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# **Cooper Institute**

**Submission concerning  
The Development of the PEI Water Act**

**The Prince Edward Island Environmental Advisory  
Council**

**Summerside, PEI**

**October 13, 2015**

## Introduction

Cooper Institute appreciates this opportunity to add our voices to those who are proposing a PEI Water Act which protects all aspects of PEI water for our day and for generations to come. We thank you, the PEI Environmental Advisory Council, for creating the beginnings of a consultation process around the proposed Water Act. Cooper Institute after 31 years of existence in PEI continues our founding commitment to the land, water, and air and the people of the Island.

Cooper Institute is defined as a social justice community-based, collective organization. We work across PEI on social and economic issues which are vital to Island residents. We have daily involvement in, and with, other community-based organizations dedicated to work for social justice in all its forms and whenever we can we work in coalitions.

Our starting point is always the knowledge and wisdom of everyday people. We lead groups in analyzing the causes and motivations behind any given injustice. This involves identifying the strength of the people. And we encourage people to take appropriate action which hopefully will help contribute to the building up of social justice for them and their communities.

Our commitment is to people-centered and eco-centered democracy and the rights of people to protest, dissent and resist all that violates the common good. It is also our experience that governments and/or government agencies are not well-equipped for community consultation. It is somewhat disheartening to us, sad even, to hear that many people (from bad experience, no doubt) classify government-inspired consultations this way: “They know what they want to do before they come to our communities. The better ones will try to incorporate what we say into their pre-established plan, but basically it is still the government plan”. And commissions are always in a hurry. Our first questions for the Environmental Advisory Council to ask of the PEI Government are: What’s the rush? Whose interests or what interests are served by this hurried approach?

As a member of the PEI Coalition for the Protection of Water we have participated in many inspired learnings and teachings about the reality of PEI water, the science and the projections. You will hear many of these analyses from the other members of the Coalition. Cooper Institute chooses to present our concerns about the Act, the policies, and the regulations and how the exercise of creating the Water Act must conform to the people’s sense of water as it coincides with new enlightenments about democratic voice and ethical standards.

Our presentation will deal with the following:

- Islanders Deep Sense of Water: Need for In-depth Engagement of the Community
- The Creation of the First PEI Water Act Can Set New Standards
- The Water Act Must Have the Power to Suppress Water Abuse
- Protection of Water is Integral to Protection of Land, People, and other Living Beings.

### **1.0 Islanders Deep Sense of Water: Need for In-depth Engagement of the Community**

In 2014 there was surprise in some quarters that some people, never heard from before, came out in the media and at public forums to protest the proposed lifting of the moratorium on high capacity wells for agricultural purposes. The Horace Carver Commission on the Lands Protection Act in 2013 also brought out this same spirit. Healthy land, water, and air are close to the hearts and cultures of many Islanders. It would be a serious omission to proceed with the Water Act as though it were just another Act. The creation of the Act, the ongoing work to develop policies, and regulations without finding a way to make Islanders the main actors, could make the Act be much too mechanical, dry and legalistic.

People have a lot to say about water, and they need a less formalized way of having their voices heard. Merely having the opportunity to listen to presentations, no matter how brilliant, for two hours with an added half hour for question and answer is not a good model for citizen

engagement in 2015. It is too much like the formal education system which aims to pour in “knowledge” and fails to bring out the knowledge and hopes of people. It is a method which fails to encourage creative and progressive action. People are most productive when they can talk to each other as equals in a free and safe environment, always starting with their own valid and respected knowledge. Experts are important. But experts need to hear and comprehend what people are saying. Only then will they be able to complement the community processes with their evidence-based information and other knowledge. Notably the kind of “consultation” we are proposing here requires time. A rushed process is always suspect. We keep asking, “What is the hurry to write the Water Act”? You have made it clear that the Act, its policies, and its regulations will take a number of years. Right now, though we are concerned about the current process of developing the Act itself, this phase must not be rushed.

## **2.0 The Creation of the First PEI Water Act Can Set New Standards for Legislation**

Cooper Institute has long-held criteria for good legislation. The community is growing into a new age. We need new designs for appropriate legislation. People expect a PEI Water Act which creates, new, high standards, new ideals. We need the PEI Water Act to reflect the Wisdom of the community, and the living character of water. We do not need just a hodge-podge of conflicting interests artificially knit together. It is not sufficient to develop the Act based on knowledge alone, even if this is scientific and evidence-based. We have a new opportunity to design legislation which goes beyond governments’ protection of themselves or which provides a playground for the legal profession.

