

Barlow, John ENV:EX

From: Minister, ENV ENV:EX
Sent: Wednesday, June 10, 2015 12:27 PM
To: Correspondence Unit ENV:EX
Subject: FW: Columbia River Boating Regulation
Attachments: kupchanko decision brief.pdf; Excerpted Columbia Wetlands Environmental Stewardship Partners Meeting Meeting Notes for May 13th Meeting .pdf; The Columbia Wetlands Stewardship Partners.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Greg

From: Gerry Wilkie [<mailto:gdwilkie@cyberlink.ca>]
Sent: Tuesday, June 9, 2015 2:58 PM
To: Minister, ENV ENV:EX
Subject: Columbia River Boating Regulation
Minister Polak
For your information and support

RE: Proposed Columbia River VORR Amendment (to limit motors to a maximum of 20 horsepower)

I am writing to bring to your attention the resolute and widespread support of local stakeholders for this last component of the three part regulations designed to protect the world-renowned Columbia Wetlands Wildlife Management Area (CWWMA) while protecting local historic and common boating practices.

In 1996, Columbia Valley residents, industry, First nations and government agencies came together, agreeing that the stretch of the Columbia River and wetlands from Donald in the north to Fairmont in the south should be protected for wildlife. A Wildlife Management Area was enacted under provincial law, protecting wildlife under the BC Wildlife Act throughout the whole 180-kilometre stretch. Recreational and historical uses — fishing, hunting and trapping — would continue, but under an innovative philosophy that places wildlife and habitat values first.

In 1996, the Columbia Wetlands were designated as Wildlife Management Area (WMA, protected under the *BC Wildlife Act*). In 1997 the Province of BC enacted a regulation restricting all vehicle use (snowmobiles, all boats, jet boats, jet skis and ATVs) to 10 horsepower or less. This regulation was an important component of the provincial management strategy designed to protect the ecological integrity of this critical habitat for wildlife and migratory birds. Noise, intrusion, brood disruption and pollution associated with fast moving and large motored conveyances causes a number of negative environmental impacts, including damage to water quality and sensitive aquatic ecosystems, habitat destruction, and nest abandonment.

The regulation to restrict horsepower grew out of both the need to fulfill the mandate of the WMA to protect wildlife and their habitat and out of the public consultation processes.

In 1998, the province's jurisdiction to regulate vessels, even in local areas and for environmental reasons, was challenged in the courts. The Canadian Coast Guard became involved and argued that the provincial government could not apply restrictions to waterways such as the Columbia Wetlands as this was solely the jurisdiction of the federal government. Initially, a challenge was raised in BC Provincial Court disputing that the provincial Ministry of Environment had the ability to restrict motorized vessels on the Columbia Wetlands Wildlife Management Area.

The case was decided in the province's favor at the BC Supreme Court level. The matter was appealed to the BC Court of Appeal and was heard, November 5, 2001. In January 2002, the Court of Appeal struck down the provincial 10 hp restrictions as it pertained to vessels, but left the restriction in place on land-based conveyances, like snowmobiles and ATVs. Regulation of vessels was deemed jurisdiction of the federal government.

The Court of Appeal emphasized, in their decision summary, the following: "Nevertheless, where protection of the environment requires regulation of vessels operating in navigable waters, the Province cannot legislate. Fortunately, the existing shipping regulations do provide machinery for provincial authorities to request that the federal power be exercised." (Citation: R. v. Kupchanko Date: 20020130 2002 BCCADocket: CA026665)

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On June 5, World Environment Day, 2005, the Columbia Wetlands, including the river, received much deserved international recognition as a Ramsar Wetland of International Importance. The largest wetland of its kind in British Columbia and protected under the BC Wildlife Act, the Columbia Wetlands qualified under all eight Ramsar Criteria, and comprise a regionally unparalleled diversity of 16 habitats, sheltering around 216 species.

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The third and final portion of what was always intended to be a three-part regulation remains in limbo awaiting your signature.

Back in May of 2009, our multistakeholder group, representing provincial and local government, First Nations, Industry and broad and diverse NGOs, met with representatives of Transport Canada. At that time, the group developed the proposed regulation, to limit boating on the stretch of Columbia River

within the CWWMA to vessels with motors of 20 hp or less. I attach the minutes. Yet here we are six years later with no boating regulation on the Columbia River through this fragile protected area, and this leads to negative environmental impacts.

The existing regulations, quoted above, remain difficult if not impossible to enforce while the main channel remains open to any and all boating activity, something that the majority of residents wish to see curtailed.

Over the many years this regulation has been languishing in your department, all local governments, the provincial government and area First Nations have formally resolved unequivocal support for the 20 horsepower restriction on the main channel of the Columbia River through the CWWMA. This recommended regulation was derived through compromise with many of the stakeholders preferring no motors at all.

We ask that you give the highest priority to guiding this last and most crucial portion of the regulation to completion. Local residents, local and provincial governments, First Nations, and the national and international community will meet enacting of this regulation with wide approval and acclaim.

