

Nicola Lake Working Group - Meeting Notes

Topic: Agency Feedback and Direction

Date: May 22, 2013

Attendance: Mike Ohata, Jenny Ohata, Ian Gordon, Vern Latremouille, Lorna Latremouille, Matt Williams, Allison Guichon, Tracy Wimbush, Randy Murray, Jo-Ann Fox, Kim Poupard, Kim DeRose, Tracy Thomas, Mike Simpson

Guests (morning only): Phil Madeley, Patrick Tobin, Bob Warner, Doug Krogel, Sara Ostoforoff, Sean Bennett, Andy Oetter, Bruce Petch, Dennis Einarson

1. Welcome & Introductions

Mike Simpson welcomed everyone to the meeting and led a round of introductions. He included an overview of the agenda and provided some background on the planning process that the NLWG has worked through to date.

Randy Murray gave a more detailed account of the origin of the NLWG and the planning process. He said that there have been few meetings and great information throughout the development of the draft Nicola Lake Action Plan. Randy noted that this group has entertained expertise from Canada and the United States and the information learned and resulting plan would be a legacy for generations to come. He added that the Group has enough funding to move forward with the action items in the Plan in 2013 and that he remains committed to working on a funding formula so that the initiatives in the plan can be addressed on a long term basis.

2. Presentations, Feedback & Direction from the following agencies:

- Ministry of Forests, Lands and Natural Resource Operations
- FrontCounter BC
- Ministry of Environment
- BC Parks
- Fisheries and Oceans Canada

Mike Simpson gave a brief overview of the short term action plan, outlining the goals, objectives and action items. He also reviewed the issues below that have been raised during the planning process. Mike asked that agency representatives give brief presentations on their role(s) and how the outstanding issues/actions in the plan fit into the mandate of each of the agencies present.

Agency representatives spoke to the following items that have been raised in previous working group meetings including:

- Drawdown of the dam for Eurasian watermilfoil (EWM) control and any impacts to fisheries
- Rototilling EWM and process for approvals
- Property boundaries and high water mark
- Riparian rights, foreshore development tenure
- Foreshore erosion and mitigation

Doug Krogel – FrontCounter BC

FrontCounter BC (FCBC) is the one window or portal for all services relating to natural resources. The focus of FCBC is to help people develop a successful application. FCBC staff work with the public to develop a robust application for tenure for the ability to do work in and around a stream (any water body as per Section 9 of the BC Water Act) and the right to occupy Crown land under the BC Land Act. Doug also listed the basic requirements of applying for tenure, described possible Federal approvals, and the basics of Riparian Rights, “... the upland property has the right to access their property not the right to private moorage...” Doug provided a hand-out, *Private Moorage in the Thompson Okanagan* for more information and other links on applying for and building a dock.

Ministry of Forests, Lands and Natural Resource Operations (MFLNRO)

Don Meeks – Crown Lands – MFLNRO (moorage guidelines)

Don gave a high level overview of moorage guidelines in BC adding that the regional districts are moving toward zoning of their respective foreshore areas. The City of Kelowna moved to this in the 90s. The Columbia Shuswap Regional District has recently added bylaw 900 regarding docks and buoys in the Shuswap. Regional bylaws generally go further than the provincial guidelines. The province looks closely at environmentally sensitive areas. Huge cement boat launches are generally not acceptable. There are guidelines for dock structures and marina development.

Don Meeks & Andy Oetter – Authorizations- MFLNRO (property boundaries & Riparian Rights)

Don and Andy outlined some of the terminology relating to property boundaries and generally explained Riparian Rights. An ambulatory boundary is not “fixed” it is part of what makes waterfront property unique. The term “high water mark” is no longer used by the Province instead they use “present natural boundary.” There have been many different terms over the years; the boundary is just difficult to determine on some properties.

There are three Riparian Rights are based in common law: access; accretion/erosion; and protection of land. They provide the upland owner access to the property via the water body. Only an upland owner can apply to the Crown to put a structure on the foreshore unless that owner grants it to someone else. RRs include accretion – the natural buildup of foreshore over time and erosion – the loss of land overtime due to wave action etc. If you acquire land, you would need a surveyor to prove and survey the new boundary.

