

Comments on the draft Water Act, March 26, 2017

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Thank you for allowing me to comment on the draft Water Act. I have been involved with this process from the beginning, through the Environmental Coalition of Prince Edward Island and the Coalition for the Protection of PEI Water. The process to date has been great. In fact, I have been using it as an example of a solid public process when I attend national meetings on environmental assessment. Unfortunately, things seem to be falling apart at the end. The delays in releasing the report, combined with the almost simultaneous release of the Climate Change Strategy and Energy Policy have left people scrambling to keep up. And then there are only four public meetings and they are happening quickly. With all that, we suddenly find ourselves unaware of the process and timing. What is going to happen, and when? How will our comments and concerns be addressed?

There are some excellent parts of the draft Act. The “purposes” section is very strong, especially (a) Government has a guardianship role to play in ensuring that the quality, quantity, allocation, conservation and protection of water is managed in the interests of a common good that benefits and accommodates all living things in the province, and their supporting ecosystems. If we just followed that simple statement, we could solve all the water problems on PEI.

In the same section, it is good to see that (b) access for everyone to a sufficient quantity and safe quality of reasonably affordable and accessible water for personal and domestic uses, and to basic sanitation that is safe and hygienic, is essential for an adequate standard of living. I would like to see this strengthened to ensure that these are basic human rights, something that many presenters spoke about at the public meetings.

The plan for increased reporting on the state of our water is very welcome. With water being of such importance here, and facing so many threats, this is long overdue. The ban on the export of water also sends a strong message to Islanders. The use of the term "precautionary principle" in the "Key Statements" is great to see, though I would have liked to see that exact term inside the actual Act. The idea of minimum environmental flows in Island waterways will, if we look at all components of a healthy ecosystem, go a long way to preventing problems such as those that regularly occur in the Winter River. Making information on water accessible and creating a public registry will be of great benefit to Islanders, not the least of which is that people will use water more carefully if they know that other members of the public is aware of what is happening. This information, and the registry, should be available on-line, and so I would like to see “shall” instead of “may” in these sections. There is also great potential for learning and adapting within the draft Act, so that as new information and even technology comes along, we can continuously improve.

I know that many of the things I am looking for should be in the regulations. But without knowing what they will contain, here are some of my concerns.

After carefully reading the draft Act, I still don't know how we are going to protect water in this province. I would have liked to have seen, even in a preamble or in the "Inside the Water Act" document, a statement on how we're going to substantially reduce nitrates and pesticides in our waterways. Islanders need and deserve clear and enforceable targets on reducing nitrates, agricultural and cosmetic pesticides, and soil erosion, and to know how these will be achieved. This will include everything from removing loopholes and strengthening the crop rotation legislation to increasing the width of buffer zones as needed to protect waterways.

If we don't deal with the agricultural inputs head-on, this whole timely and expensive process will have been a missed opportunity. In Quebec's 2002 water policy, they have a regulation on agricultural operations that aims to achieve balanced phosphorous levels in soils (related to pig farming), so we can surely do these things. They also promise to "Reduce the environmental impact of pesticides in agricultural areas by 2010." <http://www.mddelcc.gouv.qc.ca/eau/politique/index-en.htm>

There is no ban on fracking, something that the Premier promised would be dealt with in the Water Act.

There is no clear message on maintaining the moratorium on high-capacity wells for agriculture, something that most Islanders agree needs to be done.

The Act and regulations should include carrying out a Strategic Environmental Assessment of water in this province, with an eye to setting priority uses for water. Part of this would be the idea of wise usage, which could be tied to permitting. This would tie water conservation into the permitting system, so that we would start looking at where water wastage occurs and find better options.

While the draft says that "An aquatic ecosystem is provincially significant if, in the opinion of the Minister, it  
(a) contains significant populations of rare, endangered or uncommon aquatic species;" I don't have an idea how these rankings would come about. We should be clear that we are using the S1 and S2 rankings of the Atlantic Canada Conservation Data Centre and not just the federal Species at Risk rankings. And the Act should clearly state where this zone extends. The draft mentions "banks and shores" but doesn't say if that is right on the shore or within the buffer or even further. So perhaps we need a better definition of the terms.

I also believe that we should have something in place specifically to rebuild the trust of Islanders in their government's protection of water. It is ridiculous that the fish kill investigations have been so blatantly in the shadows. An on-line updating mechanism would be a great start, so that the public could know what is happening, what chemicals were present in what quantities, what are the dangers associated with these chemicals, and what do the timeframes and next steps look like for the investigations. It wouldn't have to name names or anything, but just shine the light of day on these things. Otherwise, people continue to expect the worst.

We should also adopt the use of “eco-conditionality”, which is becoming more and more popular in Quebec and the EU. It makes the receipt of subsidies contingent on compliance with a number of environmental standards. The province touches on this with the Environmental Farm Plans, but since you don’t actually have to follow those plans and there is no monitoring, they do not fill this void. We really need to reward environmentally sound actions and stop funding anything that degrades the ecosystem. This could really help drive a change in practices.

As I said in my presentation to the Environmental Advisory Council in October of 2015, a comprehensive Water Act will not only protect the quantity and quality of Island waters. It will also have an incredible impact on the economy of the province. We are presently in the process of branding PEI as “Canada’s Food Island.” But if we continue to have fish kills, anoxic conditions, pesticides and nitrates entering the Strait and high levels of nitrate in our drinking water, the bad publicity will do more damage than any food promotion exercise can mask. These incidents are attracting national and international attention and undermine all the efforts to shine a spotlight on the high quality of our locally produced food.