematically stripped of their right to the most basic of all needs, pure water. The following ten quotations are intended to describe that process in your profession's own words.

> Much of the remaining mature timber in the District is in the watersheds of creeks which are the source of somebody's water supply.... In many areas we will not be able to supply local industry's needs unless we can invade the watersheds. (J.R. Johnston, Nelson Regional Office, Ministry of Forests [MoF], July 17, 1964)
>
> Mr. Apsey [Deputy Minister of Forests] noted that his ministry was becoming aware of growing public concern over other use of lands around watersheds. He noted that there was the danger of losing flexibility and returning to a single use concept of land. He suggested that Forests be the lead ministry in developing a project to look at planning and public involvement for watershed plans. (Environment and Land Use Technical Committee, Minutes, March 9, 1981)
>
> Vancouver and Victoria watersheds are prime examples of viability of logging in our arguments with other cities and districts. (A.C. Markus, MoF, August 31, 1981)
>
> Government should issue a formal public statement confirming the principle that community watersheds should be managed on an integrated use basis.... The liability issue will be a hot one with our forest industry friends. Should we touch base with our legal friends? (W. Young, Chief Forester, February 10, 1982)
>
> I feel that it is extremely important that we do a top notch job in assisting with the development of the Nelson City Watershed Plan as ... it will serve as an example to the myriad of other watersheds that will require forest management development activities in the next 10 to 20 years in this region.... it is very important that executive understand the importance of the Nelson City Watershed Plan in developing the remaining watersheds in the Nelson Region. (D.L. Oswald, Nelson Regional Office, MOF, Dec.24, 1982)
>
> It is our belief that the Nelson Forest Region should continue to read back to the water licencees the exact terms of their licences, and should in no case accept any responsibility for

maintaining water quality or quantity.... If protection of water quality, quantity and timing of flow must be the primary consideration in industrial operations in domestic watersheds, then we may as well give up the idea of logging in them.... In all probability, the resource that we licence and harvest, respectively, is of far more value to the province than is the water resource.... It appears that most people in this area rely on well water, and it would be to the benefit of the Province to avoid an increase in the use of surface water supplies. (John Szauer, Regional Manager, Cariboo Forest Region, MoF, March 10, 1986)

The Slocan Valley Watershed Alliance has continued to leave (1) decision making, (2) liability protection, (3) standardized inventory procedures, and (4) standardized risk analysis procedures on the table. We are of the opinion that the first two are non-negotiable and this must be accepted. The latter two continuing discussions will lead nowhere. In summary, push has come to shove. We have carried out our responsibilities under an integrated management principle to develop a satisfactory IWMP and now intend to implement it. (R.R. Tozer, Nelson Regional Manager, MoF, October 31, 1986)

We have consciously reduced the importance of water management from "the primary" concern to "a primary" concern.... To deal with water management in this context as the exclusive and primary concern would be at odds with the philosophy of integrated resource management. (D.A Currie, Planning Forester, Integrated Resources Branch, MoF, November 29, 1988)

A public meeting is one of the least desirable ways to review the details of a plan. … It may be possible to avoid a public meeting entirely if the Mayor and the LCA agree that continued specific discussion is more fruitful (eg., field trip, workshop). (Ladysmith watershed public meeting: Gordon K. Erlandson, Integrated Resources Branch, MoF, November 23, 1989 and February 5, 1990)

We support the initiative to revamp the Water Act and institute a more defined planning process ... Water Management Plans must not be accorded any special privileges. (J.R. Cuthbert, Chief Forester, April 10, 1990)

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Second Submission (submitted July 11, 2001).

