

Valhalla Wilderness Society

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Slocan Lake Stewardship Society
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RE: COMMENTS ON THE JANUARY 31 PRESENTATION OF THE SLOCAN LAKE STEWARDSHIP SOCIETY

Dear Slocan Lake Stewardship Society:

Three directors of the Valhalla Wilderness Society (VWS) attended your January 31 presentation of the Fish & Wildlife Habitat Assessment and the Shoreline Management Guidelines for Slocan Lake. The Slocan Lake Stewardship Society (SLSS) asked for input from the audience. This submission is more or less on planning and process issues; Wayne McCrory will be sending you a review of the scientific/ecology issues.

The Valhalla Society is well aware of the integrity and sincerity of the people in the Stewardship Society. The scientific studies that the SLSS has undertaken are an invaluable resource and service to the community and the conservation of the lake. However, the draft Shoreline Management Guidelines are the beginning of another direction entirely. They were produced by the SLSS in partnership with the Department of Fisheries and Oceans (DFO). According to your advertisement in the newspaper, DFO already supports these guidelines. Given that DFO is one of the agencies, and certainly the highest agency, with jurisdiction over the lake, that gives these guidelines the weight of something becoming a reality.

These guidelines represent a proposed government policy to guide the issuance of permits for docks, marinas, boat houses, and components of lakeside residential development such as geothermal loops to accommodate solar heating systems, retaining walls and infill. The presentation even included a model application form showing how people can apply to Front Counter BC for foreshore developments, using the zoning guidelines presented at the meeting, with SLSS imbedded in the guideline document.

The guidelines are based only on an inventory of fish and wildlife values of the foreshore and littoral zones of the lake. If adopted by government, they could be used to permit any of the foreshore developments mentioned above, without regard to the value of a natural shoreline and unpolluted water, to the devastating impacts of commercial development such as rentals of houseboats or jet skis, impacts on drinking water, and many other impacts on our communities.

We understand that additional values would have to be assessed in order to form a complete management plan. VWS directors had the impression that the SLSS intends to take further steps

towards a plan. However, there was no indication when that would occur, no further public involvement mentioned.

The method used by these guidelines, of identifying certain areas of the shore for development, fails to take into account that water transports point-source impacts over long distances. Thus only one resort-marina-boat rental development could affect the whole lake; only one pulp mill or other pollution source could affect the whole lake. To show the difference between science and planning, it is a great benefit to have the information about which creeks have fish habitat where they flow into the lake, and what kind of fish use them. But the 150-250 metre buffer zones around the mouths of creeks are subjective and meaningless, given that both pollution and fish would not recognize these boundaries.

Luce's presentation showed that a consulting firm, EBA Engineering, was on the committee that decided on the criteria for sensitive areas in the draft Management Guidelines. We also understand from talking to Barbara Yeoman that EBA Engineering was hired by the SLSS to rate habitat values and analyze data. Your members and directors may not know that EBA Engineering is a Kelowna company that engineers marinas and also does studies for Environmental Assessments. Given that the possible permitting process for marinas is at issue here, and the only protection tool is Environmental Assessments (possibly any number of them, requiring the services of EA consultants) VWS strongly objects to EBA's participation as a likely conflict of interest.

You might also wish to be aware that the BC-wide Lake Stewardship Society (BCLSS), of which the SLSS is an affiliate, is funded by numerous consulting companies that could possibly benefit from the employment if the lake were developed. While some of these are environmental consulting companies, most of the employment they might gain would come from the developers. Some of these companies are advertised as sponsors on the Slocan Lake Stewardship Society page of the BCLSS website.

The draft Shoreline Management Guidelines for Slocan Lake designate only 5.9% of the lakeshore for foreshore protection. VWS is unable to understand why these particular areas were rated as "Very High" value for fish and wildlife habitat, and recommended for protection, when others were not.

The other 94% of the lakeshore, including Valhalla Park, would be open to development. A large part of this area, comprising 69.1% of the lakeshore, is rated "High" value, with development subject to an Environmental Assessment for High risk activities. Many people believe that an EA will prevent development. But experience, such as with the Jumbo Glacier Resort EA, shows that developments are approved by the EA process even when massive environmental damage will clearly take place.

