

November 19, 2014

**Standing Committee on Agriculture, Environment, Energy and Forestry
First Report of the Fifth Session Sixty-fourth General Assembly
Committee Activities**

Madam Speaker and Members of the Legislative Assembly:

Introduction

The Standing Committee on Agriculture, Environment, Energy and Forestry is pleased to present its report to the Members of the Legislative Assembly concerning its activities during the Fourth Session of the Sixty-fourth General Assembly.

Mandate

The Standing Committee on Agriculture, Environment, Energy and Forestry is charged with matters concerning agriculture, environment, energy and forestry. In addition, it may, by majority opinion, meet to examine and inquire into such matters and things as the committee deems appropriate.

Membership

Permanent members of your committee are:

Paula Biggar, Chair (District 23, Tyne Valley-Linkletter)
James Aylward (District 6, Stratford-Kinlock)
Kathleen Casey (District 14, Charlottetown-Lewis Point)
Bush Dumville (District 15, West Royalty-Springvale)
Colin LaVie (District 1, Souris-Elmira)
Pat Murphy (District 26, Alberton-Roseville)
Hal Perry (District 27, Tignish-Palmer Road)
Buck Watts (District 8, Tracadie-Hillsborough Park)

Gerard Greenan (District 22, Summerside-St. Eleanors) served as a substitute member.

Committee Activities

Over the course of the year, your committee received 29 presentations and 16 written submissions on the moratorium on new high capacity groundwater agricultural irrigation wells, sometimes referred to as deep water wells. Your committee issued an interim report on this subject in April 2014, and has continued its investigations on it since that time.

On June 12 your committee met to receive presentations on PEI's changing climate from Dr. Adam Fenech; and on high capacity irrigation wells from representatives of J.D. Irving, Limited; and Cavendish Farms; the PEI Potato Board; the Institute for Bioregional Studies; and the Atlantic Chapter of Sierra Club Canada.

On June 25 your committee met to receive presentations on high capacity irrigation wells from Dr. Cathryn Ryan; the PEI Aquaculture Alliance; Mr. Bill Trainor; Rev. Karen MacRae; and the Citizens' Alliance of PEI.

On October 15 your committee met to receive presentations on the Canada-Europe Comprehensive Economic and Trade Agreement (CETA) from a coalition of citizens groups and unions, and from the Atlantic Chapter of Sierra Club Canada.

On November 4 your committee met to receive a presentation on high capacity irrigation wells from the PEI Fishermen's Association.

On November 13 your committee met to discuss its report to the Legislative Assembly.

Recommendations

1. Your committee does not recommend lifting the 2002 moratorium on new high capacity wells for agricultural irrigation at the present time.

2. Your committee continues to recommend the development of a water act.

Your committee is pleased to hear that government plans to develop a water act that will address water supply, quality, conservation and other matters.

3. Your committee recommends that public consultation toward the development of a water act be inclusive, extensive and transparent.

The number of presentations and submissions, and the public turnout at committee meetings demonstrate that Islanders have significant concerns on this issue. These concerns are for water and natural resources generally, not only the moratorium on high capacity irrigation wells. Many witnesses called for a review of water policy in the broadest scope, and this is indeed necessary for new legislation to be truly comprehensive. Some witnesses indicated that while they appreciated the committee's efforts, testimony before a legislative committee is not the most welcoming method of providing public input. Others cited the recent *Lands Protection Act* Commission and Task Force on Land Use Policy as examples of effective and engaging public consultation efforts, and government may wish to take a similar approach for water legislation. Your committee is quite willing to forward submissions and transcripts of its meetings on high capacity irrigation wells to whichever individual, agency or commission leads the public consultation process, but believes there is still more input to be gathered.

4. Your committee strongly recommends that a thorough review of the scientific basis for our water policies be undertaken as part of the development of the water act.

Conflicting views were presented to your committee on whether science supports the moratorium on high capacity irrigation wells and the current water extraction policy. Your committee is not in a position to pass judgment on the scientific basis of current policy or determine scientific consensus for future policy. **However, witnesses put forward several suggestions of what a review should include:**

A) identify and address knowledge gaps;

Multiple areas of uncertainty surrounding water use were brought to your committee's attention. For example, what is the effect of high capacity extraction on nitrates distribution in the water supply? Also, is it sustainable to allow the same level of extraction of the mean summer base flow in all PEI streams, or should the level be fine-tuned on a watershed-basis? Experts may have answers in these areas, but in general your committee's investigations yielded more unknowns than certainties. At the outset of the water act development process it will be important to eliminate weaknesses in our knowledge and understanding of the resource, otherwise a weak policy will be the result.

B) use recent data and collect new data where necessary;

It was argued that some studies used in the development of the current water extraction policy are outdated. With a rapidly changing climate and increasing demands on our water supply it is not wise to rely on data and studies that no longer reflect the state of the resource. Ten years was suggested as a suitable threshold for relevance.

C) consult and follow the recommendations of specialists in a wide variety of fields, including but not limited to hydrogeology, climatology, ecology, agriculture, fisheries, forestry and wetlands;

Water is fundamental throughout the natural world and policies on its use should not be based on an isolated view of it. Instead, they must factor in the complexities of the water cycle and the multitude of interactions it has with species, naturally occurring and human-made habitats, and external influences. A wide knowledge base must inform our use and protection of this resource.

