

## **A Water Act for PEI: Our Last Chance To Get This Right**

**By the Coalition for the Protection of PEI Water**

As we approach the end of the first round of public consultations, it is important to ask ourselves “What is fundamental to what we are hoping to accomplish?”

We are a Coalition that includes 20 member groups. Sixteen of these groups presented to the EAC. We have reviewed the briefs of all of our member groups, as well as many others. One fundamental point is very evident: there is massive public acknowledgement that we have serious environmental problems; half of all PEI environmental groups were formed since 2000 to deal with such problems. As Gary Schneider put it so eloquently “**Things are a mess.**”

So at this moment, it is imperative to honestly acknowledge where we are. You have heard repeatedly from many groups reporting on a litany of recurring environmental problems: high nitrate levels in wells, the highest levels of pesticide use in Canada, fishkills, streams clogged by siltation or going dry from unsustainable extraction, anoxic conditions in many watersheds, depleted organic content in soil, no protection from fracking, existing environmental rules loosely enforced. It is sobering to recognize that we are doing worse on virtually all environmental indicators.

What we need from these consultations and from this Water Act is a **bold vision for significant change**, with a strong commitment from government to bring about this change. It is no longer acceptable to continue along a course that leaves us facing the same problems over and over.

This could be our last good chance to get this right. We have had a history of excellent reports that have been informed by input from thoughtful and passionate groups and individuals. *Cultivating Island Solutions*, the 1997 report of the Round Table on Land Use and Stewardship, and *We are all upstream, We are all downstream, We are all part of a watershed*, the report from the watershed consultations in 2007 are good illustrations. Both included far-reaching recommendations and urged timely actions. But few recommendations have been implemented, and 20 years after the Round Table, we continue to face the same issues.

We are at a watershed moment for the PEI environment, and for the future of this province. This is not just another Act. It is perhaps the most important environmental legislation in PEI history. The time for half measures, mitigation, and downstream approaches is long past. This is an exciting opportunity for a significant shift in how we think about water and how we address the problems. If we get this wrong, PEI will continue on a path of environmental degradation.

These consultations have been held at the same time as consultations on democratic renewal. We need to ground the Water Act in such a democratic process that values citizen engagement. Democratic reform reaches far beyond the methods we use to elect our representatives, and should extend to the engagement of citizens in the full range of governance and decision-making.

We need to **see ourselves in the global context**. More than ever this shift is required given the reality of climate change. Many of the practices that threaten our water also contribute to climate change.

We are poised at a critical-choice point. We can be part of the problem that takes us further toward a downward trajectory, or be part of a larger needed shift, away from what Naomi Klein has called the extractivist mindset. We can continue to see the value of the natural world exclusively in terms of its usefulness to human needs, where we are entitled to take all we want. Or we can take a step toward significant change as illustrated by the LEAP Manifesto (see [leapmanifesto.org](http://leapmanifesto.org)). We can recognize that there can be no taking without caretaking.

On PEI, the story of plentiful and abundant groundwater favoured by some of our public officials reflects this extractivist perspective. But (if you'll excuse the pun), this story no longer holds water, and is challenged by evidence, and many illustrations of the world crisis with the availability of clean water. Residents of California were told a similar story 10 years ago.

By 2025, two thirds of the world's population will live under water stress. Currently, 13 of the world's 37 aquifers are depleted and receiving little replenishing water. In Charlottetown in September, Maude Barlow talked to us about the many instances of drying and dying lakes and endangered watersheds around the world.

And a recent study published by James Gleeson in **Nature Geoscience** demonstrates that the supply of groundwater available is far more limited than what we had assumed. Only 6% of groundwater can be renewed during an average lifetime. Scientists call this "young" or "modern" water that has accumulated under the earth for only 25 to 100 years. It is generally more readily available and of better quality than old or ancient groundwater and is more vulnerable to contamination and to climate change. Gleeson advises us to protect and manage this finite resource far better. If we extract more water than we should, the level of the aquifer sinks – and it can take decades to replenish. This has been called ‘water mining’, and it is exactly what is happening in California.