Public Process Concerns

The public meetings held by SLSS are highly commendable and well done. But despite the SLSS's partnership with DFO, these meetings do not represent public consultation by government, the SLSS alone does not represent the community, and some aspects of the guidelines, while appearing to be scientifically based, are suspect as being biased for the reasons we cite above.

We wish to make it clear that VWS would have no objections to the SLSS writing proposed guidelines and passing them by the public. However, when this is done with three levels of government, under a partnership to the federal government, and when the government has many thousands of dollars and two-years of involvement into it, one wonders how much the government is willing to change the guidelines in response to public input, even if a formal public input process took place? It has been well-recognized by two distinguished BC forestry and planning commissions that public input has to occur early enough in the process, before the expenditure of vast sums of money, to make a difference and to be meaningful.

The Official Community Plan meetings and an RDCK survey showed that a large majority of people living around the lake want strong protection from lake development and harmful lake activities. We do not believe that these guidelines represent this large segment of the valley population. The government must recognize that other people besides the SLSS have been working to protect the lake. For instance they have:

- proposed a regional park for the whole north end of the lakeshore extending from the north end of Valhalla Park around and back to Rosebery. The OCP now endorses studying the feasibility of a regional park.
- helped to save the Valhalla Mile, which demonstrated a huge outpouring of public support for preservation, leading to one of the strongest covenants registered with BC Parks to prevent any foreshore or other development in perpetuity. Protection of the foreshore was a large selling point in saving Valhalla Mile.
- accomplished the successful removal of two illegal mining claim trailers after citizen's protest from the beach of Shannon Creek, the removal of which has now received widespread public support.

The Valhalla Wilderness Society believes the government acted inappropriately and unfairly in developing and supporting management guidelines for Slokan Lake in consultation with only one community group. If VWS had had an equal opportunity to participate, we would have pointed out that Valhalla Park is managed under the *Park Act*, and as such should never have been included in the terms of reference of the Shoreline Management Guidelines. Since the *Park Act* has been amended in recent years to allow large, luxury resorts, a plan that designates the foreshore of the Park for development is dangerous and inappropriate.

PRELIMINARY VWS RECOMMENDATIONS FOR PROTECTION OF THE LAKE

VWS recommends that all measures to regulate use and development of the lake should take into account the long-range transport of impacts by water. Certain activities should be banned by law or by zoning. We recommend the following:

- No sales of Crown land – development stays confined to existing private land;
- Conservancy designation for ALL Crown land around the lake where it borders the unprotected lakeshore;
- Zoning so that residential development along the lake is low-impact and low-density, i.e. no subdivisions, high-impact resorts or condo developments;

- No marinas; no docks for commercial purposes such as the sale of gasoline, and no private docks associated with housing development.
- Motorboats allowed, houseboats banned.
- Commercial motor boat rentals banned, including jet skis and houseboats.
- No more logging along the lake;
- Strong protection from pollution.

BACKGROUND DETAILS

THE NATURE OF GUIDELINES: SCIENCE OR MANAGEMENT PLAN?

In planning circles, the Shoreline Management Guidelines would be widely recognized as the fish and wildlife “layer” or the DFO “layer” of a lake management plan. Lake plans, like land use plans, can aid development as much or more than conservation. With such guidelines, government makes a positive statement that development is allowed in certain areas, and that it has exercised due diligence in consulting the public and using scientific studies. If the SLSS guidelines should be adopted by government, and the government wanted to allow a large marina development to be built on the lake, many residents may say “no;” but the government could point to these guidelines and say they were produced and approved by “the local community”.

It was evident from the January 31 presentation that government had significant influence in the writing of the guidelines. VWS recognizes the inevitability that the three levels of government would have major influence and control over any management policy or plan for the lake. But in creating a plan, the *order* of the planning steps makes a crucial difference. If the SLSS and the three levels of government work together on the initial draft, that means there is no record of what the SLSS, left to itself, would have wanted. And with the SLSS being the only representative of local citizens in the process, it means that there is no record of what the public wants, in the final package to be sent to the provincial and federal governments.

WHAT DO WE MEAN BY “PROTECTION” FOR SLOCAN LAKE?

For most of us protection of the lake is defined by the difference between Okanogan-style development, and the way of life in the Slocan Valley. We are aware of having stewardship responsibility for an extraordinary resource: a huge fjord-like lake left by glaciers; southerly and warm enough to be swimmable; half wilderness and half settled by villages and farms.

