

# **B. C. TAP WATER ALLIANCE**

**Caring for, Monitoring, and Protecting  
British Columbia's Community Water  
Supply Sources**

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July 23, 2007

## **Presentation to the special meeting of the Sunshine Coast Regional District's (SCRD's) Board of Health**

### **1. Background**

My name is Will Koop, and a long-time resident of Vancouver, BC. I am the Coordinator of the BC Tap Water Alliance, a position I have held since the Alliance was formed in February 1997 by representatives from the Sunshine Coast, Greater Victoria, Greater Vancouver, and Slocan Valley areas.

From the early summer of 1991 to November 1999, I was actively involved as a concerned citizen, primarily through a seemingly unending series of volunteer tasks, to re-protect the Greater Vancouver watersheds from commercial logging. Over the course of these years following 1992, I attended almost all monthly meetings of the Greater Vancouver Water District's Water Committee, many monthly Board meetings, made numerous presentations during both Committee and Board agenda meetings, researched and wrote seven reports and about one hundred letters of correspondence. The reports I wrote helped educate the public and its public representatives on key information, ultimately with the goal of bringing about the re-protection of the Greater Vancouver watersheds.

During these years, I and other members of the public scrutinized, evaluated, and critiqued reports provided to and by the Greater Vancouver Water District by consultants, foresters and engineers concerning Greater Vancouver's three drinking watershed sources, primarily on the interrelated concerns about commercial logging on water quality and quantity. This also included an investigation conducted of legislative and administrative documents and policies developed for the Greater Vancouver watersheds from about 1905 onward. These matters helped Greater Vancouver politicians to re-protect its three drinking watershed sources, resolved after a two hour Board deliberation on November 10, 1999.

## **2. Formation of the BC Tap Water Alliance and its ongoing concerns about the Chapman & Gray Creek Watershed Reserves**

From my concerns about the Greater Vancouver watersheds, I became interested in the bigger perspective, the bigger picture, concerning the history and function of provincial, national, and international protections of drinking watershed sources.

From 1994 to 1995, when examining provincial government documents, I discovered references to and the existence of “Watershed Reserves” that were created in BC for its provincial water users. It was during this time that I interviewed Sunshine Coast residents who had been involved in protecting the Chapman and Gray Creek Reserves during the government’s Integrated Watershed Management Plan that began in 1990. As I would later come to realize, these were oddly the first and only public activists since the 1970s to ask serious probing questions about the nature and function of the community Watershed Reserves, from which they received no answers from the Ministry of Forests at that time. Their concerns about the SCRD’s Reserves also helped formulate statements in the SCRD’s November 1992 application to the Supreme Court that identified and named the Reserves, the interlocutory injunction to prevent International Forest Products from further logging (see Exhibit A).

As these public activists first began to discover from provincial maps, the *Land Act* Reserves had legislative powers to protect the natural state of the watershed and its forests, and that these Reserves were being specifically ignored and unidentified by the government in its IWMP processes. In fact, the government, through its Ministry of Forests, systematically ignored all the provincial Watershed Reserves by not identifying or referring to them in all public documents, legislation, and planning processes, despite their records on Forest Atlas and Legal Survey Maps. As you will note, there is nothing referenced about a Reserve in Western Forest Product’s Forest Stewardship plan for Chapman Creek, nor in the Community Forest proposals for Chapman as well.

The history and details about BC’s Watershed Reserves are presented in a recent book I wrote a year ago called *From Wisdom to Tyranny: A History of British Columbia’s Drinking Watershed Reserves*. I have provided a copy of this book for the Board, and an index of references to the words Chapman Creek and SCRD contained in the book for your convenience (see Exhibit B).

It was because of these questions about the Reserves that I began reviewing specific government files around their creation. These concerns, and other general concerns emanating from BC’s water users, ultimately helped form the BC Tap Water Alliance. As you can see for yourselves, on our website we have had a section devoted to information about the Chapman and Gray Creek Reserves, summaries from our case file history (see Exhibit C). We have also provided information and concerns about the SCRD’s two Watershed Reserves, mentioned in many of our reports and press releases. A list of these reports and press releases are provided (see Exhibit D). We have also provided the SCRD Board with a copy of a CD disk, on which are all our reports and press releases in pdf format.