Even the language used in the Water Act will set a tone for both the policy and for how the public accepts the Act, takes ownership of it and incorporates it into their lives. Choice of language can communicate not only content of legislation, but also its ideals. The intent and design of the Water Act should permeate all the articles of the Act. It must be clear that something new is happening here, something deeply human and in touch with the life sources of the universe. Lawyers in isolation from the spirit of the community are probably not the best people to be the main writers of an act which touches so deeply the lives of people and the survival of the ecosystem.

A Water Act will identify and clearly name its high standards at the outset in a strong values-based preamble which, for example, clarifies the following:

- Water must be protected
- Water is a living, life-giving, unifying component of the planet
- Water is not a commodity to be bought and sold
- Water is not a resource to be extracted at will
- The term “water usage” is offensive to many, as would be the term “uses for humans”
- Access to water that supports life is a basic human and ecological right
- Water is held in common; it is easily destroyed by private ownership “rights”
- The first victims of water misuse are the most fragile inhabitants of the earth: the most delicate plants and animals, and impoverished people everywhere
- The damage already done to water on the planet must be reversed
- Time is running out.

## **3.0 The Water Act Must Have the Power to Suppress Water Abuse**

Cooper Institute believes that the “thou shalt nots” of former times must be replaced with “we wills”. However, it is obvious that strong protective and corrective measures are necessary for some sectors to be held to account. We know that there is widespread deterioration of water supply and water quality in PEI. We will hear more about this in

future submissions to the Environmental Advisory Council. There are sectors and jurisdictions which are rightfully identified as abusers. The Act must outline what is required for compliance to the Act. We claim that government, as overseer, must use the Act as a tool to protect and enhance water quality and quantity. It must be clear that the goals and actions of water abusers are no longer tolerated. It must be clear in the Act, policies, and regulations that the penalty for a water destruction of any kind is fast and severe. Given the current threats to water, there needs to be zero-tolerance for water abuse. This means no mitigation provisions and definitely no “grandfathering”, allowing current abusers to continue their unacceptable practices, no matter how long they have been enjoying their unfettered “privileges”. We expect that the Water Act and the government responsible for it, would make central the goal: *to do no harm*. This means adopting the precautionary principle. It demands that no project can be approved and no action accepted until *it can be proven* that it will not harm the water, land, air, and people. There is no room under the precautionary principle for providing for “mitigation” for expected damages.

#### **4.0 Protection of Water as Integral to Protection of Land, People, and other Living Beings**

Cooper Institute is always grateful to the Mi’kmaq for their patient teachings that Mother Earth is sacred: that land, water and air are not separated but are integrated sources of life, never to be treated as mere resources to be exploited, used, or abused.

People are recognizing that democracy is not just about elections. *The people have more than a vote; they have a voice*. People who hear the cry of the earth, and all of the ecosystem know that the land, water, and air also have a voice, People have the right *to be heard*. The ecosystem has the *right to be heard*. We expect that policy makers will hear these voices. And to take them seriously. We *expect to influence the formulation of the Water Act* and to see the results of our influence.

Cooper Institute expects government to be a moderating force in the face of the abuse of PEI land and water. We expect the government to strain to hear the living voice of the ecological system and not to let our voices be drowned out by the power-brokers. *Water is a public trust*. Government is the trustee. The “trustee” must create the ethical standards for use and protection and ensure that all decisions reflect these ethical standards.

#### **5.0 Recommendations**

Cooper Institute recommends that:

- 5.1 **the Prince Edward Island Environmental Advisory Council (EAC)** insist the Government develop a time frame which allows for multi-layered engagement of the community; the PEI Water Act is too important and too essential to the future of PEI to be rushed through.
- 5.2 **the Prince Edward Island EAC** engage community members specialized in clear language and ethical principles to develop a preamble to the PEI Water Act which reflects standards and ideals on which the protection of PEI water should be based, such as a common inheritance; a basic human and ecological right; and a public trust.

- 5.3 **the Prince Edward Island** EAC be outspoken with, and supportive of, the Minister of the Environment and the Premier in relation to the incredible pressure on the Minister and Premier from influential circles, especially from those who realize that the Act may curtail their interests in some way.
- 5.4 **the Prince Edward Island** EAC, aware that elements of the community will continue to think of water as theirs to own and use, even abuse, for their own private or collective gain, must design parts of the Act to address potential violators and redress the violations.
- 5.5 **the Prince Edward Island** EAC, ensure that the PEI Water Act place front and center that the protection of PEI water means the protection of the land, air, plants, animals and the people of the province.

### **Conclusion**

Cooper Institute thanks the **Prince Edward Island Environmental Advisory Council** for providing this opportunity to hear many voices and for listening with care.

Respectfully submitted,

Cooper Institute