This is the only large lake in southern B.C. outside parks that has avoided high-impact development that has destroyed natural values. Opening the door to mega-development and mega-profits commercial boat recreation on Slocan Lake would be like shooting the last wild buffalo. We want the BC government to recognize Slocan Lake as a world treasure and hold it in trust for public use and for all the wildlife that lives here.

But it is now important for those of us interested in protection to start defining exactly what we mean by it. VWS has done that in the recommendations above.

In past years, in full public view during a planning meeting for the Official Community Plan, a huge majority of lake residents identified “protecting the lake” as the top priority for planning. They wanted no jet skis on the lake and only low-impact development. Their position was enshrined in a general way in the Official Community Plan for New Denver:

“5.0 Broad Goals

“Environmental

1. Protect the natural environment.
5. Ensure that development does not adversely harm or detract from identified wildlife corridors and areas with high wildlife and fisheries habitat value.
6. Protect the quantity and quality of water resources and waterways.
8. *Ensure the pristine quality and nature of Slocan and Summit Lakes.*

“Social

6. Ensure future development and growth is compatible with community values (e.g. scenic vistas, green space, privacy, quality of life, low population density, rural ambiance).
7. *Protect and enhance public access along the foreshore of Slocan and Summit Lakes.”*

In 2007 the SLSS was incorporated as a nonprofit society under the *Societies Act*, with the following purpose: a) “To research and cooperatively plan guidelines that will ***insure the care and protection of Slocan Lake and foreshore.***” (emphasis added).

We were told at the meeting that the SLSS directors are split on the issue of protecting the lake, and that some do not want protection. On the other hand, it is self-evident that the large amount of work done by the members and directors over the last three or four years has been aimed towards some kind of environmental stewardship. VWS recommends that it would be helpful if the SLSS defined what its purpose statement means by protection.

- Existing and potential members of the SLSS would know what they are supporting or being asked to support.
- VWS and other players would have a better idea of their own role once they understand that of the SLSS
- SLSS directors would have clarity in what they are legally supposed to support.

ENVIRONMENTAL ASSESSMENT PROCESSES

BC and federal Environmental Assessment laws already give us the right to an Environmental Assessment (EA) on major projects. The draft Shoreline Management Guidelines, if approved by government in their current form, would substantially increase the possibility of an EA on smaller projects. However, EA processes have never protected the environment and in the last few years they have seriously deteriorated.

One argument says that EAs would discourage development because they would make projects more expensive. But lakefront development everywhere around the world has become hugely profitable. Experience has shown that the expense of an EA is not a deterrent where the profits to be made are huge. And does anyone look forward to the huge amount of citizens' time and money that it takes to participate in even one EA?

At their best, Canadian and BC Environmental Assessments seldom turn down projects. Instead they offer "mitigation." In practice mitigation usually means minor adjustments to projects to lessen environmental damage, which may still remain major and irreversible.

In the Kootenays, when we think of Environmental Assessment, we think of the huge Jumbo Resort EA, and perhaps further back to the even larger EA on the expansion of the Celgar Pulp Mill. But these projects were rubber-stamped despite proof of extensive environmental damage.

The large panel reviews are relatively rare. Ninety-nine percent of EAs are "screening processes." This means they are merely internal government referral processes in which the developer submits studies done by its own consultants, and the government bureaucracies review the reports. *Public input is not required in a screening process, but is discretionary by the agency managing the EA.* A federal EA can be managed by any of 35 federal agencies.

Here are some recent Environmental Assessments that everyone should know about:

- **Glacier Howser EA** - The proposed project includes two dams, the diversion of four creeks that will remove most of the water from them permanently, 16 kilometres of tunnel big enough to accommodate a dump truck, the dumping of a huge quantity of waste rock near streams and rivers, with potential acid drainage into the nearby creeks and lakes, seismic lines and the logging of 91 kilometres of corridor for transmission lines. But the provincial Environmental Assessment provided no panel review, and gave the public only 45 days for review and comment of over 1,000 pages of environmental impact statement by the proponent. This is why over 1,000 residents attended the meeting and blasted the proponents and the government. The project has been deferred to do further fish studies.
- **Denman Island seismic testing EA** - Last year, scientists exploded large quantities of dynamite in deep holes drilled on Denman Island, near a site where Sandhill Cranes were nesting. Protesters were told that the project had undergone a full provincial and federal Environmental Assessment. The only problem was: no one knew about it. It turned out to be a screening process run by the Natural Sciences and Engineering Research Council of Canada (NSERC). NSERC made a decision to have no public input. Sierra Legal Defense Fund sent a letter of complaint, citing a number of irregularities and possible violations of the *EA Act*. The Valhalla Wilderness Society attempted to get copies of the provincial government's scientists' reports. Although NSERC had authority for the EA, the provincial government issued the permit. The scientists told us that the BC and federal EAs were linked, but the permitting agency – the Bureau of Integrated Land Management – claimed it did not have an EA and thus didn't need to give out the reports. Despite a previous court ruling that EA materials should be public information without need of a *Freedom of Information Act* request, the BC government's claim that it did not have an EA meant that we had to go through the *Freedom of Information Act*, with months of delays.

