

Proposing a Natural Resource Practices Board

Discussion Paper

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A. Advancing Watershed Sustainability in BC

The BC Wildlife Federation (BCWF), in conjunction with funding from the Gordon & Betty Moore Foundation is undertaking a project to advance watershed conservation and sustainability throughout BC. BCWF is delivering the project in partnership with the Fraser Basin Council (FBC). In addition, many other organizations and individuals, representing a diversity of perspectives, experiences and expertise, were engaged in various ways throughout year-one (Fall 2013 – Spring 2014) of this three-year project.

This initiative arose from a concern, shared by many, that watershed ecosystems in BC are losing their resilience and sustainability. The long-term health of watersheds is key to ensure the sustainability of the ecosystems, communities and economies that depend upon them. However, over the years, land and water use decisions and activities have resulted in the gradual loss of ecological function in watersheds including degradation of habitat, declining water quality, inadequate flows for environmental values, and conflict among different sectors that depend upon water. Though there are many diverse organizations and jurisdictions working on the stewardship, management, planning and governance of watersheds and water resources, there is still a need for enhanced coordination and collaboration among these efforts.

The goal of this project is to educate British Columbians on the importance of watershed sustainability and protecting BC's diverse and unique aquatic resources. It also aims to help strengthen capacity in BC to achieve healthy watersheds by considering watershed health and sustainability through several different lenses, or sub-projects. The focus of the sub-projects facilitated by the Fraser Basin Council include the following:

1. Vision of Watershed Sustainability – Develop a unifying vision of sustainability for watersheds and landscapes through a collaborative process that engages First Nations organizations and non-governmental conservation organizations.
2. Watershed Management Actions – Conduct research on the roles, responsibilities and actions required to effectively manage the health and sustainability of BC's watersheds, including an assessment of capacity, challenges and opportunities.
3. Funding and Delivery Models – Conduct research and develop recommendations on funding and delivery models needed to advance watershed health and sustainability at local and regional scales throughout BC.
4. Capacity and Accountability for Shared Decision-Making = Conduct research and develop recommendations regarding capacity requirements and accountability mechanisms for shared decision-making at local, regional and watershed scales.
5. **Natural Resource Practices Board – Conduct research and develop recommendations regarding a Natural Resource Practices Board to provide advice**

on effective, science-based management of natural resources including independent performance audits and reporting.

6. Indicators of Watershed Health – Conduct research and develop a set of indicators to measure the health of watershed and estuarine ecosystems throughout BC.
7. Workshop for Advisors and Practitioners – Plan, deliver and co-host a workshop to present key findings to date and facilitate dialogue and feedback.

Each of the projects outlined above are intended to focus on a particular aspect of watershed management. (e.g. vision, management, governance, capacity, oversight, funding, etc.). However, these different aspects can also be seen as distinct pieces of a more complex and interconnected puzzle. The following is intended to illustrate how the different pieces fit together.

1. **Vision** – What are our needs, aspirations and goals for our watersheds?
 - Project - Vision of Watershed Sustainability
2. **Implementation** – What actions do we take to achieve our vision?
 - Project – Watershed Management Actions
 - Project – Capacity and Accountability for Shared Decision-Making
3. **Resources** – What human and financial resources do we allocate – and how – to most efficiently and effectively manage watersheds and achieve our vision?
 - Project – Funding and Delivery Models
4. **Evaluation and Performance Management** – How can we best assess progress towards achieving our vision of healthy watersheds and what auditing and reporting mechanisms can assist?
 - Project – Indicators of Watershed Health
 - **Project – Natural Resource Practices Board**

Note: the highlighted project above indicates the focus of this particular discussion paper.

Acknowledgements

The project – Advancing Watershed Sustainability in BC – would not be possible without generous contributions from the BC Wildlife Federation and the Gordon and Betty Moore Foundation. A special thanks also to the various advisors, reviewers, and information sources that enabled the project team to advance this work. Thank you all for your generous support.

