

Indigenous Watershed Initiatives and Co-Governance Arrangements:

A British Columbia Systematic Review

Indigenous water/watershed plans are increasingly important to enable communities in developing protocols and policies that guide their communities' actions and decisions to protect their traditional values, laws, title and rights. Given the unique relationship that First Nations have with the environment, alternative approaches to governance, such as rooting co-governance arrangements in traditional values, laws and customs, are critical for collaborative and respectful water/watershed governance.

The British Columbia (BC) *Water Act Modernization* process (2009-2014) and subsequent development of the *Water Sustainability Act* (WSA) and associated regulations creates a modern framework to sustainably manage BC's water. Important provisions in the new Act are aimed at protecting stream health and aquatic ecosystems, regulating groundwater use, considering water in land use decisions and enabling local bodies to govern water at a regional or watershed scale. The WSA has the potential to open the door to collaborative governance (co-governance) of water with First Nations in BC and to create space for discussion on outstanding issues surrounding Aboriginal Title and Rights. There is widespread agreement that the BC Government has inadequately engaged and consulted First Nations throughout the Water Act Modernization process and the WSA does not acknowledge Aboriginal Title and Rights protected under the *Canadian Constitution* (1982). The relationship with First Nations and the existence of Aboriginal Title and Rights underscore the complexity of water planning, management, and governance that the Province will have to address if it is to successfully implement the WSA. The WSA brings forward a conversation on the issue of water as an Aboriginal right, and even more so a conversation on the responsibilities First Nations have to fish and healthy aquatic ecosystems.

PROJECT PURPOSE: The Centre for Indigenous Environmental Resources¹ (CIER) and First Nations Fisheries Council of BC² (FNFC) partnered to undertake a systematic review of indigenous watershed initiatives and co-governance arrangements to identify capacity gaps and contribute to shaping the future of water/watershed planning and a new watershed governance regime in BC.

PRINCIPLE PROJECT OBJECTIVE: to understand the First Nations waterscape across BC and determine capacity needs and conditions for First Nations to engage in local and multi-scale co-governance arrangements.

PROJECT ACTIVITIES / ANALYSIS: guided by a set of questions related to water/watershed planning initiatives; traditional values, laws and customs; governance; and, First Nations capacities and needs:

- ◆ Systematic literature review (86 documents identified)
- ◆ Survey with First Nations' organizations/communities (50 completed; approximately 25% of BC First Nations)
- ◆ One-on-one 1-hour phone interviews with First Nations (8 completed)
- ◆ Social network analysis (SNA) on perceived level of collaboration among First Nations on water issues
- ◆ Results shared and confirmed at FNFC Water Planning and Governance Workshop on April 26-27th, 2016

This research project recognizes First Nations unceded rights and title. It is important to note that this project, including the Water Planning and Governance Workshop in April 2016, was not considered consultation with BC First Nations and the documents developed subsequently cannot be used to reflect such processes.

¹ CIER opened in 1994 and remains the first and only First Nation-directed, national, environmental non-profit organization with charitable status in Canada. CIER's mandate is to work with First Nations across Canada to educate, conduct research and build skills to help them take action to solve the environmental problems that affect their lands and waters (www.yourcier.org).

² Through the *BC First Nations Fisheries Action Plan*, BC First Nations have directed the FNFC to protect and reconcile Aboriginal Title and Rights and Treaty Rights as they relate to fisheries and the health and protection of aquatic resources (www.fnfisheriescouncil.ca).

KEY FINDINGS

- Documents are generally viewed as roadmaps for protecting the environment and its resources to ensure healthy lands and waters for years to come.
- There is a widespread lack of capacity (financial, human, technical) of First Nations to engage in water governance, planning and management activities.
- There is great interest from First Nations with less capacity to work towards developing indigenous water/watershed plans.
- The majority of survey participants indicated an annual budget of under \$30,000 for their organization/community to participate in or engage in water governance, planning and management activities.
- 70% of survey participants spend less than 25% of their time on water projects/initiatives. Staff working in various environmental positions (e.g., lands and resources, natural resources, fisheries, Chief and Council) end up working on water projects/initiatives.
- The Social Network Analysis revealed that current collaborations between BC First Nations are generally low, with some noted exceptions. The few First Nations who reported a higher degree of internal capacity have a higher likelihood to collaborate with other levels of government and NGOs.
- If they had enough capacity, survey participants indicated that they would be interested in engaging in multiple water/watershed-related activities, with internal water/watershed planning being the most important one. Internal capacity building of First Nations is necessary for effective co-governance to take place with non-Indigenous governments and stakeholders.
- Key factors that determine the usefulness of a First Nations Water Network include sharing experiences, connections and knowledge.
- The project allowed for the identification of a handful of First Nations with more capacity that have developed indigenous water/watershed plans anchored in indigenous laws, governance systems, inherent rights and traditional knowledge.
- A resource database was developed with links publicly available for existing Indigenous documents on water and water-related initiatives. This provides invaluable information for other Indigenous groups as well as non-Indigenous water users or groups regionally or nationally to draw upon as they move forward with water/watershed initiatives.

