

West Coast Environmental Law helps protect Sunshine Coast

January 11, 2006 - Posted in [British Columbia Context](#), [Protecting Water Quality and Ecology](#), [Water Source Protection](#)

Posted January 2006

Courtesy of West Coast Environmental Law

With help from West Coast Environmental Law (WCEL), a two-year effort to protect the Sunshine Coast's Hotel Lake from harmful water withdrawals is successful. The Environmental Appeal Board has limited the amount of water that can be withdrawn from Hotel Lake until studies demonstrate that increased water use will not harm the lake.

The story began in 2003, when developers applied to the Sunshine Coast Regional District (SCRD) for permits to subdivide parcels of land for housing and a condo-hotel complex north of Sechelt. The regional district's existing water licence on Hotel Lake was not adequate to supply these or other future developments in the area, so the district applied to Land and Water BC for permission to increase water withdrawals from 47.7 million litres per year to 111.3 million litres per year, more than doubling the amount of water it would be able draw from the lake. Area residents were concerned about both the scale of the proposed developments and the effects on both water quantity and quality of their small lake. They formed the Area A Quality Water Association, and with help from West Coast Environmental Law, worked doggedly to oppose the new water licences. According to the association, if all users, including the SCRD, withdrew water up to the proposed amounts, Hotel Lake's surface outlet stream would cease to flow year-round, and the lake level would begin to drop steadily except in years of exceptional rainfall.

After hearing the association's arguments, Land and Water BC, in a November 2003 surprise decision, refused the regional district's application until better evidence was produced showing that the water withdrawals would not harm the lake. Land and Water BC also asked the SCR D to undertake a comprehensive water-planning study for the entire Pender Harbour area, to address long-standing concerns about future availability and management of drinking water sources.

But rather than undertake this study, the regional district and the developer tried to get around the requirement by purchasing two existing water licenses. Neither of these water licenses had been used for many years, if at all. If the taps were turned on, more water would be coming out of the lake, and the lake would again be at risk. This time, Land and Water BC approved the transfer of the water licenses to the regional district.

The Area 'A' Water Quality Association, represented by Environmental Dispute Resolution Fund-funded lawyer Joanne McClusky, appealed. The Water Quality Association argued that the water licences should have been cancelled, since they hadn't been used for years, and that it was not appropriate to transfer them to new users without recognizing that their use would place new strains on the lake.

On August 8, the Environmental Appeal Board (EAB) released its decision, limiting water withdrawals in the absence of proper water planning. The board recognized there was a great deal of scientific uncertainty regarding the levels of water use that Hotel Lake could support, and that further testing would be appropriate. It ordered strict limits on the withdrawals from the lake until the regional district completes various studies and planning necessary for the proper management of the lake, including a master water plan and a water balance for the lake.

Andrew Gage, Environmental Dispute Resolution Fund liaison lawyer, commented: "This decision represents one of the first real

efforts of the board to grapple with a precautionary approach to environmental problems. Recognizing that uncertainty does exist, the EAB found that 'prudent water management practice dictates a cautious approach in this case.' The board's recognition that large amounts of water should not be transferred without careful study is encouraging."

The August 9, 2005 decision of the BC Environmental Appeal Board in McClusky and Mulligan vs. Assistant Water Manager, is available by clicking [here](#).