

To: Prince Edward Island Environmental Advisory Council

From: Don Mazer and Catherine O'Brien ---

Coalition for the Protection of PEI Water

www.peiwater.com

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Notes about Water Governance

The process of developing a Water Act for PEI has engendered widespread and enthusiastic participation in public consultation. The Environmental Advisory Council and its supporting government structures have provided a wide range of opportunities for public input so that all citizens have had a chance to be heard. The EAC has been flexible and responsive to a range of concerns raised about transparency, scheduling and time constraints on the process. The results of this consultation process have been heartening --well attended sessions, and thoughtful and articulate presentations from a variety of groups and individuals across a number of sectors. The undertaking thus far, with its valuable public contributions regarding how we think about water, reflects the potential of a participatory democratic process to develop our fundamental Water Act and policies.

What happens next? - - The Participatory Model of Water Governance

It is essential to build on this productive and positive experience in the steps to come. First, ongoing and meaningful public involvement is needed in the development of the new Water Act and policies. Second, we believe that the Act and policies should be grounded in more collaborative approaches to water governance.

These suggestions will extend the open spirit of the consultations so far, and also reflect developing trends toward more participatory approaches to water governance.

The Dublin Statement on Water and Sustainable Development (1992) reflects the origins of such an approach. *“Water development and management should be based on a participatory approach, involving users, planners and policy-makers at all levels.”* Decisions are taken at the lowest appropriate level, with full public

consultation and involvement in the planning and implementation of any activity that affects water.¹

Several models of governance and decision-making have emerged in recent years that reflect a more participatory approach: “decentralized collaborative watershed-based governance”, “delegated water governance partnerships”, “collaborative agencies” with government and citizens, and “watershed based governance”, among others. Common components of these models are multiple stakeholders, shared decision-making and active public participation.

It is important to distinguish between the ideas of water “management” and water “governance”. Water management is often grounded in centralized decision making with the government as the principle stakeholder. By contrast, water governance reflects:

“the range of political, organizational and administrative processes through which interests are articulated, input is absorbed, decisions are made and implemented, and decision makers are held accountable in the development and management of water resources and delivery of water services.”²

POLIS, a BC research and sustainability institute, has done extensive work on the idea of “ecological governance” and applied this idea to watersheds.

“Ecological governance means embedding the environment in all levels of decision-making and action – from the personal to the global. It means thinking about our cities and communities, our forests and watersheds, our economic and political life within a new paradigm that treats the environment not as an add-on or afterthought, but as all-encompassing and all pervasive.

“Ecological governance is thus about democracy and community. It is also about the natural world within which our communities exist and interact, and which sustains us.”³

¹ **Dublin Statement from the United Nations Conference on Environment and Development, 1992**
<http://www.wmo.int/pages/prog/hwrrp/documents/english/icwedece.html>

² **Delegating Water Governance: Issues and Challenges in the BC Context**
Report for BC Water Governance Project prepared by UBC Program on Water Governance
http://www.obwb.ca/fileadmin/docs/fbc_watergovernance_final.pdf

³ **POLIS: Project on Ecological Governance**, research body situated in the Centre for Global Studies at the University of Victoria. <http://www.polisproject.org/about>

It reflects the necessary shift in thought that can help us to address our issues with water more holistically and sustainably.

Applying the Participatory Model to Prince Edward Island's Water Act

What we require at this point is a commitment to a participatory process of policy development to find ways of considering and incorporating such models of governance in the Water Act. We have indicated some worthwhile directions that might be pursued in developing such policy (additional ideas and examples are appended). We believe that it is essential to “widen the funnel” so that more of the concerned input of engaged citizens, reflected in the wide public participation in the consultations, can have a meaningful voice in discussing the range of options and formulating the emerging policy.

It is also important to recognize that whatever legislation, policy, regulations and governance structures we develop will be grounded in particular values and ethics. Water is a human and ecosystem right and socio-ecological good. Our goals and rationales must be carefully considered and included in the legislation. All important “stakeholders” must be represented and democratic processes respected. Governance models and implementation strategies must further promote these principles and values.

In an earlier presentation, we had suggested the idea of a Water Governance Board to the EAC. We think that some form of such a board is an excellent idea, and that it be based on the ideas discussed above: multiple stakeholders, shared decision making, active public participation. There are examples of boards in California and in parts of Europe. In Canada, the Okanagan Basin Water Board and Ontario's Conservation Authorities are illustrations of agencies that have incorporated ideas of collaborative governance.

But it seems premature at this point to discuss this in greater detail, since the work of a policy development group will undoubtedly research and develop the range of possible structural options. Certainly, whatever board or structure that emerges must be characterized by accountability and transparency.

Any models of governance must have an important role for watersheds. POLIS and others have provided some excellent studies and examples of how this can be done.

There can be a broad range of decisions that can be in the hands of watersheds while government retains its important regulatory and enforcement responsibilities.

