

November 20, 2017

Hon. Serge Rousselle, Q.C.
Minister, Environment and Local Government
Marysville Place, P.O. Box 6000
Fredericton, NB
E3B 5H1

Submitted electronically to: waterstrategy-strategiedeleau@gnb.ca

Re: Comments on draft water strategy

Dear Minister Rousselle:

Thank you for the opportunity to provide input on the draft water strategy. The development of a water strategy is an important step towards modernizing New Brunswick's water protection regime and we applaud the government's commitment to ensuring that our water is pollution free and healthy. We believe water protection can only be accomplished with strong legislation, effective implementation and active enforcement.

Background

A lot has changed since the province introduced its first series of water protection laws — from the establishment of the first Water Boards, to the industrial pollution reduction in the *Environmental Protection Act*, and drinking water protection in the *Clean Water Act (CWA)*.

Most notable among those changes are:

- a growing body of scientific knowledge that puts a much larger emphasis on prevention and understanding water systems as integrated (streams, rivers, wells, groundwater aquifers, wetlands and estuaries) so much so that it is important to deal with all pollution sources, looking at cumulative risks and impacts instead of merely point-sources of pollution;
- new technology that can track water quality quickly, and engineering systems designed to prevent pollution;
- a growing public awareness about the importance of, and support for, strong water protection;
- that integrated and cross-jurisdictional watershed management is the key planning process that serves to reduce non-point sources of pollution and involved citizens in water protection; and,

- the fact that in a changing climate water protection and its management has become more urgent and more important.

If left untended, New Brunswick's waters will face ongoing and increasing threats from pollution, wetland and coastal estuary loss, loss of adequate environmental flow to sustain aquatic life and increasing climate change impacts such as floods, droughts, and high temperatures.

With these comments, we provide a snapshot of New Brunswick's support for a smart water strategy, key recommendations we feel will benefit both the content and the actions contained in the strategy, and our advice on a series of 'quick steps' the province could take to being to implement the proposed actions to gain public support and address current deficiencies.

There is considerable evidence that supports each of our recommendations, found in water policy and law across Canada.

New Brunswick Citizens Support Action to Keep Water Healthy

A majority of New Brunswick citizens are very concerned about water pollution, according to the comprehensive survey released earlier this year by the Conservation Council.

Survey questions focused on freshwater perspectives in the province and our attitudes on preparedness in the face of extreme weather. The 500-person survey, conducted for the Conservation Council by Corporate Research Associates, found 70 per cent of New Brunswickers strongly believe governments are mismanaging fresh water supply.

The survey also found that 79 per cent of those asked said they were worried about pollution going into rivers, lakes and streams, both the pollution which is legally permitted by the Department of Environment, and illegal dumping and runoff.

While clean water clearly is a health and natural resource concern for New Brunswickers, there is less awareness of the water-related impacts and risks associated with a changing climate. 77 per cent of respondents believe they are not at risk of flooding or drought, with only 28 per cent believing that their family is likely or very likely at risk of flooding; 36 per cent believe the same about post-tropical storms or hurricanes. When asked if they are worried about a range of extreme weather events, respondents showed low levels of worry, with 21 per cent worried or very worried about floods; 21 per cent about post-tropical storms and hurricanes; 12 per cent drought; and 34 per cent ice and hail storms.

New Brunswickers also show a low level of preparedness for extreme events like flooding (29 per cent); post-tropical storms and hurricanes (25 per cent); droughts (15 per cent); and ice and hail storms (35 per cent). When asked how prepared residents feel to deal with the consequences of extreme events, 25 per cent of respondents feel prepared or very prepared to be displaced from their home; 31 per cent are prepared for a loss of drinking water; and 45 per cent a loss of power. Given the recent 2017 ice storm along the Acadian Peninsula leaving many without power, heat, and safety for over 10 days, these results are a concern.

The Conservation Council believes these survey results underscore the need for government leadership both on cleaning up, and preventing, pollution from being released into our precious waterways and on investing in infrastructure and preparedness to protect citizens and communities from the risks of extreme weather resulting from climate change.

Key Areas of Concern

Climate Change and Water Health

Any long-term plan designed to protect the health of our water needs to be closely paired with actions we take to reduce carbon pollution and adapt to climate change. The draft water strategy says that climate change is an emerging issue. Hardly.

