

BOUNDARY ALLIANCE

- ITEM 1 Press Release Jan 27 2010**
- ITEM 2 email Jan 12 2010 to Minister of Environment and Premier with submission of petitions against Big White water application**
- ITEM 3 Open Letter to Ministry of Environment and Premier detailing objections to Big White water application**
-

ITEM 1 Boundary Environmental Alliance Press Release Jan 2010

Two petitions totalling over 1400 signatures, against an application by Big White Resort to take more water from the Kettle, were recently submitted to The Ministry of the Environment and the B.C. Premier. These signatures along with several hundred more, submitted in the Legislature last year by MLA Katrine Conroy, call on the Government to deny Big White's application. In an "**open letter**" submitted with the petitions, Boundary Alliance called for the Government to deny the Big White application and any other applications for Kettle River water until needed hydrogeological studies and a Comprehensive Watershed Management Plan (WMP) for the Kettle are in place.

Despite years of progressively lower flows in the Kettle, the Ministry of Environment has minimised and dismissed all concerns about further withdrawals from the Kettle on the frequently claimed basis that the proposed withdrawals represent an insignificant difference to Kettle flows when measured at Midway during freshet, and that proposed water use by Big White will return to groundwater. The first claim is a classic red-herring. If the proposed withdrawals out of the three tributary streams amounted to 100% it would still show as insignificant at Midway but those streams would be badly damaged along with the loss of groundwater recharge. The withdrawals in fact would be something less than 100% but the MOE claim of a 9% draw is based on flow data from only one of the three streams using flow records from a station that operated for only 11 years, 28 years ago. Since then declining snowpack and a number of other licences issued to Big White have diminished available flows. Our **open letter** to MOE and the Premier detailed the variety of very significant evaporation and other losses that will occur, contrary to MOE's claim of no net loss. The no net loss theory, if applied broadly to other licences on the Kettle reveals the notion for the absurdity it is.

MOE after ignoring all calls for public meetings on the issue then effectively "handed off" the application (with effectively implied approval) to Ministry of Tourism Culture & Arts (MTCA) the agency responsible for shovelling (fast-tracking) public assets into private hands and the agency that invited Big White to apply for the water in the first place. Our **open letter** details why the ongoing process and the "public consultation" promised by MOE and the Premier is a sham.

The Regional District of Kootenay Boundary and the Area E (area includes Big White) Regional Rep Bill Baird initially indicated that they were opposed to Big White's application. However in 2009 at a public meeting to discuss Budget matters, RDKB Chief Administrative Officer John MacLean declared, that after discussions with MOE he was satisfied that Big White's withdrawals might have some effect the first year, but after that the water would just go round and round. Apparently Mr MacLean swallowed the "red-herring" and the whole hook, line and sinker of the no net loss theory. Representative Baird presumably bought the same story. Although he promised to arrange a public meeting ("very soon") to

BOUNDARY ALLIANCE

address the Big White application, proposed studies and a proposed Watershed Management Plan, it has never happened. That promise was made 15 months ago.

RDKB and Rep Baird have indicated for some time that a number of “studies” are planned for the Kettle, namely “fish stock evaluations,” a Ministry of Agriculture initiative to model water use similar to a recent study in the Okanagan and other work “to determine how many users and how much available water we have.” We are told these studies will be in place over three years or so and any Watershed Management Plan process should wait until these studies are in. The assumption being made is that such studies will provide definitive and needed input for a WMP. The reality is that MOE already has a bookcase full of Provincial, Federal and consultants studies on the Kettle that document the steadily increasing low flows, withdrawals and high water temperatures that have a detrimental effect on fish populations, other water quality issues and various projections contained therein that estimate how present and future warming trends will further exacerbate these problems. There is no shortage of current and past data on these issues. An exercise to determine current water usage will provide little new information as there is no volume metering of licenced withdrawals and no accurate count or knowledge of groundwater withdrawals, in part because BC remains the only Canadian Province that does not licence these groundwater withdrawals. The Ministry of Agriculture modeling is a useful exercise with future potential, however it is not information that has to be completed before starting a Watershed Management Plan process.

None of these studies have started, none are scheduled to start. There has been talk of these studies for more than two years, there may be only talk of these studies for years to come.

