

WATERSHED SECURITY FUND & STRATEGY DISCUSSION PAPER FEEDBACK

Submitted by the Indigenous Leaders Advisory Circle
of the Healthy Watersheds Initiative

MARCH 2022



**HEALTHY
WATERSHEDS**
INITIATIVE



BACKGROUND AND PURPOSE

The Indigenous Leaders Advisory Circle (“ILAC”) of the Healthy Watersheds Initiative and the Real Estate Foundation of BC, has been working collaboratively for one year to help guide and inform the work of the 61 projects in watershed restoration, planning, and monitoring. ILAC is a group of Indigenous leaders from across what is referred to as British Columbia who have worked on water issues or have connection through other forms of community and nation leadership.

As Advisors to one of the most significant investments in recent history in watersheds and watershed work, we have shared with the Healthy Watersheds Initiative (“HWI”) staff our collective experiences and knowledge and formed the following recommendations in response to the Watershed Security Strategy and Fund Discussion Paper.

Disclaimer: This submission represents a collective consensus of advisors from different distinct and sovereign First Nations, and does not constitute consultation with any of our respective nations.

WHO WE ARE¹

Mavis Underwood: Governor, Real Estate Foundation of BC, Board Liaison, Member of Tsawout First Nation, PhD Candidate (UVIC)

Aaron Sumexheltza, JD: Practicing lawyer and (former) Councillor and Chief of the Lower Nicola Indian Band Member of the Lower Nicola Indian Band

Deana Machin, MBA: Consultant, (former) Strategic Development Manager for the First Nations Fisheries Council of BC, Member of Syilx (Okanagan) Nation

Lana Lowe: Director, Lands, Resources and Treaty Rights, Fort Nelson First Nation, Member of Fort Nelson First Nation, PhD Candidate (UVIC)

Lydia Hwitsum, JD: First Nations Summit Political Executive, Chief of Cowichan Nation

Gordon Sterritt: Executive Director of Upper Fraser Fisheries Conservation Alliance, Pacific Salmon Treaty representative, member of Gitksan Nation (Wilps Wii Muuglisxw)

Kris Archie: Chief Executive Officer of The Circle on Philanthropy and Aboriginal Peoples in Canada, member of Ts’qescen First Nation

Dr. Roger William: Team Coordinator, Dasiqox Nexwagwez’an, member and former Chief of Xeni Gwet’in (Tsilhqot’in) First Nation.

Supported by: Tara Marsden/Naxginkw, HWI Senior Indigenous Advisor, member of Gitanyow Huwilp, Wilp Sustainability Director

¹ For full bios see the HWI Website: <https://healthywatersheds.ca/about/advisory-circle/>

LEARNING FROM HEALTHY WATERSHEDS INITIATIVE | 2021-2022

Over the past year, our Circle has advised HWI staff on implementation of funding delivery for both Indigenous and non-Indigenous led projects in most of the major watersheds in the province. Staff sought our input, guidance and direction on topics including:

- Importance of water culturally and spiritually for Indigenous Peoples, and maintaining ecosystems that support Indigenous food security.
- Supporting watershed projects through recent and ongoing climate crises and tragic findings at residential schools across the province and Canada
- Integrating decolonization practices into Healthy Watersheds Initiative
- Funding approaches that empower Indigenous sovereignty and environmental reclamation
- Greater understanding around meaningful, mutually beneficial, and impactful partnerships between Indigenous organizations and non-Indigenous organizations and local governments
- Importance of long-term, stable, predictable funding for watershed work
- Connection between healthy watersheds and the exercise of Indigenous rights and title (Aboriginal title lands especially)
- How to foster intergenerational learning between youth and elders and fostering future water champions in Indigenous nations
- Balancing quantitative data with narratives and story-telling on project outcomes
- How to reduce administrative burdens and barriers in funding proposals and reporting
- Greater understanding of the connection between human (community) health and watershed health
- How to amplify Indigenous voices at all levels of HWI from project staff, project leads, to decision-making on grants and future funding priorities
- How to foster and encourage regional collaboration at the watershed and sub-watershed scale
- How to respond with appropriate urgency to climate crises and restoration priorities, while still moving at the pace of meaningful relationships and partnerships
- How to evaluate our success in advancing UNDRIP – at the project level and at the program level

One year following the establishment of the Indigenous Leaders Advisory Circle, we have observed and supported the successful implementation of all Healthy Watersheds Initiatives projects, provided insights and direction in a timely manner that provides course corrections as staff learn while doing, and grown our own connections to one another as leaders in watershed work, stimulating Indigenous Elders and Youth to work together on restoration with respect for traditional knowledge and to connect grass-roots and community-based work to broader strategic level discussions on the Watershed Security Strategy and Fund and potential future funding under HWI.