An upland owner does have the right to protect their private land from erosion; however if a structure must be placed on the Crown foreshore, this requires an application for tenure.

Phil Madeley – Water – MFLNRO (Section 9 of the Water Act)

Phil conveyed a clear message, before doing any work, get authorization to do so. Anyone that wants to do any work on a stream (as defined above) needs to apply to FCBC for authorization. MFLNRO staff make referrals to various agencies to determine if the proposed works are acceptable. Conducting maintenance of an existing, tenured dock only requires a “notification” 45 days prior to doing the work. A Habitat Officer will advise the applicant terms and conditions of the work, e.g. timing of work. The timing of work is important for fisheries and other values. These terms and conditions will also vary depending on locational circumstance. Below is the description of Section 9 from the *Water Act*:

Water Act, Section 9 Approvals and Notifications for “Changes In and About a Stream”

In British Columbia, the ownership of water is vested in the Crown as stated in the [Water Act](#), the primary provincial statute regulating water resources. Under the *Water Act*, a "stream" is defined as "*includes a natural watercourse or source of water supply, whether usually containing water or not, and a lake, river, creek, spring, ravine, swamp and gulch.*"

Section 9 of the *Water Act* requires that a person may only make “changes in and about a stream” under an Approval; in accordance with **Part 7** of the [Water Regulation](#), including Notification where required; or under a Water Licence or Order.

Under the *Water Act*, “changes in and about a stream” means

- a. *any modification to the nature of the stream including the land, vegetation, natural environment or flow of water within the stream, or*
- b. *any activity or construction within the stream channel that has or may have an impact on a stream*

Patrick Tobin – MFLNRO – (Compliance & Enforcement)

Clear message, property owners need to have tenure in place for any structures on the Crown foreshore. If you do not have tenure in place, you do not have rights. The laws have been in place for a very long time, nothing has changed. What has changed is the number of people on the ground working in compliance and enforcement for MFLNRO. Previously, the Ministry of Forests had a large compliance and enforcement program that was busy with forestry compliance most of the time. (logging companies etc. were compliant approximately 90% of the time) There were very few people looking after compliance on lakes where there was approximately 50% compliance. Currently there is less of a focus on forestry compliance as lack of compliance on lakes needs greater attention.

The Crown owns all of the land and it grants certain rights to certain users. In some cases, it is not possible to receive approval for certain development, i.e. if the person seeking approval is not the upland owner. The purpose of compliance and enforcement is to help inform people of the law.

Dennis Einarson – Ministry of Environment

Phosphorous levels have generally been the same since 1830; it would appear that the high levels of phosphorous are natural. If you have a lake with high nutrient levels and you add to it, you may put it over the edge. There is a need for more funding to do more sampling and volunteers to do it. Nicola Lake has a unique stratified, likely due to the wind action. We are now aware of the nutrient inputs in the tributaries and the internal vs. external loading of phosphorous. In 1991 there was Eurasian Watermilfoil (EWM) in Moore Creek, there has been data collected until 1996. It took approximately 5 years for the EWM to infest the whole Lake.

Bruce Petch – BC Parks – Monck Park

Bruce provided a hand out and described Monck Park and some of the issues that are happening there. There has been gradual erosion along the shoreline at the Park. There has been no attempt to control the erosion, but one picnic table that is getting undermined will be moved away from the shoreline. Parks would likely not be interested in adding rip rap but would be interested in restoring riparian vegetation. Bruce added that he is very supportive of using the amphitheatre at Monck Park for education purposes.

Sean Bennett & Sara Ostoforoff – Fisheries and Oceans Canada – Shoreline erosion control

Sean and Sara work on habitat restoration for fisheries in the Southern Interior region and have a long history of doing restoration and habitat protection work in the Merritt area. Sean feels that Nicola Lake is at the early stages of development in foreshore areas; the removal of riparian vegetation, infilling, boat landings/launches, groynes are examples of the types of development that will come with waterfront property development. Sean's restoration focus is typically related to rivers/streams; designed to limit the sediment sources and increase riparian vegetation/areas. Sean has done restoration work on several of the streams/rivers leading into Nicola Lake; that work includes fencing, planting riparian vegetation, and watering developments for cattle.

