

June 10, 2021

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Clerk of the Standing Committee on Environment and Sustainable Development
via e-mail: ENVI@parl.gc.ca

RE: SMA submission to the House of Commons Standing Committee on Environment and Sustainable Development on their study on Freshwater in Canada

The Saskatchewan Mining Association (SMA) would like to thank you for the opportunity to provide this brief to the House of Commons Standing Committee (the Committee) related to their study on Freshwater in Canada.

By way of background, the Saskatchewan Mining Association (SMA) is the voice of the mining industry in Saskatchewan and has the role of liaison and consultant with government and public to ensure the safe, profitable and orderly development of the mineral resources of the province. Environmental protection and stewardship are important to the members of the SMA as shown by their commitment to environmental planning, monitoring, compliance and reclamation. Our members are also among the largest industrial employers of Indigenous people in Canada and Indigenous-owned businesses are a critical part of our supply chains.

The SMA and our members have continued to be active participants during the multi-year consultations on the creation of a Canada Water Agency (CWA or the Agency) including participating in the Western Economic Diversification-led workshops held in 2019 and 2020 as well as the Environment and Climate Change Canada (ECCC)-led webinars in January and February 2021. The SMA also provided comments on ECCC's "Toward the Creation of a Canada Water Agency" Discussion Paper (the Discussion Paper) and these comments are reflected below.

The SMA supports ECCC's intention to develop the CWA without any legislative or regulatory changes. We believe that the federal government already has sufficient authority, under the variety of acts and regulations which contain provisions related to freshwater, to create and develop a reasonable mandate for the Agency without making legislative or regulatory changes.

The SMA also support's ECCC's commitment to not encroach on provincial, territorial or Indigenous governments' jurisdiction over freshwater or to duplicate existing activities being undertaken by these governments. Further we support plans for the Agency to work collaboratively with these governments. The CWA should in no way overlap or duplicate roles of other federal departments or agencies, or other provincial, territorial or Indigenous governments, but should instead work collaboratively with these entities to provide support where possible.

Recognizing that there are already a significant number of players in the freshwater space, the Discussion Paper notes 20 federal departments and agencies alone, we would strongly encourage ECCC to undertake a gap analysis, some of which will undoubtedly be informed by comments received on this Discussion Paper, as a first step in identifying the existing players, their priorities, as well as areas where these players could be supported by the Agency.

Below are comments provided based on questions posed in the “Questions for stakeholders in preparation for the House of Commons Standing Committee on Environment and Sustainable Development’s study on freshwater” guidelines for briefs document.

1. Introductory information

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

The SMA and our members are interested/involved in freshwater with respect to fish and fish habitat, water quality (groundwater, surface water and potable water), quantity, wetland management as well as navigation on fresh water. Our members are also interested climate change-related issues including mitigation and adaptation measures.

2. Interaction and collaboration with federal departments and agencies

a) 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?

Yes.

- Fisheries and Oceans Canada – fish, fish habitat and aquatic species at risk issues under the *Fisheries Act*
- ECCC and Canadian Nuclear Safety Commission
 - Monitoring of mine effluent quality and environmental effects monitoring under the *Metal and Diamond Mining Effluent Regulations*
 - The *Canadian Environmental Protection Act*
 - Part 3 (Information Gathering, Objectives, Guidelines and Codes of Practice) including the National Pollutant Release Inventory and Federal Environmental Quality Guidelines
 - Part 5 (Controlling Toxic Substances)
 - Part 8 (Environmental Matters Related to Emergencies)
- Transport Canada - navigation-related activities regulated under the *Canadian Navigation Protection Act*, primarily those under The Minor Works Order
- Impact Assessment Agency – mining project impact assessments subject to the *Impact Assessment Act*
- Canadian Council of Ministers of the Environment (CCME) - Canadian Environmental Quality Guidelines – water quality guidance documents

b) 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?

For the most part, delineation of responsibility between the *Fisheries Act* and the *Metal and Diamond Mining Effluent Regulations* is clear; however, there are issues of interpretation of slightly different terms used in the Act and regulations. For example, the terms “water frequented by fish” and “fish habitat” are

used without clarifying if they have identical definition; and it is not clear if “sediment” is “fish habitat” or a “deleterious substance”.

