

# What We Heard #2 Report

## **Ideas and Feedback from First Nations on BC's proposal to introduce Administrative Monetary Penalties under the *Water Sustainability Act* emailed inquiries and survey responses from May-July 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 initiated engagement on the development of AMPs within the WSA to all B.C. First Nations on February 21<sup>st</sup>, 2023. Since then, the Province has held two online webinar workshops, a series of government-to-government (G2G) meetings, and on May 29<sup>th</sup>, 2023, shared the first [WWH report](#) accompanied by a survey to further gather Indigenous insight and input to influence this proposed AMPs proposal.

The purpose of this WWH report is to share the themed survey results, as well as any other feedback received during G2G meetings or through the [CE.NRS.Solutions@gov.bc.ca](mailto:CE.NRS.Solutions@gov.bc.ca) inbox since May 29, 2023.

### **Themes**

Overall, feedback continues to be positive on the concept of introducing AMPs to improve water management. The insight and input received will be considered in the policy development process, as well as in implementation of the regulation, should it become law. The details are themed and summarized below, and is not presented in any order of priority:

#### **Theme 1: Transparency & Co-management**

First Nations have expressed the need for more transparency of the penalty process, and co-management of water within Nations' core territories.

It was expressed that:

- First Nations want to see an increase in shared decision making when it comes to changes to legislation.
- A notification of penalties and related fines should be shared with affected Nations.
- There should be increased transparency in policy making from reconciliation perspective.
- Some First Nations would like more involvement in how penalty funds are used, and in the remediation planning process.
- An increase in support of Guardian programs is necessary.
- Some First Nations would like to track the progress of issues that arise within their territory.

### **Theme 2: Shared penalty funds**

Several G2G meeting and survey participants indicated that there is a need for shared penalty funds and increased transparency in how the penalty funds are used. First Nations would like to see increased financial support for infrastructure that affects the environment. Additionally, it was expressed that funds received from penalties should be used directly towards the restoration of affected areas. Funds should also be used towards mitigating issues that may fall under the WSA. Some respondents noted that penalty funds going into the Environmental Remediation Subaccount (ERSA) should be shared with affected First Nations to be used for remediation, support for fisheries staff, and to support Guardian programs.

### **Theme 3: Enforcement**

Concerns were raised regarding the ability to enforce the new WSA regulation, and how effective this new enforcement option will be. These included:

- The lack of Natural Resource officers and Peace officers to enforce the WSA.
- Maximum penalty amounts proposed are not enough of a deterrent for larger companies, particularly those that have permits under the *Mines Act*.
- Do penalty amounts align with the amount required to remediate a contravention?
- How can Guardian programs be effectively supported to allow Guardians to enforce violations on First Nation territory.

### **Theme 4: Penalty Amounts**

Participating Nations provided the following suggestions regarding penalty amounts and how they should be administered to increase their effectiveness:

- Penalties should be issued daily and should consider ecological values, particularly those pertaining to salmon spawning grounds.
- Looking into a tiered model for penalty amounts that appropriately penalizes individuals, small companies, and large companies.
- Penalty amounts should increase with each infraction done by the same person.

## **Theme 5: AMP Policy Framework**

The survey specifically addressed the AMP policy framework, and feedback was received as follows:

- Consequences of failure to pay should include seizure of property, as well as the inability to apply for or renew existing license until the penalty is fully paid and remediation is completed.
- Timelines for administering penalties are too long, many would like to see timelines reduced to less than 2 years.
- Information regarding compliance agreements should be shared, but only insofar as to provide others with an opportunity to learn.
- There is still more work to be done in order to create a robust AMP framework for the WSA.

### **Next Steps**

Your contributions are directly informing policy development over the summer. We look forward to sharing with you where and how it is being incorporated in late summer or the fall.

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](mailto:CE.NRS.Solutions@gov.bc.ca) with “**Feedback on AMPs under the WSA since What We Heard report #1**” in the subject line.