Lake erosion is caused by wave action (caused by wind and boat wakes), likely increased due to the high winds at Nicola Lake. **Sean advised the addition of “boat wake erosion” to the education component of the draft Nicola Lake Action Plan.** An increase in development at the lake will include an increase in boating activity on the lake. It was added that the dam was developed on Nicola Lake to address agriculture issues and to help conserve fisheries. The transition of riparian vegetation to lawns allows the foreshore to be more easily eroded by wave action.

3. Feedback & Revisions - Nicola Lake Action Plan

Drawing down the lake

- In-stream flow requirements need to be maintained; drawdown of the lake would compromise this. There are also habitat requirements for species that live in riparian habitat to consider along with licensed water users downstream.

- There was further discussion around the Lake levels over time and what affects them. We are currently in a wet pacific decadal oscillation cycle; lake levels may be higher on average for a number of years. There is also a difference between weather and climate, weather changing from day to day and climate, a cumulative effect of many past years of weather – climate is a long cycle.
- There is concern for interior fisheries as well (burbot, Kokanee etc.) as burbot are shelf spawners and a drawdown in the lake level would likely have impacts on the shelf. We need to include MFLNRO freshwater fisheries impacts to the list of considerations. Further, there needs to be a literature review and/or study on the effects that a drawdown would have on all fisheries.
- **Action: get input from Phil Belliveau and Andy Morris (MoE) regarding freshwater fisheries impacts**
- Drawing down the Lake as part of EWM management in 2013 is likely not an option given the research that would need to be done prior. If research showed that it was a good option for the Lake, then drawdown should be considered as part of a five year (long term) plan.

EWM Management - Rototilling

The NLWG would like to move ahead with rototilling on Nicola Lake this year. It is understood that all EWM removed would be collected and composted. The other similar mechanized option would be to use a harvester (with an extractor). Mechanical removal would be done at high use areas, ie, Monck Park, Kamloops Sailing Club etc. (all human high use areas will be delineated on the Plan map).

- **Action: Phil Madeley to confirm who is allowed to do the work when the landowner is the Crown**
- **Action: TNRD (Randy Murray) to apply to the Crown for permission to do EWM management on Nicola Lake (if possible)**

Boat Wash and Inspection Stations

Matt suggested we should move ahead with clean, drain and dry...

Outreach & Education – Summer Student

The Group discussed hiring a summer student to do some education and outreach work at Monck Park. It was agreed that Fraser Basin would hire the student, conduct interviews etc. Ideally FBC would hire a local student.

- **Action: Tracy and Jo-Ann to develop a job description and advertise the position**

Budget

The Group reviewed the draft budget. It was agreed that some changes be made to add clarity. All changes will be added to the next version of the draft Nicola Lake Action Plan.

EWM Inventory

The Group agreed that there needs to be several proposals for an EWM inventory contract.

- **Action: FBC will post a request for expressions of interest on BC Bid for the EWM identification and inventory**

4. Governance

The Group discussed governance and moving forward after the June 8th public meeting. The Nicola Lake Stewardship Society expressed interested in either taking over the operation of the group or playing a larger role, including the volunteer/field work piece. Group members were interested in a larger, more inclusive ad-hoc committee similar to the current functioning of the Nicola Lake Working Group with Fraser Basin playing an ongoing role.

- **Action: Mike Simpson will draft a Terms of Reference for a successor group considering the meeting discussion and circulate it to the NLWG for consideration before June 8**

5. Funding

There is a Parks funding opportunity (\$5000) for conservation. These funds could go toward shoreline erosion mitigation efforts at Monck Park along with other funds set aside in the draft Plan budget. The Group was interested in applying for the funds. As part of the funding, there needs to be a prescription drafted by a QEP; Sean Bennett has agreed to write the prescription for the Monck Park site.

- **Action: Tracy to meet with Sean Bennett and Sara Ostoforoff at Monck Park on May 30th at 1:00 pm (working group members are welcome to come to the field meeting)**
- **Action: Tracy to apply for the Parks funding by May 31, 2013**

6. Public Meeting - June 8th

Currently there is only one story teller that is committed to speaking at the June 8th meeting; if no other story tellers are interested, the agenda will be adjusted accordingly. The breakout sessions will also be adjusted to a shorter format so that the meeting can be shorter over all as discussed.

3:45 PM Meeting Adjourned