

## **PEI Watershed Alliance's Submission to the Draft *Water Act* Consultation Process**

The PEI Watershed Alliance is the umbrella organization for the 23 community based nonprofit watershed groups on Prince Edward Island. These groups, via their watershed management activities, seek and promote communication and cooperation with governments and local stakeholders (e.g., agriculture, aquaculture, forestry, and local interest groups) for environmental betterment.

The proposed *Water Act* is of great importance to our membership and we have been following the process since the beginning. Many of our member groups have spent countless volunteer hours reviewing and presenting during both rounds of consultations. We are generally pleased with the contents of the draft *Water Act* especially the recognition that government has a guardianship role in “ensuring the quality, quantity, allocation, conservation and protection of water” to benefit all islanders, all living things and our ecosystems. We are also pleased with the precautionary approach that water management decisions will be made by looking at science-based processes that take into account long-term data and climate change. We welcome the addition of clear and transparent reporting registries so that our groups and the public can accurately track water resources and have access to this vital watershed management information.

However, we feel there are some omissions within the *Act* and some areas which could be strengthened to better safeguard our water resources. Listed below are our suggestions:

### **1) Additions to the current Draft *Water Act*:**

- A) A clause added stating that “deleterious disturbance to aquifers and surrounding underground rock formations are not permitted in Prince Edward Island, even for exploratory purposes.”

Rationale: Disturbance to rock formations by injecting water, sand and/or chemicals underground to access gas deposits is known as hydrologic fracturing. Use of this process in PEI with our sandstone geology, would put our groundwater at high risk of contamination.

- B) Within the “Purpose and Goals” section, an additional recognition be added stating that “water resources are the product of complex hydrological processes which means water protection requires land-use management.”

Rationale: Water resources are dependent on complex processes and cycles which can be impacted by many factors such as land-use practices. For example, water within aquifers is the product of recharge systems which involve larger landscape and atmospheric hydrological processes. Given the complexity of these systems, impacts to water quantity and quality can be cumulative in nature.

- C) Within the Goals and Objectives of Part I, clearly stating and listing the priorities for access to water resources.

Rationale: While the priorities are alluded to within the *Act*, clearly stating the priorities would clear up confusion and provide guidance for regulations.

- D) At the beginning of Part II, an addition of a section that states “ the actions and decisions of the Minister and the function of Environmental Officers are to be guided by the Goals and Objectives of the Act as laid out in Part 1.”

Rationale: This would provide a clearer link between Powers of the Minister in Part II and the Goals and Objectives listed in Part I.

**2) Areas of the Act to be strengthened:**

- A) Clarification regarding the definition of a contaminant 1(e) to specifically include sediment.

Rationale: The effects of excess sediment and siltation are a major problem for PEI Watershed Groups and a large ecological threat to PEI’s aquatic ecosystems. The previous Federal *Fisheries Act* specifically classified sediment as a “deleterious substance” and we request that similar classification for sediment is included within the proposed *Water Act*.

- B) Strengthening the definition of Environmental Flow Needs 1(l) to include water quality as per the Brisbane Declaration 2007.

Rationale: While volume and timing of water flow in a watercourse is ecologically important, having water of high quality is also critical for the proper functioning of an ecosystem.

- C) Use of stronger language in 16 (2): A monitoring program **SHALL** be developed for “a) assessing the presence and extent of contaminants in water resources; b) evaluating the state of aquatic ecosystems; and c) developing a deeper understanding of the different components of groundwater and aquatic ecosystems.

Rationale: Changing this from a ‘may’ to a ‘shall’ will provide vital information on water quality and our aquatic resources. This information is important for planning watershed management activities.

- D) Use of stronger language in 24 (2): “In assessing whether or not to recommend an area for designation as a water management zone and what regulations should apply within the area, the Minister” **SHALL** seek public input and input of individuals with technical expertise in relevant fields.

Rationale: Watershed Groups are invested in PEI’s water resources with much local knowledge and understanding of the ecological and societal processes within their areas. Inclusion of their input and that of the public is vital prior to the recommendation of watershed management areas. Involvement of Watershed Groups and the public are consistent with Goals 3 and 4 of the PEI Watershed Strategy 2015.

- E) Clarification about the classification to be used for rare, endangered or uncommon species in 32 (2). We suggest using the Atlantic Canada Conservation Data Centre (ACDC) rankings in addition to the *Federal Species at Risk Act*. We also suggest strengthening this wording “to include terrestrial species that are reliant on aquatic ecosystems.”

Rationale: The ACDC rankings provide a comprehensive listing of the biological inventory of Atlantic Canada including PEI. The inclusion of terrestrial species would allow for the inclusion of species such as Yellow Lady’s Slipper.

### **3) Areas to be addressed in follow-up regulation:**

The strength of this proposed *Act* will lie in the associated regulations. We would like to see a public consultation period opened for input on the draft regulations. It is imperative that many of the lingering questions on how PEI's water is to be protected and conserved will be considered in these regulations.

Specifically, we would like to see the following issues addressed in regulation:

- a) Land-use practices that contribute to poor water quality through soil erosion and sedimentation.
- b) Nitrate and pesticide contamination of surface and ground water; both prevention and dealing with current issues.
- c) Water conservation and future water resource planning on both a short term, 5-10 year scale and longer term scale, >100 years.
- d) Reducing the export of water between watersheds on PEI. That water removed from a watershed should be returned and/or discharged into the same watershed if at all possible.

### **4) Things we would NOT like added to the Act:**

We are not in support of having Watershed Groups jurisdictionally responsible for enforcing regulations and policies related to the *Water Act*.

Rationale: Much of the great work completed by our groups can be attributed to the respect and trust established between groups, their local communities, and stakeholders. Putting a Watershed Group in an enforcement position would weaken these links and could diminish future watershed management gains.

Thank you for the opportunity to participate in this consultation process and we look forward to being an active participant in the next steps of *Water Act* development. In the meantime, we will continue to support our member groups and we will extend the invitation to other stakeholders, specifically those, within the agricultural community, to work together with us on the conservation and protection of our water resources.

If you require clarification on any of these concerns, please do not hesitate to contact us.