

**Environmental Coalition of Prince Edward Island**  
**Submission on the Draft Water Act**  
**April 12, 2017**

The Environmental Coalition of Prince Edward Island (ECO-PEI) is a community-based action group formed in 1989. Our goal is to work in partnership with other organizations to understand and address issues that affect the land, water, forests and climate of Prince Edward Island. Our work centers on education, advocacy and action. One of our main areas of work is the Macphail Woods Ecological Forestry Project.

We'd like to start by saying how pleased we are that the Draft Water Act reflects so much of what people said was important to them during the public consultation process carried out in 2015-16.

We especially appreciate section (2) – the Purpose, and its statement of principles and goals. The very first point, about the role of government in ensuring that water is managed in the interests of a “**common good** for all living things and their supporting ecosystems” is excellent. We were happy to see the right to water, the precautionary principle and principle of intergenerational equity in this section, even though they are not explicitly labelled as such. We encourage you to in the next draft to name those things, to use that language. That kind of clarity will only make the act stronger.

We also appreciate that the concept of “polluter pays” is embedded in the act, and we were happy to see the attention given to monitoring and reporting and making information available to the public. We hope the regulations will contain some detail about timelines and frequency of reporting.

Legislation aimed at preservation and conservation is paramount in moving forward to protect our water, but it's not enough. In this province, fish kills and anoxia are recurring, predictable events. At the same time, people are, with reason, concerned about high levels of Nitrates in their drinking water. As strong as the Act may be in terms of dealing with contaminants after the fact, there does not seem to be anything about **preventing contamination** from occurring in the first place.

While it's true that agriculture is not the only source of contamination of water, much can be attributed to overdependence on chemical inputs such as pesticides, fungicides and fertilizers, and practices such as fall ploughing with no cover crops, removal of hedgerows, inadequate crop rotation & buffer zones. We acknowledge that many farmers are caring for the land and water, but really, we can't dance around the problem. Within the act there should be some indication of how contamination of water will be prevented. While the particulars may indeed be contained within other pieces of legislation, there should be something within the actual water act that establishes those links, and maybe even calls for regular review of pertinent Agriculture and Land Use Acts and Regulations to ensure that all possible measures are in place to prevent contaminants from entering our water.

PEI's economy, and our primary industries should not be developed or sustained at the expense of the environment. At very least, it's a terrible marketing strategy – who really wants Canada's Food Island to be known as Canada's Fishkill Capital or Canada's Industrial Wasteland? Water extraction limits, included in the act, will aid in preventing the depletion of water. We need similar measures to prevent degradation of water. And by the way, limits should be treated as, well, *limits*. There should be no provision to exceed them.

We would like to see in the Act something about **restoration**. This could be included in sentencing options when a contravention of the Act has resulted in habitat destruction. It could also be stated in the Act that restoration will be a required part of planning in Water Sustainability Areas sections.

One of the principles on which the Act is based is the right of everyone to adequate, safe water. To make this right real, communities should have the means to demand that the practices of industry (i.e. agriculture) do not impede their access to water (within prescribed limits) or degrade ecosystems. This may fit, again, into the planning areas sections, where at present there does not seem to be any provision for community to be involved in a meaningful way. The Act only states that the public may be consulted or notified. Somewhere there should be a clear statement that community will have a **meaningful role in decision-making**.

The Prince Edward Island Watershed Strategy was released in 2015, the result of collaboration between government and community, with the following vision:

*We are a partnership of informed, empowered and engaged individuals, communities, businesses and government agencies, who together are responsible for conserving and restoring Prince Edward Island's watersheds.*

Two of its goals refer to the role of community in watershed management:

- Increase the capacity of individuals, organizations, and industries to take responsibility for protecting and managing watershed ecosystems using environmentally sustainable practices.
- Enhance partnerships so that individuals, communities, businesses and governments will be empowered and fully engaged in watershed management.

We are citing this, not just because of its reference to partnerships and public engagement but also because we wonder how this strategy relates to the water act. It seems that watershed groups – whose role in watershed management is well supported by government – could be involved in planning under the “planning areas” provisions but this isn’t explicitly stated – and given the importance of those groups in prevention & remediation and in planning & community engagement, perhaps there should be something more explicit about their involvement.

The prohibition on water exports is clearly stated in the act, and that’s a good thing. But it begs the question, why could the **moratorium on high capacity wells and a ban on fracking** not be treated in the same way? The public demand to include these things in the Act was loud and clear, and this continues to be the case. That they have been omitted appears to place certain corporate interests over the public interest. In particular we would like to see the Act prohibit the withdrawal of water for fracking. It is not good enough to rely on Section 7, which gives the Minister the power to not approve an application if a project is deemed not to be in the public’s interest.

To conclude we’d like to comment on this **consultation process**. People have lots to say about this draft. Despite a compressed timeline and little advance notice, individuals and organizations have made time to read the legislation, think about it, discuss it and respond to the call to provide feedback. Considerable energy has been expended. It would be a great disservice to all of us if our efforts prove to be wasted. The apparent rush to get through this public consultation process, and to get the Act into the Legislature for however many readings makes us really worried. We can’t see how there is time for the writers of the act to consider all of the input we’ve provided. You’ve received a very long list of practical suggestions for making the act even stronger. We know this because we are part of the Coalition for the Protection of PEI Water, whose members have gone through the Act, clause by clause, aided by two environmental lawyers. So, we end this presentation with some questions – you’ve asked us and we’ve told you what we think. What happens now? How will you consider what you’ve heard? How will this process be made meaningful?