



Creating a Blue Dialogue Webinar Summary

Indigenous Water Initiatives: Achievements and Capacity Gaps

Tuesday, March 28, 2017

Attendance

Approximately 150—First Nations, federal, provincial, and local government staff; students and researchers; private sector professionals; environmental NGOs

Introduction

A priority winning condition for watershed governance in British Columbia is co-governance, which involves meaningful partnerships and shared decision-making between Indigenous and non-Indigenous decision-makers and communities. Before co-governance arrangements can be initiated, First Nations must have the internal means to develop and articulate their communities' water priorities and values. In many regions in B.C., First Nations are leading innovative watershed governance approaches. Despite this leadership, there are also capacity gaps that can constrain progress.

In this webinar, Kate Cave (Centre for Indigenous Environmental Resources) and Genevieve Layton-Cartier (First Nations Fisheries Council) shared results from a 2016 systematic research review of Indigenous-led freshwater planning initiatives and co-governance arrangements in B.C. This research identified capacity gaps and will contribute to shaping the future of freshwater planning and a new watershed governance regime in the province. The webinar also featured perspectives from Shannon Squire (P'egp'íg'lha Council/T'ít'qet First Nation) and Ashley Doyle (Kwantlen First Nation), who shared their journeys to implement or develop water initiatives with their respective nations.

This webinar was co-hosted by the POLIS Water Sustainability Project, the Centre for Indigenous Environmental Resources, and the First Nations Fisheries Council of British Columbia.

Guest Speakers

Kate Cave is a Research Associate at the Centre for Indigenous Environmental Resources. She has 12 years of experience working in the environmental field and with Indigenous communities across Canada.

Geneviève Layton-Cartier is the First Nations Fisheries Council's Freshwater Project Coordinator. Her work focuses on engaging and supporting B.C. First Nations to enhance their participation in the governance, planning, and management of freshwater.

Shannon Squire is a governance advisor for the P'egp'íg'lha Council, which is the traditional governance arm of the T'ít'qet community. Its mandate is the protection of title and rights on behalf of the past, present, and future P'egp'íg'lha, which are part of the St'át'imc Nation.

About the Series

Hosted by the POLIS Water Sustainability Project at the Centre for Global Studies, University of Victoria, *Creating a Blue Dialogue* brings together expert water practitioners and thinkers, as well as emerging water leaders, to engage with innovative ideas on water policy and governance in Canada. By creating an online community of interest, the webinar series serves to strengthen the national capacity to engage with and solve problems, and raises awareness about emerging Canadian water issues, best practices, and policies.

Ashley Doyle is the Manager of Lands and Resources for Seyem' Qwantlen Business Group at Kwantlen First Nation. She oversees government correspondence related to consultation (a.k.a. referrals) and engages all levels of government on Aboriginal rights and title.

Part 1: Indigenous Watershed Initiative and Co-Governance Arrangements: British Columbia Systematic Review

Presented by Kate Cave & Geneviève Layton-Cartier

In 2015 and 2016, the Centre for Indigenous Environmental Resources (CIER) partnered with the First Nations Fisheries Council of British Columbia (FNFC) to undertake a systematic review of Indigenous-led freshwater planning initiatives and co-governance arrangements in B.C. The purpose of the research was to identify capacity gaps and contribute to shaping the future of freshwater planning and a new watershed governance regime in the province.

The results point to a widespread lack of capacity (financial, human, and technical) for B.C. First Nations to engage in water/watershed governance, planning, and management. However, it is encouraging to note that with enough capacity, the majority of survey respondents indicated a strong interest in engaging in water/watershed planning. Possible solutions to address some of the challenges identified by the research were presented, as well as steps for the next couple years, including:

- Supporting key capacities for water governance, for example, establish government fund and/or delivery mechanisms to *specifically* support freshwater planning/management/collaborative initiatives for First Nations;
- Supporting coordination of “tier 1” processes that focus on freshwater management and governance (“tier 1” is communication or management processes open to First Nations only); and
- Creating process for First Nations to engage in *Water Sustainability Act* regulations development and implementation:
 - For example, support development of an Integrated Water Referrals Response Guide for B.C. First Nations
 - Co-develop a “Tier 2” process for *Water Sustainability Act* engagement (for example, topic-specific advisory groups or technical committees that focus on environmental flow needs, water objectives, and monitoring and reporting).