There are no good reasons for delaying the startup of a Watershed Management Plan process. Experts in Watershed Management Planning caution that “it is a trap” to avoid planning or acting while waiting for all the studies (there will never be enough) and that information can be incorporated into plans and actions as it becomes available, in a well recognized process called Adaptive Management.

Many WMP processes take 5 to 6 years to finalize a plan. If the process does not begin until studies are completed, three or who knows how many years away, the whole process could take 10 years or more. Politicians and bureaucrats might like these extended timelines as it enables them to do nothing to address very current issues while pointing to the promise of some future process that might.

It is useful to consider that 125 years ago the CPR was built across Canada in less than half that time. A WMP process does not need to scale mountain passes, dig tunnels, build tracks and bridges. A WMP process is mostly talk. It should begin.

We suggest the sometimes fractious communities of Grand Forks, Greenwood and Midway, together with stakeholders and interested participants, should put aside differences and work at a common goal of initiating a WMP process. RDKB has suggested that the MOE should lead any eventual WMP process or be responsible for developing a WMP. In an ideal world perhaps so, but MOE has primarily become a Permitting Agency, issuing permits for pollution, permits for resource extraction and water extraction, damming of streams and rivers. MOE habitually downplays or ignores public concerns, ignores the frequent lack of scientific information on the current or future effects of a particular decision, allows environmental assessments to be provided by people hired and paid for by proponents and doesn't require that these assessments consider the long term consequences of giving away public resources. To ask MOE to be the lead architect or designer of a Watershed Management Plan makes as much sense as asking a fox to design a hen-house. Obviously however, MOE has to be a part of any process along with various other Government agencies. Other stakeholders and participants need to ensure that any WMP quickly establishes terms of reference and a meaningful mandate. Failure to do so has doomed similar exercises and wasted the time and effort of participants.

BOUNDARY ALLIANCE

When the Kettle was declared a Heritage River in recognition of its outstanding natural cultural and recreational values, it came with the promise and expectation that the Kettle would see an extra level of protection of those values. Heritage status appears to have resulted in none of the anticipated protection. In a Watershed Management Planning process, participants need to ensure that in and at the end of the process something much more substantial is in place than the guidelines of a Heritage Status designation which has been shown to have no useful force or effect.

Al Grant for Boundary Environmental Alliance

ITEM 2

Email from Boundary Alliance Jan 12 2010

To Minister of Environment Barry Penner & Premier Campbell:

We hereby submit two petitions against Big White Ski Resorts water licence application of November 2007 and OPEN LETTER to MOE and the PREMIER from Boundary Alliance, requesting amongst other things, that Government deny or suspend the application.

Total signees 1444. Additional signatures, perhaps in the hundreds, were submitted to Government in 2009 by MLA Katrine Conroy. We attach PDF of the online portion of this petition, 938 signatures, and advise that the remainder of the 1444 which were a paper petition, will be mailed separately. **(Could the office of the MOE please advise address for us to mail these to)**

Please take note of comments in the online petition for some indication of how the Kettle is "valued" by petitioners. The paper petition was distributed mostly in the small communities of Beaverdell, Westbridge and Rock Creek. Single signers often represent the opinion of their partners or family group (as we are sure your Government calculates) therefore these signatures represent a significant percentage of those approached in the Kettle Basin.

As stated in the Petition and detailed OPEN LETTER TO MOE & the PREMIER, we call on your Ministry and Government to deny this application and any other applications for Kettle River water until needed hydrogeological studies and a Comprehensive Watershed Management Plan for the Kettle are in place.

Al Grant

250 446 2372

ITEM 3

OPEN LETTER TO B.C. MINISTRY OF ENVIRONMENT and the PREMIER. JANUARY 8th 2010 FROM BOUNDARY ALLIANCE

REQUEST FOR YOU TO DENY BIG WHITE'S WATER LICENCE APPLICATION

MOE Water Stewardship Branch, MOE and you as Environment Minister have dismissed concerns over the proposed withdrawals, maintaining that the proposed withdrawals are "not significant" and represent only 0.2% of Kettle flows during freshet at Midway. MOE Regional Hydrologist Phil Epp has stated that: *"stored water is largely used for residential purposes, small losses from reservoirs to evaporation, maybe transpiration if golf-course, proposed diversion small relative to downstream flows, I do not share (expressed) concerns based on the information I have."* Unfortunately Mr Epp doesn't appear to have all the information he needs and he buys into the notion that this application is largely for development purposes, (not for the future uses publicly described by Big White's spokesperson,

BOUNDARY ALLIANCE

Ballingall,¹ of snowmaking and golf course irrigation) he downplays reservoir evaporation losses as small, (they can be 20% to 30% or more from shallow reservoirs) apparently doesn't know that two golf courses are proposed in the Draft Master Plan, water hogs due to major evaporation and transpiration losses which are likely to be 100%. Further evaporation and sublimation losses from snowmaking can be 10% to 20%.