B. Introduction to a Natural Resource Practices Board

This discussion paper outlines the opportunity and rationale for transitioning British Columbia's current Forest Practices Board (FPB) to a more comprehensive Natural Resource Practices Board (NRPB). While this is not a new concept, there are a number of considerations and opportunities that clearly make the case for an expanded mandate for the FPB to include the broader natural resources sector in BC.

This discussion paper has been informed by interviews with 11 key advisors all of whom have extensive experience within the natural resources sector in BC – including government, industry and First Nations' perspectives. In addition, a scan of relevant literature on existing models of organizations having a mandate regarding natural resources was conducted along with a full-day workshop involving various practitioners and experts.

This paper is not to be construed as a critique of the existing Forest Practices Board (FPB). In fact, the best-fit evolutionary model that has emerged through this project for a Natural Resource Practices Board in British Columbia draws heavily on nearly 20-years of FPB experience developing streamlined, efficient and effective audit, review and communication processes. For reference, a table comparing the FPB and proposed NRPB mandate, scope and function is set out at the end of this document.

This paper provides a summary of the following key aspects:

1. The purpose of the proposed Natural Resource Practices Board.
2. Why a NRPB and why now?
3. Next steps and additional activities.
4. An overview of the structure of the proposed NRPB.

1. Purpose of a Proposed NRPB

To provide British Columbians, the Provincial Government and others, including the natural resource sector and international markets, with a mechanism that:

- Provides an independent verification of the legality and soundness of British Columbia's natural resource management practices, and
- Supports continuous improvement in natural resource management in BC.

This purpose would be delivered through the following mandate:

- **Audit** government and industry natural resource management policies and practices; and the appropriateness of government enforcement;
- **Assess and address complaints** from the public or others regarding natural resource practices and government enforcement;
- **Provide recommendations** to government and industry on activities to continuously improve natural resource management practices;
- **Participate in, or initiate, appeals regarding** enforcement decisions and penalties imposed by government and, where necessary, seek review of government decisions to approve plans for government-licensed natural resource activities; and,
- Conduct **special investigations**.

Additional activities may include exploring the potential to develop a “State of Natural Resources” report to provide a regular and up-to-date snapshot of economic, social and environmental aspects of natural resources across BC in relation to appropriate benchmarks and standards – such as those set out within approved land use plans. This information would be publicly available and would be used to help inform decision-making processes at various levels.

2. Scope of the Proposed Natural Resource Practices Board

To be effective, the geographic scope of the proposed NRPB would include all Crown lands and resources – including surface and groundwater across BC. The proposed NRPB would provide independent oversight of any provincially authorized (licensed) activities that can potentially have an effect on natural resources and would include the following resource-based activities:

- Forestry and range activities;
- Mining;
- Oil and gas development;
- Tourism and recreation;
- Agri-food;
- Parks and protected areas;
- Energy generation and transmission;
- Coastal marine land tenures; and,
- Water use.

The role of the proposed NRPB in relation to First Nations engagement and ability to offer continuous improvement recommendations or oversight of natural resource activities within First Nations’ traditional territories needs further clarification and input from First Nations. It is expected that First Nations’ would be represented on the NRPB and within the NRPB staff in a similar way to the existing FPB.

C. Why a Natural Resource Practices Board and Why Now?

As previously mentioned, the concept of a Natural Resources Practices Board is not a new idea. In fact, the difficulty of addressing the impacts of a single natural resource industry in isolation from other natural resource activities was recognized in the early days of the Forest Practices Board.

A statement within a recent Forest Practices Board newsletter sums it up nicely:

“Over its 17-year history, I believe the [Forest Practices] board has proven the all-around benefits of independent oversight in the forest sector, and many share this view. There’s clearly an opportunity to now extend these benefits to a broader spectrum of resource activities, providing the kind of transparency and objectivity that builds informed public confidence. In particular, as the mineral and energy industries expand their presence on the land, they may find considerably more support if the public can be assured that in addition to the jobs and financial benefits those industries provide, they will also adhere to high environmental standards.” - Al Gorley, Forest Practices Board Chair 2010 – 2013.