Thank you for your immediate attention to this urgent matter

Sincerely,

Gerry Wilkie, President, Columbia Wetlands Stewardship Partners

Box 2284, Invermere, British Columbia V0A1K0

3 attachments

cc

David Wilks, MP Kootenay Columbia

Norm Macdonald, MLA Columbia River Revelstoke

Mary Polak, British Columbia Minister of Environment

Gerry Wilkie

Box 2

Edgewater BC V0A 1E0

Phone # 250 347 9841

January 30, 2002, The Honourable Justice Esson, British Columbia Court of Appeal, in *Regina v. Kupchanko*, in analyzing the legal doctrines of “interjurisdictional immunity” and “concurrent jurisdiction”, concluded that the provincial order in dispute did infringe upon the core of federal jurisdiction. The primary issue considered by the Court of Appeal was whether or not section 91(10) of the Constitution Act, 1867, which identifies “navigation” as an area of exclusive federal jurisdiction, prevented the province from enacting regulations to restrict the type or power of vessel which may be operated on navigable waters, even if it was to address a provincial purpose. The Honourable Justice Esson stated (para 42); “ In relation to the question, I now agree with the statement of Bernier J.A., for the court, in *St.-Denis de Brompton (Municipality) v. Filteau* (1986), 59 D.L.R. (4th) 84 (Que. C.A.) at 91, that “navigation” rights can be abrogated or regulated only by the federal government”. That case held a provincial statute authorizing a municipality to pass bylaws prohibiting or regulating the use of powerboats on lakes of a certain size to be *ultra vires*.

Excerpted

Columbia Wetlands Environmental Stewardship Partners Meeting

Meeting Notes for May 13th Meeting

Date and Time: Wednesday, May 13th 2009 (9:00 to 3:30)

Location: Columbia Valley Lodge Parson B.C.

Next Meeting Date: Mid August Brisco Hall, Brisco B.C.

Columbia Wetlands Environmental Stewardship Management Meeting

Objectives of Meeting Were to:

1. Meet with the office of Boating Safety to review the status of the boating regulation and options offered
2. Discuss Boating Use Monitoring
3. Discuss funding for Science Committee Projects 2009/10
4. Discuss future projects for Science Committee
5. Decide on next steps for Communication Committee
6. Go over Accounting for 2008/09 and Budget for 2009/10
7. Discuss Charitable Status application
8. Other business including application of new members, GIS options, Biodiversity Atlas Project, Power line corridor project status, CBT conference with partners and water monitoring project.

4. Office of Boating Safety- Boating Regulation

Kevin Monahan explained the process of enacting a regulation and gave a history of the proposed regulations and took questions from the group. See attached dialogue for details of discussion.

Kevin Monahan explained what Transport Canada would like to see from this group as they have been directed to consult with the general public. They would like CWSP's assistance in designing the consultation, where and how to advertise, where and when to meet.

They would like CWESP to play a part in this consultation, would like the group to lend expertise and co-host these consultations as well as to help craft the proposal to be consulted on.

Should there be a minor or major modification to this regulatory proposal?

Gives group several options to consider, reminds them that process is applicant driven and they will support whatever the applicant asks them to. Reminds them that if it is not changed in a substantive way we would probably have a regulation in place before Christmas.

Much more discussion, many questions regarding enforcement. Who would be presenting the regulation to the public. What is best strategy to ensure compliance of general public.

Bob J gives a general overview regarding Transport Canada's attempt at a compromise and the problems involved. He would like to distance group somewhat, wants to have vote so Transport Canada can report on result of vote by group instead of more involvement by group.

Further explanation regarding process and how much longer the process will take if we don't move forward now with a modified proposal.

Motion made by Paul Galbraith that we do not officially co-host these meetings with Transport Canada regarding the proposed boating regulation.

Seconded by Gerry Wilke

Discussion follows. This group would clearly like to see a 20 HP limit throughout the year. Most do not see any point in spending more time talking to Transport Canada and spending more time in meetings on this issue, there are a lot of other things this group would like to see done.

Suggestion that we table the motion until we have further discussion. Agreed on by both Paul G and Gerry W.

Discussion concerning whether or not we should table the motion. More questions as to how long this will take if we do not sanction the proposal as stands or make a minor modification.

Much general discussion and disagreement

The government has rejected the proposal, no point on going back to them with the same proposal.

Most everyone wants to get on with other orders of business.

Motion made by Ellen Zimmerman, representing the applicant of the original regulation, that the proposed regulation be amended to allow the use of motorized vessels up to 20 HP during the seasonal restriction in the main channel from March 1 to July 15.

Mary Ann Emery seconded the motion

More discussion follows considering the wisdom of accepting the amended regulation, isn't it better to get what we want rather than a compromise that no one wants.

All we are doing is giving the government advice.

More questions as to why the original proposal was not accepted as written. The 20 HP restriction excluded jet boats, there is some problem with that, they are part of the community.

There is a problem going forward with restoration projects if there are jet boats on the river.

Point of order, there is a motion on the floor and we are not talking about the motion, it is time to vote.

Re-reading of Motion

The proposed regulation be amended to allow the use of motorized vessels up to 20 HP during the seasonal restriction in the main channel from March 1 to July 15.

Bob J. counts the votes.

6 Yea

9 Opposed

2 Abstentions

The motion as read is defeated.

More discussion follows.

Paul Galbraith makes the motion to leave the main channels open to small boats up to 20 HP for all seasons and restrict all motors greater than 20 HP in all channels.

Buzz Harmsworth seconded the motion

Discussion follows

Re-reading of motion

Bob J counts votes

18 yeas

0 Opposed

No Abstentions

The motion as read is carried

Discussion follows as to exceptions to the restrictions. There are existing exemptions in place regarding emergencies.

Nola Alt inquires about signage in sensitive areas on the river. Also wondering if Transport Canada will be helping finance signage. Transport Canada agrees to that.

Action

The proposed Vessel Operation Restriction Regulation in its entirety will not be moving forward to Canada Gazette Two. The applicant (Wildsight) will work with Transport Canada to amend the application and resubmit. We will give support to Transport Canada regarding the consultation process but will not co-host the meetings. The applicant and Transport Canada will keep group up to date with future developments.

