

Do you have the right to clean water in BC?

On Monday, April 1, 2019 - April Fool's Day - Judge McEwan chose to adhere to a legal principle that makes it difficult for public interest groups to access the legal system. Judge McEwan did this by demanding that the Glade Watershed Protection Society (GWPS) raise the funds necessary to pay the legal costs of losing their case in order to proceed.

Glade Watershed Protection Society (GWPS) is a volunteer-based public interest group working to protect its consumptive use watershed. Their work is supported by West Coast Environmental Law and community fundraising. Judge McEwan's requirement that GWPS raise \$15,000 in 60 days to cover the potential costs of legal proceedings for two corporate logging companies effectively excludes them from equal access to the legal system. If the monies cannot be raised, their application for protection under the Drinking Water Protection Act (DWPA) will be dismissed.

Two timber companies have tenure in Glade *public* forest. On Feb 4, 2019 GWPS sought a temporary injunction against Kalesnikoff Logging Company (KLC) and Atco Wood Products (Atco) until a Forest Practices Review investigation and a judicial review of a DWPA decision could be completed. Both companies argued against the injunction stating that they had invested heavily in the Glade Creek watershed, and that logging would not harm the water. This contradicts reports prepared by Registered Professionals (Hydrologist, Forester and Forest Ecologist) that assert that water quality and quantity are at risk from planned logging, particularly in this time of climate change. KLC and Atco further asserted that since GWPS is a nonprofit with almost no funds, they would be unable to recoup any costs from them.

The court dismissed GWPS's injunction application. Judge Tammen, BC Supreme Court, stated that the risk of harm to Glade Creek water does not "rise above the level of speculation." Ignoring professionals' concerns about water quantity, he stated that if harm did occur, it could be remedied by additional water treatment and would not be "irreparable." Any changes to water flows cannot be remedied by water treatment. This decision also ignores the health risks associated with many forms of treated water and the high costs to install effective water treatment systems. The municipalities of Vancouver and Victoria discontinued logging in their watersheds for these reasons.

In his judgement, Judge Tammen stated that if the injunction were granted, the timber companies would suffer "irreparable" injury due to "obvious economic harm." Furthermore, these companies would not be able to recover any damages from GWPS. By awarding costs to Atco and KLC because of their "virtual complete success" in the proceeding, the legal system has supported the corporate interests of resource companies, while dismissing societies appearing for the sake of the public good.

In court, Judge McEwan noted: "Do you have a right to clean water? I'd suggest you don't... there just is nowhere in the law where you can look and say, there it is - there's my right. I have a right to clean water.""

Through exploring legislative mechanisms to effectively protect drinking water – GWPS has come to an impasse. Yet climate change is predicted to increase the incidence of both spring floods and fall droughts. Forestry is the single largest greenhouse gas emitter in BC and the 'business as usual'

paradigm ignores that intact, old forests produce the best water. Judges McEwen and Tammen's decisions impact public interests across the province.

To assist the Glade Watershed Protection Society in defraying costs, the public can donate via <https://www.protectgladewatershed.com>. They are also requesting that people write to their local MLA, the Ministers of Forests, Lands, Natural Resource Operations and Rural Development and the Environment asking for changes to forestry legislation so that water conservation is put ahead of resource development.

Glade Watershed Protection Society
www.protectgladewatershed.com