### **3. Establishment of the SCRD and its initial requests to protect Chapman Creek from logging**

In late 1998, I received long-awaited photocopies of the Ministry of Forests' central, voluminous headquarters file on Community Watersheds. In this stack of documents was a copy of a May 2, 1967 letter from the newly formed SCRD to the Department of Lands, Forests and Water Resources requesting a "reserve" in the Chapman watershed to protect it from "future logging" (Exhibit E). A copy of this letter is also included on page 37 of my book, *From Wisdom to Tyranny*.

Such requests were not isolated to the SCRD, but part of a long established history in BC by municipalities, townships, improvement districts, etc., who were granted Reserves. From a review of older Ministry of Forests' Forest Atlas Maps, these areas were always provided a written notation of "No Timber Sales", and/or referenced as a "watershed reserve" described and color-lined in blue ink, so that government forester planners would exclude these areas from future logging proposals (Exhibit F). Forest Atlas maps are the central reference materials for all forestry planning for the Forest Service. Likewise, Legal Survey Maps are a central reference tool for all Crown and Private land planning processes for provincial agencies, on which Watershed Reserves are (or are supposed to be) designated.

Despite the SCRD's request for a reserve and its objections to logging in Chapman Creek, the government granted Jackson Bros. Logging Company a large harvesting licence area over Chapman Creek Crown lands in late 1968.

### **4. The provincial Department of Health and the protection of drinking watersheds**

The concerns today by the SCRD's Board of Health meeting related to complaints about logging in the Chapman Creek Reserve are actually preceded by a long history of concerns in BC by provincial health authorities. However, these concerns by the Health Ministry began to take another direction following the late 1970s, when the emphasis was redirected more toward water treatment and responsibility of water quality on water users who were being affected by other parties ruining their drinking water.

On May 14, 2002, we published a long report, *Doctoring Our Water: From a Policy of Protection to a Policy of Submission – Regarding the Provincial Health Officer's "Annual Report for 2000: Drinking Water Quality in British Columbia: The Public Health Perspective"*. In the report are numerous quotes from government documents in Appendix A, where we establish how provincial and municipal health officers, since the early 1900s to mid-1970s, shared a united, common concern and vision to exclude logging in public drinking water sources.

For instance, an example from 1976, when referrals for logging proposals in protected drinking watersheds were still honoured and undertaken by government (but not for much longer):

Re: Elk Creek Waterworks – Water Shed. We understand an application has been made by Whonnock Lumber for a Timber Harvesting License in the watershed area, which is the source of domestic water for the City of Chilliwack and Chilliwack Municipality, both with substantial and growing populations. We are opposed to logging in this watershed, and recommend that the watershed be left undisturbed in its natural state, in order to protect, and to ensure a continued water supply to the community." (Dr. W. McInnes, Medical Health

officer, Upper Fraser Valley Health Unit, to the Chief Engineer, Water Investigations Branch, Parliament Buildings, September 21, 1976.)

The understanding behind the emphasis by the Medical Health official for the protection of Elk Creek was part of a long legacy of “single use” of forested watersheds - that is only for water. This tradition was also referred to as “single purpose” in United States’ drinking watersheds until the early 1960s when forest companies began to log in formerly protected watersheds.

#### **4(a) Recommendation for Watershed Reserves under the *Land Act***

It was from this long legacy that in 1974, William Bailey, the Director of Environmental Engineering with the Ministry of Health, and an appointed committee member of the recently formed provincial Task Force on Community Watersheds (1972-1980) by a Committee of Deputy Ministers, recommended to the SCRD’s Regional Planner A. Stott,

“that the best way to proceed [regarding Health concerns about logging in Chapman Creek] would be **for a reserve** in favour of our water utility” and to “**request this reserve from the Lands Branch** on our behalf” (see Exhibit G).

The Ministry of Health had been more recently recommending the protection over drinking watershed sources by way of the establishment of these Reserves to many water users as the issue of logging and cattle grazing within them were beginning to escalate in the 1960s. For instance, in a September 22, 1969 departmental memo from Mr. Hamilton, a professional engineer with the Public Health Engineering Division, wrote to the Naramata Irrigation District, regarding its concerns about cattle grazing, that

it has come to our attention that the Department of Lands will establish watershed reserves where it can be shown that these are needed and in the best interests of all parties concerned to do so. The first step necessary to initiate this protection for your watershed or at least that portion wherein your storage areas are concentrated, will be to write to Mr. W.R. Ridel, Director of Lands, Parliament Buildings, Victoria, B.C. (See page 47 of *From Wisdom to Tyranny*).