For more information, please refer to the final research report and communique available on the [CIER](#) and [FNFC](#) websites.

Part 2: P'egp'íg'lha Council of the T'ít'qet Community, of the St'át'imc Nation

Presented by Shannon Squire

To provide context for her discussion of different water governance and management activities being undertaken by St'át'imc Nation, Shannon described the governance structure of the P'egp'íg'lha Council and its relationship to the St'át'imc Nation. She also explained the problems generally associated with the lack of recognition of First Nations title and rights to water in B.C. Shannon illustrated the barriers that can restrict the community's full participation in water governance, and also pointed to positive steps St'át'imc Nation has taken to exert authority over waters in its territory. The P'egp'íg'lha Council and T'ít'qet community have recently undertaken a number of freshwater management activities, including hosting a water forum for the St'át'imc Nation, a wetlands project, and negotiating flow regimes as part of a settlement with BC Hydro.

P'egp'íg'lha Council and St'át'imc Nation

Many conversations with external decision-makers and groups in the St'át'imc region must begin with educating others about First Nation decision-making processes and holistic approaches to understanding issues.

Eleven First Nation communities make up the St'át'imc Nation. The T'ít'qet community is one of those 11 communities. T'ít'qet has established four pillars of governance based on a non-colonial structure:

- The Chief and Council handle all programs and services from Indigenous and Northern Affairs Canada;
- The Elders Council deals with issues of justice, culture, spirituality, and language;
- The Youth Council has the role of developing future leaders; and
- The P'egp'íg'lha Council is the title and rights arm of government.

Individual families appoint representatives who sit on the P'egp'íg'lha Council, and decisions made by the Council are made collectively on behalf of the entire community. Each meeting begins with a prayer, giving thanks to the land and the water. The prayer acts as a reminder that the land and water must be protected for future generations.

Perspective on Indigenous Water Rights

Within B.C. there is a lack of recognition of First Nations title and rights to water. First Nations should have clear title to water because they were here first. Furthermore, the provincial government has not always acknowledged water allocations that were issued with reserve allocations. The Province's "first in time, first in right" (FITFIR) principle only accounts for selective parts of history.

As First Peoples of the land, First Nations have inherent rights and responsibility to the water, and are not stakeholders in the water governance conversations. Rather, they are governments with authority and responsibility that is quite different from other user groups.

Traditional knowledge has not been valued or considered by non-Indigenous governments during water management, planning, and decision-making. Much like western science, traditional knowledge comes from years and years of experience and observing the repetitive patterns of natural systems. As a result, First Nations have a deep understanding of the land and how it behaves.

Indigenous Water Rights

"As Indigenous Peoples, we raise our voices in solidarity for the protection of Water. The Creator placed us on this earth, each in our own sacred and traditional lands, to care for all creation. We have always governed ourselves as People to ensure the protection and purity of Water. We stand united to follow and implement our knowledge, laws and self-determination to preserve Water, to preserve our life. Our message is clear; Protect Water Now!"

Interior Alliance Indigenous Declaration on Water, 2001.

Water is a fundamental part of a holistic system and First Nations have an obligation to protect the quantity and quality of watersheds for future generations.

Water Initiatives Driven by St'át'imc Nation

In 2011, St'át'imc Nation made a \$209 million settlement, closing over 20 years of negotiation with BC Hydro. This settlement has provided the St'át'imc Nation with the capacity to participate in and lead watershed projects. There is a strong desire in the nation to address watershed issues and invest in the land and water.

