

Mr Francis Scarpallegia, Chair,

House of Commons Standing Committee on Environment and Sustainable Development (ENVI)

Transmitted Electronically to ENVI@parl.gc.ca

11 June, 2021

Dear Mr Scarpallegia,

RE: WaterPower Canada Response to the ENVI Committee Study of Freshwater in Canada

Waterpower Canada (WPC) is the national trade association that represents hydroelectricity producers, and their suppliers of goods and services. The production of hydroelectricity by WPC's Members in Canada results in ultra-low greenhouse gas emissions, has minimal impact on water quality, and does not consume water. We thank the House of Commons Standing Committee on Environment and Sustainable Development for the opportunity to respond to the Study of Freshwater in Canada.

Our sector is committed to supporting the federal government achieve its priorities, including to reduce greenhouse gas emissions by 40 – 45% by 2030, and achieve net-zero emissions by 2050. Hydroelectricity already represents more than 90% of Canada's annual renewable electricity generation and more than 50% of Canada's renewable energy jobs today. Leveraging the existing hydropower fleet to provide flexibility, dependable capacity and long duration energy storage is essential to maintaining affordability, reliability and resilience while federal climate initiatives are realized (including the regulated phase-out of coal-fired electricity generation by 2030). Therefore, the ability of our sector to continue to invest and operate without unnecessary regulatory burden is integral to ensuring these aforementioned climate policy goals are achieved. With this context, please find below WPC's responses to the guiding questions for this study.

1a) Which issues related to protecting and managing freshwater does your organization work on?

The development, construction and operation of hydropower generation stations is heavily regulated, at the federal and provincial levels, in particular as it relates to freshwater wildlife and habitat conservation as well as water management and allocation.

The current landscape of more than 20 federal departments and agencies with varying roles in freshwater management is cumbersome, especially in view of the fact that water management is primarily an area of provincial responsibility.

Jurisdictional overlap results in duplication and unnecessary regulatory burden which in turn causes delays and increased costs and potential for legal challenges. Therefore, smooth coordination between federal and provincial regulators is of critical importance to the hydropower sector.

To this end, WPC's mandate includes working to ensure that the implementation of federal legislation does not introduce any undue regulatory burden for our members, including through the: *Canadian Navigable Waters Act (CNWA)*; *Fisheries Act (FA)*; *Impact Assessment Act (IAA)*; *Migratory Birds Convention Act (MBCA)*; and the *Species at Risk Act (SARA)*.

2a) Does your organization interact with federal departments and/or agencies on freshwater issues? If so, on which issues and with which departments and/or agencies?

With respect to the federal departments and/or agencies that WPC interacts with most on the freshwater issues mentioned in the response to question 1a), they are the:

- Fish and Fish Habitat Protection Program of Fisheries and Oceans Canada with relation to the implementation of FA, and SARA;
- Canadian Wildlife Service at Environment and Climate Change Canada with relation to the implementation of SARA, and MBCA;
- Navigation Protection Program of Transport Canada with relation to the implementation of CNWA; and the
- Impact Assessment Agency of Canada with relation to IAA.

2b) Do the specific freshwater issues targeted by your organization fit within the mandate of a given federal department and/or agency or do they relate to more than one department and/or agency? If more than one, have you been able to identify a lead department and/or agency with which to engage?

Generally, the aforementioned specific freshwater issues targeted by WPC in the response to question 1a) fall within the mandate of one of the departments or agencies mentioned in the response to question 2a), and a lead department and/or agency is well defined.

Instances where efficient coordination between and with federal departments and/or agencies are of most importance for our members include:

- When a federal Authorization or Permit for a project is required (for example under the *FA*, *SARA* or *CNWA*) in provinces where the federal government is not fully engaged in watershed management processes, and could set conditions that are misaligned with other pre-established regional policy objectives.
- When Indigenous Consultation (for example under to the *FA*, *SARA*, and/or *CNWA*) are carried out by more than one federal agency for a single facility, or when an agency or agency staff does not have an established working relationship with affected Indigenous communities.
- When Works are designated under the *IAA*, and also require an Authorization under the *FA*. Coordination of the *IAA* process with provincial impact assessment process can also be problematic when and where federal provincial coordination agreements are not in place.

2c) Have you encountered notable successes in engaging with the federal government on freshwater issues? If so, please specify. If you have not had success in doing so, what in your opinion is the reason (e.g., no program available tailored to your needs, no identifiable service or unit within a department and/or agency with which to engage)?

Success in the implementation of the federal legislation to which the hydropower industry are subject (see response to question 1a), is primarily based on practical implementation mechanisms (e.g. policies, and regulations) that maintain protections while allowing our industry to have the confidence to invest in the development, construction and operation of hydropower facilities, and be certain of their compliance with the legislation.

WPC participated in the regulatory reviews of the new and amended federal legislation that came into force in 2019 (e.g. the modernized *FA*, the new *IAA*, and the new *CNWA*) including submitting briefs and appearing before Standing Committees in the House of Commons and Senate. Policy and regulations thereunder are still largely in development. Therefore, it is too early to assess the success of the implementation of these pieces of legislation. Furthermore, the implementation of *SARA* and *MBCA* have not been significantly amended in several years. The implementation of both Acts would benefit from the modernization of compliance mechanisms.