Our files indicate that it was through the strong recommendation of the Health Department, and from sympathetic administrators in the Lands Department who wanted to help protect drinking watersheds, that Reserves were created by the 1972-1980 Task Force on Community Watersheds, in addition to already existing Reserves throughout BC.

#### **4(b) History of deleterious substances and human contamination**

At the turn of the 1900s, Health officials were already acutely aware of, and advocated against, material or synthetic substances introduced into drinking water courses, which included organic and inorganic materials such as dirt, silt, debris from logging practices. Similar references were provided in the old federal Fisheries Act even against the deposition of sawdust in water to protect salmon and fresh water fish species and habitat. They understood that these matters were not only a nuisance to human and non-human water users, but they also understood that they affected their health as well.

Later, when the *Greater Vancouver Water District Act* was passed by the provincial legislature on December 19, 1924, and then adopted through the formation of the Greater Vancouver Water District in February 1926, a clause described that if anyone was caught depositing any matter whatsoever in the drinking water sources of its affected watersheds, that person could either be sent to prison and or pay a fine.

If a person shall bathe the person, or wash or cleanse any cloth, wool, leather, skin of animals, or place any nuisance or offensive thing within or near the source of supply of such waterworks in any lake, river, pond, source, or fountain, or reservoir from which the water of said waterworks is obtained, or shall convey or cast, cause or throw, or put filth, dirt, dead carcasses, or other offensive or objectionable, injurious, or deleterious thing or things therein, or within the distance therefrom as above set out, or cause, permit, or suffer the water of any sink, sewer, or drain to run or be conveyed into the same or into any part of the system, or cause any other thing to be done whereby the water therein may in any wise be tainted or fouled or become contaminated, he shall be liable on summary conviction, to a fine not exceeding \$50, or to imprisonment for a period not exceeding 30 days, with or without hard labour, or to both fine and imprisonment. (Section 88, Penalties for Polluting Water, *Greater Vancouver Water District Act*.)

That fine, in today's equivalent rates, would be pro-rated to about \$5,000.

Many years later, the provincial Task Force on Community Watersheds (1972-1980) identified at its second meeting on October 16, 1972, that logging, cattle grazing, agriculture and mining were inconsistent with high-quality drinking water sources, as provided in the following "List of Watershed Conflicts", organized by the Ministry of Health:

**Forestry:** 1. Bacterial contamination from human or animal wastes. 2. Increase in turbidity and sediments. 3. Changes in taste, odour and colour. 4. Addition of toxic chemicals, oil, gasoline scum or objectionable solids. 5. Temperature changes to water and increase in nutrients.

**Grazing:** 1. Possible bacterial contamination. 2. Increase in turbidity and sediments. 3. Changes in taste and odour. 4. Changes in runoff patterns if vegetation destroyed.

**Agriculture:** 1. Bacterial contamination both by livestock and humans. 2. Increase in turbidity and sediments. 3. Changes in taste and odour. 4. Addition of mineral solutes and toxic chemicals (includes pesticides and herbicides). 5. Temperature changes and increase in nutrients (includes fertilizers).

**Mining:** 1. Lowered water quality (a) by bacterial contamination from camp or mill wastes, (b) by addition of sediments from construction work or mill processes and (c) by altering taste, odour and colour. 2. Addition of mineral solutes to water with changes of acidity, or addition of possible toxic chemicals.

Preventative measures were once in place to prevent humans from disturbing natural forested watershed systems. Today, this has shifted, where the burden of tainted water resulting from human or domestic animal activities, is now strangely shifted to the water purveyor.

#### **4(c) Former Health Districts, Game Reserves, and Fish Reserves**

There used to be a number of other, and corresponding, ways for protecting a drinking watershed from human access. One way was creating a Health District under the old Health Act. A number of them were created throughout BC (see 2 attached maps, Exhibit H).

Water Supplies. In British Columbia, due to the nature of the terrain and the climatic conditions, the problem of obtaining a good water-supply from most communities is relatively easy. Centres of population are located close to mountainous watersheds, making possible in most cases a gravity supply. In addition, most of these watersheds are uninhabited, making the chances of contamination of the public water-supply relatively slight. Some of our watersheds have been created health districts for watershed purposes. These are guarded to keep the public off the watersheds. (R. Bowering, Public Health Engineer and Chief Sanitary Inspector, Report of the Public Health Engineering Division, Annual Provincial Board of Health Report, provincial Sessional Papers, 1941.)