One large-scale project that the St'át'imc Nation is involved with is the West Coast Environmental Law RELAW project (Revitalization of Indigenous Laws for Land, Air, and Water). The Project is striving to create a water statement for the nation that will help to inform future water policy and decision-making. In addition, St'át'imc Government Services supports an Environmental Department that undertakes a variety of

water initiatives, such as the Bridge Seton Strategic Watershed Plan, the Stream Crossing & Road Footprint Analysis Project, as well as eDNA testing, and assessing historical snow pack data.

Barriers to Full Participation in Water Discussions

Complex logistical challenges are present in First Nation communities, which create barriers to member participation in projects, and the success of projects. For example, the southern communities of Samahquam, Skatin, and Xa'xtsa in the St'át'imc Nation were without consistent power sources until recently. Other barriers, such as a lack of technology, transportation, equipment, or training, slow down initiatives. It also takes a significant amount of time to inform and educate community members on water issues. These types of barriers are not often considered by people outside of First Nation communities.

First Nations are still not adequately involved in the development and implementation of regulations under the Province's new *Water Sustainability Act*. Furthermore, the provincial government is creating two tiers of First Nations: the "haves" and the "have-nots." Some government-to-government relationships have been built through Strategic Engagement Agreements (SEAs) or other agreements with the Province. Communities that have yet to establish SEAs do not have the same access to government consultation and, in general, there is a lack of government-to-government discussions. In the case of the St'át'imc Nation a government-to-government relationship is not a high priority for the provincial government because intensive natural resource industries are not found within its territory.

Within T'ít'qet, there is a lack of understanding about how climate change will effect local environments, and what mitigation efforts can be taken at the community level. In addition, traditional knowledge about local waterways is being lost or having to evolve due to climate change.

Finally, government-to-government discussions that are happening still occur within a framework created by a colonial crown system and do not meet the needs and values of First Nations. This colonial infrastructure is a barrier to co-management and co-governance and inhibits equitable government-to-government relations.

Part 3: Kukwstumckalap First Nation Freshwater Planning

Presented by Ashley Doyle

Kwantlen First Nation Governance System

Kwantlen First Nation is a Coastal Salish fishing community with roughly 260 members. The community has existed in Southern B.C. along the lower Fraser River for countless generations. Kwantlen Traditional Territories span the areas now known as Richmond, Delta, New Westminster, Surrey, Langley, Maple Ridge, Mission, and Abbotsford. Seyem' Qwantlen Business Group is the branch of Kwantlen First Nations that manages lands, resources, and economic development.

Kwantlen reserve lands are managed according to the *First Nations Land Management Act*, and in June 2015 the community enacted the *Kwantlen Land Code*. The *Kwantlen Land Code* put the Kwantlen People at the centre of future land management decisions, reduced bureaucratic requirements, and was a huge step forward in self-governance. The Kwantlen Lands Advisory Committee handles matters related to lands management and the development of laws under the *Kwantlen Land Code*. In addition, the Kwantlen Elders Committee meets to discuss and vote on important decisions regarding all activities happening within the nation.

Kwantlen Territory: Major Waterways, Industrialization & Cumulative Effects

There are many streams in Kwantlen Territory that are of significance to the nation, however the most important waterway is the Fraser River. The Fraser River has provided an abundance of food since time immemorial, acted as a major transportation corridor, and holds profound cultural significance for the Kwantlen People. The Stave Watershed also holds significant importance for the Kwantlen People. Over 50

registered archaeological sites have been identified in the watershed and a major village site once existed near the Rushkin Dam. The Rushkin and Stave Fall Dams have impacted the way Kwantlen Peoples interact with the river. These projects have altered the nation's ability to utilize this area for fishing and resource gathering.

Industrialization has been most problematic on the Fraser River. It is only in the last ten years that the Kwantlen First Nation has been consulted about large infrastructure projects. A number of new infrastructure projects are currently being undertaken; all of these will impact the health of the river. Neither the provincial government nor the Vancouver Port Authority has properly accounted for the cumulative effects of industrial projects in the Lower Fraser River, and the provincial environmental assessment process is far too narrow to account for the cumulative effects of numerous projects. The Kwantlen First Nation has pressured external governments to undertake a holistic cumulative effects study to determine the impacts of development on the Lower Fraser, but action has yet to be taken on such an initiative.