Must meet with Irv Graham from WMA to discuss and arrange signage.

The Columbia Wetlands Stewardship Partners

The Columbia Wetlands Stewardship Partners group was formed in 2006. It is made up of over 35 groups, communities and agencies concerned with the wetlands.

So what are we about?

The **Columbia Wetlands Stewardship Partners** came together several years ago in order to allow local communities to play a role in stewarding this very important wetland system. We are a registered non-profit group in good standing under the Society Act of British Columbia.

Vision Statement:

The Upper Columbia River and the adjacent Columbia Wetlands will continue to function as a healthy flood-plain ecosystem with a complex biological community governed by natural fluvial and ecological processes. Human Communities will continue to benefit socially, environmentally and economically from this naturally functioning ecosystem and, in turn, the wetlands will contribute to the health and vitality of the communities in the upper Columbia River Basin. Residents in these communities will become engaged and motivated to adopt a stewardship ethic and will work collectively to demonstrate the benefits of a shared stewardship model for this important resource.

Mission Statement:

The **Columbia Wetlands Stewardship Partners** is made up of a diverse group of community interests, First Nations and government agencies created to develop effective stewardship and management practices for the Columbia Wetlands and the Upper Columbia River. The partnership, acting on their vision statement, will engage the general public and work with governments at all levels to implement a shared stewardship model for the management of the river and wetlands.

Mandate statement:

The mandate of the **Columbia Wetlands Stewardship Partners** is to steward the wetlands in accordance with our vision as a single system irrespective of ownership or jurisdiction and to take a pro-active stance in dealing with issues as they arise. We intend to take a positive, community and science based approach to issues related to the wetlands, and resolve issues neighbour to neighbour. The formation of this group is, in effect, local people taking responsibility for a natural landscape that they care deeply about.

Actions to Date:

1. The Partners, working with a range of participants, has assisted in the cleanup of several old dump sites adjacent to or in the wetlands.
2. The Partners have developed an adaptive science strategy and have supported several science based projects to help us develop a better understanding of how the system works and what we can do that will help to maintain natural processes in the wetlands and river.
3. The Partners are working with various agencies to develop better access to the river at several sites along the river.
4. The Partners have played a role in assisting governments to make decisions on various issues affecting the river and wetlands. There has been a decade long debate over a boating regulation for the river system and wetlands. The Partners have come up with a compromise that has been presented to government which

- basically prohibits motorized vessels and associated towing activities in the wetlands proper and its terrestrial components, and seeks to limit vessels operating in the main channels of the wetlands portion of the river to a maximum of 20hp. We await full regulatory passage.
5. The Partners have provided support to Wildsight Golden who has applied for funding to document the presence of invasive weeds in the system, to develop strategies for dealing with any weeds found and educate users on making sure that no invasive species are brought into the system on boats, trailers, waders, etc. The Partners have also worked with local ranchers and Gail Berg, a consulting botanist to identify plants that occur in the wetlands that are poisonous to cattle. A guide to these plants has been developed for use by ranchers.
 6. The Partners are also looking at developing a river use guide and maps that will assist users in navigating through the system and complying with the regulations that are proposed. The first segment covering the most southerly portion of the river has been completed and may be used by accessing the link on the homepage. Further segments of the guide will be available in 2014, and linked to this website.
 7. The Partners have secured a multi-year grant from the Regional District of East Kootenay with the goal of re-introducing the Northern Leopard Frog to the wetlands. Penny Ohanganian is working in the second year of this project and we anticipate that 2014 will indicate the initial success of this endeavour.
 8. The Partners are in the course of revising and updating the existing bird-list for the wetlands.
 9. The Partners are considering conducting the study respecting Burbot (Ling Cod) presence in the River System.
 10. The Partners seek exposure and the opportunity to educate the public about their programs and activities by being present with their banners and brochures at various regional fairs such as the Windermere Scarecrow Festival.

The Partnership is also looking at other long term concerns in the wetlands:

1. The system is critically dependent on natural stream flows into the system. We are working to identify management strategies for water flows and water quality that will meet the water demands of local communities and industry and maintain flows through the system. The Partners are participating in a basin wide water governance study and program that may lead to the creation of a water governance board.
2. The Partners are assisting the Ministry of Environment is resolving outstanding issues with the boundaries of the provincial Wildlife Management Area that encompasses much of the system and zero horsepower regulation has been adopted for the terrestrial portion of the WMA.
3. The Partners have assisted government in developing a process for reviewing applications for commercial recreation applications in the wetlands and has worked with the proponents of such concepts to adopt sustainable guidelines.
4. A project to identify heritage sites along the river is being developed.
5. The Partners are developing strategies, brochures, guides and signage to educate the public on the values of the river and wetlands through presentations and celebrations on Wetlands Day and during other local events

6. The Partners, working in conjunction with First Nations, have assisted with yearly Salmon Festivals since October 2011 which celebrates the role of salmon, past and present, in the Upper Columbia River system and seen innovative ways to bring the salmon back to the system.

Present Funding

The BC Ministry of Environment has supported the establishment of the Partners with grants of \$20,000.00 in its first two years and \$40,000 for its third year. The Columbia Basin Trust initially provided \$20,000.00 annually over the three years as a startup fund. CBT now supports specific projects meeting its criteria. Over the last decade, members of the partnership have expended over 2 million dollars in projects related to the system and have contributed some \$200,000.00 of in kind efforts in the establishment of this group.