Here in Prince Edward Island, Biologist Darryl Guignion concludes that there is no such thing as surplus groundwater. Rivers require this water to support the biodiversity of aquatic ecosystems. In the summer, 100% of stream flow is composed of groundwater discharge. Fishers at the consultations have raised concerns about the impacts of climate change and extreme weather on recharge.

Despite living in a world of limited water, Islanders use, on average, 4 to 8 times more water than we need.

We need to become conservers and caretakers of water. Rather than focusing on our need for more, we need to do far better with what we have, and wisely manage our land and water. For example, better soil management, could result in better water retention. The City of Charlottetown could set targets to reduce water extraction to sustainable levels, and explore recycling options, and still meet the needs of its residents. These are sustainable alternatives to digging yet more wells for expanding municipalities and for agriculture, which would take unsustainable amounts of water, and endanger more ecosystems.

Members of the Environmental Advisory Council have heard from many presenters about the foolhardiness of maintaining our current perspective and continuing with our existing practices. It might be useful to keep this image of the Winter River in mind while thinking about the importance of shifting our perspective from being takers to being caretakers of water.

**Key contributing factors:** How did we get to this point? Why have we lacked the strong political leadership needed to enact the recommendations of the many good reports that now collect dust on our shelves?

When water is seen as a resource, its value lies in how we humans can use, exploit and develop it for our own purposes. This is the extractivist perspective: resources are there for us to extract. Our principle relationship with water is as “takers” and “consumers”, rather than as stewards or guardians. Many of the presentations have clearly and emphatically stated that water should not be seen as a resource. Rather it needs to be viewed with respect, as an essential part of living ecosystems that support all life. Land, water and air are non-renewable natural gifts that must be protected.

The tendency to take nature to its limits reflects the **risk management approach** that is common in dealing with environmental problems. We tolerate high levels of risk to the ecosystem, and then respond to or mitigate the effects of a crisis, rather than focusing on preventing problems through emphasizing ecosystem health. Sometimes, in this perspective, as one provincial Environment official indicated to us, we may just not be able to save all of our rivers. In our perspective, there is no place for such ‘sacrifice zones’.

**Another important factor:** The presence of powerful interests who have a great influence with government. Far too often, the province chooses to meet the needs of such interests and is reluctant to intervene and impose limits. Large corporations can then operate with few constraints and with limited public oversight and accountability.

Why do these problems persist and why has there been so little political leadership? Is it because public officials have too often been reluctant to acknowledge that these problems are urgent, or even exist? Past Governments have been reluctant to accept the knowledge and concerns of the watersheds groups and other concerned citizens. So we return here to the fundamental and very first step. It is imperative to honestly own up to the serious problems in PEI’s waters.

### **Goals, Values and Principles for the Water Act:**

The act requires a clear **goal – to protect and ensure the health of all aquatic ecosystems for all beings and for generations to come**. We need to build the Water Act around the principle of the unity of land, air and water, with the acknowledgment of the life-giving connection to humans, plants and animals (NFU)

Key values and principles in support of the overall goal need to be incorporated into the Act. Water is a human and nonhuman right, part of the right of all beings to a healthy environment. Water is a common good and a public trust. No one owns water. These values have important implications for policy and practice in such areas as obligations and responsibilities, access to information, and public, transparent processes.

Two essential principles to include in the Act that we explored in our previous presentation are the **precautionary principle** and **intergenerational equity** – the value of thinking ahead for seven generations. We should apply the precautionary principle to every aspect of the Water Act and to all other policies and practices. We have an obligation to protect environmental and human health; above all, our actions must do no harm. The Canadian Environmental Law Association offers the following statement of this principle. “If an action or policy has a suspected risk of causing harm to the public or the environment, in the absence of scientific consensus that the action or policy is not harmful, the burden of proof that it is not harmful falls to those taking the action.” The precautionary principle has been emphasized by virtually all of our member groups in their presentations.