Water Sustainability Act

There are fundamental issues with the way in which the Province has enacted the new *Water Sustainability Act*. First and foremost, the Act does not acknowledge Aboriginal rights and title to fresh water. In addition, the FITFIR system leaves out First Nations and gives priority to existing licence holders, even though First Nations were both first in time and first in right. The provincial government is also generating revenue from new licences but is offering no funding for First Nations to build internal capacity. This is especially an issue because the Act has created an influx in referrals and Kwantlen First Nation does not have the time or capacity to properly manage them.

Kwantlen Freshwater Initiatives: Looking Forwards to the Future

Kwantlen First Nation has undertaken a number of freshwater initiatives, including habitat restoration projects, species at risk projects, and workshops. Funding for projects has been provided by the Aboriginal Fund for Species at Risk, the Interdepartmental Recovery Fund, and the Canadian Freshwater Alliance. In October 2016, Kwantlen hosted a workshop in collaboration with the Raincoast Conservation Society called "Creating a Vision for Salmon Habitat in the Lower Fraser River." The workshop brought First Nations and municipalities together to discuss strategies for improving salmon habitat in the Lower Fraser.

Kwantlen First Nation would like to lead by example on water governance and management. The nation recognizes that employment and making profits are important but economic development should not hold priority over the health of the environment. The Seyem' Qwantlen Business Group will continue to integrate environmental initiatives into its economic development projects, to voice concerns about the cumulative effects of industrialization of the Fraser River, and to work with the Province to address concerns about the *Water Sustainability Act*.

Key Questions from Discussion Period

Do you have support from environmental non-governmental organizations (ENGOS)? What would that look like? And how would that support your initiatives?

Shannon Squire: No, we are not currently working with ENGOS. Our community is working on its process and planning strategy and, as a result, most of our work is grant funded.

Ashley Doyle: We have worked with ENGOS in the past, specifically the Raincoast Conservation Society and the Canadian Freshwater Alliance. These groups provided support for our 2016 workshop, which was very helpful because our staff already have large workloads. ENGO support was key to the success of this event. We have also worked with ENGOS on environmental habitat projects. Kwantlen First Nation hopes to partner with more ENGOS in the future.

Kate Cave: As a national non-profit organization, we tend to reach out to local and regional environmental groups, such as Water Wealth. Finding local, regional support is important for collaboration, helps with the proposal process, and provides technical support/information that we do not always have. CIER is always open to building new relationships.

Was there any discussion about collaborations at the Kwantlen Fraser River workshop?

Ashley Doyle: Yes there was, and this has been a topic at other venues as well. We have also collaborated with the First Nation Legacy Fund on projects in the Lower Fraser watershed. There is always the opportunity to expand on collaborative efforts, especially in terms of referrals. The referral process can feel very isolating, and anytime we can reach out and connect with other First Nations and others on this topic, it is useful.

Can any of the speakers elaborate more on the idea of values and the differences between them in decision-making processes? ¹

Shannon Squire: One example is that the Province has been trying to push itself out of the box with its cumulative effects plan, but there is no place for engagement or incorporation of our First Nation values in that framework. Our court systems and government system are based on colonization, so it is normal for people and systems to hold values based on that history. It's very tricky to continually try and push people out of that box, and it is difficult to get people to think about seven generations down the line, cumulative impacts, holistic decision-making, and the deep spiritual connection First Nations have with water. It's hard for decision-makers and external governments to understand the effect that management decisions have on a community if they do not understand the depth of the relationship those community members have with their waters.

Ashley Doyle: Each nation has its own core traditional values, but all nations have to operate within a colonial framework. The structure of the court systems and the bureaucracy structure of non-Indigenous governments are very counter to how First Nations have operated in the past and continue to operate. We have been working to try to change framework but it is very difficult.