2d) Do you foresee engaging with the new Canada Water Agency? If so, in what way? What are your organization's expectations with respect to the Agency?

WPC participated in the National Freshwater Policy Forum hosted by ECCC in January 2021, and responded with a letter to the "Toward the Creation of a Canada Water Agency" discussion paper in March 2021. This letter expressed that "the creation of the Canada Water Agency (CWA) may present some potential to improve the future of freshwater management and use", and that:

- "Extensive consultation with all stakeholders and further research is needed to better define the potential role of the CWA before final decisions are made".
- "WPC believes that it is critical to ensure that the establishment of the CWA avoids any jurisdictional overlap, including federal and provincial processes regarding Indigenous consultation".
- "discussions with Provinces and Territories identify ways to achieve these objectives [related to "Indigenous Peoples and Freshwater Management"] through existing or improved collaborative processes instead of potentially creating another layer of complexity, duplication of efforts or strains on Indigenous capacity".
- "The CWA could support Canada's hydropower producers with science and data to assist the efforts of the industry in this field (including modelling and prediction capabilities with regard to climate change and impacts from the same i.e. drought, floods, coastal storm surges, etc). It could be particularly useful where watersheds intersect more than one province or territory, or are located in part in the USA. Furthermore, the CWA could also play a significant role in coordinating interdisciplinary water research".

3a) Does your organization interact with federal departments and/or agencies on policies, legislation, regulations, or funding programs related to freshwater? If so, please specify.

Please see response to question 2a).

3b) Can you identify any current gaps in federal water legislation, policies, regulations, and/or initiatives, or in general across jurisdictions? If so, please specify.

Please see response to question 2c). In particular, the development of policies and regulations to address the treatment of existing hydropower generation stations under the FA are of critical importance to our industry. Also, please see 4th bullet in the response to question 2d).

3c) Do you feel the federal government could play a more effective role in protecting watersheds in Canada? If so, which watersheds and how?

WPC is not aware of any such need at this time. There may be a need for a stronger role in the management of water in international watersheds, but we do not know of any specific situation where this is currently the case.

3d) Are there areas of freshwater policy, legislation and/or regulation where you feel the federal government should play a greater role?

Please see the 4th bullet in the response to question 2d).

3e) Are there areas of freshwater policy, legislation and/or regulation that you feel the federal government should vacate and leave to another level of government or to the private sector?

Generally, the perspective of our sector is that the role of the federal government in freshwater management is already broad and creates overlap with provincial policies and regulations. The future focus should be on improving the services of the federal government in the fields where it is already active, and delegating its powers to the provinces where possible.

For example, in areas such as: regulating impacts to fish and fish habitat arising from the operation and maintenance of existing hydropower control structures under the FA; and regulating impacts to travel and transportation associated with the operation and maintenance of existing structures under the CNWA", the federal regulatory framework should be modified to facilitate equivalency agreements. The conditions allowing the federal government to enter into such agreements should be minimal, allowing the federal government to fully delegate its decision-making power.

3f) Are you aware of instances where federal freshwater policy, legislation, regulations, and/or initiatives have clearly benefitted from your organization's input?

Please see response to question 2c).

4a) Do you believe that there is sufficient data collected and made available publicly about freshwater in Canada?

The availability of data collected by federal departments and agencies is not always sufficient, as the process to access said data is not always well defined.

4b) Do you believe there should be improvement in freshwater-related data-sharing?

Please see response to question 4a). This is a potential role for the future Canada Water Agency.

4c) Is there any specific type of data or information you would like the federal government to provide to freshwater stakeholders?

Please see the 4th bullet in the response to question 2d).

4d) Has your organization experienced challenges obtaining well-organized data from the federal government on issues relating to freshwater?

No comment at this time.

4e) Is the lack of standardized data or information across government jurisdictions a problem or challenge for your organization in accomplishing its objectives with respect to protecting and managing freshwater?

Examples of when a lack of standardized data or information across government jurisdictions is a problem or challenge for WPC Members with respect to protecting and managing freshwater would include when data on protected species (under the *MBCA* or *SARA*) is incomplete or unavailable.

5a) Should Canada play a greater role internationally in helping find solutions, either through government and/or the private-sector involvement, to the challenge of global freshwater security?

No comment at this time.

5b) Do you feel Canadian private-sector companies, including financial institutions, can and should play a role internationally?

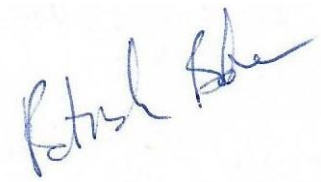
Not comment with regard to Canadian private-sector companies, including financial institutions playing an international role in global freshwater security at this time.

5c) What role can the federal government play in better supporting freshwater-related academic research, R&D, businesses, products, and services?

Please see response to questions 3d). Furthermore, the federal government could also support collaboration with provincial industry, academia and freshwater managers/regulators, with regard to R&D on preventing the introduction and spread of aquatic invasive species.

Thank you again for the opportunity to contribute to this study. WPC would appreciate the opportunity to appear as a witness for this study.

Sincerely,



Patrick Bateman

Interim President, WaterPower Canada

CC:

- Angela Crandall, Clerk of the Committee