Who participated?

- Over 50% of the participants indicated they were in a Lands and Resources, Natural Resources or Environmental position as a Director, Coordinator, Manager or Assistant; eleven participants were Fisheries Coordinators, Managers, Technicians or Directors four were either biologists or geomorphologists; seven were in a Chief or Councillor position; and, seven were categorized into 'Other'.
- Approximately 80% of the positions were full-time and the majority of participants have been in their position, regardless of the nature of the position, for 1 to 5 years (24 participants) or less than one year (18 participants).
- About 70% of the participants, who work directly on water protection or management projects/initiatives or work on water as a result of other projects/initiatives, actually spend less than 25% of their time on water projects/initiatives (e.g., water planning, water referrals, communicating with their community on water issues).

Development and Engagement in Water and Water-Related Initiatives

Common Characteristics or Principles in Developing Water and Water-Related Planning Documents

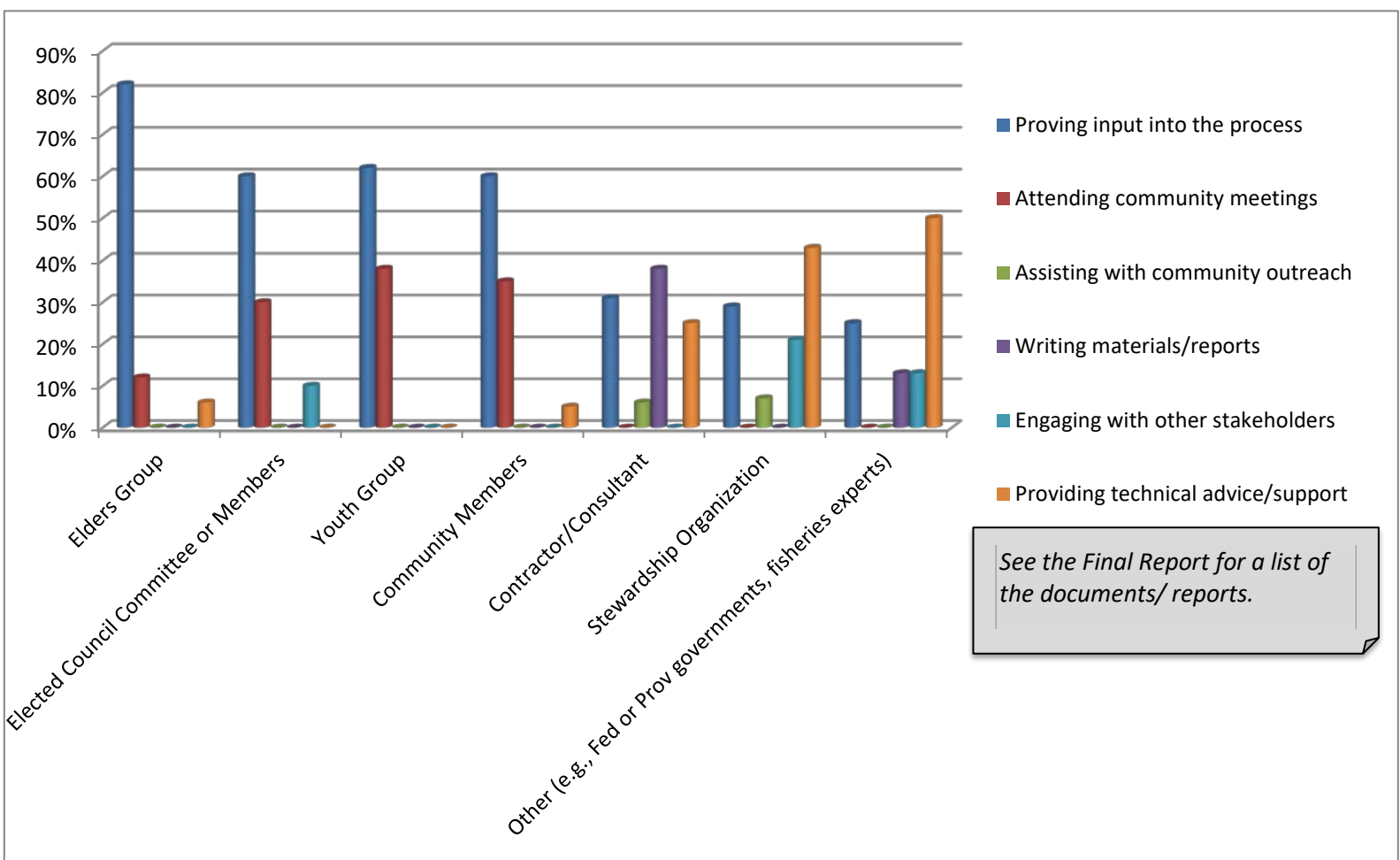
- » Collaboration with community members, governments and/or other sectors
- » Consultation and engagement to capture vision, values, mission and objective
- » Guidelines to protect environmentally and culturally sensitive areas
- » General land use or zoning designations
- » Actions for capacity building
- » Clear decision-making process