The mention of “uncomfortable conversations” has come up at several points. Do the speakers have any ideas about how to shape policy development processes in a way that these conversations can begin to address the underlying differences rather than revert to established value systems?

Shannon Squire: I'll use an example with BC Hydro. We are very concerned about BC Hydro's change in operations and the potential impact on fish and fish spawning habitats, but because we only had one year of data/monitoring, BC Hydro is uncomfortable about changing the flow regime. When you rely solely on scientific data it delegitimizes the traditional knowledge that First Nations have about watersheds. Institutions must be able to legitimize their decision-making process, and currently First Nation knowledge is not considered as legitimate as scientific knowledge.

Could you describe West Coast Environmental Law's RELAW Project? And could the outcomes of the RELAW Project help to reshape the decision-making process?

Shannon Squire: The RELAW project identifies values from traditional First Nation stories and is using them to inform and develop a set of First Nation laws. The goal behind the project is to bring legitimacy to our traditional values. We hope this will help to reshape current decision-making processes.

¹ For more information on this subject, Merrell-Ann Phare's 2009 book *Denying the Source: The Crisis of First Nations Water Rights* is a good resource.

Kate Cave: Making changes to the process will take time. First Nations need to be given the time and internal capacity to process provincial policies and laws, like the *Water Sustainability Act*, and determine what their traditional processes are. The RELAW project and other initiatives will help to lay a strong foundation for First Nations and prepare them for communicating with other groups. It is also important to bring the right people to the table—people who are open to exploring uncomfortable conversations and new ways of looking at different types of processes. This will require time and space for people to listen, share, and learn together.

Closing Comments

Genevieve Layton-Cartier: It is important to remember that many First Nations currently have a low capacity to engage in meaningful discussion, and that there needs to be an education process before First Nations can meaningfully engage in discussion on high level policy, like the WSA. Funding has not been made available for these types of internal initiatives.

Ashley Doyle: This webinar has been a great opportunity to share the challenges that many First Nation groups are experiencing. I hope to see progress in the future including the legitimization of traditional values and the building of internal capacity for First Nation groups.

Shannon Squire: I would like to encourage everyone who works with First Nations to come to the table with an open mind and an open heart. Connect with First Nations early in the planning process. The relationship is critical and key. Finally, the goal of all First Nations should be to have free prior and informed consent of all the activities happening within their traditional territory, and we cannot make informed decision without funding. Funding is key to the success of all of this.

Resources

Part 1: Indigenous Watershed Initiative and Co-Governance Arrangements: British Columbia Systematic Review

[Centre for Indigenous Environmental Resources](http://www.yourcier.org/) (<http://www.yourcier.org/>)

CIER's ultimate impact will be realized when First Nations in Canada are leaders of positive environmental change. They will use the best of Western and Indigenous knowledge to create a world that is in balance and supports the well-being of all living things.

[First Nations Fisheries Council of British Columbia](http://www.fnfisheriescouncil.ca/) (<http://www.fnfisheriescouncil.ca/>)

The First Nations Fisheries Council of British Columbia works to implement the B.C. First Nations Fisheries Action Plan, a foundation for First Nations to seek increasing shares in the B.C. fishery and greater involvement in fisheries management and decision-making.

[Indigenous Watershed Initiative and Co-Governance Arrangements: British Columbia systematic Review](http://www.yourcier.org/indigenous-watershed-initiatives-and-co-governance-arrangements-a-british-columbia-systematic-review.html) (<http://www.yourcier.org/indigenous-watershed-initiatives-and-co-governance-arrangements-a-british-columbia-systematic-review.html>)

The Centre for Indigenous Environmental Resources and the First Nations Fisheries Council partnered to undertake a systematic review of indigenous watershed initiatives and co-governance arrangements to identify capacity gaps and contribute to shaping the future of water/watershed planning and a new watershed governance regime in BC.