FEEDBACK ON THE WATERSHED SECURITY STRATEGY AND FUND: DISCUSSION PAPER

Healthy Watersheds Initiative as a Learning Lab for Longer-Term Investments

To begin, it is encouraging to see the reference to the HWI and our Indigenous Leaders Advisory Circle as a Case Story² in the Discussion Paper. The unprecedented commitment to watershed health that was announced in late 2020, early 2021, with multiple objectives around watershed restoration, job creation, and advancing the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), has been a significant learning lab for longer-term investments in watersheds across all Indigenous territories in the province.

In addition to providing advice, guidance and direction, our Circle has been a bridge to the Real Estate Foundation of BC’s Board of Governors through Governor and ILAC member Mavis Underwood. This has had added another layer of accountability and transparency for funding delivery and financial updates, progress on key objectives, achievement of key milestones, and other aspects of good governance. Indigenous leadership, in a variety of forms from the technical expertise in fisheries and watershed work, to elected leaders, to elders and decolonizing funding leaders, are all integral to the long-term funding of watershed security work. An Indigenous oversight body is essential to the success of the Watershed Security Strategy and Fund, providing eloquent Indigenous perspective and life experiences needed to guide discussions of sustainability and relationships with Indigenous People and territory.

Relationship to Water

For Indigenous peoples, water is not a commodity. It is sacred and is the essence of life on our planet. Our cultures and histories are shaped by water, our ancient village sites often located near rivers and lakes, and our diets based on fish, marine life, or wetland species such as moose, beaver and various medicinal plants. Rivers and lakes also formed a critical transportation network around the province used by Indigenous Nations for travel, governance, and economic development. While each nation has their own histories, laws, teachings, cultural protocols and spirituality around water, we have learned that there is more in common than not amongst our nations.

The reverence for water is not shared by the majority of settler society, and in addition to restoration and reclamation from past damages, Indigenous peoples also bear the brunt of public education to help raise awareness about the importance of different waterways in our territories. For example, public awareness is needed to bring attention to the sacredness of sites such as the Liard Hotsprings, which are damaged or disrespected by visitors who have little knowledge or regard for the spiritual significance of the site.

For many of our nations, the biggest court cases and direct-action events have been around protecting water from industrial development such as hydroelectric development, mines and tailings ponds or oil and gas pipelines. Time and time again, we see Indigenous people standing up to protect water in the face of industrial proponents from outside our territories, who have little accountability after their development project has concluded or it is sold to another corporation.

² BC Ministry of Environment & Climate Change Strategy. *Watershed Security Strategy and Fund: Discussion Paper*. January 2022. Page 18.

We have also shared with HWI staff that water is a conduit for our well-being, kinship networks, and for community health. When our watersheds are healthy, it means we can access traditional foods and medicines, we are fulfilling our stewardship obligations, and we have access to clean drinking water that supports ecosystem function. When our watersheds face catastrophic events such as the recent flooding and wildfire cycles, Indigenous peoples have been displaced from their homes, affecting health and well-being.

As Indigenous peoples have been displaced from our territories through the process of colonization, our territories have suffered just as we have. An example is the cessation of prescribed burning that was a common practice among Indigenous peoples in BC prior to contact. Fire ecologists around the world are now recognizing that this practice helps reduce the severity of wildfires, and thus could help alleviate the subsequent flooding events in those same areas.

For the Watershed Security Strategy and Fund to be effective, it needs to support the reversal of Indigenous peoples' displacement from our territories. As we continue to reclaim rightful places in our territories, working in partnership with provincial, federal, and local governments, as well other partners, Indigenous-led work can achieve more durable and meaningful outcomes for the advancement of UNDRIP and the return of watersheds to their former natural states.