1. BC's Resource-Based Economy

BC's economic success and overall standard of living is closely linked to the natural resource-based economy – that is, the extraction, processing and exporting of commodities such as those produced by the forestry, energy, mining and agri-food industries. In fact, the BC Business Council has calculated that in 2011 the forestry, energy, mining and agri-food industry sectors accounted for 4/5ths of BC's international merchandise exports¹. The overall reliance of the BC economy on the natural resource sector is unlikely to diminish over time; in fact, the current BC Government's jobs plan has a strong focus on further growth within natural resource sector – including agri-food, forestry, mining and natural gas.

2. New *Water Sustainability Act* Legislation

Provisions identified within the new *Water Sustainability Act* intend to improve the sustainable management of water resources across the province. The Act recognizes that land use and natural resource development is intricately linked to sustainable water management.

3. Land Use Complexity

Land use activities across BC have become more complex as the footprint of the resource sector has intensified and/or expanded since the FPB was established in 1994. The province of BC issues thousands of permits to authorize land and water use activities on Crown land annually. This includes permits to log timber, draw water from streams, build roads and pipelines, drill for natural gas and oil, mine coal, or carry out a myriad of other activities. As of February 2013, there were more than 250,000 active permits for natural resource uses on Crown land². This land use complexity means it is very difficult for the Forest Practices Board to assess the soundness of forest industry practices and potential impacts arising from forest practices in isolation from other land use activities permitted on Crown land. A NRPB with a mandate to examine a wider range of natural resource sectors could more effectively monitor and report on cumulative effects than the current FPB.

In addition to the myriad of land uses and natural resource activities across BC, there also exists an array of approval and review agencies, commissions and tribunals all with slightly different functions, responsibilities and duties within the natural resource realm. This includes, but is not limited to, agencies such as the Oil and Gas Commission, the Agricultural Land Commission, the Environmental Appeal Board, the Private Managed Forest Land Council and the Forest Appeals Commission. A NRPB with a broad natural resource mandate would more effectively align with the provincial government's direction towards "one land base, one land manager". A NRPB would not necessarily replace this complex array of agencies, but rather it would collaborate with these agencies as appropriate and would focus on fulfilling the unique functions provided by the current FPB across the broader natural resource sector.

¹ From J. Finlayson Op Ed on BC Business Council Website: <http://www.bcbc.com/news-releases/2013/finlayson-natural-resource-industries-critical-to-bcs-economic-success-troy-media>.

² Forest Practices Board Bulletin Vol 13, Feb 2013: The Need to Manage Cumulative Effects accessed online via www.fpb.gov.bc.ca

4. Cumulative Effects

Addressing, managing and ultimately mitigating cumulative environmental impacts is at the heart of the transition to a Natural Resource Practices Board and was recognized by advisors and workshop participants as a key benefit and mandate for a NRPB. The Forest Practices Board and many others, including those within industry and government, have long recognized that as the footprint of the natural resource sector continues to grow, so do the cumulative environmental impacts arising from this development. The Forest Practices Board has conducted a number of special investigations relating to cumulative impacts³, which provide valuable background information and suggestions on addressing cumulative impacts in the natural resource sector.

5. Tangible Benefits to Society, Government and Industry

The Forest Practices Board⁴ has identified multiple benefits arising from its independent oversight of BC's forestry practices. These benefits would likely extend to other natural resource sectors through the transparent and independent approach of the proposed NRPB and would include:

- An informed public with access to independent, credible information on natural resource management in BC can increase public confidence in government's management of natural resources, and in the practices of natural resource companies.
- Public confidence and recognition of the importance of natural resource development in BC will likely be strengthened through an accountable, arms-length mechanism to address concerns, and provide independent oversight of the appropriateness and integrity of natural resource operations and activities. NRPB audit findings and recommendations would be provided to government, industry and land managers while also being released to the public. Transparent communication of audit and investigation findings is recognized as a useful mechanism to increase public understanding of natural resource practices to build public support and strengthen social license for responsible resource development across the province.
- Investor certainty regarding natural resource management practices and decision making processes will likely be increased through an open and transparent audit and reporting process. Expanding the jurisdiction of the FPB to include the broad natural resource sector would help to strengthen BC's reputation as a leader in responsible resource development. In addition, a company or consortium that is seeking capital investment from international financial institutions may use the results of an independent compliance audit to demonstrate a positive track record.
- Decision-makers from government, industry and civil society are better informed through provision of independent, scientifically valid reports, data and recommendations.

