



“Rawson Lake Kananaskis country” by davebloggs007 via Flickr. CC by 2.0

5 Things You Should Know about Water Protection



by Emma Lui

Why we must protect every lake and every river under a new Navigable Waters Protection Act

Four years ago, the former Harper government introduced two omni-budget bills that made sweeping changes to some of Canada’s key laws concerning water and the environment. The Harper government removed protections for 99 per cent of lakes and rivers under the Navigable Waters Protection Act. The government also gutted the Fisheries Act so that it no longer protects fish or fish habitat. Nearly 3,000 environmental assessments were cancelled as a result of amendments made to the Canadian Environmental Assessment Act. Mining, tar sands, fracking, pipeline and other risky projects are being approved under these weakened laws to this day.

This summer, the Trudeau government announced it will review and hold public consultations through the fall about the National Energy Board, the Canadian Environmental Assessment Act, the

Fisheries Act and the Navigation Protection Act. The government will create two expert panels to examine how the National Energy Board and the federal environmental assessment process approve projects. The expert panels will detail their findings in reports that are expected in January 2017.

West Coast Environmental Law Centre’s Anna Johnston told *Desmog Canada* that the review is a “once-in-a-generation opportunity for Canada to enact really visionary new environmental laws and processes.”

Here are five things that must be included in the Navigation Protection Act (NPA) – formerly the Navigable Waters Protection Act (NWPA) – for water to be protected for future generations:

1 The human right to water and community consent

must be part of the foundation of all water legislation and protections.

In July 2010, 122 countries of the United Nations General Assembly voted to recognize the human rights to water and sanitation. This internationally binding resolution must be recognized at every level of government.

In the report *Our Right to Water: A People’s Guide to Implementing the United Nations’ Recognition of the Right to Water and Sanitation*, Council of Canadians National Chairperson Maude Barlow outlines the three obligations the recognition of a human right to water imposes on governments: the obligations to respect, protect and fulfill. This includes government’s obligation to prevent third parties from interfering with the enjoyment of the human right. For example, a government is required to protect a community from pollution

and inequitable water extraction by corporations or governments.

The Trudeau government's review of the NPA and other environmental legislation creates an opportunity to incorporate the human right to water into these laws. The Trudeau government must create mechanisms in the acts that allow communities to say "no" to projects that pollute or inequitably extract water and say "yes" to protecting local lakes and rivers and upholding the human right to water.

2 All energy and resource development projects must be reviewed.

The Harper government's 2012 water legislation changes resulted in the exemption of the review of pipeline and transmission line projects under the current Navigation Protection Act. The pipeline industry lobbied for – and won – these changes.

If built, the Energy East pipeline would be the largest pipeline in North America, transporting 1.1 billion barrels of crude oil from the Alberta tar sands to New Brunswick. The Energy East pipeline would cross 2,963 identified waterways and countless smaller streams and wetlands along its route. However, under the current legislation, Energy East and every other large pipeline project will not undergo any scrutiny under the Navigation Protection Act because pipelines are still exempted. Drinking water sources for close to 5 million people, as well as fishing, tourism, recreational waters, a beluga habitat and the home of the world's largest tides in the Bay of Fundy, would all be in danger from a spill from the Energy East pipeline.

The name of the act should be restored to the Navigable Waters Protection Act and it must include assessing the impacts of pipelines and transmission line projects on lakes, rivers and other waterways once again.

3 Mining, hydro dams and other projects are putting lakes and rivers at risk.

Under the NPA, the former Harper government removed protections from all

waterways in Canada except 97 lakes, 62 rivers and 3 oceans. Mining, hydro dam, liquefied fracked gas, fish farms or other projects on the remaining 99 per cent of lakes and rivers do not trigger an environmental assessment under the NPA.

Changes to the NPA and other environmental legislation must be part of a long-term plan to transition away from fossil fuels and protect every lake and every river.

KGHM Ajax Mining Inc. is proposing to build a copper and gold mine south of Kamloops, British Columbia, on the traditional territory of the Secwepemc Nation. If approved, the open pit mine would produce 65,000 tonnes of ore per day, which would be transported to the Port of Vancouver for shipping. The KGHM Ajax mine threatens Jacko Lake, which is known as one of the best fly-fishing lakes in B.C. Retired miner Tony Brumell believes the lake will "essentially die" if the mine is built.

The Trudeau government must scrap the schedule of 97 lakes, 62 rivers and 3 oceans and ensure the impacts of dams or other structures are assessed individually for every lake, river and navigable waterway.

4 Indigenous title and water rights must be recognized in every water and environmental law.

Parts of Canada are on unceded Indigenous territory. The Trudeau government has repeated its commitment to establishing a nation-to-nation relationship with Indigenous communities. However, this commitment was called into question when the Trudeau government approved permits for the controversial Site C dam in northeastern B.C., which some First Nations vehemently opposed.

In order for the Trudeau government to be true to its word, it must incorporate

the obligation to obtain free, prior and informed consent into the NWPA and other water legislation so that Indigenous treaty and water rights are respected and a nation-to-nation relationship is truly established.

5 Clean drinking water, recreation, sustainable jobs, and a just and healthy economy are inextricably linked.

Media and governments often falsely pit the environment against jobs. They argue that if people stand up to protect water or the environment they must be opposed to job creation. This is far from the truth.

The number of jobs created in water-intensive industries like mining, oil and gas is very low compared to jobs in other sectors. According to Statistics Canada, forestry, fishing, mining, quarrying, and oil and gas made up only 2 per cent of the total number of jobs in 2013. In fact, the industries that produce the most jobs are trade (15%), health care and social assistance (12%), manufacturing (10%), professional, scientific and technical services (8%), construction (7%) and education services (7%).

Changes to the NPA and other environmental legislation must be part of a long-term plan to transition away from fossil fuels and protect every lake and every river. For real change, the Trudeau government must restore and enhance freshwater protections in a way that creates a 100 percent clean, renewable energy economy by 2050, one that respects Indigenous rights, creates low-carbon, sustainable jobs, and promotes water and climate justice.

Your voice matters. You can use these five points at the public consultations, in letters to the editor, or when talking to friends, family or your local Member of Parliament about the urgent need to protect water. Together, we can make the new water and environmental legislation the catalyst for the water future we want.

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