According to an interview in January 2005 with a former anonymous civil servant who used to work for the government's Health department for 32 years, and 13 years in the Kootenays, there was only one Health District that used to enforce no human entry. That was for the Arrow Creek Watershed Reserve for the town of Creston and Erickson. Here's part of the interview, with the interviewer identified as "Anon" (anonymous), and myself as "WK":

**Anon:** They (the Department of Health, now) take their responsibility as limited to as telling you when it's bad (water quality), not before. The Ministry of Health takes a strong position and it is in a preventive role - but when it comes to (protecting) drinking water, that's not true.

Arrow Creek was a Health District, and it was formed in the 1940s under the Health Act as an official protected watershed. And it has been flaunted over the past - let's see, at least since the 1970s - over the last 35 years they haven't even had an administrator in there. The Act requires that somebody has to live there, and to make sure no one enters the place without permission of the health officer. None of that has been practiced.

**WK:** To have a Health District is to have a guard there.

**Anon:** That's right. Creston, Vancouver and Victoria were the only watersheds that had letters of patent to protect their drinking watersheds. There were a lot of Health Districts formed, but not for the purpose of protecting drinking water.

**WK:** Why is it that there are so many inconsistencies?

**Anon:** The first thing that comes to mind, the main thing as the culprit in this whole business is that most drinking water supplies, especially surface supplies, streams and lakes, are regulated by the provincial government, and most of the people using them are local government. So you have this huge and strictly guarded division between the two powers. So, when people like the Ministry of Forests, the Ministry of Lands, the Ministry of Mining, or the Highways Department, when they come into conflict with a municipality over a drinking watershed the sparks really fly. And the provincial government - they're primarily of the position that it's an economical thing.

Over the years, what we've tried, with some success, tried to get the two parties together. Because the Ministry of Health had a unique position, in that their staff were appointed by the provincial government, but were responsible to the local government. And that's a rare thing in our government. The medical health officer is a pretty powerful guy if he wanted to apply the power.

Part of the historic role of the Ministry of Health was as an official public intervener on disputes in drinking watershed sources, a role that was gradually removed by the Social Credit government beginning in the late 1970s (refer to page 84 in *From Wisdom to Tyranny*). The event which caused the Social Credit administration to eliminate its role was apparently related to a unanimous resolution passed by the former Associated Boards of Health at September 1975 conference meeting in Penticton City, whereby medical health officers would be provided legislative veto powers to "prohibit any activity within a watershed".

Early in the 1900s, Health officials even relied on other Acts to help keep people out of drinking watersheds. The Game and Fish Acts were used to do so, Acts which forbade people from hunting and fishing in defined areas.

In reply to your letter with reference to creating a Game and Fish Reserve, for the further protection of the watersheds of Capilano and Seymour Creek, I heartily concur with your suggestion. I think it would be a step in the right direction, and would greatly assist both Departments in maintaining and protecting our water supply ... I suggest a bill be brought down at the next sitting of the House, creating such a reserve. (Letter from F.L. Fellows, Vancouver City Engineer, to Dr. H.E. Young, Provincial Officer of Health, September 24, 1918.)

#### **4(d) Resolutions by the BC Medical Association and related Associations**

Following a multitude of complaints and objections by provincial water users, and a dramatic increase in boil water advisories by Health officers, in the 1980s, the BC Medical Association (BCMA) became highly concerned about the state of BC's drinking watershed sources. The following four resolutions passed in 1990 and 1991, involved the BCMA as a central partner on issues calling for the protection of BC drinking watersheds:

WATER QUALITY. BE IT RESOLVED: That the BCMA recommend to the provincial and municipal governments of BC that they initiate an independent study of watershed management practices in all major water systems in the province; and That the focus of such studies be to determine the contribution of agricultural, industrial, forestry and recreational activities within watersheds on the presence of turbidity, chemical contamination, and pathogenic microorganisms in the water supply prior to its entry into the public water system; and  
That as a first step such an independent study be funded by the Greater Vancouver Regional District in the Coquitlam, Seymour and Capilano watersheds, the single largest water supply district in B.C. (BCMA 1990 resolution)