³ Forest Practices Board; Special Report 39: Cumulative Effects from Assessments towards Management http://www.fpb.gov.bc.ca/SR39_Cumulative_Effects_From_Assessment_Towards_Management.pdf

⁴ Forest Practices Board Bulletin Vol 12, Feb 2013: Independent Oversight of Forest and Range Practices accessed online via www.fpb.gov.bc.ca

- The approach and structure of the existing Forest Practices Board has proven to be a cost-effective way to encourage compliance without requiring extensive, province wide monitoring or enforcement activities, which in turn helps to strengthen the business case for moving to a NRPB. In addition, there is anecdotal evidence that suggests independent and randomly selected audits can support high rates of compliance.
- The NRPB would provide independent, science-based recommendations for continual improvement in natural resource management, which will benefit the resource sector, government, BC's natural resource base and ultimately the communities, economies and citizens of BC that depend on the long-term sustainability of BC's natural resources.

D. Next Steps and Additional Activities

Before moving forward with any recommendation to shift towards a NRPB, a number of aspects need further research, consideration and clarification. This includes:

- Consideration of how best to establish and enable an appropriate level of First Nation participation and engagement within the proposed NRPB;
- Consideration of a transitional plan to the proposed broader mandate. For example, it may be appropriate to incrementally expand the scope of natural resource sectors to test the concept, to minimize the resource implications and to ensure a more smooth transition;
- Financial analysis including the financial resources necessary to expand the jurisdiction of the existing FPB to the broader natural resource sector, the financial constraints within government, a range of financial mechanisms to help secure sufficient financial resources, and the appropriate structure to carry out the NRPB mandate in an effective, efficient, independent and cost-effective way;
- Establish a business case to clearly identify and communicate the benefits of the proposed NRPB to industry, government and others with key natural resource interests, including First Nations;
- The proposed NRPB would not replace the complex array of review agencies and commissions that exist in BC, but rather it would collaborate with these agencies as appropriate and would focus on fulfilling the unique functions provided by the current FPB across the broader natural resource sector. Further discussions with the existing agencies needs to be conducted to identify the most relevant role and niche for the NRPB to fill.
- If government supports the proposal to expand the jurisdiction of the Forest Practices Board to a NRPB, it would need to clarify the appropriate statutory and regulatory mechanism(s) to bring this into place. This would include consideration of the statutory and regulatory implications of a transition from the Forest Practices Board, which is mandated under the Forest and Range Practices Act, to a NRPB, which in its broadest form, would seek to assess compliance with a wide range of statutory regulations that relate to natural resource operations – such as the *Mines Act*, *the Wildlife Act*, *Forest and Range Practices Act*, *Water Act*, *Oil and Gas Activities Act*, *Petroleum and Natural Gas Act*, and the *Land Act*, among other legislation. In addition, it will likely be appropriate for the proposed NRPB to integrate provisions within the new *Water Sustainability Act* and associated regulations.

E. Appendix

Comparing the existing Forest Practices Board⁵ structure and function with that of the proposed Natural Resource Practices Board

Note: the proposed NRPB would result from an expansion of the jurisdiction of existing FPB rather than establishing a second entity.