An additional area of concern is where there is conflicting advice or direction provided by the federal and provincial governments. It is a challenge to comply with conflicting requirements.

c) 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)?

The SMA and our members have engaged with various federal departments and have some success with having requirements clarified. However, there are still many areas that could be improved upon including:

- Improving clarity around terms and definitions used between various federal Acts and regulations;
- Improving public access to information provided by mining companies related to the requirements of the *Metal and Diamond Mining Effluent Regulations*;
- Elimination of the duplication of guidelines between ECCC’s Federal Environmental Quality Guidelines (FEQG) and the CCME’s Canadian Environmental Quality Guidelines (CEQGs). By strengthening the collaboration between provinces and territories utilizing the CCME guideline development process, and by ensuring that it is better resourced, this CCME process could more consistently update guidelines in a timely fashion to reflect the best science of the day; and
- Development of additional compliance instruments, such as Codes of Practice, under the *Fisheries Act*. In our February 2019 brief to the Senate on Bill C-68, the SMA highlighted the need for these guidance document and pointed out that this was an issue raised during the last review of the Act. To date there are only six “interim” Codes of Practice and this lack of clear guidance as well as staff turnover and previous office closures compounded project delays and confusion for the regulated public.

d) 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?

Our expectation is that the Agency will respect the jurisdictional authority of provinces, territories and Indigenous governments and that there will be no overlap or duplication of requirements. We also expect that the Agency will play a science/support role and that there will not be any legislative or regulatory changes made.

The SMA and our members both foresee continuing engagement in consultations on the establishment of the Canada Water Agency, and look forward to further constructive/collaborative engagement with ECCC and the new Agency after it is formed.

3. Federal water legislation, policies and regulations

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

Yes, see response provided to Q 2 a)

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

With respect to gaps, please see response to Q 3 c).

Of interest to SMA members is the area of duplication of federal and provincial regulatory requirements. As noted above, we find it difficult at times to comply with conflicting or overlapping federal and provincial requirements. This could be improved by better communication between the federal government and others with jurisdictional authority.

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

Yes, if there are gaps in watershed protection identified during the suggested review, the federal government, through the Agency, could play a science/support role to enhance the good work being done across the country by provincial, territorial and Indigenous governments as well as local watershed groups. Funding could be provided by the federal government to these existing bodies rather than establishing new mechanisms.

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

No, rather than expanding regulatory authority, the SMA would recommend that the federal government work with provinces, territories and Indigenous governments to reduce regulatory overlap and duplication and to clarify federal regulatory requirement to improve regulatory certainty.

e) 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?

Where areas of overlap and duplication are identified, the SMA would recommend working with provincial, territorial or Indigenous governments to reduce this overlap and duplication of regulatory requirements. Opportunities to enter into harmonization or equivalency agreements with provincial or territorial governments should be explored.

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

As consultations with the federal government are national in scope it is difficult to gauge where our comments/recommendations have been directly used but the SMA and our members continue to engage with all levels of government to identify science-based and cost-effective solutions for improved environmental outcomes and in a spirit of cooperation, and collaboration.

4. Collection of information and data

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

This is difficult to answer as one of the gaps is the availability of publicly accessible data.

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

Yes. The SMA and our members continue to advocate for quality publicly accessible data/information.

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

Water quality and quantity data would be helpful....again, it must be publicly accessible.

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

Yes, the SMA continues to advocate for public access to data provided by mining companies, including our members, as required by the *Metal and Diamond Mining Effluent Regulations*.

- e) **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?**

Yes. It is difficult to make sound science and economic decisions when data is either not available, is in an unusable form or is does not have appropriate quality assurance/quality control.

5. International and business issues

- a) **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?**
The SMA has no comment on this question.

- b) **Do you feel Canadian private-sector companies, including financial institutions, can and should play a role internationally?**
The SMA has no comment on this question.

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

The SMA would suggest, again, based on the suggested gap analysis, that their role should be to fund research, create public access platforms for data, work towards consistency between federal departments and between provincial and federal requirements, and support the CCME in establishing guidelines.

Yours Sincerely,



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President