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That a fully-funded independent study of all industrial practices in the three (Greater Vancouver) watersheds, and the forest management practices of the GVWD in particular, be conducted to determine whether and to what extent these practices are affecting drinking water quality within the GVWD, such study to be reviewed by a scientific and public review committee, and That the BCMA is opposed to roadbuilding and logging in GVWD watersheds until the fully-funded independent study of all industrial practices in the three watersheds in the GVWD is completed; and That regardless of the outcome of the aforementioned independent study, the GVWD be required to scientifically and economically justify continued roadbuilding and logging in the GVWD watersheds. If such roadbuilding and logging cannot be justified, then it should cease. (BCMA 1991 Resolution)

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Conclusions. Action must be taken quickly to address these serious problems. Respected groups such as the B.C. Public Health Association, the Associated Boards of Health of B.C., the B.C. Medical Association and the B.C. Branch of the Canadian Bar Association have joined our call for urgent government action. The health of the public must be protected from unnecessary disease outbreaks originating in our degrading environment and attributed to community drinking water systems. Failure to take positive and decisive action has resulted in many dollars being allocated for health care, including diagnostic, investigative and treatment aspects, when the disease could have been prevented by the appropriate care and attention being given to the quality of drinking water as previously recommended. (Submission to the B.C. Round Table on the Environment and the Economy. Presented by the Executive of the British Columbia Branch of the Canadian Institute of Public Health Inspectors, July 1991. Most of the content in the brief is verbatim the February 1991 brief to the Royal Commission on Health Care and Costs.)

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In this document, the BC Committee for Safe Drinking Water has summarized the problems and proposes solutions so that every citizen of BC can be provided with drinking water of the highest possible quality at a reasonable cost.

Many community water systems in BC are served by multi-use watersheds. There is a growing public concern that various activities which occur in these areas (e.g. road building, logging, recreation, etc.) can deteriorate the quality of drinking water for these communities. The watersheds in the Greater Vancouver area are not multi-use; access is restricted. Nonetheless, there are concerns that road building and logging activities allowed in these watersheds will increase turbidity levels.

Agricultural practices, such as improper or inadequate handling of manure, fertilizers, pesticides and herbicides, can contaminate streams, lakes and groundwater. The Crippen Report noted that nitrate contamination of groundwater from manure and fertilizers is a common phenomenon in BC. For example, phosphorus levels are considered a threat to water quality in the Okanagan River system. Pesticide leaching from a forest nursery is a concern in the Kitimat-Stikine Regional District.

Physical contamination of the streams and rivers in watersheds caused by industrial and recreational use of watersheds can compromise the quality of drinking water. The problem is



more than just a matter of aesthetics (i.e. bad taste, appearance or smell); there are practical problems which result from physical contamination. For example, when water has been contaminated by silt or organic materials, more chlorine than normal must be added to water to ensure any biological contaminants are killed.

Logging and road building continues in the Greater Vancouver Regional District watershed areas. There is a growing body of evidence that these practices are down-grading or will down-grade the water supply of BC's most populated area.

The Ministry of Health has the mandate to protect and promote public health. Unfortunately, this broad mandate has not been used fully or effectively by the Ministry to deal with the problems of ensuring the provision of safe drinking water.

The Health Act is deficient in its scope and ability to deal with drinking water quality issues. Ministry staff do not have sufficient authority under the Health Act to ensure the drinking water meets the highest possible standards. For example, they cannot shut down or otherwise require someone to take specific action to prevent contamination of sources of drinking water. While there appears to be sufficient regulation-making authority to create safe drinking water regulations under the Act, such regulations have not been approved to date.

The Ministry of the Environment has the mandate to protect the environment, including wildlife and resource protection and conservation. It shares a role with the Ministry of Forest to manage watersheds and has a limited role to protect groundwater.

There is a pressing need to integrate watershed planning, improve the identification and management of watersheds, and establish meaningful long-term goals for the use of BC's numerous watersheds. The public is concerned about uncontrolled access to watersheds, outbreaks of water-borne diseases and pollution of watersheds, and the existence of private lands within community watersheds. These guidelines are inadequate, because: \* They apply only to Crown lands, not to private lands. \* They do not address the use of groundwater. \* They are not legally enforceable. \* They do not sufficiently address public health concerns. The Ministry co-chairs a special Interagency Community Watershed Management Committee which it is hoped will address these and related problems. The Ministry of Health plays a secondary role on this committee. The Ministry of the Environment also supports the Round Table on the Environment and the Economy, but that group appears to be concerned primarily with quantity of water issues versus water quality issues.