Barlow, John ENV:EX

From: Minister, ENV ENV:EX
Sent: Tuesday, July 7, 2015 12:16 PM
To: 'gdwilkie@cyberlink.ca'
Cc: Krebs, John A FLNR:EX
Subject: RE: Columbia River Boating Regulation
Attachments: kupchanko decision brief.pdf; Excerpted Columbia Wetlands Environmental Stewardship Partners Meeting Meeting Notes for May 13th Meeting .pdf; The Columbia Wetlands Stewardship Partners.pdf

Reference: 284835

July 7, 2015

Gerry Wilkie
Email: gdwilkie@cyberlink.ca

Dear Mr. Wilkie:

Thank you for your email of June 9, 2015, regarding proposed changes to the Columbia River Boating Regulations.

British Columbia (BC) Government involvement has been primarily led by the Ministry of Forests, Lands, and Natural Resource Operations (FLNR) as they hold authority for the BC *Wildlife Act*. The FLNR has been involved in discussions related to the Columbia River Boating Regulations for a number of years through their membership in the Columbia Wetlands Stewardship Partnership.

I understand any specific questions or concerns related to this issue can be directed to Mr. John Krebs, Director of Resource Management for FLNR's South Area. He can be reached by email at John.Krebs@gov.bc.ca or by phone at 250 489-8547.

Thank you again for keeping us apprised of your request to the federal government on this important issue.

Sincerely,

Mary Polak
Minister

cc: John Krebs, Director, Resource Management, South Area, Ministry of Forests, Lands and Natural Resource Operations

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Sent: Tuesday, June 9, 2015 2:58 PM
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Norm Macdonald, MLA Columbia River Revelstoke

Mary Polak, British Columbia Minister of Environment

Gerry Wilkie

Box 2

Edgewater BC V0A 1E0

Phone # 250 347 9841

Polak, Mary ENV:EX

From: Polak, Mary ENV:EX
Sent: Tuesday, April 12, 2016 9:13 PM
To: Knudsen, Mark ENV:EX
Cc: Kapac de Frias, Martina E ENV:EX
Subject: Re: Upper Columbia Wetlands

Wow - thx! We now need to arrange a briefing meeting with staff and MBB

Sent from my iPad

> On Apr 12, 2016, at 8:44 PM, "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca> wrote:

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> Mark Knudsen

> Ministerial Assistant to the Hon. Mary Polak

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Sent from my iPad

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> Ok sounds good. We'll set that up.

>

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> Ministerial Assistant to the Hon. Mary Polak

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>>>>>>> The WMA was established in 1996 and the Fish and Wildlife Section (MOE at the time) established a 10 hp restriction by a Regional Manager's order in 1997 to protect sensitive values. This order as it applied to the navigable waters portion was successfully contested in the BC Supreme Court in 2002 which determined it was federal

jurisdiction. The 10 hp restriction remains in effect for the non-navigable water portions of the WMA. A joint application from the ministry and Wildsight was then submitted to Transport Canada (TC) to establish motorized restrictions under the Vessel Operations Restriction Regulation (likely in 2008 but unconfirmed at this point). An extensive public consultation process was conducted by TC and discussed at length by the Columbia Wetlands Stewardship Partnership which had representation from local community groups, First Nations and the three other levels of government.

>>>>>

>>>>> Two regulations were established that presently prohibits electric and gas powered vessels in the wetland portions and towing in the main channel. The recently advertised regulation is the last piece that was negotiated to limit vessels to a maximum 20hp in the main channel. The hp limit was increased to accommodate sufficient power for traditional hunting, trapping and fishing within the WMA. If this last regulation is enacted it will restore the original objective established almost 20 years ago.

>>>>>

Polak, Mary ENV:EX

From: Polak, Mary ENV:EX
Sent: Tuesday, April 5, 2016 2:11 PM
To: Shoemaker, Wes ENV:EX
Cc: Knudsen, Mark ENV:EX; Kapac de Frias, Martina E ENV:EX; Shiff, Alexander ENV:EX
Subject: Fwd: MOE asked fed's to remove outboards from Columbia River

Categories: Red Category

See below - as per our discussion at Roundtable

Sent from my iPad

Begin forwarded message:

s.3

Page 06 to/à Page 16

Withheld pursuant to/removed as

s.3

Polak, Mary ENV:EX

From: Polak, Mary ENV:EX
Sent: Tuesday, April 12, 2016 9:18 PM
To: Knudsen, Mark ENV:EX
Cc: Kapac de Frias, Martina E ENV:EX
Subject: Re: Upper Columbia Wetlands

Great - thx!

Sent from my iPad

> On Apr 12, 2016, at 9:17 PM, "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca> wrote:

>

> Ok sounds good. We'll set that up.

>

> Mark Knudsen

> Ministerial Assistant to the Hon. Mary Polak

>

>> On Apr 12, 2016, at 9:17 PM, Polak, Mary ENV:EX <Mary.Polak@gov.bc.ca> wrote:

>>

>> Yes, please

>>

>> Sent from my iPad

>>

>>> On Apr 12, 2016, at 9:15 PM, "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca> wrote:

>>>

>>> Thanks go to Jim for tracking this down! Sure, would you like FLNRO/MST involved as well?

>>>

>>> Mark Knudsen

>>> Ministerial Assistant to the Hon. Mary Polak

>>>

>>>> On Apr 12, 2016, at 9:13 PM, Polak, Mary ENV:EX <Mary.Polak@gov.bc.ca> wrote:

>>>>

>>>> Wow - thx! We now need to arrange a briefing meeting with staff and MBB

>>>>

>>>> Sent from my iPad

>>>>

>>>>> On Apr 12, 2016, at 8:44 PM, "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca> wrote:

>>>>>

>>>>> Minister,

>>>>> Please see below initial info from Jim. If there are any additional specific details you're looking for, let me know.