New Brunswick is already experiencing increased storm strength, higher temperatures, and more frequent flooding and deeper droughts, all ascribed to our changing climate. These changes impact our water and ultimately other areas, such as the economy, tourism, development, environment, and human health. Unless we have a comprehensive water strategy in place, with clear actions to protect our water from the impacts of climate change, we risk affecting other critical aspects of society.

A successful water strategy must also recognize the reality of climate change and plan all other actions accordingly. For example, land-use decisions will need to be made so that water can be protected against climate change impacts. This would require the rules around riparian areas, wetlands, and other activities to be strengthened.

We urge you to add climate change as a guiding principle. The vision statement, “New Brunswick’s water will be protected and managed to ensure its quality and availability for future generations” cannot be achieved without applying a climate change “lens” to all decisions related to water.

More Protection for Estuaries and Wetlands

With estimates of sea levels increasing by up to six feet by 2100, we need to proactively and strategically do much more to protect our coastal communities.

Estuaries and wetlands are critical ecosystems of biological, economic, and social importance. They are highly dynamic, influenced by the interactions of atmospheric, freshwater, terrestrial, oceanic, and benthic components. Coastal wetlands and estuaries provide ecosystem services essential to people and the environment, including:

- Flood protection (protect upland areas, including valuable residential and commercial property, from flooding due to sea level rise and storms);
- erosion control (prevent coastline erosion due to their ability to absorb the energy created by ocean currents which would otherwise degrade a shoreline and associated development);
- wildlife food and habitat (provide habitat for many federally threatened and endangered species);
- commercial fisheries;
- water quality (wetlands filter chemicals and sediment out of water before it is discharged into the ocean);
- recreation (recreational opportunities in coastal wetlands and estuaries include canoeing, kayaking, wildlife viewing and photography, recreational fishing and hunting); and,
- carbon sequestration (coastal wetland ecosystems can sequester and store large amounts of carbon due to their rapid growth rates and slow decomposition rates).

Despite their importance, up to 65 per cent of New Brunswick's salt marshes alone have been lost. The current New Brunswick Wetland Conservation Policy, adopted in 2002, is committed to no loss of provincially significant wetland habitat and to no net loss of wetland functions for all other wetlands in the province. However, wetland loss continues to be prominent across New Brunswick.

We are encouraged to see the implementation of the completion of the long-term wetland strategy, including amending the regulations to extend protection to coastal provincially significant wetlands less than 1 ha in size, but we are concerned that this approach, alone, is inadequate.

As mentioned earlier, a successful water strategy must recognize and plan for a changing climate, and wetlands and estuaries are no exception. They are an integral part of New Brunswick's ecosystems and to achieve the goals outlined in the draft water strategy would mean that wetland policies would also need to fit all of these objectives.

Healthy Water — Swim, Drink, Fish

Since 2015, the province has issued seven blue-green algae advisories and 139 boil water orders.

The goal of the water strategy should be to keep all water in New Brunswick swimmable, drinkable and fishable. When water is safe enough for people to swim and boat in, communities and families thrive. When a high standard of drinking water quality protects citizens from bacterial contamination (including blue-green algae, and E-coli, for example) and from toxic chemical runoff, municipalities and families save money. When water flows fast and cold enough to sustain freshwater fish species, communities and tourist operators benefit. And when contamination is kept from polluting our critical marine areas, fishermen in the Bay of Chaleur, the Northumberland Strait and the Bay of Fundy maintain sustainable communities.

Forestry Practices and Water Protection

Heavily forested watersheds help safeguard water supplies by acting as a natural filter and buffer to potential contaminants. A well-managed forested watershed is the first line of defence for protecting water from pollution and maintaining high-quality drinking water and water for other uses including recreation, business, and fishing.

Forest lands intercept precipitation, promote water infiltration, reduce stormwater runoff, moderate stream flows, recycle nutrients and chemicals, stabilize soils, reduce soil erosion and sedimentation, and provide clean water.

With respect, we remain unconvinced that current ten-year industrial forest management plans for Crown Lands are designed to safeguard water resources. We are especially concerned about the ongoing use of herbicides, especially within designated municipal drinking watersheds, and recommend that the Department develop a regulation to stop this practice, as in done in New York State, some areas of Nova Scotia (Dartmouth and Halifax, for example) and other jurisdictions. The water strategy should include provisions for a re-examination of forest management plans so that they all are designed to protect drinking water supplies and use ecologically sound practices that minimize forestry impacts on water.