- **Red Chris Mine EA – EA illegal but Supreme Court allows mine to go ahead.**

Recently, in *Mining Watch Canada v. Canada*, the Supreme Court ruled that DFO was in violation of the *Environmental Assessment Act* in the Red Chris Mine EA. By law the project should have had a comprehensive panel review. But DFO removed the mine itself from the project description so that only fragments of the project could be considered. This made the “project” smaller so that it no longer qualified for a comprehensive review. Instead it was bumped down to a screening review without public input.

The mine plans to flood a valley by damming the headwaters of three major salmon streams in an area called the “Sacred Headwaters” in northern BC, and use it as a toxic tailings dump. This is expected to wipe out rainbow trout in a downstream lake, said by natives to be the best trout lake in the region. It is also expected that groundwater seepage from the reservoir will contaminate the rivers.

Despite declaring the EA illegal, the Supreme Court ruled that the project could go ahead because the proponent had cooperated with the EA process and now had financial equity in the project.

- **Taseko Mine EA** – The BC Environmental Assessment Office just approved this open-pit mine near Williams Lake, saying that “the project is not likely to result in any significant adverse effect, with the exception of the loss of Fish Lake and Little Fish Lake.” The EA offered, for compensation, that the mining company would build a new lake for fishermen.

THE ENVIRONMENTAL ASSESSMENT/MITIGATION INDUSTRY

When counting all the businesses that could profit from developing Slocan Lake, include the Environmental Assessment/mitigation industry. Environmental Assessments are mostly based on assessments made by the consultants of the developers. Mitigation is almost always the excuse that’s made for approving hugely damaging projects.

The Shoreline Management Guidelines state three methods of mitigation: 1) avoiding impacts, 2) minimizing unavoidable impacts, and 3) compensation. Residents who followed the EA on the Jumbo Glacier Resort may remember a classic form of compensation: the developer’s consultants proposed that the government could compensate the destruction of grizzly bear habitat by creating new grizzly bear habitat elsewhere – this by locking recreationists out of popular recreation sites. Another form of compensation might be destroying fish spawning areas in one creek, and enhancing fish habitat somewhere else.

The huge Celgar Pulp Mill expansion and Jumbo Resort EAs were a literal gravy train for scientific consultants. If the public could know that their work would make a difference in the outcome of the project, saving critical environmental values, that would be terrific. We’d all have campaigns showing how protecting the environment helps the economy. Unfortunately, this is not the case when development projects are inevitably rubber-stamped. After jobs assessing the impacts of the project, there may be jobs involved in the construction phase of the project, or jobs monitoring the damage. So consulting jobs turn out to be one of the main benefits of Environmental Assessment.

There are many complex facets of this problem, not the least of which is all the government scientists being put out of work by privatization and deregulation. This has brought the loss of

scientific studies and monitoring by unbiased public servants, and with it, the requirement that scientific studies be done by the developers, who have an inherent conflict of interest.

Struggling to make up for this, a small number of scientists work cheaply or donate their services to environmental groups, and people in communities like ours donate their time for such things as water monitoring. But the whole end effect is that people are working more and more to protect the environment and protecting it less and less. Environmental assessments study the problem to death but do nothing to stop it. And the problem with the paying jobs is that they make people satisfied with this situation.

CONCERNS ABOUT CONFLICT OF INTEREST

A special concern arises when we see that some companies do EA assessments as well as construction/engineering of developments. And more concern arises when such companies appear to have an influence on management guidelines that would trigger the rubber-stamp EA process.