D) employ independent scientific peer review;

To be the basis on which our policies rest, the scientific representation of our water resource must be exposed to expert evaluation and criticism. Preliminary data, unpublished reports, and information that has not been subject to the scrutiny of the scientific community should be approached with caution and, at most, only used provisionally until peer review is complete.

E) increase monitoring efforts and commit to maintaining them in the future;

Current monitoring of existing high capacity wells is insufficient. As of 2014 there are 36 high capacity agricultural irrigation wells that were put in place before the 2002

moratorium. The Department of Environment, Labour and Justice has indicated that these have not been monitored on a long-term basis. There are also many more high capacity wells for municipal and industrial/commercial use; the committee is uncertain of the exact number of these or the extent that they are monitored. Management of our groundwater resource requires more monitoring of all high capacity wells across the Island, and consistent monitoring of those wells over time.

F) make data gathered from monitoring publicly accessible;

Your committee recognizes that data from 16 groundwater wells are available on the Department of Environment, Labour and Justice website, as are stream level, pesticide monitoring and water quality data. With increased monitoring, particularly of all forms of high capacity wells, your committee sees no reason not to publish more data on how our shared resource is being used.

G) incorporate flexibility so that new policies can be adjusted in response to our changing climate;

There is no ignoring that our climate is changing and change may be the only constant over this century and beyond. More frequent periods of drought, higher intensity precipitation, sea level rise and ocean acidification are just some of the major changes that are affecting our water supply and will continue to do so. Policies on water use and protection must incorporate our best predictions of the future based on recent trends, and must be adaptable so that the negative effects of climate change can be mitigated. The development of a comprehensive water act is an excellent opportunity to do this work.

H) follow the precautionary principle throughout.

It is clear that current and future actions in regard to PEI's water supply should be guided by the precautionary principle: the lack of scientific certainty or consensus regarding a potential environmental threat is not a reason to avoid taking protective measures against that potential threat.

5. Your committee recommends that the Department of Environment, Labour and Justice review, strengthen and enforce the *Agricultural Crop Rotation Act* to promote good soil management and efficient use of water.

According to the Department of Agriculture and Forestry, most of PEI's agricultural soils contain only 2-3% organic matter, and only 20% of potato fields have organic matter above 3%, which is the level commonly considered to be good quality.¹ As organic matter content decreases, soil erosion potential increases. Further, the 2012 report on PEI soil quality monitoring found that

¹ "Nature of PEI Soils." PEI Department of Agriculture and Forestry.
<http://www.gov.pe.ca/af/agweb/index.php3?number=71772>

“organic matter in PEI will continue to decrease over time under the current rotation systems.”² Witnesses argued that raising soil organic matter should be a priority so that the water that is applied to crops is used more efficiently, and your committee agrees. It is evident that improvements in soil organic matter will not occur in the absence of changes to crop rotation practices. To encourage more sustainable practices in this regard, your committee calls for a review of the relevant legislation and regulations, and greater enforcement of them.

6. Your committee encourages the Department of Agriculture and Forestry to continue to work with the agriculture community to further promote stewardship efforts.

Farmers make significant contributions to the protection of our natural resources on their own and through incentive programs like ALUS 2. Additional innovative programs that foster the protection of our land, air and water while allowing the Island’s agricultural tradition to continue would be of benefit to all Islanders.

7. Your committee stresses that water is a shared resource and that we are all responsible for ensuring it is used sustainably.

The request to consider lifting the moratorium on high capacity irrigation wells came from the agricultural community. However, the agricultural groups who addressed your committee in favour of lifting the moratorium only want this to occur if there is sufficient certainty that it will not cause harm. Not all farmers want the ability to extract groundwater at high capacity, and whether in favour of the moratorium or not, many farmers would find irrigation infrastructure prohibitively expensive or inappropriate for the geography of their farms. There are many voices and perspectives in the agricultural community, and even those who would like to have increased access to our water resource recognize that it must be demonstrated that such access would be sustainable.

Statistics presented to your committee by several witnesses indicate that agricultural irrigation accounts for only 1% of total water usage on PEI. The industrial/commercial and residential sectors are the largest sources of water use; in fact, high capacity groundwater wells exist for these purposes and are not subject to a moratorium. Clearly, policy must reflect that water is a common resource meant to be accessible to all, and measures to protect it must exist in all contexts. As we move toward the development of a new water act, your committee calls on all Islanders to become aware of water issues, to participate in public consultation, and to do their part by using water in a sustainable fashion.

8. Lastly, in regard to the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), your committee recommends that government be vocal in defending PEI’s interests as the agreement process continues.

Concerns regarding CETA’s potential effects on PEI’s agriculture industry and regulatory autonomy have been brought to your committee. These warrant further investigation and discussion with provincial and federal representatives, which committees may wish to

² “Prince Edward Island Soil Quality Monitoring – 2012: Soil nutrient status over the last 15 years in Prince Edward Island.” PEI Department of Agriculture and Forestry. http://www.gov.pe.ca/photos/original/af_sw_soilq2012.pdf

undertake in the fifth session. In the meantime, your committee urges provincial representatives to be vigilant as the agreement develops and to ensure that PEI's interests are protected.

Conclusion

Your committee extends its thanks to the individuals and organizations that submitted their views in the past several months, and to the many members of the public who attended committee meetings. It is encouraging to see such public engagement, and your committee hopes the public takes every opportunity to participate in the development of a new water act.

Respectfully submitted,

Paula Biggar, MLA
Chair
Standing Committee on Agriculture, Environment, Energy and Forestry