Transparency

We are encouraged to see the recommendation that the province develop a regular state of the water report, similar, no doubt to its annual air quality report. We support this recommendation and further call on the Department to report on community boil water advisories including those in First Nations communities, contaminant ants of concern, state of fish population — especially key indicator species, nutrient runoff from farming and from forestry, nutrient pollution from sewage treatment plants as well as food processing facilities, and contaminant disposal from

industry. Additionally, permits received by industry under the Environmental Protection Act for discharge into water systems should be available on-line, similar to those for air contaminants.

The annual report should also include information with respect to the collection of water quality data, and the progress made on meeting the goals and objectives outlined in the water protection strategy.

Legislative Framework

The Conservation Council welcomes the acknowledgment in the draft strategy that a new regulatory system for water protection is necessary.

We appreciate the government will need to develop this framework in consultation with watershed protection associations, fishery representatives, tourism operators, conservation and environmental protection groups, municipalities, industry, farmers, First Nations and citizens.

The development of a new regulatory framework can address the current state of disarray with respect to the river classification system. That CWA regulation, never enforced for river systems, contained critical elements key to developing protection plans on a watershed level, including governance structures, baseline establishment (the ‘class’) and data collection and reporting requirements. The strategy should explicitly detail how a new regulatory framework will both modernize and meet or exceed the goal of the previously unenforced classification system.

The new legislation should include:

- the designation of the key watershed areas where watershed protection plans will be required. While the 13 primary watersheds may prove to be a valid starting point, for the larger, complicated systems, including the Northumberland Strait and the Wəlastəkw (St. John River) systems, a finer scale may be scientifically warranted;
- the critical content that will be required for watershed protection plans and how once approved, those plans become legal instruments;
- the process by which the protection goals for each watershed will be established; and,
- a section empowering the development of water quality standards;

Recommendations

1. The goal of the strategy should be strengthened to make it explicit that it is designed to both protect New Brunswick water and restore degraded water. As well, the strategy needs to explicitly state that the precautionary principle will be used with respect to government decision making concerning projects that affect water.
2. The strategy needs to include much more content with respect to climate change adaptation and protecting the health of water from the impact of climate change.
3. Wetlands protection and the laws governing wetlands need to be strengthened.

4. Coastal wetlands and estuaries, in particular, need to be protected from further development. This means that policies need to be developed and implemented to protect the entire length of the Northumberland Strait, the Bay of Fundy and the Bay of Chaleur.
5. The Coastal Areas Protection Policy developed in 2002 is a first good step, but its content and direction needs to be incorporated into a new set of regulations.
6. Include more detail in the strategy with respect to the annual state of the water reporting system including contaminants coverage and the initial list of pollution sources that will be recorded.
7. The strategy needs to target and develop reduction plans for nutrient and bacteriological contamination that, if left unchecked, will contribute to further degradation of aquatic life and water quality.
8. The strategy needs to identify toxic contaminants of concern and develop reduction plans for each.
9. The government should include in the strategy its intention to pursue formal co-governance agreements with First Nations, including full recognition of their rights and title, which is critical for moving forward with a collaborative approach;
10. The strategy should outline how the government intends to set water quality standards in law, as opposed to using unenforceable guidelines or objectives, as is the current practice;
11. The government should outline how the water strategy will be driven by science and should consider the establishment of an arms-length science advisor or advisory committee;
12. The strategy should recognize the role healthy forests play in safeguarding water by creating new forest management plans that protect water from any activities that may harm the health of the water.
13. Require the development of new forest management plans (don't spray in the watershed)
14. The strategy should expand on the need for modern legislation and include a sketch of its benefits and minimum requirements including:
 - a. the designation of key watershed areas where watershed protection plans will be required (the where);
 - b. the critical content that will be required for watershed protection plans and how once approved, those plans become legal instruments, (the what);
 - c. the process by which the protection goals for each watershed will be established and by whom; and,
 - d. a section requiring the development of water quality standards on par with international and national standards.

Minister, the Conservation Council congratulates you and your officials for the progress made with respect to developing a modern and smart plan to protect the health of our rivers, lakes, streams and coastal areas. We stand ready to continue to work with the government to develop the strategy. Feel free to contact me with any questions you may have, or if your officials need further information on water policies in other jurisdictions, which I site here.

Sincerely,

A handwritten signature in black ink that reads "Lois Corbett". The signature is written in a cursive, flowing style.

Lois Corbett
Executive Director