Valhalla directors were deeply concerned to learn that EBA Engineering was present at a meeting where the Slocan Lake Shoreline Management Guidelines were drafted. Consider these statements by EBA taken off of the Internet:

“Our comprehensive knowledge of federal, provincial and municipal environmental legislation and guidelines enables EBA to produce environmental impact assessments that fulfill all regulatory requirements”

“EBA provides specialized engineering and scientific expertise for industrial, commercial and recreational marine facilities and infrastructure.”

EBA Engineering, based in the Okanagan, is a sponsor of the BC-wide Lake Stewardship Society (BCLSS), with which the Slocan Lake Stewardship Society is affiliated. Other companies with a potential financial interest in lake development, EA studies and mitigation techniques, including habitat rehabilitation (which we may be needing someday soon) fund the BCLSS, and their names are advertised on the BCLSS website, including some names that appear on the page about the Slocan Lake SS. Some of these companies are good “green” companies and no doubt very reputable; but the work they might receive from the development of Slocan Lake with environmental assessment studies may be phenomenal.

And EBA Engineering may be an impeccably principled company, but what is an engineering company specializing in commercial and recreational marine facilities and infrastructure doing contributing to the writing of guidelines for our lake??? Especially when the only Slocan Valley residents and organizations present are the neutralized SLSS, plus two biological consultants?

SHELL CANADA

Funders for the Slocan Lake Fish & Wildlife Habitat Assessment and the Shoreline Management Guidelines include Shell Canada. VWS would caution that motorized recreation on or near the lake, especially jet skis and houseboats, are very serious threats to the ecology and social values of the lake. The big oil companies have been extremely aggressive in pushing every form of motorized recreation. They have funded the organization of motorized recreation clubs, which has had a huge impact in battering down restraints on motorized recreation in the US and Canada.

GOVERNMENT PARTNERSHIP

VWS has never had a partnership with government, but some environmental groups do. These partnerships look very innocent, but they are one of the mechanisms of privatization. And they represent, in our view, institutionalized conflict of interest on the part of the government. How can government treat all the people equal if it has made special contracts with some of the people in which benefits are exchanged?

At one point when we were investigating partnership agreements with the Canada Parks Agency, one environmental group that had a partnership told us that the terms strictly forbade a group from criticizing the government. We were never able to find proof because some aspects of not-for-profit public-private partnerships are considered private business deals that are confidential information. But it has been our experience within the environmental movement that groups with partnerships do remain totally silent on things that they ought to be protesting loudly.

Nevertheless, we understand some of the motivations behind taking these partnerships. However, the directors and members of the SLSS should have a clear understanding of the terms of their partnership with the Department of Fisheries and Oceans.

REALITY CHECK

We all need to be aware that a huge battle is now going on in BC and Canada to force the federal Department of Fisheries and Oceans (DFO) and the BC government to protect fish. Instead there has been blatant and shocking willfulness to allow major fisheries to collapse and thousands or millions of fish to die. Corporate control of the federal government has led to such political interference with the dedicated staff of DFO, and manipulation of issues, as to make that agency a party to the negligent or even deliberate destruction of fish in BC:

- The federal government has been quietly using a little-known subsection of the *Fisheries Act* (“Section 2”) to reclassify Canadian Lakes as “tailings impoundment areas.” In 2008 sixteen Canadian lakes were slated to be “reclassified” as toxic dump sites. Some of them are prime fishing lakes. This is widely considered to be a subsidy to the mining industry.
- In December, 2009 a panel of scientists at Simon Fraser University blasted DFO for watching years of collapse in the Fraser Sockeye salmon run and doing nothing to protect the fish.
- The federal government downloaded responsibility for fish farms onto the provincial government. Citizens led by scientist and activist Alexandra Morton had to go to the Supreme Court to get a ruling that DFO bears sole responsibility for fish farms that are killing wild salmon.

We recognize that these specific circumstances do not apply to Slocan Lake, but they caution us to be aware of the currently huge corporate control of government and the fact that agencies such as DFO no longer demonstrate allegiance to protecting fish. The only antidote for this is citizens’ power. We believe that it is in the hearts and minds of the people of the Slocan Valley to join the effort to use the power of citizens and the principles of democracy to overturn the refusal of

political powers to protect our environment. If we don't do so, our lake will become a casualty to be added to this shameful list.

Sincerely,

Anne Sherrod, Chair
for the Directors