What is most essential now, however, is to have a policy development group that would itself reflect the essential ideas of governance, that would provide a format where a broad range of ideas are articulated and negotiated in the development of policy and structures. Once again, we require multiple stakeholders, shared decision making and active public participation

As we've indicated in earlier presentations, we feel that the key goal of the Water Act needs to be the restoration and preservation of healthy aquatic ecosystems. It is imperative that we recognize that water is a right for both humans and ecosystems. In other countries such as Ecuador, nature (Pachamama) has rights embedded in its constitution, and parties can be sued on behalf of Pachamama if they infringe on these rights. So when we think about our suggestions for a policy development group, our primary concern is that people who see the primacy of such rights be present at the table who could "speak for nature". In that group we would include representatives from the Coalition, from watershed groups, from First Nations, and from the water and watershed scientific community. Certainly there are other "stakeholders"—government officials and policy developers, those whose livelihood is intimately connected with water, and others who will also be included. A shared commitment to such ecological goals is essential in all members of such a group in developing our policies about water and its governance.

The Water Act consultations have been an important step in public participation. We now encourage the EAC to take the next bold steps to continue this process to reflect emerging forms of participatory water governance. First, by including engaged citizens committed to the health of ecosystems to be members of the policy development group that develops the Act, and then to develop collaborative structures of governance, like Water Boards, that will carry forth this work, and help establish the regulations.

Sincerely,

Don Mazer and Catherine O'Brien,

On behalf of the Coalition for the Protection of PEI Water

Further notes, information and resources

On the importance of governance:

“Where government is often about creating *one* policy, *one* organisational structure (often a bureaucratic one) and *one* order, governance is more about understanding the complex interactions between a variety of governments and other organisations active in a joint domain. Governance is about *more*: a combined and intertwined set of ambitions, goals and future challenges, a joint mutual dependent set of organisations beyond the public private boundaries, and a set of sub processes creating a more or less unmanageable water governance process system.” (*Teisman et al., 2009; Flood, 1999*)

Governance capacities will increase when a governance network does not only cater to the vested interests that have historically shaped existing governance structures, but also admit entrance of new interests into the water-related policies and management.

On a participatory model of governance:

Delegated water governance partnerships often involve:

- delegation by government (or the relevant authority) of water governance to a lower scale;
- greater involvement of a wide variety of non-state actors;
- the use of a hydrographic boundary, such as the watershed, rather than political boundaries
- collaborative decision-making processes, often emphasizing consensus and trust-building;
- science-based decision-making, often requiring extensive fact-finding.

Various aspects of delegated governance have been incorporated into earlier water management initiatives (such as watershed based agencies like the Tennessee Valley Authority). Perhaps the most novel aspects of delegated water governance partnerships are the involvement of a large number of stakeholders representing diverse interests who treat each other more or less as equals, and the principle that decision-making should not be left solely to government experts.

Guiding Principles for a New Model of Governance

The Blueprint is informed by six critical watershed governance principles. These principles inform the proposed institutional architecture, which will be needed to implement this comprehensive vision for watershed governance.

The guiding principles are:

- 1. Water for Nature**
- 2. Whole-Systems Approaches**
- 3. Transparency and Engagement of Affected Parties**
- 4. Subsidiarity and Clear Roles for Decision-Making**
- 5. Sustainable Financing and Capacity**
- 6. Accountability and Independent Oversight**

The central premise of this Blueprint is to fundamentally change the scale at which critical decisions impacting watersheds are made and to develop a clear role for *watershed entities* (WEs)

in formal decision-making. WEs would be community-based institutions that operate at a watershed scale to provide a nexus for integrating whole-system thinking with local ecological, economic, and social requirements. The governance functions and core activities envisioned for WEs are described in detail (Table 2), including a discussion of their principal roles and responsibilities in watershed visioning and planning; monitoring and reporting on local conditions; integrating mandates across levels of government; reducing and resolving conflicts; and education and building awareness.

Two critical features characterize WEs. First, there must be a framework that allows for a **flexible spectrum of organizational structures** that is adaptable to fit local circumstances. Second, **WEs should be enabled**—not required. Agreement among key stakeholders and rights holders, including First Nations and government, would be needed to catalyze the creation of a local WE. WEs would be specifically designed with attention to building accountability mechanisms and would be financially sustainable, allowing them to develop the necessary local legitimacy to advise and, ultimately, make decisions governing the ecological, social, and economic health of their waters.

On ecosystem/watershed management:

There is a long-standing debate about what's called ecosystem management and ecosystem-based management. It offers a great metaphor: the idea of ecosystem management is that you have a bunch of people working in the government who manage the ecosystem. They say "we need forests here, that's the most important thing for us. We're going to try to fit in recreation. We'll worry about water (sort of) and the people (sort of) – but we will manage it according to our values." Compare this with ecosystem-based management, which turns this around and says that whatever happens in the ecosystem, must be done in ways that allow that ecosystem to continue to flourish. The management must be based in the ecosystem.

On ecological governance:

How do we structure governance systems so that we are accountable to the world? How do we structure the institutions that we create so they can fulfill the nature of the world? If a human is defined in one way, what does it take in our structures to allow the human to flourish? Or the rest of the world – other peoples, other forms of life, whether it's fish or the forests or the air – how do we structure our governance systems to allow these to flourish and how do we reflect on that as a community?

References and resources:

<http://www.polisproject.org/about>

<http://www.chance2sustain.eu/fileadmin/Website/Dokumente/Dokumente/Publications/Chance2Sustain.LiteratureReviewNo.4WaterGovernanceKeyApproachesAnalyticalFramework.pdf>

http://www.obwb.ca/fileadmin/docs/fbc_watergovernance_final.pdf

http://www.unesco.nl/sites/default/files/dossier/water_governance.pdg_.pdf