Traditional laws, values and customs are often weaved throughout the plans but particularly reflected in the plans' vision and principles.

Process to incorporate traditional values, laws and customs includes:

- » Engaging members through community meetings/cultural events/family meetings/advisory committees;
- » Conducting interviews, cultural research and video documentary;
- » Working with Elders, knowledge keepers and hereditary leaders; using traditional language; and,
- » Speaking to and incorporating community vision, oral histories and opinions regarding water and water use.

Figure 1: Who is Involved and How in the Development of a Water Strategy/Plan/Vision Statement/Declaration/Guiding Internal Protocol (based on survey with approx. 25% of BC First Nations)



See the Final Report for a list of the documents/reports.

SOCIAL NETWORK ANALYSIS

The goal of the SNA was to develop baseline social network maps that illustrate the people and their connections to each other and provide a preliminary look at the ties between First Nations and between First Nations and other levels of government and NGOs. While the following results of the social network maps represent only 25% of BC First Nations, it provides a useful starting point for a larger conversation on how First Nations may improve their water network by collaborating and sharing information.

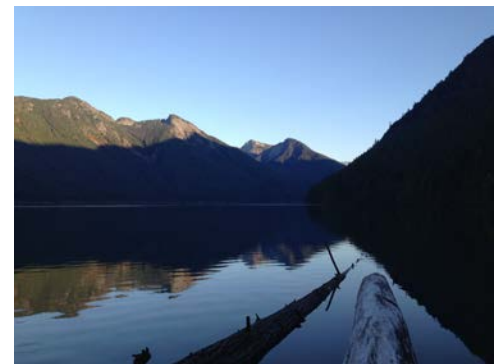
- Current collaborations between the BC First Nations are generally low, with some noted exceptions.
 - First Nations are generally operating in isolation with regards to water planning and governance.
 - 33% of survey respondents indicated no collaborative relationships with other First Nations.
 - NGOs and government (municipal, provincial and federal levels) do not play a significant role in improving the level of collaboration between First Nations in BC.
 - The reported low capacity is quite common across First Nation.
 - For the most part, First Nations who reported a higher degree of internal capacity have a higher likelihood to collaborate with other levels of government and NGOs.
 - In comparing this limited snapshot of the First Nations water network to other network types, it would be characterized as fragmented, decentralized and consisting of several isolated sub-groups.
 - Working towards a cohesive and polycentric network can lead to improved information flow and knowledge sharing, capacity to capitalize on new opportunities, value-creating interactions, opportunities for innovation and community member engagement through communities of practice.
 - Bridging organizational silos and building relationships through existing organizations could support the First Nations water network resiliency and foster improved community and collaboration amongst its members.
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Relationships and Connections ¹

Collaboration

Participants that were interviewed indicated that they are collaborating with different people inside and outside of the community on water licensing/permitting, planning and management.

Internally, participants are collaborating with community and Band/Elected Council. **Externally**, participants are collaborating with other First Nations and tribal associations/organizations (e.g., Okanagan Nation Alliance, FNFC), environmental NGOs (e.g., POLIS, CIER, Waterlution), government (e.g., Indigenous and Northern Affairs Canada, provincial government, Department of Fisheries and Oceans Canada, Environment Canada), corporations, universities, and consultants.



Characteristics of good relationships include:

- ✓ Good communication
- ✓ Sharing information
- ✓ Trust
- ✓ Developing an understanding of water issues and perspectives

“Reconciliation is re-empowering and assists in decision making process and that is necessary.”

~Interviewee, personal communication, February 9 2016

¹ The Project Team contracted [Limnology Research Corp.](#) to conduct the social network analysis (SNA) which resulted in the development of a SNA report. Limnology Research Corp. 2016. *Social Network Analysis*. Kelowna, British Columbia: Limnology Research Corp.

