

What We Heard #1 Report

Ideas and Feedback from First Nations on BC's proposal to introduce Administrative Monetary Penalties under the *Water Sustainability Act* Webinars and Follow-up Feedback from February-May 2023 engagement

Introduction

Water is one of B.C.'s most important natural resources and must be carefully managed to protect both human and ecosystem health. This is why the Province is developing a regulatory package to enable administrative monetary penalties (AMPs) under the *Water Sustainability Act* (WSA).

Consistent with *The Declaration on the Rights of Indigenous Peoples Act* and the Declaration Act Action Plan, the ideas, perspectives, and interests of First Nations are being sought to inform the details of this regulatory package. This what we heard (WWH) report reflects First Nations input shared in engagement sessions, Government-to-Government meetings (G2G), and general enquiries to date.

For additional information on this topic, please see the following: [Blog Post #45 - Developing a new regulation under the Water Sustainability Act](#).

Engagement Sessions

The Ministry of Forests and Ministry of Water, Land and Resource Stewardship sent an initial letter dated February 21st, 2023, to all B.C. First Nations, introducing the development of AMPs within the WSA. This letter included a one-page document that contained further information regarding the purpose of developing AMPs as a new enforcement tool within the WSA.

Our engagement on this topic included two online webinar sessions. The webinars were held on March 21st and 29th, 2023. 25 individuals, representing 22 First Nations, participated in these sessions.

Themes

Overall, positive feedback has been received thus far on the concept of introducing AMPs to improve water management. The feedback in these themes will be considered in the policy development process, as well as in implementation of the regulation, should it become law. Specific feedback received is summarized below, and categorized in no particular order:

Theme 1: Capacity Funding to Engage on Policy Changes

First Nations who participated, or who were interested to participate, in this regulatory change proposal have said that capacity funding is required. We heard investments are needed to support government-to-government engagement. Additional capacity funding for Guardian programs was also discussed during the webinar sessions. We have heard these requests and are seeking funding to support First Nations engagement for this regulatory change proposal through the Declaration Act engagement funding recently announced¹. We anticipate having an idea if capacity funding resources are available for this engagement by July and are committed to updating you on this request through the follow-up WWH#2 report.

Theme 2: Revenue Sharing

Throughout the conversations held through webinars, several comments and questions focused on revenue sharing.

It was expressed that:

- Revenue from AMPs should be shared with First Nations.
- First Nations would like to be involved in how Environmental Remediation Sub-account (ERSA) funds are used.
- More funds need to be going towards First Nations Guardian programs.

These requests will be shared with Ministers as part of the regulatory package, and these ideas have been shared with the provincial staff team working on a new fiscal framework²

Theme 3: Enforcement

In general, webinar participants and those in follow-up G2G meetings responded positively to the inclusion of AMPs as an enforcement option. The following concerns were raised regarding how AMPs could be enforced:

- First Nations are concerned with the lack of Natural Resource Officer presence in their areas and how that may affect the enforcement of the WSA.
- Guardians do not have a large enough role in the discovery and enforcement of contraventions.
- Support for Guardian programs should be increased.
- First Nations are concerned about the effectiveness of AMPs for WSA contraventions arising from industrial activities authorized under other pieces of legislation such as the Oil and Gas Activities Act and the Mines Act.

¹ [New funding supports First Nations participation implementing Declaration Act | BC Gov News](#)

² [New Fiscal Framework - Province of British Columbia \(gov.bc.ca\)](#)

Theme 4: Engagement with First Nations

Participants of the online engagement session expressed interest in how First Nations will be engaged in the operational aspects of enforcing AMPs under the WSA.

The following questions were asked:

- How will Nations be involved when making AMP determinations?
- Who will be notified that a contravention has occurred (e.g., specific area vs entire watershed)?

Theme 5: AMP Policy Framework

Through the discussions of the AMP policy framework during the webinar sessions, interest from First Nations was expressed in the following:

- How the gravity and magnitude will affect the penalty amounts.
- The limitation period, and how that might affect the implementation of a penalty.
- The ability to levy penalties daily for repeated contraventions will be beneficial to ensuring a quick return to compliance.

Next Steps

Please complete the short [online survey](#) (17 questions, taking approx. 5-10 minutes) to provide direct feedback on the policy elements that will further inform decisions on how this regulation will be developed, should it become law. We respect your time, and the survey will remain open for one month until **June 26, 2023**. Once the survey results are in and collated, we will share results through a second WWH report anticipated by mid-July, 2023.

Your feedback will directly inform policy development over the summer, and we look forward to sharing with you where and how it is being incorporated in this new regulatory proposal through a consultation draft this Fall. Stay tuned for when and how we plan to share this with you.

The timeline for this work is driven by the commitment to have this regulatory proposal before government by January 2024, and we thank you for your continued engagement on this important work.

Please reach out if you have any questions or additional comments to CE.NRS.Solutions@gov.bc.ca