>>>>>

>>>>>> Through email exchanges with FLNRO ADM I have confirmed that this is a FLNRO piece. One of his staff confirms that it relates to the Conservation Lands (including WMAs) portfolio, previously with Moe/Parks and with FLNRO since 2011. The history is:

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jurisdiction. The 10 hp restriction remains in effect for the non-navigable water portions of the WMA. A joint application from the ministry and Wildsight was then submitted to Transport Canada (TC) to establish motorized restrictions under the Vessel Operations Restriction Regulation (likely in 2008 but unconfirmed at this point). An extensive public consultation process was conducted by TC and discussed at length by the Columbia Wetlands Stewardship Partnership which had representation from local community groups, First Nations and the three other levels of government.

>>>>>

>>>>> Two regulations were established that presently prohibits electric and gas powered vessels in the wetland portions and towing in the main channel. The recently advertised regulation is the last piece that was negotiated to limit vessels to a maximum 20hp in the main channel. The hp limit was increased to accommodate sufficient power for traditional hunting, trapping and fishing within the WMA. If this last regulation is enacted it will restore the original objective established almost 20 years ago.

>>>>>

From: Brosz, Corinne M ENV:EX
To: Scott, Heidi ENV:EX
Subject: RE: Upper Columbia Wetlands
Date: Friday, April 15, 2016 11:39:00 AM

From: Scott, Heidi ENV:EX
Sent: Friday, April 15, 2016 11:27 AM
To: Brosz, Corinne M ENV:EX
Subject: FW: Upper Columbia Wetlands

Meeting Purpose	Briefing for MMP, MST and MBB Re: Upper Columbia Wetlands
Staff Attendees Y/N/Who	Yes
Request BN?	Yes
Date/Location	April 28, 1:00-1:30pm, Room 112
Meeting Duration	30 min
Cliff Log #	298397

Can you please cliff and send back

From: Knudsen, Mark ENV:EX
Sent: Tuesday, April 12, 2016 9:24 PM
To: Scott, Heidi ENV:EX
Cc: Kapac de Frias, Martina E ENV:EX
Subject: Fwd: Upper Columbia Wetlands

Can you please arrange a briefing between MST, MBB and MMP on this topic. It's a FLNRO topic, so we'll need staff from their ministry as well as from MOE.

Thanks,
Mark

Mark Knudsen
Ministerial Assistant to the Hon. Mary Polak

Begin forwarded message:

From: "Standen, Jim ENV:EX" <Jim.Standen@gov.bc.ca>
Date: April 12, 2016 at 8:26:35 PM PDT
To: "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca>
Cc: "Kapac de Frias, Martina E ENV:EX" <Martina.KapacdeFrias@gov.bc.ca>,
"Shoemaker, Wes ENV:EX" <Wes.Shoemaker@gov.bc.ca>
Subject: Upper Columbia Wetlands

Mark,

Through email exchanges with FLNRO ADM I have confirmed that this is a FLNRO piece. One of his staff confirms that it relates to the Conservation Lands (including WMAs) portfolio, previously with Moe/Parks and with FLNRO since 2011. The history is:

The WMA was established in 1996 and the Fish and Wildlife Section (MOE at the time) established a 10 hp restriction by a Regional Manager's order in 1997 to protect sensitive values. This order as it applied to the navigable waters portion was successfully contested in the BC Supreme Court in 2002 which determined it was federal jurisdiction. The 10 hp restriction remains in effect for the non-

navigable water portions of the WMA. A joint application from the ministry and Wildsight was then submitted to Transport Canada (TC) to establish motorized restrictions under the Vessel Operations Restriction Regulation (likely in 2008 but unconfirmed at this point). An extensive public consultation process was conducted by TC and discussed at length by the Columbia Wetlands Stewardship Partnership which had representation from local community groups, First Nations and the three other levels of government.

Two regulations were established that presently prohibits electric and gas powered vessels in the wetland portions and towing in the main channel. The recently advertised regulation is the last piece that was negotiated to limit vessels to a maximum 20hp in the main channel. The hp limit was increased to accommodate sufficient power for traditional hunting, trapping and fishing within the WMA. If this last regulation is enacted it will restore the original objective established almost 20 years ago.

Hopefully this gives you enough to respond to MBB. Shout if you need more or have any follow-up questions.

Jim

From: Wipond, Karen J FLNR:EX

Sent: Tuesday, April 05, 2016 6:23 PM

To: Witt, Andy FLNR:EX

Cc: Trotzki, Peter O ENV:EX; Paquin, Lisa C ENV:EX; Down, Ted ENV:EX; Ritchie, Chris FLNR:EX; Holmes, Peter N FLNR:EX

Subject: RE: MOE asked fed's to remove outboards from Columbia River

Thanks,
Jim

From: [Knudsen, Mark AGRI:EX](#)
To: [Polak, Mary ENV:EX](#)
Cc: [Kapac de Frias, Martina E ENV:EX](#)
Subject: FW: CBTK: Steinhubl - Columbia Protection
Date: Friday, April 15, 2016 12:56:00 PM

FYI – here's the full transcript.

s.3

From: [Knudsen, Mark AGRI:EX](#)
To: [Karn, David GCPE:EX](#)
Cc: [Crebo, David GCPE:EX](#); [Murphy, Bernadette GCPE:EX](#)
Subject: RE: Clip
Date: Friday, April 15, 2016 12:59:00 PM

Great thank you very much Karn.

