

October 18, 2017

Dear Prime Minister Justin Trudeau and Transport Minister Marc Garneau:

We, the undersigned, are writing to call on you to follow through on your 2015 election commitments to restore legal protection for all navigable waters in Canada and to express our grave concerns about your government's response to the Standing Committee on Transport, Infrastructure, and Communities' recommendations on the Navigation Protection Act (NPA), formerly the Navigable Waters Protection Act (NWPAA).

Water connects us all. Indigenous peoples rely on water for transportation, fishing and cultural and spiritual practices. The public has the right to navigate, recreate, and enjoy environmental amenities, on all navigable rivers and lakes in Canada and significant interference with those rights is still illegal in common law. Strong waterways are the backbone of healthy ecosystems. We must recognize our shared responsibility to carefully steward waterways to ensure they are available for current and future generations.

Many of the submissions to the Standing Committee from Indigenous nations, environmental and other organizations and local residents call for protections to be put back on all waterways. But your government's response on June 20, 2017 fails to deliver on its promises. Instead your government is choosing to leave 99 per cent of lakes and rivers unprotected from dam, fish farm, mining, or other industrial projects under this act.

Submissions by Indigenous nations again emphasized that they were not consulted on the 2012 changes, despite their use of the affected waterways from time immemorial. There are countless lakes and rivers that run through the traditional territories of Indigenous peoples. The federal government has committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples including obtaining free, prior, and informed consent on policies and laws affecting Indigenous nations. Recognition of Indigenous nations' authority and jurisdiction over waterways and co-governance between Indigenous nations and the federal government must be a central part of the NPA.

We understand that Transport Canada will provide clarity on a process to add navigable waters to the Schedule of lakes and rivers. However, we are deeply disappointed that this will put the onus on communities to make the case to put protections back on waterways when it is the federal government's responsibility to protect the right to navigation and waterways for current and future generations.

There is also no clear commitment from the federal government to restore reviews of projects that impact navigable waters, such as pipelines or powerlines. For example, Kinder Morgan's Trans Mountain pipeline could cross 1,355 watercourses in British Columbia, Alberta and Indigenous nations, threatening navigation and waterways that we will pass down to future generations.

Communities and local residents have urged your government to take the most straightforward action possible – immediately restoring the gutted protection that had been in place for decades to protect 31,000 lakes and 2.25 million rivers – but the government has ignored these demands.

We are growing increasingly concerned that your government is entrenching some of the most troubling aspects of the 2012 amendments to Canada's laws on navigable waters in the proposed revisions. The federal response to an access to information request by Greenpeace revealed that the 2012 budget bill changes to the Navigable Waters Protection Act were guided by the advice of industry associations. Big Oil and Big Hydro are among the corporations lobbying your government against restoring the NWPA around pipelines and power lines.

We are urging you to listen to Indigenous nations, voters and organizations and take the following actions to restore and enhance the NWPA:

- Restore and strengthen protections for all lakes, rivers and waterways and protect public and Indigenous rights to navigation
- Require consideration of environmental factors in decision-making about navigable waters, recognizing that waterways are not merely an economic highway, but part of our natural heritage
- Reinstate and strengthen federal scrutiny of large pipelines and powerlines and other projects crossing navigable waters
- Incorporate co-governance with Indigenous nations, recognizing their authority and jurisdictions over waterways on their traditional territories
- Create a public registry, as suggested in the government's response to the Standing Committee, to facilitate a consultation process that fosters true collaboration between the public and government
- Implement strict safeguards for waterways within the framework of the United Nations-recognized human right to water and sanitation
- Recognize that the government manages navigable waterways subject to public trust principles for current and future generations
- Apply a precautionary approach in regulating any works or activities that threaten public and Indigenous rights to navigation and associated environmental values

Restoring protections for every lake and every river is a key opportunity for your government to show leadership on water protection and demonstrate its commitment to following through on its promises. This is also a chance to begin the journey to genuine reconciliation so that Indigenous treaty and water rights are respected and nation-to-nation relationships are truly established. Protections must be restored and strengthened for every lake and every river so that we can work towards the bold vision of truly protecting the world's lakes and rivers.