In brief, the Ministry of the Environment has no legislative authority to deal with threats to watersheds and inadequate authority to protect groundwater. The ministry's Guidelines are not supported by appropriate legislation and enforcement mechanisms.

The Ministry of Forests has the mandate to manage the forests of BC, including use of watersheds and the development of watershed management plans. It has a policy to help those who hold water licences to obtain redress if their water supply or system is damaged, but it has no special legislative or administrative mandate to protect sources of drinking water.

Watershed use and management is shared between the Ministries of Forests and Environment. The ministry co-chairs the Interagency Community Watershed Management

Committee with the Ministry of the Environment Health officials and operators of community water systems have little say and no legal status to control the multiple use of or public access to watershed used to supply drinking water to community systems. As noted above, the Guidelines used by the Ministries of Forests and Environment are not legally binding and do not provide sufficient consideration of public health concerns.

THE SOLUTIONS. Surface and ground water used for drinking should be protected from contamination and depletion. Future generations should be able to enjoy and use safe drinking water. There is a need to take steps now to ensure that this fundamental resource is preserved.

The provincial government has an over-riding responsibility to ensure safe drinking water is provided to all people, in particular those on community water systems subject to legislation it administers. The BC Committee for Safe Drinking Water has identified a series of specific steps it believes must be taken to address the problems outlined above. Therefore, the committee recommends the provincial government:

1. Pass comprehensive legislation or update existing legislation to protect and conserve all sources of surface and groundwater in BC. In particular, approve new safe drinking water regulations for community water systems under the Health Act and new groundwater protection regulations under the Water Act, and establish better legislation to protect BC's watersheds.
6. Develop a comprehensive plan and foster greater coordination and cooperation with all municipal, regional, provincial and federal government agencies whose activities affect the provision of safe drinking water within BC. (The Committee would suggest that the Ministry of Health take the lead role.) Ensure the public and all water users have an opportunity to participate in the decision-making process.
7. Prepare an inventory of BC watersheds to determine the opportunities and costs associated with multiple use of watersheds. This inventory would identify such things as: (a) the location of all watersheds within the province; (b) the various uses in each watershed; (c) the number of persons relying, on each watershed for their water supply; and (d) a description and evaluation of the water systems which rely upon those watersheds.
9. Promote the protection of both community and private water supplies, in particular watersheds, and the conservation of this valuable resource, and inform the public how they can help."

(Safe Drinking Water for British Columbia. Background Report, prepared by the BC Committee for Safe Drinking Water, Associated Boards of Health of BC, BC Medical Association - Environmental Health Committee, BC Public Health Association, Canadian Bar Association - BC Branch - Environmental Law Section, Canadian Institute of Public Health Inspectors - BC Branch. October 4, 1991, 18 pages.)

## 5. Our experience with consultants reports in drinking watersheds

Recently, with the surfacing and publicity of the Triton draft summary report regarding Western Forest's Cutblocks and road access in the Chapman Creek Reserve, attention has been drawn to the veracity of information from your consultants and recommendations to allow logging to proceed.

Our experience with similar sensitive matters regarding the Greater Vancouver watersheds, with Greater Victoria's watersheds, and with numerous others, is that when it comes to logging and reports by consultants in drinking watershed sources it's always a thorny issue, where little room is provided for careful public scrutiny and analysis. The reports that we have come across have always tended to promote logging and road construction, none contrary. We remain disturbed by this, particularly in an area devoted to drinking water, and as a Watershed Reserve. This is also true for hydrology and forest hydrology reports in drinking watershed sources. Why is it, that forestry management is always a driving factor, or conclusion, behind such reports? Why can't hydrology and geomorphology consultants predicate their findings on protecting such sources? We have a good idea as to why such is the case, part of the politics of logging in our drinking watersheds.