From: Karn, David GCPE:EX
Sent: Friday, April 15, 2016 12:59 PM
To: Knudsen, Mark ENV:EX
Cc: Crebo, David GCPE:EX; Murphy, Bernadette GCPE:EX
Subject: RE: Clip

Mark, still working on your transcript request but here's one from a subsequent interview earlier today.

s.3

From: Knudsen, Mark ENV:EX

Sent: Friday, April 15, 2016 8:53 AM
To: Karn, David GCPE:EX
Cc: Crebo, David GCPE:EX; Murphy, Bernadette GCPE:EX
Subject: Clip

Hi,

Is it possible to get this full clip by any chance?

s.3

From: [Brosz, Corinne M ENV:EX](#)
To: [Polak, Mary ENV:EX](#)
Cc: [Scott, Heidi ENV:EX](#); [Kapac de Frias, Martina E ENV:EX](#)
Subject: FW: Briefing with MST, MMB, MMP Re: Upper Columbia Wetlands
Date: Wednesday, April 27, 2016 10:14:00 AM
Attachments: [221572 Columbia River VORR.pdf](#)

Good Morning Minister,

Here is the IN from FLNRO regarding the Vessel Operation Restriction Regulation (VORR) – Columbia River for the meeting tomorrow from 1:00-1:30 with MMB and MST.

It has also been added to your Sharepoint: [Sharepoint - Day Binder - April 28](#)

Cheers,

Corinne Brosz

Administrative Assistant to the **Honourable Mary Polak**
Minister of Environment

MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS
INFORMATION NOTE

Date: April 21, 2016
CLIFF #: 221572

PREPARED FOR: Minister Thomson, Minister Polak and Minister Bennett

ISSUE: Proposed 20 hp Transport Canada (TC) *Vessel Operation Restriction Regulation* (VORR) - Columbia River

BACKGROUND:

- The Columbia Wetlands Wildlife Management Area (WMA) was established in 1996 and encompasses 16,969 ha of provincial crown land. The 1,001 ha federal “Columbia National Wildlife Area” is also located within the Columbia Wetlands.
- It is one of only three wetlands in BC to be recognized as internationally significant wetlands under the Ramsar Convention. There are 37 areas designated in Canada.
- Significant values within the Columbia Wetlands include a key component of the Pacific Flyway supporting migratory birds, the highest concentration of Great Blue Herons in western Canada, successful re-introduction site for the endangered northern leopard frog and breeding habitat for numerous other species at risk. Significant numbers of elk and deer use the upland and riparian areas during fall and winter.
- Impacts from high powered motor vessels in the wetlands have been described by the Canadian Wildlife Service, in their Conservation Rationale provided to Transport Canada (TC). Impacts include increased energy demands on migrating and breeding bird populations, brood separation, direct mortality due to increased speeds, impacts to painted turtle nests from wave actions, etc.
- In 1997, the Fish and Wildlife Manager (then Ministry of Environment, Lands and Parks) established a 10 hp restriction by an Order pursuant to the *Wildlife Act* to protect sensitive values.
- In 2002, the BC Court of Appeal confirmed that federal jurisdiction applied over the navigable waters portion of the Order (“...where protection of the environment requires regulation of vessels operating in navigable waters, the Province cannot legislate. Fortunately, the existing shipping regulations do provide machinery for provincial authorities to request that the federal power be exercised.” (Citation: R. v. Kupchanko).
- A 10 hp restriction remains in effect for the ‘non-navigable’ (Provincial jurisdiction) waters in the WMA.
- In 2007, a joint application from MOE and Wildsight was submitted to TC to establish motorized restrictions under the VORR.
- An extensive public consultation process was led by MOE, Wildsight and TC.
- The results from the open houses and surveys indicated strong public support (72 – 81%) for establishing boating restrictions to protect environmental values.
- The Ktunaxa Nation and the Shuswap Band are strong supporters of the 20 hp regulation.
- The Columbia Wetlands Stewardship Partnership (CWSP) was formed in 2007 which has 35 members representing local community groups, First Nations and municipal, regional and provincial governments. Two CWSP membership votes were conducted regarding

the proposed regulations. Representatives were in agreement except for one who abstained from the first vote and was opposed in the second vote.

- The Columbia Valley Protection Society (CVPS) is an organized group that opposes the regulation and was formed by Mr. Kupchanko who originally initiated the court case. The CVPS claim they were never allowed to participate in the CWSP. This is incorrect; they were asked on several occasions to join the CWSP. The Golden Rod and Gun Club have reversed their support. The main concern for these two groups is that all motors will be banned from the main Columbia channel, Windermere and Columbia lakes.
- Two regulations were established earlier in this process, prohibiting electric and gas powered vessels in the wetland portions, and towing in the main channel. The prohibition does not apply to a person engaged in commercial trapping activities or to a person engaged in subsistence hunting or trapping.
- The recently advertised regulation is the last piece that was negotiated to limit vessels to a maximum 20hp in the main channel and tributaries. It was increased from 10 hp to 20 hp to navigate stronger flows in the lower reach.

DISCUSSION:

- The original application was submitted by MOE. Management responsibilities within the WMA are now under FLNRO's mandate.
- The COS is responsible for enforcement actions within the WMA and would be expected to enforce the 20 hp regulation, with technical support from FLNRO.
- The majority of people support the proposed regulation and those opposed will still have motorized access to the main channel.
- There is no plan to ban motor boat use in Windermere and Columbia Lake.

NEXT STEPS/SUMMARY:

- If the proposed regulation is enacted, FLNRO will work with TC to conduct public education for the new regulation and will be required to sign the access locations to the river.