| Existing Forest Practices Board | Proposed Natural Resource Practices Board |
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| <p>FPB Mandate:</p> <ul style="list-style-type: none"> • Audit government and industry forestry practices; • Address complaints from the public regarding forest practices and government enforcement; • Provide recommendations to government or industry on activities to improve forestry practices • Appeal enforcement decisions and penalties imposed by government, seek review of government decisions to approve plans for forestry operations, • Conduct special investigations • Provision of science-based information. Not an advocacy group. | <p>Proposed NRPB Mandate:</p> <ul style="list-style-type: none"> • Audit government and industry natural resource practices; • Address complaints from the public regarding natural resource practices and government enforcement; • Provide recommendations to government or industry on activities to improve natural resource practices • Initiate or participate in appeals of enforcement decisions and penalties imposed by government, seek review of government decisions to approve plans for natural resource operations; • Conduct special investigations including cumulative effects assessments, and possibly establishing a “State of Natural Resources” reporting framework to provide information at regional, and BC-wide scales on a regular basis; • Provision of science-based information. Not an advocacy group. |
| <p>FPB Scope of FPB:</p> <ul style="list-style-type: none"> • Permitted forestry and range activities on Crown land. • Recommendations arising from audits or special investigations are made to the forest and range industry and/or government and are simultaneously released to the public. | <p>Proposed NRPB Scope:</p> <ul style="list-style-type: none"> • All permitted natural resource activities on Crown land, possibly First Nation lands managed under a Treaty settlement, and possibly the ability to review or comment on practices on private land where there is an impact on natural resources on Crown lands. • Natural resource activities could include: <ul style="list-style-type: none"> ○ Forestry and range activities (current FPB scope); ○ Mining; ○ Oil and gas development; ○ Agri-food; ○ Tourism and recreation; ○ Parks and protected areas; ○ Energy generation and transmission; ○ Coastal marine land tenures. • Continuous improvement or best practice recommendations arising from audits or special investigations are made to the natural resource industry and/or government and are simultaneously released to the public. |

⁵ Further information on the Forest Practices Board, including access to their audit reports, research findings and information bulletins is available online at: www.fpb.goc.bc.ca

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| <p>FPB Structure</p> <ul style="list-style-type: none"> • Independent Chairperson selected on merit and appointed through an Order in Council • 8 Board members selected on merit to represent a broad range of expertise and experience in forestry and the environment from across the province. Board members do not represent a specific industry or sector. • Board is supported by a staff consisting of professional foresters, biologists, accountants and lawyers to conduct the audits and investigations and report to the board. • Board has ability to contract additional professional expertise as required to meet needs of specific activities. | <p>Proposed NRPB Structure</p> <ul style="list-style-type: none"> • Independent Chairperson selected on merit and appointed through an Order in Council • 10-12 Board members selected on merit to represent a broad range of expertise and experience in natural resource management and operations from across the province. Board members do not represent a specific industry or sector. • Board is supported by a staff consisting of professional natural resource managers – including professionally accredited foresters, engineers, land-use planners, terrestrial and aquatic biologists, agrologists, hydrologists, as well as accountants and lawyers to conduct the audits and investigations and report to the board. • Board has ability to contract additional professional expertise as required to meet needs of specific activities. |
| <p>FPB Governing Legislation: Legislation Governing the FPB and its work include:</p> <ul style="list-style-type: none"> • Forest and Range Practices Act, • Wildfire Act, • Forest Practices Code. | <p>Proposed NRPB Governing Legislation: Legislation Governing the Board and its work would include all legislation that the various natural resource related industries and government agencies operate under and would include legislation that governs the BC Ministries of:</p> <ul style="list-style-type: none"> • Forests, Lands and Natural Resource Operations; • Agriculture; • Environment; • Energy and Mines; • Liquefied Natural Gas; and, • Oil and Gas Commission. |
| <p>FPB Financial Resourcing</p> <ul style="list-style-type: none"> • 2013/14 FPB operating budget approx. \$3.5million allocated annually from the Province, and administrated by FPB. | <p>Proposed NRPB Financial Resourcing</p> <ul style="list-style-type: none"> • To follow similar approach to current FPB allocated on an annual basis. • Although the jurisdiction of the NRPB would be significantly expanded, an initial estimate for a budget increase of approximately 20% over current FPB budget, largely as a result of cost savings and potential efficiencies of scale. • Further analysis and financial modeling is required to clarify NRPB activities, staff resource requirements and the associated budget amount. |