By way of introduction, the B.C. Tap Water Alliance was formed in 1996, by citizens from Greater Victoria, the Sunshine Coast, Greater Vancouver, and the Slocan Valley. We were all deeply concerned about logging activities in our drinking watersheds. Since that time, we have conducted research and have sought public support to change government policy and end logging in domestic watersheds. As many of your readers are aware, logging has ended in the Greater Victoria, Greater Vancouver, and the Sunshine Coast Regional District's watersheds. More recently, we provided a lengthy critique of this issue in our submission to the government's public review and implementation of the *Drinking Water Protection Act* (www.alternatives.com/bctwa).

Due to our letter last February to the ABCPF to pass a motion at its annual meeting to support our position to end commercial logging in drinking water sources, we were invited to present an article to your newsletter. However, your communications officer disapproved of our initial article, comprised mostly of quotations from foresters which summarized the move from watersheds reserved for

community water supply to the policy of multiple-use, so we changed it (view the original at our website). The officer was concerned that the quotes were out-dated, that it was not descriptive, and that we have missed the point that the business of logging in domestic watersheds has significantly changed since the implementation of the Forest Practices Code.

The point of the selected quotations from foresters employed in the Ministry of Forests was to demonstrate the following key concerns which not only relate to the way in which public policy and use of domestic watersheds was altered, but on the public conduct of foresters. The quotations detailed that:

(1) the policy of "single use", i.e. for drinking water only, as opposed to commercial/industrial uses under the banner of "multiple use", or "integrated resource management", was once the norm for domestic watersheds;

(2) due to accelerated logging activities, protected domestic watersheds were targeted to further supply the timber industry;

(3) previous government policy under the Ministry of the Environment, which placed primary importance on domestic watersheds, was "consciously" reduced by the Ministry of Forests;

(4) the Chief Forester wished to revise the Water Act to incorporate multiple resource use in domestic watersheds;

(5) logging in sources of large population centers, such as Vancouver, Victoria, Nelson was advocated as public relations exercises intended to convince the public of the safety of logging in domestic watersheds;

(6) revenues from logging and other uses outweigh the social benefits associated with a protected watershed regarding water quality and effects to water users;

(7) logging negatively impacts water quality;

(8) liability for damage caused by logging in domestic watersheds was a sensitive issue for timber licensees;

(9) public meetings regarding proposed logging plans in a domestic watershed were privately discouraged.

Through our research we discovered that provincial legislation to protect drinking water sources was altered and diminished to later accommodate commercial uses, at the long term expense against the protestation of local water users. There are decades worth of correspondence, reports, and newspaper articles which document the public's concern on this issue.

Furthermore, the Forest Practices Code, which is an extension of the mandate to continue logging in domestic watersheds, does not protect drinking water sources, it merely imposes a few more limitations on forest practices, but places the watersheds in the calculation of the allowable annual cut and under the discretion of District Managers. *The Forest Practices Code* encourages uses, such as cattle grazing, mining, etc., activities which undeniably impact water quality.

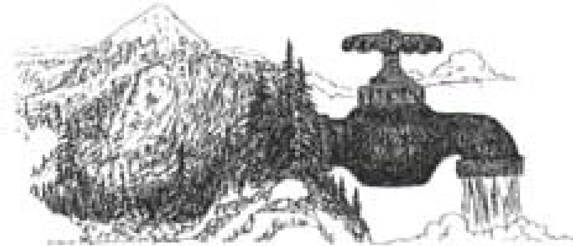
From our research, we have come to the inescapable conclusion that foresters are responsible, to a large measure, for having promoted commercial logging in watersheds over the last 40 years, most of which were in an undisturbed state. We therefore strongly urge foresters in your organization to reconsider their position to log in domestic watersheds, the cumulative impacts of which have brought unnecessary costs (health, fiscal, legal, rehabilitative, and social) to the hundreds of watersheds and millions of water users. With the advent of the public review in March 1999 by the Auditor General, the Walkerton Inquiry, public audits such as those conducted by the Sierra Legal Defence Fund, and similar reports from the United States, the public is becoming well educated about how intact watersheds (as they once were) not only provide the highest water quality and dependable flows, but are also extremely cost effective providers of this most basic of necessities."