Part 2: P'egp'íg'lha Council of the T'ít'qet Community, of the St'át'imc Nation

[RELAW Project: Revitalizing Indigenous Law for Land, Air and Water](http://www.wcel.org/our-work/relaw-revitalizing-indigenous-law-land-air-and-water): West Coast Environmental Law
(<http://www.wcel.org/our-work/relaw-revitalizing-indigenous-law-land-air-and-water>)

RELAW is a project of West Coast Environmental Law, supported and advised by the Indigenous Law Research Unit at the University of Victoria, Faculty of Law (ILRU). West Coast Environmental Law and the ILRU share the fundamental belief that Indigenous law is law, that Indigenous laws are part of living Indigenous legal orders, and that Indigenous law can and should be used on the ground today.

[St'át'imc Government Services website](http://statimc.ca/) (<http://statimc.ca/>)

[T'ít'qet First Nation website](http://www.titqet.org/) (<http://www.titqet.org/>)

Part 3: Kwantlen First Nation Fresh Water Planning

[Kwantlen First Nation website](http://www.kwantlenfn.ca/) (<http://www.kwantlenfn.ca/>)

Question Period & Comments

[Cumulative Impacts Research Consortium](http://www.unbc.ca/cumulative-impacts): UNBC
(<http://www.unbc.ca/cumulative-impacts>)

The Cumulative Impacts Research Consortium (CIRC) brings together diverse perspectives from across Northern B.C. to research the cumulative impacts of natural resource development.

[Denying the Source](https://books.google.ca/books/about/Denying_the_Source.html?id=hQPslYzH9zMC&redir_esc=y) by Merrell-Ann Phare

(https://books.google.ca/books/about/Denying_the_Source.html?id=hQPslYzH9zMC&redir_esc=y)

First Nations are facing some of the worst water crises in Canada and throughout North America. Their widespread lack of access to safe drinking water receives ongoing national media attention, and yet progress addressing the causes of the problem is painfully slow. First Nations have had little say in how their waters are, or are not, protected. They have been excluded from many important decisions, as provinces operate under the view that they own the water resources within provincial boundaries, and the federal government takes a hands-off approach.

[Human Activity and the Environment 2016: Freshwater in Canada](http://www.statcan.gc.ca/pub/16-201-x/16-201-x2017000-eng.pdf)

(<http://www.statcan.gc.ca/pub/16-201-x/16-201-x2017000-eng.pdf>)

This report provides up-to-date statistics on freshwater supply and demand and includes maps, charts, and tables for each of Canada's 25 drainage regions. This resource was provided by a participant at the beginning of the webinar via the chat box.

[Intellectual Property Issues in Cultural heritage](http://www.sfu.ca/ipinch/) (<http://www.sfu.ca/ipinch/>)

The Intellectual Property Issues in Cultural Heritage (IPinCH) project is a seven-year international research initiative based at Simon Fraser University in British Columbia. Its work explores the rights, values, and responsibilities of material culture, cultural knowledge, and the practice of heritage research. The project serves as both a practical resource and a network of support for communities and researchers engaged in cultural heritage work.

[National Assessment of First Nations Water and Wastewater Systems National Roll-Up Report FINAL:](#)

Department of Indian Affairs and Northern Development
(https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/enr_wtr_nawws_rurnat_rurnat_1313761126676_eng.pdf)

This national roll-up report was prepared by Neegan Burnside Ltd. and a team of subconsultants for the benefit of Indian and Northern Affairs Canada. It was prepared to facilitate planning and budgeting on both a regional and national level to address water and wastewater system deficiencies and needs.

[Towards a Water Ethics Manifesto](#) by Lucy Rodina

(<http://www.kzoo.edu/praxis/water-ethics-manifesto/#comment-4066>)

Lucy Rodina explores concepts of water values and ethics. She highlights the Water Ethics Initiative and how we must re-think our relationship to water.

Interested in More Webinars?

To view past *Creating a Blue Dialogue* webinars visit www.youtube.com/POLISWaterProject. Previous topics include “Aboriginal Co-Governance of Water and Watersheds,” and “Environmental Flows and Healthy Watersheds: Towards Protection in Canada and B.C.”

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