KEY CAPACITY CHALLENGES AND OPPORTUNITIES

Four biggest threats facing the watersheds:

1. Industry (hydro, LNG, logging/forestry, mining, resource extraction, oil and gas, storm water systems, dam, fracking);
2. Development (construction, urban growth, transportation routes, marine and road traffic);
3. Climate change; and,
4. Unsustainable water use (water shortages, security, usage, withdrawals, over permitting/licensing, water quality and irrigation over-use).

Two biggest capacity challenges:

1. Capacity/Resources (funding, training, staffing, educated human resources, technical expertise, time)
2. Government relationships (lack of contacts, local governments, access to provincial reps, provincial support, reluctance, lack of recognition of rights, poor/weak relationships, lack of consultation, overlapping jurisdictions, federal buy-in, local government cooperation)

In order to develop their own Water Governance documents (e.g. principles, strategy, plan, vision statement, declaration, or guiding internal protocol document), there is strong consensus among the First Nation participants regarding the critical factors for success (in order of importance):

- ◆ financial capacity
- ◆ human resource capacity
- ◆ technical capacity
- ◆ templates for plans/strategies
- ◆ chief and council support/endorsement/approval
- ◆ increased awareness and community engagement

Financial Capacities	Human Resource Capacities	Technical Capacities
<p>The general consensus is that First Nations do not have the financial capacity to engage in water governance or management planning/initiatives. The majority of participants indicated that the annual budget to directly participate or engage in water co-governance and management issues was under \$30,000.</p>	<p>There are challenges to attract employees within and outside the community to meet the needs of the First Nation.</p> <p>There is increasing pressure on First Nations' staff to deal with water issues in addition to fisheries, lands and resource matters.</p>	<p>Even though there is some internal technical capacity there is a strong reliance on seeking external support for writing materials/reports (Figure 1 above).</p>

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NEXT STEPS

The following is a suite of next steps for further work regarding indigenous water/watershed plans and co-governance arrangements in BC. These next steps are based on the results from the data collection (i.e., surveys and interviews), the FNFC Water Planning and Governance Workshop in April 2016 and the SNA. They highlight the widespread lack of capacity of BC First Nations to engage in meaningful conversations on water and collaborate with the Province and other non-First Nations stakeholders, especially since the WSA came into force on February 29, 2016.

Short-term (1-2 years)

- » Continue to engage in on-going communication with First Nations across BC to capture a more complete picture of specific capacity needs (human, technological, financial) and interests in emerging water/watershed related planning and governance issues; including exploring different approaches to making connections between Elders and youth; and expanding the FNFC First Nations Water Network activities to facilitate focused peer-to-peer learning on articulating traditional water laws.
- » Support interested First Nations' communities to develop regulatory options based in indigenous water laws to inform the development of regulations as part of implementation of the WSA.
- » Convene organizations working in the First Nations water/watershed governance space in BC to determine roles, niches, and gaps in order to work towards shared goals and potentially enhance collaboration.
- » Identify conditions necessary for First Nations' communities to engage effectively in water planning, governance and co-governance in their territories.
- » Scope, resource and implement a sustained pilot program to support interested First Nations communities to develop water governance, planning and management strategies in their territories which is required before effective co-governance can take place with non-indigenous governments and stakeholders in the future.
- » Conduct research and develop recommendations on sustainable funding and delivery mechanisms for BC First Nations' to support key water/watershed governance, planning and management activities in their territories.
- » Connect interested First Nations identified through the SNA to funders and/or collaborators for further discussion on the development of water/watershed or water-related planning, co-governance and/or management initiatives.
- » Disseminate needs assessment results to First Nations and assist communities in using the results to leverage support for indigenous water/watershed planning initiatives and governance arrangements.
- » Communicate needs assessment results to the provincial government, ENGOs, grassroots water groups across BC, and other interested stakeholders.

Medium-term (3-5 years)

- » Continue to implement a sustained pilot program to support interested First Nations' communities to develop freshwater governance, planning and management strategies in their territories and identify best practices to apply to other communities.
- » Re-assess readiness of First Nations across BC to engage in co-governance arrangements with non-indigenous governments and stakeholders in their territories.
- » Support First Nations' communities to develop and implement freshwater planning and governance rooted in indigenous water laws, including applying these to the regulatory development phase as part of implementation of the WSA.
- » Pilot sustainable water management funding mechanisms in First Nation communities.
- » Enhance the utility of the social network maps and create other networking visuals.