Appendix E - Submission to the Forest Stewardship Council, September 10, 2001

B. C. TAP WATER ALLIANCE

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

(Website: www.alternatives.com/bctwa)



SUBMISSION BY THE B.C. TAP WATER ALLIANCE REGARDING THE FOREST STEWARDSHIP COUNCIL'S (FSC's) SECOND DRAFT FOR REGIONAL CERTIFICATION STANDARDS

By Will Koop,
Coordinator,
September 10, 2001

(Note: The following six page submission to the Forest Stewardship Council is based on a 2nd draft text circulated to the public for review, and is available at the Council's website, www.fsc-bc.org, or at an alternative website, www.goodwoodwatch.org. Some of the comments to the FSC are available at the second website address, www.goodwoodwatch.org/samplecomments.)

Introduction

On June 21, 2001 the B.C. Tap Water Alliance (BCTWA) appeared before the FSC review committee in Richmond during its public consultation process for B.C. regional certification standards. We stated our concerns opposing proposals in the FSC draft document to conduct forestry practices in domestic, consumptive-use, drinking watersheds. We also presented to the FSC secretary a copy of a petition by approximately sixty organizations opposed to logging in domestic watersheds. This petition was organized during the provincial government's public review of legislation for the *Drinking Water Protection Act* from January to April of this year. At the Richmond forum we learned that FSC representatives were going to meet with provincial

government staff to discuss certification standards for British Columbia, and requested that the FSC should not promote logging in domestic water supply watersheds with the provincial government.

Domestic watersheds should be protected

The BCTWA presented a submission on drinking watersheds to the provincial government in February of this year (available on our website, mentioned above), wherein we provided summary background information on the history of this issue, including legislation and policies passed by successive provincial governments. Legislation for the protection of drinking watersheds was implemented at the beginning of the 1900s by both federal and British Columbia governments. According to records with the federal government, public awareness concerning these policies emanated from the United States in the late 1800s. One of the applications of this U.S. policy was the creation of the Bull Run Reserve in 1892 for Portland, Oregon, amended in 1904 and called the *Bull Run Trespass Act*. The legislation, which protected both the Bull Run and Little Sandy watersheds, made it a crime for unauthorized people to enter the reserve. Similar legislation was passed in British Columbia in 1910 by the federal government for the Coquitlam watershed Reserve, the water supply for greater New Westminister. Hundreds of notices, signed by Canada's Minister of the Interior, Frank Oliver, were posted throughout Coquitlam and Port Coquitlam to protect the water supply, declaring the following:

> Any unauthorized person in any manner occupying or taking possession of any portion of these lands, or cutting down or injuring any trees, saplings, shrubs, or any underwood, or otherwise trespassing thereon, will be prosecuted with the utmost vigour of the law.

This strict law was supported and promoted by provincial medical health officers, and within their powers they applied this approach in their day to day correspondence and in protection measures for other domestic watersheds. A consulting engineer summarized the following to the provincial government Secretary on December 1, 1909 regarding the formation of the Coquitlam Reserve:

> That ownership and the consequent right to forbid trespass is the most simple means of preventing pollution of the water and is the one that all enlightened communities are striving for.

As yet another example of this widespread thinking are comments by the federal government's chief engineer of the former Water Power Branch on July 17, 1915, who was reporting on the Reservation of East Canoe Creek, the water supply for Salmon Arm, situated south of the Larch Hills Forest Reserve:

> It is needless for me to expatiate here upon the now well informed doctrines relating to the protection of municipal water supply.

With the legislation of the Greater Vancouver Water District Act of 1924 it states that it became an offence "to convey or cast, cause or throw, or put filth, dirt or any other deleterious thing in any river from which the Greater Vancouver Water supply is obtained."

These examples demonstrate that it was a matter of common knowledge and sensibility by both professionals and ordinary citizens that drinking watersheds remain protected.

