



by Emma Lui

## Canada's Lakes and Rivers **Lose** Legislative Protection

There are now only 100 lakes, 62 rivers and 3 oceans legally protected in Canada under the Navigation Protection Act (NPA). The NPA, which came into force on April 1, 2014, removed protections for the majority of waterways. When it comes to pipeline and powerline projects, the NPA affords no protection to any lake, river or waterway.

The NPA replaced one of Canada's oldest pieces of legislation, the Navigable Waters Protection Act (NWPA), which was originally put in place to safeguard the navigation of waterways. In 2009, the Harper government began its initial clawback of the NWPA. In a 2009 report on Bill C-10, the budget bill where early amendments to the NWPA appeared, the Standing Senate Committee on Energy, the Environment and Natural Resources declared, "The Act protects the public right of navigation by regulating works over waterways such as bridges, dams and docks in order to minimize the overall impact on navigation." Yet Bill C-10 created a tiered classification system that allowed certain projects to be exempted from federal scrutiny.

The final blow for the NWPA came in 2012 in the Harper government's second omnibus budget bill, Bill C-45. The 450-page bill stripped protections from 99 per cent of the lakes and rivers in Canada and significantly reduced the number of environmental assessments triggered by industrial development on or near waterways. The bill also amended the act's name to the Navigation Protection Act.

An Access to Information request by Greenpeace revealed that the 2012 budget bill changes to the NWPA, the Environmental Assessment Act, and other environmental legislation were guided by the advice of industry associations.

The scant list of lakes, rivers and oceans that are still protected, outlined in the act's schedule, does not include some of the largest lakes in the provinces and territories. Smallwood Reservoir, unprotected under the NPA, is the largest lake in Newfoundland and Labrador and feeds the Churchill River, which in turn is the longest river in the province. Some of largest lakes in

Quebec are unprotected, including Lac Mistassini, Réservoir Gouin and Lac à l'Eau Claire. While several of the large lakes in Ontario are protected, only one of the lakes in Saskatchewan and three lakes in Manitoba larger than 400 square kilometres are protected. None of the lakes larger than 400 square kilometres are protected in Alberta. Glacial-fed Atlin Lake, on the traditional lands of the Taku River Tlingits, is one of the largest lakes in British Columbia and the source of the Yukon River. It is not protected. Of the Yukon and Northwest Territories' largest lakes, only Great Bear Lake is listed under the act's schedule for protection.

The Harper government's 2012 budget bills fanned the flames of discontent amongst Indigenous communities. The federal government not only washed its hands of protecting lakes and rivers, it also ignored the constitutional duty to consult with First Nations. That fall, four Saskatchewan women started Idle No More, a movement that grew over the winter of 2013 and sparked a massive wave of rallies and actions across the country.



On World Water Day, members of the Council of Canadians' Campbell River chapter called on their local MP to "#Pledge2Protect" the Campbell River Estuary.

## Legal challenges

Council of Canadians Political Director Brent Patterson noted in a blog, "In January 2015, the Mikisew Cree First Nation won its legal challenge against Harper's C-38 and C-45, which removed federal protection for most of the waterways in the traditional territory of the Mikisew Cree in northern Alberta. Federal Court Justice Roger Hughes ruled that the Harper government should have consulted with First Nations before introducing the omnibus bills C-38 and C-45 two years ago."

Canadian musicians like Sarah Harmer, the Tragically Hip's Gord Downie, and Feist also spoke out against the changes to the Navigable Waters Protection Act. Downie warned that Bill C-45 was "an attack on our democracy." Mountain Equipment Co-op CEO David Labistour presented a list of 40 recreationally important waterways – half of which are Heritage Rivers – that are no longer protected. Labistour reminded the Senate committee studying the bill that the outdoor recreation industry creates at least 6 million jobs in Canada. This is a significant number when it is compared to the 226,020 jobs – as projected in 2013 – in oil and gas extraction and support activities for mining and oil and gas extraction.

Two and a half years after the legislative changes, many lakes and rivers remain unprotected, and resource and development projects continue to be exempted from environmental reviews. Energy

East, North America's largest proposed pipeline, is exempted from scrutiny under the NPA even though it threatens hundreds of unprotected lakes and rivers. The New Post Creek hydroelectric dam project in Ontario will be built on the unprotected Abitibi River and will not undergo any environmental review. Any liquefied natural gas plant built in British Columbia on an unprotected river would not require federal approval under the act, even if it interferes with navigation on the waterway.

The NPA has an "opt-in" process by which companies can volunteer to have their project reviewed even if it is not required. Transport Canada also provides an "opt-out" option by which a company can request to withdraw their application if they submitted it prior to the legislative changes, which absolves the company of the requirement to obtain federal approval under the act.

While the NPA may look like a blanket delisting of the majority of lakes and rivers across Canada, it is important to note that 89 per cent of the waterways still protected are in Conservative-held ridings. Only 20 per cent of the protected lakes are in ridings held by New Democrats and only 6 per cent are in Liberal ridings.

Shortly after Bill C-45 was introduced, Francis Scarpaleggia, Liberal critic for water policy and public safety, wrote, "As a Quebec MP, I am particularly concerned that only four lakes in Que-

bec will remain protected with these changes. Canada's waterways across the country are an integral part of our natural environment and part of our world renowned heritage. Protecting them must not be a partisan exercise."

Since then, the NDP has launched a campaign to reinstate protections to all the lakes and rivers in Canada, starting with the Canadian Heritage Rivers. Since April 2013, NDP MPs have introduced several private member's bills to restore waterway protections.

With the federal election coming, 2015 will prove to be a significant year. Many hope it will lead to a new course for water and that environmental legislation gutted by the Harper government will be reinstated. Our lakes and rivers should not be sacrificed for the sake of pipelines and oil and gas development.

## Act for water!

To mark World Water Day in March, the Council of Canadians launched the #Pledge2Protect our lakes and rivers campaign. We are urging people to take a photo at a lake or river in their community that is no longer protected and encourage their MP and election candidates to pledge to protect it. Together, we can show the importance of our waterways and get protections put back on 99 per cent of the lakes and rivers in Canada.

Emma Lui is the Water Campaigner for the Council of Canadians.