In regards to intergenerational equity it is imperative that we look beyond the current state of the environment, since what we have may already be degraded and damaged. First, restore and improve our ecosystems to a healthy state, and then ‘do no harm’. For example, improve organic content of soil to a healthy level, and then keep it at that level. Clearly, you can’t meet this standard by transferring water out of a watershed, or adding deleterious substances to surface or groundwater.

Commitment to these key principles means that new policies should be tied to this standard. New laws **MUST** be enforced to give the public confidence.

There are other perspectives to guide us in charting this new course. Recently, MLA Peter Bevan-Baker introduced a new Well-being Measurement Act. With this in mind, we can learn to think more ecologically, recognizing that healthy ecosystems are the basis for any prosperity. We should consider the costs of degraded ecosystems and the loss of these vital ecological goods and services. This perspective provides a needed contrast to our usual way of thinking about economic ‘growth’ and for evaluating the true ‘value’ and ‘costs’ of industrial agriculture, for example.

Please imagine a large 'funnel'. All of these excellent and thoughtful presentations from knowledgeable and committed people are going into this wide funnel, and then it narrows down, first through the perspective of the EAC in the form of a report. We have faith that the members of the EAC will hear us well. But then what?? Who is at the end of this narrow funnel? Who will actually write this report? And who actually will develop the policy that we will review in the next phase? We request this funnel be widened at the end, and that the EAC recommends citizen involvement in all phases of the development and implementation of the Water Act, and form a **Water Advisory Board**. The reason for this is not just that democratic process is a good idea, which it is, but that diversity of ideas contributes to better decisions and results. The Water Advisory board would include representatives from environmental and watershed groups, First Nations, the scientific and academic communities, government and other persons who have a primary commitment to ensuring and protecting the health of ecosystems. This is an exciting possibility, one that would provide a new way of doing things in government.

In addition, it is imperative to fund and empower watershed groups, to respect their expertise, and to consult and collaborate with them in all decisions about water, particularly in their own watersheds. Government should also make a strong commitment to regulation and enforcement, and it is they – and not the watershed groups – that must assume this responsibility. Watershed groups are cleaning up the mess that we and others have made, and need to be recognized and funded commensurate with the sterling work they do.

### **What PEI requires:**

We need to be guided by a **bold vision for the future**, and by a **true commitment to sustainability**. The key to this vision would be a transformation to sustainable agriculture as part of a sustainable economy.

We need to ensure the production of healthy food while:

- restoring and preserving natural resources so that future generations can meet their needs
- improving the quality of the land (by increasing soil organic matter, and by reducing its pesticide and nitrate content)
- withdrawing no resources that cannot be replenished (e.g. fossil fuels)
- protecting the social and economic conditions of our farmers, and the health of our communities.

**Recommendations:**

- 1) The Water Act should have a clear goal: to protect and ensure the health of all aquatic ecosystems for all beings and for generations to come.
- 2) A Water Advisory Board should be appointed for the next phase of the development and implementation of the Water Act
- 3) Apply intergenerational equity and the precautionary principle in all policies and regulations.
- 4) Enshrine the right to clean drinking water in the Water Act
- 5) Use only sustainable agricultural practices (improve soil organic matter, reduce its pesticide and nitrate content to an absolute minimum, increase buffer zones, stop any contamination from entering ground or surface water)
- 6) For High Capacity Wells: Keep the moratorium in place for new wells for agriculture; and review the permits and monitor the impacts of extraction for all existing HC wells; and seek new information to determine how much water can sustainably be taken from watersheds.
- 7) Ban fracking
- 8) Develop priorities for access to water considering how much we really need:
  - Environmental and human needs: water required to sustain life and health.
  - Safety needs such as fire and waste disposal
  - Other non-essential uses can be considered after these essential needs have been met.

9. Fund and empower Watershed groups: Consult and collaborate

Thank you.

Catherine O'Brien, Andrew Lush, Don Mazer

The Coalition for the Protection of PEI Water ([peiwater.com](http://peiwater.com))