The timber industry and domestic watersheds

Despite the common thinking, supporting legislation, and widespread policy for protecting domestic watersheds, timber barons and logging companies routinely challenged and sometimes undermined these protection measures, since their inception. In fact, the timber industry in the northwestern United States began a public relations program in the late 1940s to counteract this legislation and public perception in order to access timber reserves in domestic water supplies. As stated in our submission to the government, as a result of extended pressure by the timber industry our provincial legislation, policy, and administrative support was slowly degraded over time beginning in the 1960s. Under the authority of the provincial Ministry of Forests' internal alteration to Crown land operating areas and license agreements, domestic watersheds were then routinely

“invaded” as one Nelson Regional professional forester described the situation in 1964. Examples of responses from senior administrative foresters with the provincial government, who were engaged in turning around public policy and perception, and who were acutely aware of public sensitivity and perception about the impacts associated with logging on watershed reserves for domestic water supply, were recently posted on our website (see: articles for the Association of B.C. Professional Foresters’ newsletter).

The FSC application and draft guidelines for certification of logging in domestic watersheds by the FSC is merely an extension of the same timber lobby plan to experiment access in forests which should otherwise be protected through provincial legislation. Relatedly, it is our understanding that the politics concerning domestic watersheds is creating another watershed (as it were), where experiments to conduct alternative forestry practices are the new testing ground buzz words for public approval, an initiative which we are in disagreement with.

The timber industry and its affiliates have experimented in drinking watersheds in the past, all of which have failed to bring about public confidence and aims to “improve” water delivery. One of these failed experiments was in the Greater Vancouver Seymour watershed, the Jamieson/Elbow experiment, conducted through the University of British Columbia’s Forestry department, over a twenty-five year period (1968-1993).

We concur with the goal of the FSC to promote alternative logging practices as opposed to conventional logging practices which have been conducted by the forest industry in British Columbia and elsewhere for over a hundred years, that is, in areas outside of domestic watersheds. If the timber industry and government agencies wish to conduct forestry experiments, they should do so in areas which do not affect the long term integrity and conservation of domestic water supplies.

Alternative logging practices should not be conducted in domestic watersheds

As an example of our concern, we submit a brief examination of the Creston Valley Forest Corporation (CVFC), established in 1997 to log Arrow Creek, the primary surface water supply for the communities of Creston and Erickson. We have reviewed the submission to the FSC by Jim Smith, the manager of the CVFC mentioned above, who is seeking FSC support for logging in Arrow Creek. Under Smith’s comments for principle 9 of the FSC draft, regarding High Conservation Value Forests (HCVF’s), is the following quote:

> I am concerned that blanket restrictions on logging in certain HCVF’s (watersheds, etc.) may compromise the intent of the HCVF. In the case of [domestic] watersheds, logging should be allowed where it can be demonstrated that management actually maintains, protects, and/or enhances water resources.

There are two matters we would like to point out in Smith’s response. Firstly, the language, “maintains, protects, and/or enhances”, is almost the identical rhetoric, or jargon, borrowed from the Greater Vancouver Water District and government foresters in correspondence files and public relations materials to promote public confidence for logging in Greater Vancouver’s three watersheds. There are many examples in the logging history of the Greater Vancouver watersheds since the late 1960s which refute these unfounded promises. Since late 1999, as a result of public criticism, processes and ongoing submissions, the Greater Vancouver Water District has changed its policy from logging back to the protection of its forests. Secondly, we are under the impression that what Mr. Smith is referring to by “blanket restrictions” specifically applies to the application of logging restrictions in domestic watersheds, which is where the CVFC will be operating in. We maintain that the FSC should provide standards against logging in domestic watersheds, a condition which Mr. Smith is apparently opposed to. For instance, there have been many recent and previous public comments opposing the logging of greater Creston’s water supply. As a result, the CVFC have recently implemented various measures to counteract public opposition and persuade citizens in the community that its logging operations will be of little consequence over time to the Arrow Creek domestic water supply. This in contrast to the current trend where logging in domestic watersheds, such as Portland, Seattle, Victoria, Greater Vancouver, the Sunshine Coast Regional District, and Nelson is discontinued.