No one in your Ministry appears to have been tasked with assessing the environmental consequences of snowmaking although numerous jurisdictions worldwide have restricted or banned the practice.

Ministry staffers have indicated that water used for residential and development purposes all returns to groundwater via sewage lagoons. These lagoons, although supposedly designed to return sewage waters to groundwater, are themselves subject to significant additional evaporation losses.

Your Ministries position that proposed withdrawals are insignificant because they represent a small percentage of flow at Midway during freshet is a classic red-herring which we will address later.

Your Ministry later indicated that the withdrawals would represent 9% of freshet of the three headwater streams. There is of course no data to support this estimate other than an old flow measuring station in upper Trapping Creek which operated for 11 years, up to 28 years ago. Since then declining snowpack's and the effects of a number of other authorized water licences, will have had an effect that is not reflected in that old data. Withdrawals are therefore undoubtedly substantially higher than 9% in an "average" year and likely represent significantly damaging withdrawals in low flow years. The red-herring of effect at Midway during freshet diverts attention from the real (unanswered) questions which are the actual effects on headwater streams and the subsequent effects on groundwater recharge.

Ministry staff have advised us and others that **any withdrawals would only be permitted during freshet**. We were specifically assured that the planned reservoirs would receive only water pumped in during freshet from three downstream collection points and **would not intercept any "other season" flows**. On a recent visit to review the locations of the proposed reservoirs it was apparent that one or more streams flow into each of those areas, which would **conveniently replace seasonal evaporation losses and would be lost to and no longer be contributing to late season flows**.

We were informed by your Ministry that the applicant might be required to have a consultant prepare a narrowly focussed environmental assessment on the reservoirs and infrastructure associated with delivering water to those reservoirs. We were also advised by your Ministry that any such assessment would be "proprietary" information belonging to the applicant and therefore unavailable to the public. Since any such assessment relates to works being authorized on public land, would cover public safety issues, e.g. the known sensitivity and instability of Whitefoot Creek area, and the potential for intercepting late season flows, it is imperative that any environmental assessment be available to the public. **We therefore request that we be provided with your assurance that any such report, when prepared, be made available to us and any other interested parties, through your Ministry.**

Above all there is a lack of hydrology information or study in the area that would indicate the effect of these withdrawals on groundwater recharge and the relationship of that recharge to the dependence of the Kettle on groundwater flows for summer and later flows.

The suggestion that withdrawals during freshet will have no negative impact on the river are unsupported and imply that freshet volumes are "excess" or "wasted" waters conferring no benefits. The reality is that the Kettle River flows are dependant for most of the year on groundwater re-emerging into the river. The groundwater that re-emerges in the Kettle depends on groundwater recharge provided in large degree by a strong freshet. In the absence of any hydrological studies on the

BOUNDARY ALLIANCE

Kettle which would fully document the Kettles' dependence, your Ministry apparently feels justified in speculating that withdrawals will have insignificant effects. Those who have observed the river over time know otherwise. While it has been suggested that withdrawal volumes are also insignificant relative to total river flow well downstream, any existing licensed withdrawals also appear insignificant in relation to total river flows. **Add them all together and we have a depleted river, in trouble, with several years of record low flows in years that have had average precipitation.**

A second significant contribution of a strong freshet is the beneficial effect on fish habitat. Scouring and cleaning of channels and gravels, deposition of large woody debris (LWD) in the form of uprooted trees or stumps has a significant impact on improving fish habitat. MOE has recent studies to show that the Kettle is an underperforming river in terms of fish populations. Those studies have recommended that artificial LWD structures be constructed to improve fish habitat. These artificial structures are constructed at public expense. Such public expense can provide a public benefit but **it is an absurdity for the Ministry of Environment to be promoting and overseeing such activities while at the same time Water Stewardship Branch, within that ministry, is suggesting a reduction in freshet, which generates LWD naturally, is of no concern.**

