



July 15, 2019

## **Re: Response to *Forest and Range Practices Act Improvement Initiative Discussion Paper***

This submission provides comments and recommendations from the University of Victoria's POLIS Water Sustainability Project regarding the May 2019 *Forest and Range Practices Act Improvement Initiative Discussion Paper*. It specifically identifies opportunities to ensure a renewed FRPA provides robust protection for watersheds, enhances water sustainability, and builds local ecological, community, and economic resilience.

The POLIS Water Sustainability Project, based at the University of Victoria's Centre for Global Studies, is an award-winning applied research and policy organization that works to advance sustainable water governance through innovative research, education, strategic policy advocacy, and law reform. In the past five years, we have undertaken a number of initiatives associated with B.C.'s *Water Sustainability Act (WSA)* and watershed governance in partnership with Crown governments at all levels, First Nations, and community organizations. We are networked with, and inform, a broad base of water leaders (experts, practitioners, funders, and champions from First Nations, salmon, water, wildlife and community organizations) in the province and indeed across Canada and internationally.

Growing community concerns exist across B.C. about the impacts of forest practices on local watersheds and hydrology—including flood modulation,<sup>i</sup> nutrient and sediment control,<sup>ii</sup> and impacts on drinking water supply and quality.<sup>iii</sup> With these concerns in mind we strongly support B.C.'s commitment to renew the *Forest and Range Practices Act* to ensure operational planning and forest practices maintain—and where necessary restore—healthy, fully functioning watersheds that support ecological, cultural and community resiliency.

We focus our comments and recommendations on Resource Values and Objectives, and specifically on how *Water Sustainability Act* Water Objectives (s.43) can be used to harmonize and integrate land and water decision-making and provide strong legal protection for water in an integrated resource management and forestry context.

### **Concerns with Existing FRPA Objectives**

In a detailed 2015 report on B.C.'s *Water Sustainability Act*,<sup>iv</sup> we highlight three primary concerns with the current approach to setting objectives under FRPA:

1. *FRPA* objectives are too general and vague. Qualitative, narrative objectives do not work well because they do not provide a standard against which performance—by decision-makers and licensees—can be measured.
2. *FRPA* objectives are limited by the fact that they may only be implemented to the extent that they do not “unduly reduce the supply of timber from British Columbia's forests.”
3. Objectives are not sufficiently monitored to gauge whether or not there is compliance.

It is also critical to note that these existing objectives were developed without full engagement and partnership with Indigenous nations in the spirit and intent of UNDRIP, and without consideration of Indigenous knowledge and explicit roles for co-governance.



To address these concerns, it is our view that the following characteristics must be reflected in key legislation (FRPA) and future objectives, and that existing objectives should be updated to align with these requirements:

1. Objectives must be specific and quantitative.
2. Government must not embed exceptions or exemptions that permit decision-makers to delay or avoid considering objectives.
3. The specific criteria and thresholds that indicate whether an objective's purpose is being met must be established using clear and transparent scientific methods and Indigenous knowledge.
4. Meaningful engagement with Indigenous Nations in areas where objectives will impact traditional territories must be established and should include opportunities to explore co-development of objectives and co-governance where such a desire exists.
5. An independent body must verify and monitor objectives to ensure they are achieving their purpose.

### Recommendations for FRPA Changes

- Explicitly reference *Water Sustainability Act* water objectives (WSA s. 43) as the FRPA objectives for water. These objectives (for water quality, quantity, and aquatic ecosystem health) must be specific, measurable, required for consideration in decision-making and in site- and landscape-level planning, and legally enforceable – as part of an effective integrated resource management approach.
- Prioritize the protection of water/watershed values (especially drinking water) over timber. Remove the constraining “without unduly reducing the supply of timber from British Columbia’s forests” from all FRPA legal objectives and from the Government Actions Regulation. Add the constraining “without unduly reducing the resilience of ecosystems” to timber and other ‘use’ objectives.
- Legally establish a hierarchy of objectives that prioritizes maintaining and where necessary restoring ecosystem composition, structure and function, recognizing that without healthy ecosystems other social, economic and cultural objectives cannot be met.
- Move legal objectives from the Forest Planning & Practices Regulation to the body of the FRPA legislation itself.

Thank you for the opportunity to provide feedback on this important legislation. If you have any questions or to follow up, please contact Rosie Simms at [water@polisproject.org](mailto:water@polisproject.org).

On behalf of the University of Victoria’s POLIS Water Sustainability Project team,

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<sup>i</sup> E.g. community concerns regarding flooding and harvesting practices in Grand Forks (<https://www.bcfpb.ca/reports-publications/newsletters/issue-20-winter-2018-19/#section-5>)

<sup>ii</sup> E.g. community concerns regarding forestry and water quality in Peachland (<https://thenarwhal.ca/muddied-waters-how-clearcut-logging-is-driving-a-water-crisis-in-b-c-s-interior/>)

<sup>iii</sup> E.g. community concerns regarding forestry and drinking water supply in Ymir (<https://thenelsondaily.com/news/logging-proposal-gets-frosty-response-ymir-44511#.WellbIZrzYp>)

<sup>iv</sup> See: Brandes, O.M., Curran, D., Carr-Wilson, S. & Simms, R. (2015). Awash With Opportunity: Ensuring the Sustainability of B.C.'s New Water Law. POLIS Project on Ecological Governance, University of Victoria. Available at: <https://thenelsondaily.com/news/logging-proposal-gets-frosty-response-ymir-44511#.WellbIZrzYp>