Since 1998, the BCTWA has submitted letters to the editor in response to articles in the local newspaper, the Creston Valley Advance, to provide the community with information related to our research and why the community should halt the initiation of roadbuilding and logging in Arrow Creek. During the 1970s, when the provincial government first proposed to logging the watershed, a watershed designated as a Watershed Reserve, a Game Reserve, and a Health District, citizens and the Erickson Improvement District (responsible for the maintenance and delivery of domestic and irrigation water) strongly opposed the logging proposal, stating so in a submission to the provincial Pearse commission on forestry. After twenty years of public meetings, reports, and a five year moratorium, the Ministry of Forests Nelson Regional office once again proposed to log the Arrow watershed in 1995 despite pleas from the Erickson Improvement District and the town of Creston. Following private deliberations with local Creston loggers and interested parties, in an attempt to prevent a major forest licencee from logging Arrow Creek, the provincial government created a "community forest licence" to harvest the Arrow watershed with a reduced allowable annual cut, and thereby creating the CVFC (please refer to a January 2002 case history report on the Arrow Creek watershed, available at our website).

The point that we are seriously concerned about is that the FSC will be facilitating a precedent to log in domestic watersheds. Moreover, we understand that due to market constraints and international policies the CVFC has been and is intending to export raw logs to the United States, a practice which does not support or enhance local economies. By mentioning this we are not proposing to endorse the sale of timber from domestic watersheds, rather it is an example which seems to contradict the business of alternative forestry and investment opportunities for local businesses.

Critique of the FSC text regarding domestic watersheds

The only specific references to domestic watersheds, which the FSC defines as "community watersheds", are briefly provided by definitions in the glossary section under "high conservation value forests" and "conservation attributes", and poorly treated in annex P9a (sub-section 4.3). By the nature of the glib definitions in the glossary, applications are then generally implied throughout the text under principle 9. We find the description and assessment of domestic watersheds sadly lacking in the FSC text. This is quite unfortunate and highly inappropriate given the numbers of domestic watersheds in British Columbia and the prominence they have in the public's mind. Water users must have legal rights which should be properly identified.

Furthermore, the FSC text does not provide proper distinctions or clarifications on general forestry tenures from tenure operations in domestic watersheds. Rather, the text almost seems to treat managers applying for FSC approval under the same umbrella, in this case for some managers who either have a forest licence approved by the provincial government to log in a domestic watershed (despite the fact that the granting of the licence was contentious), or an operator who is a private landowner of a domestic watershed. This renders the FSC guidelines, from our point of view, quite vague. It would be more appropriate for the FSC guidelines to separate applicants who are logging in domestic watersheds.

Recommendations

It is our position that there should be no logging in domestic watersheds, and that the FSC should not support so-called alternative logging tenure applications and practices for certification in domestic water supplies. We believe that it is not in the public's greatest interest and good to meddle with domestic water supply forests. To simply "enhance" them as your text states overlooks the fact that these forest stands are of such high conservation value that they simply should not be logged.

Rather, the FSC should help British Columbians to reenact provincial legislation to protect domestic watersheds from agricultural and industrial activities. Associated with this is the long term process needed to rehabilitate domestic watersheds that have been degraded by diverse, and in some cases, prolonged industrial practices. In doing so, we will develop consistent standards and achieve public confidence to help in alternate forestry practices that will lead to the long-term protection and integrity of our forests - and the protection of our domestic water supply sources.

Appendix F - 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

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

BY WILL KOOP, COORDINATOR, B.C. TAP WATER ALLIANCE, OCTOBER 18, 1999

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)
>
> 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 activites, 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. ommunity 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 Barlett 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.