The absence of hydrological studies that might better inform decision makers and the public is a recurrent problem. Canadian Press in August 2008 obtained an internal Environment Canada report from Dec 2007 under a "freedom of information" request. That report said: "we can no longer take our extensive water supplies for granted; **government data on groundwater reserves is deemed sparse and inadequate**, and that is in contrast to the U.S. which has spent more than a decade mapping its underground reserves; that **Canada lacks sound information on the major uses and user(s) of water.**"

We do however have recent studies on the Okanagan and Columbia watersheds which indicate that, based on the existing warming trends, and the possibility that this trend may increase due to global warming: "that likely lower snowpack, greater evaporation, and earlier melting will result in reduced flows in Spring, Summer and Fall." Some evidence of this trend is fresh as per MOE's unprecedented 2009 request to licence holders to voluntarily restrict licence usage in the Kettle.

Your Ministry appears bent on ensuring that the invitation by Ministry of Tourism, Culture & Arts to Big White & other ski-resorts to: "*Make application for all the water available in the watershed. Some applications have been in process for years, effectively a water reservation system that was never supposed to happen,*" is rewarded, regardless of impact on the Kettle.

Your Ministry; despite lack of data, despite the public acknowledgement of Big White that they don't need the water (see later comment on Big White's own calculations re needs) despite evidence of declining Kettle flows and despite other government forecasting of impending shortages, and despite the dubious ethics of MTCA's invitation, appears to be willing to minimise consequences and propose numerous specious rationales, particularly the misleading notions of nearly no net loss and the suggestion that the Kettle is "flood prone," in order to accommodate the wishes of MTCA.

Your Ministry, having ignored all calls for public meetings on the issue then effectively "handed off" the application (with effectively implied approval) to MTCA, the agency responsible for shovelling public assets into private hands and the agency that invited Big White to take the water, under the pretence that MTCA would handle the promised "public consultation" as part of their review of Big White's new draft Master Plan. The so called "public consultation" promised by your Ministry and by the Premierⁱⁱ is as much of a sham as the Premier's claims that the process is: "*done on the basis of thorough and I think complete community and scientific studies.*" The Provincial Government is aware that B.C. Courts have ruled that public consultation requires an interactive process that is more than just a process of

BOUNDARY ALLIANCE

gathering and exchanging information. What that means is that the public can expect more than token responses to concerns, that meaningful data should be provided to support Government claims and that studies not be held from public view on the basis of “proprietary information” or for any other reason. The only “public” event promised in MTCA’s process would be an “open house” set up late in the process when approvals are mostly in place. The open house would be set up and operated by Big White. No Government presence is normal at such an event therefore any public “feedback” is handled by the proponent. This surely is not “public consultation”.

We reiterate our request for your Ministry and Government to deny this application and any other applications for Kettle River water until needed hydrogeological studies and a Comprehensive Watershed Management Plan for the Kettle are in place.

When MTCA advised their clients that an application for water effectively reserved their claim it revealed shortcomings in the Act. The Act however does not prevent your Ministry from suspending this application until the necessary studies and Watershed Plan are in place. Big White does not need this water to enable it to build out to 258% of its existing bed-units as of early 2009.ⁱⁱⁱ Big White’s existing Master plan is good to 2039. Big White has stated that they do not need additional water for development but for future snowmaking and golf-course irrigation. It is unlikely that Big White would have proceeded with a new Master Plan proposal except as a way to appear to justify additional water licences “associated” with planned growth.

Do the right thing for the environment and suspend this application until the studies and plans are in place. We also request that the Kettle be deemed to be “fully subscribed” until sufficient studies and plans indicate otherwise. We request that you confirm that you will do so.

Al Grant for Boundary Environmental Alliance

www.boundaryalliance.org

ⁱ Radio interview with Big White’s spokesperson where they indicate that they applied because of MTCA’s invitation, that they don’t need the water now and that they may require it for snowmaking in the future due to global-warming, that the reservoirs will be designed to collect runoff.

<http://www.castanet.net/media/player.php?mediacat=clip&mediaid=43225&mtype=1>

ⁱⁱ <http://www.youtube.com/user/SavetheKettle>

ⁱⁱⁱ http://www.boundaryalliance.org/bigwhiteplan_notesmar09.pdf