Given the long, troubled history of your community and directorship opposed to logging and mining in your watershed reserves, the terms of reference for your Triton consultants should have specified this and then have been adopted in their 2006 Drinking Water Assessment report. Of related concern, in section 3.5 of the Assessment report, Triton makes no reference to the *Land Act* Reserve over Chapman Creek, but only refers to it as a Community Watershed created under the *Forest Practices Code Act*, with the newly created reference number of 900.008 (see the discussion about this in *From Wisdom to Tyranny*, particularly point number 17 of the Executive Summary which refers to Chapters 8.4.5 and 11.2). The original Lands File number for the Chapman Reserve, 0326774-9, as clearly indicated on Forest Atlas and Legal Survey Maps, is not mentioned. Given the fact that your *Land Act* Tenure Reserve is still active, and that a proper history of this is without identification and description, it is a critical oversight. This is also the case in section 4.3, Land Ownership and Regulatory Setting, where no reference is provided to your Reserve. The Reserve issue is critical, at this point, because it provides a point of reference to future logging proposals in the Chapman Reserve as discussed by Triton in section 4.5. In the Appendix section, there are numerous maps and government documents showing your water licence history, but no inclusion of your Watershed Reserve tenure. Surely, Triton must have been cognisant of your Reserve, and the question remains as to why it was not included in its final Assessment report. As a public document, read and scrutinized by a wide audience, this omission then becomes even more serious.

Regarding the recent summary report from Triton on Western Forest Products' cutblocks in the Chapman Reserve, we would ask you to obtain a response from Triton of its reference to "advanced hydrologic recovery" of forests logged in the Chapman drainage. Request Triton to provide you with a detailed response on its basis for saying so and their conclusion, and could you request them to provide you with references to peer-reviewed studies that form the basis for their statement of observation.

## **6. Recent court injunction hearings concerning Chapman Creek**

The recent public opposition to and blockade of Western Forest Products' road and logging operations in the Chapman Reserve, permitted by the Ministry of Forests, led to a Court Injunction Hearing on Monday July 9, 2007. The named parties, collectively identified under Hans Penner et al (residents of the SCRD), came to Court after acquiring a lawyer on late Friday afternoon, July 6. During the Hearing, Madame Justice MacKenzie heard John Conroy explain to the court the long, troubled history the SCRD has had to endure regarding road and timber licences let in the Chapman Reserve, and the long history of SCRD and community opposition to logging and mining. In particular, she gave an attentive ear to evidence related to the establishment and legislative nature of the *Land Act* Reserve.

During the brief intermission following Conroy's presentation, I watched Western Forest Products' lawyer leaving the court room, and in his hand was the page showing the Reserve tenure from the newly acquired information handed to him and the Court concerning the Chapman Reserve tenure. He appeared as if quite concerned about this with his clients. In fact, this became an important turning point in the Court discussion, after which the Hearing was adjourned to July 17<sup>th</sup>, in order for Hans Penner et al. to be granted a bit more time to properly prepare and present its case to the Court.

On July 17<sup>th</sup>, Justice Kellerher heard the case (Madame MacKenzie could not hold the second date due to her involvement in a trial hearing) at 10 am. Lawyer Conroy presented a great deal of information to the Court mainly about the Chapman Reserve, government policies and legislation, and a review of the Justice Paris Decision of 1997, providing an introductory interpretation of the legislative significance of the Land Act Reserves. Conroy's presentation continued for two hours, amidst two intermissions. Western Forest Products countered Conroy's argument siding with the Ministry of Forests, saying the Reserve had no standing in interfering with the government's ability to provide road and logging permits in the Chapman Reserve without the permission of other agencies or the SCRD. By this time it was about 4 o'clock, when Justice Kellerher announced that he would reserve judgment until the morning of July 19, 2007.

The fact that Kellerher did not decide in favour of Western Forest Product's injunction that day was remarkable, indicating that he had to consider the counter evidence presented before him. Included in that long list of documents was our book, *From Wisdom to Tyranny*, from which many references related to Chapman Creek and the SCRD were cited to the Court.

On July 19, 2007, Justice Kellerher presented his reasons for judgment. He granted Western Forest Products its injunction. However, Kellerher did make reference to the fact that a Judicial Review of BC's *Land Act* Reserves was wanting.

### **Recommendation to the SCRD Board of Health**

We strongly believe it is your interest, as guardians and protectors of the Chapman Reserve, to obtain transcripts of the three trial dates just referred to. This will be of important benefit for the SCRD's Directors in its proposal for a legal action or a Judicial Review concerning your Watershed Reserve, and ultimately over its concerns about water quality and water quantity concerns related to commercial logging.