Contact:

*Rick Manwaring
Assistant Deputy Minister
Regional Operations, South Area
250-828-4449*

Alternate Contact:

*Paul Rasmussen
Regional Executive Director
Kootenay Boundary Region
250-608-1077*

Prepared by:

*John Krebs
Director, Resource Management
Kootenay Boundary Region
250-489-8547*

Reviewed by	Initials	Date
DM	TS	April 26/16
DMO		
ADM	RM	April 26/16
RED	PR	April 26/16
DRM	JK	April 21/16

From: [Knudsen, Mark AGRI:EX](#)
To: [Scott, Heidi ENV:EX](#)
Subject: Re: Upper Columbia Wetlands Meeting with MBB, MST
Date: Wednesday, April 27, 2016 2:39:19 PM

Thanks Heidi. I guess not. I'll chat with MMP and MKDef.

Mark Knudsen
Ministerial Assistant to the Hon. Mary Polak

On Apr 27, 2016, at 2:22 PM, Scott, Heidi ENV:EX <Heidi.Scott@gov.bc.ca> wrote:

Hi Mark,
MBBs office just cancelled this meeting that I set up. MBB said that it is no longer required. Just making sure you're good with this?
Thanks

From: Knudsen, Mark ENV:EX
Sent: Friday, April 15, 2016 8:46 AM
To: Scott, Heidi ENV:EX
Subject: RE: Upper Columbia Wetlands
I believe we have chatted about this since this email but can't recall. If not yes this can be shared. Any chance we can book this the Monday we're in Session pls?

From: Scott, Heidi ENV:EX
Sent: Wednesday, April 13, 2016 3:27 PM
To: Knudsen, Mark ENV:EX
Subject: RE: Upper Columbia Wetlands
Hey is it ok if I forward Jims email to their offices so that they can have the background?

From: Knudsen, Mark ENV:EX
Sent: Tuesday, April 12, 2016 9:24 PM
To: Scott, Heidi ENV:EX
Cc: Kapac de Frias, Martina E ENV:EX
Subject: Fwd: Upper Columbia Wetlands
Can you please arrange a briefing between MST, MBB and MMP on this topic. It's a FLNRO topic, so we'll need staff from their ministry as well as from MOE.
Thanks,
Mark

Mark Knudsen
Ministerial Assistant to the Hon. Mary Polak

Begin forwarded message:

From: "Standen, Jim ENV:EX" <Jim.Standen@gov.bc.ca>
Date: April 12, 2016 at 8:26:35 PM PDT
To: "Knudsen, Mark ENV:EX" <Mark.Knudsen@gov.bc.ca>
Cc: "Kapac de Frias, Martina E ENV:EX" <Martina.KapacdeFrias@gov.bc.ca>, "Shoemaker, Wes ENV:EX" <Wes.Shoemaker@gov.bc.ca>
Subject: Upper Columbia Wetlands

Mark,

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Hopefully this gives you enough to respond to MBB. Shout if you need more or have any follow-up questions.

Jim

From: Wipond, Karen J FLNR:EX

Sent: Tuesday, April 05, 2016 6:23 PM

To: Witt, Andy FLNR:EX

Cc: Trotzki, Peter O ENV:EX; Paquin, Lisa C ENV:EX; Down, Ted ENV:EX; Ritchie, Chris FLNR:EX; Holmes, Peter N FLNR:EX

Subject: RE: MOE asked fed's to remove outboards from Columbia River

Thanks,
Jim

From: [Knudsen, Mark AGRI:EX](#)
To: [Kapac de Frias, Martina E ENV:EX](#); [Brosz, Corinne M ENV:EX](#)
Subject: RE: Call for Records MOE-2016-61827 Due May 9, 2016 Analyst John Wilson
Date: Monday, April 25, 2016 4:19:00 PM
Attachments: [Re Columbia River .msg](#)
[Columbia River .msg](#)
[FW Rush info request Upper Columbia Wetlands.msg](#)
[Re Upper Columbia Wetlands.msg](#)
[Re Upper Columbia Wetlands.msg](#)
[Re Upper Columbia Wetlands.msg](#)
[RE Upper Columbia Wetlands.msg](#)
[Re Columbia River.msg](#)
[Re Columbia River.msg](#)
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[Re Upper Columbia Wetlands.msg](#)
[Re Upper Columbia Wetlands.msg](#)
[Fwd Upper Columbia Wetlands.msg](#)
[RE Clip.msg](#)
[FW CBTk Steinhubl - Columbia Protection.msg](#)
[FW CBTk Steinhubl - Columbia Protection.msg](#)
[FW CBTk Steinhubl - Columbia Protection.msg](#)
[CBTK Steinhubl - Columbia Protection.msg](#)

And here are mine.

From: [Kapac de Frias, Martina E ENV:EX](#)
Sent: Monday, April 25, 2016 4:15 PM
To: [Brosz, Corinne M ENV:EX](#)
Cc: [Knudsen, Mark ENV:EX](#)
Subject: RE: Call for Records MOE-2016-61827 Due May 9, 2016 Analyst John Wilson
My records

From: [Brosz, Corinne M ENV:EX](#)
Sent: Monday, April 25, 2016 3:47 PM
To: [Scott, Heidi ENV:EX](#); [Shiff, Alexander ENV:EX](#); [Knudsen, Mark ENV:EX](#); [Kapac de Frias, Martina E ENV:EX](#)
Subject: FW: Call for Records MOE-2016-61827 Due May 9, 2016 Analyst John Wilson
Call for Records, see below.