Water as Essential to the Exercise of Constitutional Rights

As Indigenous nations work to reclaim our territories through various forms of negotiation or litigation, the degradation of our waterways diminishes our ability to exercise our constitutionally protected and inherent rights to the land. The work of Healthy Watersheds Initiative has brought much needed resources to places requiring restoration to ensure that fishing, hunting, trapping, and gathering of berries, medicines and other plants can continue now and for future generations.

For the Tsilhqot'in specifically, the title lands recognized by the Supreme Court of Canada have sui generis status, and cannot be used for purposes that deprive future generations of practicing Indigenous/Aboriginal rights in a way their ancestors before them have. As other nations seek declarations of Aboriginal title in the courts, or through recognition agreements with the province and Canada, degraded watersheds limit the full exercise of our rights and title.

While our Circle has called for the increase of Indigenous-led projects through existing and future HWI funding, there is also a recognition that it is essential the broader community, organizations and businesses are held accountable for all impacts within a watershed and share the responsibility and labour of restoring and returning watersheds to a more natural state.

Respect and Recognition of Indigenous Laws

The Discussion Paper speaks at length to "integrating Indigenous knowledge in decision-making...alongside scientific knowledge."³ While this is an important and needed outcome for the Watershed Security Strategy and Fund, it is equally if not more important to recognize Indigenous laws and legal principles around water. Indigenous knowledge is embedded within cultures, worldviews, governance, and legal systems in our nations. Extracting Indigenous knowledge without recognizing relevant Indigenous laws and legal principles, for the purpose of justifying Crown colonial laws and decisions, is not the intention of UNDRIP.

In order to do this, more systemic change is needed, and this would go beyond the opportunities identified in the Discussion Paper regarding training in Indigenous knowledge, sharing examples, and others. The co-benefit to recognition of and respect for Indigenous laws is that when government does this in a robust and meaningful way, it greatly alleviates the "engagement fatigue" referenced under Outcome Three on Reconciliation.⁴ Supporting the documentation of Indigenous water laws, such as the HWI project lead by the Upper Fraser Fisheries Conservation Alliance (Yinka Dene Water Law: Implementing Tools for Fish Habitat Recovery), means that Indigenous peoples develop and express their laws related to water, and then government must ensure that any colonial regulation or legislative change is consistent with relevant Indigenous laws.

³ Ibid, page 16.

⁴ Ibid, page 12.

Breathing Life into UNDRIP

The Discussion Paper touches on UNDRIP, but does not go into detail on proper alignment of a potential Watershed Security Strategy and Fund with the Declaration. Through HWI, we have emphasized and tracked the advancement of UNDRIP with specificity to relevant Articles, evaluation of staff, gathering of data from projects, and providing training and capacity development tools for non-Indigenous project proponents. To truly advance UNDRIP, government needs to address and speak to the relevant Articles, and not gloss over the content of UNDRIP in favour of broader terms like 'reconciliation'.

Further, in addition to the provincial Declaration on the Rights of Indigenous Peoples Act, it is equally important to recognize each individual First Nation's position on and expression of UNDRIP. While provincial legislation is a good step forward, it is a compromise between leadership, and not necessarily reflective of each nation in BC.

Tracking successful advancement of UNDRIP for the Watershed Security Strategy and Fund can learn from the practices of HWI, as outlined below, and which will be captured in an upcoming UNDRIP Evaluation Report for HWI.

"Tsilhqot'in Elders always said that all the fish and wildlife spoke the same language. We as Indigenous people have practiced, attended meetings, lobbied, provided direct action and legal action throughout this Turtle Island about our Indigenous Rights and Title. Fish and Wildlife, Lands and Water and all its rights, that needs to be recognized and part of UNDRIP. Indigenous peoples' worldwide traditional law, our Dechen Ts'edilhtan (Traditional Law) believes, practices, and lives that law. All Water has Indigenous Rights."