Sincerely,

Margaret Atwood and Graeme Gibson, Canadian novelists  
Maude Barlow, Honorary Chairperson of the Council of Canadians  
Dorene Bernard, Coady Chair in Social Justice 2017  
Chief Lance Haymond, Kebaowek First Nation  
Dr. Mary Jackes, University of Waterloo  
Bren Kolson, Author and Poet from Tso'Tine (Rocher River) Band  
David Lubell, Professor Emeritus, University of Alberta  
Ruth Madseb, Chair, Thompson Institute of Environmental Studies  
Sheelah McLean, co-founder of Idle No More  
Scott Neilsen, Assistant Professor Memorial University  
Andie Palmer, Associate Professor/Chair (Graduate Programs), Anthropology, U. of Alberta  
Grand Chief Stewart Phillip, President of the Union of B.C. Indian Chiefs  
Chief Clinton Phillips, Mohawk Council of Kahnawá:ke

Harmony Redsky, writer and performer from Wasauksing First Nation  
Catriona Sandilands, Professor of Environmental Studies, York University  
David W Schindler, Killam Memorial Professor of Ecology (emeritus), University of Alberta  
Susan Shantz, Artist and Professor of Art, College of Arts & Science at U. of Saskatchewan  
Makere Stewart-Harawira, Faculty of Education, University of Alberta  
David Suzuki, Scientist, environmentalist and broadcaster  
Grand Chief Ron Tremblay, Wolastoq Grand Council  
Mark Winfield, Professor, Faculty of Environmental Studies, York University

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Boreal Centre for Sustainability  
British Columbia Fly Fishing Federation  
Campbell River Environmental Committee  
Canadian Environmental Law Association  
Canadian Freshwater Alliance  
Canadian Parks and Wilderness Society (CPAWS) Yukon  
Central Athabasca Stewardship Society  
Coalition to Protect East Kamloops  
Cold Lake First Nations  
Conservation Council of New Brunswick  
Council of Canadians  
David Suzuki Foundation  
Doaktown Health Alliance  
Downstream Project  
Ecojustice  
Ecology Action Centre  
Ecology North  
Environmental Defence  
Fair Mining Collaborative  
False Creek Watershed Society  
FORPA Forest Protection Allies  
Friends of the Earth Canada  
Friends of the Stikine Society  
Glasswaters Foundation  
Grand Riverkeeper Labrador, Inc.  
Grassroots Grandmothers Circle  
Great Lakes Canoe Journey  
Idle No More - Ontario  
Indigenous Climate Action (Atlantic)  
Kebaowek First Nation  
Keepers of Athabasca  
Keepers of the Water  
Kitsumkalum Indian Band  
Labrador Land Protectors  
The Leap  
Margaree Environmental Association  
Mining Watch  
Morrison Creek Streamkeepers  
My Sea to Sky  
Nature Canada  
NorthWatch

Ontario Rivers Alliance  
Paddle for the Planet  
Peace and Friendship Alliance Nova Scotia  
Professional Institute of the Public Service of Canada (PIPSC)  
RAVEN (Respecting Aboriginal Values and Environmental Needs)  
River Voices Productions  
Saanich Inlet Network  
Salmon Beyond Borders  
Skeena Watershed Conservation Coalition  
SkeenaWild Conservation Trust  
Sierra Club BC  
Stand.Earth  
Toronto & York Region Labour Council  
Trumpeter Swan Coalition  
Union of B.C. Indian Chiefs  
Vancouver Island Water Watch Coalition  
Watershed Watch Salmon Society  
Wellington Water Watchers  
West Coast Environmental Law Association  
Wilderness Committee  
Wild Salmon Defenders Alliance  
Wildsight  
Wolastoq Grand Council