From: [ENV FOI DMO ENV:EX](#)
Sent: Monday, April 25, 2016 1:59 PM
To: [Brosz, Corinne M ENV:EX](#); [Nicoll, Sara ENV:EX](#); [Scott, Heidi ENV:EX](#); [Brosz, Corinne M ENV:EX](#); [Buttman, Ashley ENV:EX](#)
Cc: [ENV FOI DMO ENV:EX](#)
Subject: Call for Records MOE-2016-61827 Due May 9, 2016 Analyst John Wilson
Hello All,

We have received a new FOI request, CFR attached. Please let me know if you have any questions.

Thank you,

John Barlow

Correspondence Clerk, MOE

Assisting J. Jonker, Issues Manager

John.Barlow@gov.bc.ca

From: [Peddle, Jennifer \[mailto:IAOResourceTeam@gov.bc.ca\]](#)
Sent: Monday, April 25, 2016 12:05 PM
To: [Ito, Miwa ENV:EX](#); [ENV FOI DMO ENV:EX](#); [Cottam, Nick ENV:EX](#); [Vike, Claire A CSNR:EX](#)
Cc: [Larson, Carrie A ENV:EX](#); [Popowich, Tracy CSNR:EX](#); [Martin, Doris L CSNR:EX](#); [Pilkington, Chelsea CSNR:EX](#)
Subject: Call for Records MOE-2016-61827 Due May 9, 2016 Analyst John Wilson

Your Ministry has received a formal request made under the *Freedom of Information and Protection of Privacy Act* (FOIPPA). The request is for:

Regarding Regulations Amending the Vessel Operation Restriction Regulations Statutory authority Canada Shipping Act, 2001 - Department of Transport <http://gazette.gc.ca/rp-pr/p1/2016/2016-04-02/html/reg2-eng.php> : All emails and communications between BC Government elected officials and/or employees, contractors, consultants or duly appointed representatives regarding this amendment ; All meeting notices published or sent, attendance lists, meeting notes transcribed by hand whether on post it note, binders, note books etc or electronically including recordings; All raw and calculated data and information as well as photographs and any other information used in the research supporting this amendment; All RFP's, RFP award detail information, contracts, agreements, scopes of work, and invoices associated with the gathering of data and preparation of this amendment. (Date Range for Record Search: From 05/01/2015 To 04/22/2016) – Date Format: MM/DD/YYYY

Please complete the attached Call for Records form.

- If search and retrieval time is anticipated to exceed 3 hours and/or the total volume of records exceeds 200 pages, complete **only** sections 1 & 2 of the Call for Records form as we may be in a position to issue a fee estimate. Return the form to IAO by April 29, 2016. Please await further instruction from IAO as the records will not be required until the fee estimate process has been completed. Once fees have been paid or waived, IAO will contact you to continue the call for records process.
- **If no fees apply** then complete the attached Call for Records form and return it to IAO by May 9, 2016.
- Send records via email in **PDF format**. Before you turn emails into PDFs, ensure that you have included all attachments. If email is not possible, please put the records on the **File Share** and notify IAO that the records are available.

You should be aware that *FOIPPA* obligates us to assist the applicant and to respond without delay, openly, accurately, and completely. In the event that your Ministry must defend the adequacy of its search to the Information and Privacy Commissioner at Inquiry, those involved in searching for records may be required to sign affidavits confirming they have conducted an adequate search for relevant records.

Please do not hesitate to contact IAO to discuss: whether the records may be routinely releasable; whether the information is being prepared for public release or is already publicly available; ways in which an applicant may want to narrow/focus their request to reduce potential fees; and/or any other questions or concerns relating to this request.

Thank you for your assistance,

Resource Team

Information Access Operations

On behalf of,

John Wilson | Senior Analyst FOIPP, Access to Information

Ph: 250 356-5854

e: IAOResourceTeam@gov.bc.ca

m: PO Box 9569 Stn Prov Gov Victoria BC V8W 9K1

From: [Shiff, Alexander ENV:EX](#)
To: [Brosz, Corinne M ENV:EX](#)
Subject: FW: FOI - Vessel Operation Restriction Regulations
Date: Tuesday, May 3, 2016 3:43:00 PM

Alex Shiff

Executive Assistant to the Hon. Mary Polak

Minister of Environment

Ph: **(250) 387-1187** | E: Alex.Shiff@gov.bc.ca

From: Shiff, Alexander ENV:EX
Sent: Monday, April 25, 2016 3:55 PM
To: Brosz, Corinne M ENV:EX
Subject: FW: FOI - Vessel Operation Restriction Regulations

Alex Shiff

Executive Assistant to the Hon. Mary Polak

Minister of Environment

Ph: **(250) 387-1187** | E: Alex.Shiff@gov.bc.ca

From: Shoemaker, Wes ENV:EX
Sent: Tuesday, April 5, 2016 2:12 PM
To: Polak, Mary ENV:EX
Cc: Knudsen, Mark ENV:EX; Kapac de Frias, Martina E ENV:EX; Shiff, Alexander ENV:EX
Subject: Re: MOE asked fed's to remove outboards from Columbia River
Okay. Will check with staff and get back to you.

Wes

W.H. (Wes) Shoemaker, MBA

Deputy Minister

Ministry of Environment

5th Floor, 2975 Jutland Road

Victoria, BC

Tel: 250.387.5429 | Fax: 250.387.6003

E-mail: wes.shoemaker@gov.bc.ca

****Please note:** This email is intended for the addressee(s) only and may contain legally privileged information. Any unauthorized use, disclosure or reproduction is strictly prohibited.**

Sent from my iPad

On Apr 5, 2016, at 2:10 PM, Polak, Mary ENV:EX <Mary.Polak@gov.bc.ca> wrote:

See below - as per our discussion at Roundtable

Sent from my iPad

Begin forwarded message:

Page 33 to/à Page 47

Withheld pursuant to/removed as

s.3