Dr. Roger William
Dasiqox Nexwagwez'an
Team Coordinator - Community Outreach



ARTICLES OF UNDRIP THAT ARE SPECIFIC TO HWI INCLUDE:

UNDRIP ARTICLE	RELEVANCE TO HWI
18 - Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.	Decisions regarding funding for watershed projects, decisions regarding access to territories by non-Indigenous projects, decisions regarding future funding and watershed strategies.
20-2 - Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.	Redress can include environmental/ecological restoration, returning watersheds to more natural pre-contact state.
23-Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.	Many HWI projects speak of the connection between human and environmental health. Also, as a job creation initiative, HWI is also a social and economic program.
24-1- Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.	With a large proportion of HWI projects focussed on wetland health specifically, traditional medicines are often found in close proximity to wetlands and riparian areas. Restoration needs to ensure appropriate access to traditional medicines.
25- Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.	Participating in non-Indigenous led projects does not cede rights to the areas in question. Non-Indigenous projects encouraged to respect and include cultural and spiritual protocols and ceremonies into HWI projects.
26-Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.	Supporting Indigenous-led projects means greater support for occupation, stewardship, and restoration of Indigenous lands and waters. Future funding should have new targets for % of Indigenous-led projects.
28-Indigenous peoples have the right to redress, by means that can include restitution or, when that is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.	Redress for degradation of watersheds can include ecological/environmental redress, returning the land and water to their original state.
29 -1 -Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.	HWI can be considered a conservation program, and Indigenous peoples and their projects are welcomed and considered without discrimination. Moving decision-making power for project approval outside of government will further entrench this.

<p>36 – Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations, and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.</p>	<p>Water does not recognize or conform to colonial borders, thus there are many downstream effects and interests related to several HWI projects. Staff have encouraged project proponents to engage those Indigenous peoples regardless of provincial/federal borders.</p>
<p>39 – Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.</p>	<p>As a funding opportunity that has been characterized as ‘once in a generation’ in terms of scope and scale, it is imperative that Indigenous peoples have had access to as much as possible to support their watershed priorities. With 1/3 of HWI projects being Indigenous-led, it is a good start but targets to increase this % are needed for future funding.</p>

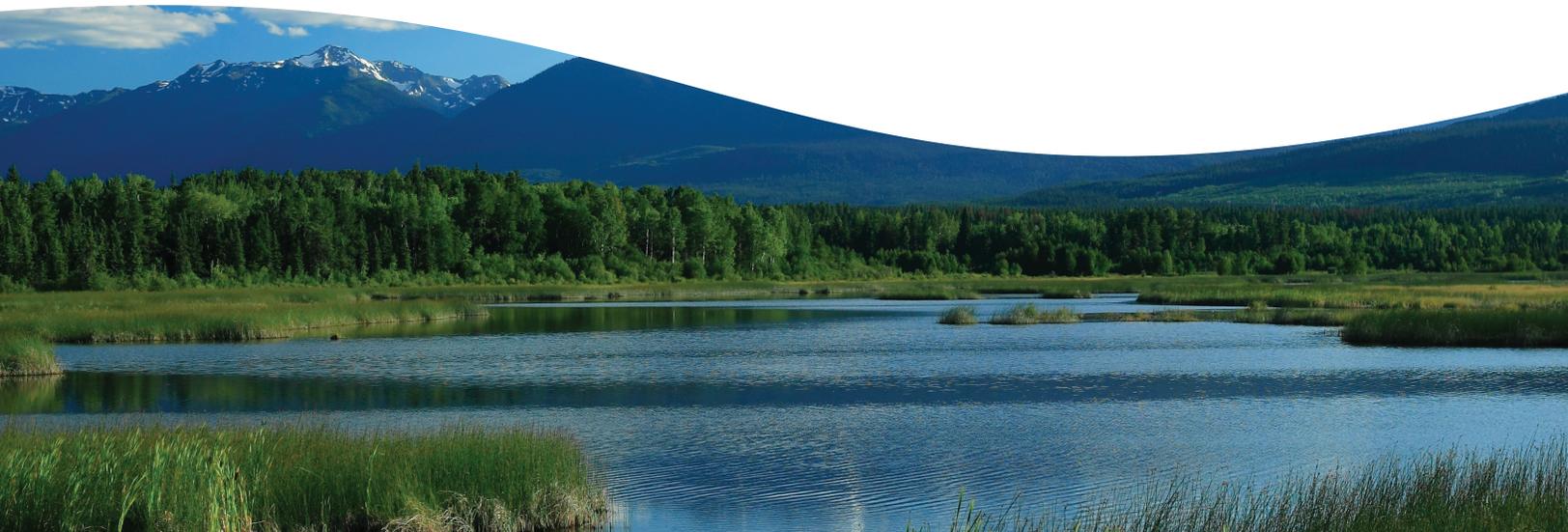
Watershed-Based Collaboration

Our Circle has discussed at length best practices to encourage and prioritize collaboration and partnership at a watershed or sub-watershed level. There are many reasons why this makes sense, these include recognition of natural features over colonial jurisdictional administrative boundaries, maximizing positive impacts with funding efficiency, and building enduring relationships for future work. We have reflected on the fact that other funding programs have offered more funding where more than one organization is an applicant. While this encourages and incentivizes partnerships, it does not always result in more partnerships as an outcome.

Our Circle instead proposes that regional collaboration on watershed work be encouraged by a neutral party (such as HWI staff) to convene multiple groups in a watershed or sub-watershed prior to proposal calls to help inform one another of different project ideas and provide a safe space for dialogue and exploration of partnership opportunities. Either way, there is a strong recognition from our Circle that thinking and acting like a watershed is integral to funding, governance, and shared and joint decision-making. This is further amplified by the reliance of local governments on water, without having any constitutional obligations to Indigenous peoples that would necessitate relationship-building.

Focus on Immediate Action for Most Impactful Industries

The Discussion Paper explores various soft commitments to ‘assess’ or ‘identify’ opportunities, but does not speak to urgent action on preventing damage to watersheds from those industries which have the most significant impacts – including forestry, hydroelectric development, natural gas extraction (LNG), oil and gas, mining and agriculture. There are many sources to draw on for recommended action to address these industries’ impacts on watersheds, including the recent BC Forest Practices Board Report on Forest Practices and Water: Opportunities for Action. Another source for prompting immediate action is the Blueberry River First Nation (Yahey) BC Supreme Court Decision, which includes clear recommendations for systemic change on decision-making, cumulative effects and infringements to Indigenous rights.



Natural Solutions to Watershed Restoration

Our Circle has discussed the need for more natural solutions to restoration of watersheds. The recent example of water reclaiming salmon habitat in the area of the former Sumas Lake, during the 2021 flooding of "Sumas Prairie", has provided a clear indication of the power of water to return to its original state. As climate change causes more extreme weather events, it is imperative that restoration returns watersheds to the most natural state possible. Project proponents need to understand the history of the watershed, including history of Indigenous occupation and use, changes since contact, and current state.

One of the key activities in a majority of HWI projects is around the removal of invasive species, planting of native species, and replanting of disturbed riparian areas. This is a small step forward on a large scale across multiple watersheds and territories, and should continue to guide the work of implementing natural solutions to industrial and residential impacts to watersheds.

Watershed Fund Before Strategy

In keeping with the First Nations Leadership Council recent recommendations⁵, we agree that establishing the Watershed Security Fund needs to be the first step in the overall Watershed Security Strategy. As outlined in their letter to Minister Heyman, "a strategy with no associated funding runs the risk of hollow and/or underachieving commitments that fail to ensure our watersheds are healthy for our future generations."

Further, HWI is evidence that sometimes being motivated by crisis (economic recovery from the pandemic) can prompt meaningful and lasting change, and that while strategy and governance need to inform the fund, we cannot delay until lengthy discussions, negotiations and needed legal reforms are in place before we continue to fund meaningful work to restore and protect sacred watersheds.

Photo Credit

Cover: Scenic shot at one of the B.C. Wildlife Federation Wetlands Workforce project's wetland site near Kimberley BC. (Photo: Cheyenne Bergenhenegouwen, HWI)

Page 2: Goldstream-wxgkpiimxoa. (Photo: Cory Schadt)

Page 4: Drone imagery of a wetland site assessed through the Wetland Ecosystem Services Protocol. (Photo: Kyla Rushton, BCWF)

Page 6: Field Crew Supervisor with the Wetlands Workforce and Northern Lights College Student identify a plant species during WESP training in Northern BC. (Photo: Cheyenne Bergenhenegouwen, HWI)

Page 8: Valemount Scenery (Stock Imagery)

⁵ First Nations Leadership Council Letter to Honourable George Heyman, date Nov. 30, 2021.