



by Emma Lui

A #Pledge2Protect Lakes and Rivers Is More important Than Ever

Now that the election dust has settled and the federal government has delivered its first budget, all eyes are on Prime Minister Justin Trudeau and federal ministers to see whether they will deliver on their “real change” promises.

For the sake of clean lakes and rivers, we hope so.

During its nine years in power, the Harper government slashed critical funding and gutted freshwater protections. In the report *Blue Betrayal: The Harper government's assault on Canada's freshwater*, Maude Barlow describes the Conservative government's record of gutting water protections: “The Harper government has taken clear steps to gut the regulatory framework that – modest as it was – offered some protections to lakes, rivers and groundwater in Canada, and turned policy and practice upside down to advance the interests of the energy industry.”

Harper's 2012 omni-budget bills gutted the Fisheries Act and removed protections from the Navigable Waters Pro-

tection Act for 99 per cent of the lakes and rivers in Canada. Changes to the Canadian Environmental Assessment Act (CEAA) resulted in the cancellation of 3,000 environmental assessments, many of which were oil and gas projects on Indigenous lands and in rural communities.

These changes were a flashpoint for Indigenous communities, environmental organizations, unions and community residents. The omni-budget bills led to the creation of the Indigenous-led movement Idle No More and a group supporting science-based evidence called Evidence for Democracy. The bills also led the Professional Institute of the Public Service of Canada to abandon its traditional position of neutrality to campaign against Harper.

Despite the change in government last fall, Harper's freshwater legacy lives on. Many oil and gas, mining, pipeline and other projects are moving forward with little to no federal scrutiny.

In the October 2015 federal election, Justin Trudeau and his party promised

“real change.” Trudeau reiterated some of these campaign promises in his mandate letter to Minister of Environment and Climate Change Catherine McKenna. They included the following:

- A renewed, nation-to-nation relationship with Indigenous Peoples,
- Treating freshwater as a precious resource that deserves protection and careful stewardship,
- Immediately reviewing Canada's environmental assessment processes to regain public trust,
- Renewing its commitment to protect the Great Lakes and the St. Lawrence River Basin.

Minister McKenna has taken some steps to restore freshwater and environmental protections.

Decision on Great Lakes nuke waste dump delayed

Ontario Power Generation (OPG) wants to build a controversial deep geologic repository (DGR) for low and intermediate level radioactive waste at the Bruce nuclear site in Kincardine, Ontario. If the project is approved, nuclear waste

that is considered hazardous for hundreds of thousands of years would be stored just a few hundred metres from the Great Lakes-St. Lawrence River Basin, the source of drinking water for roughly 40 million people.

So it came as a welcome surprise when Minister McKenna, who was slated to make a decision on the DGR on March 1, rejected the Joint Review Panel's report and requested additional information and further studies on the environmental assessment for the project. The move is significant because it highlights the limitations of the environmental assessment process (CEAA 2012) implemented by the Harper government and indicates that the Liberal government is beginning to address them.

Lake Ontario Waterkeepers notes, "One way that *CEAA 2012* differs from *CEAA 1992* is by reducing the scope of environmental assessments. *CEAA 1992* required decision makers to consider 'the need for the project and alternatives to the project.' By comparison, *CEAA 2012* only requires decision makers to consider 'alternative means of carrying out the designated project.' This narrower requirement accounts for one gap in the current environmental assessment report. During the process OPG discussed 'alternative means' on the same site (e.g., above-ground storage) and also noted that the proposed site was equivalent to a hypothetical repository in high-quality granite. However, despite broad public concern about the site's proximity to Lake Huron, OPG did not examine a single alternative location. The Minister's request that OPG study specific alternative locations shows a dissatisfaction with the current approach to environmental assessments."

Fracked gas terminals undergo weaker environmental assessments

In B.C., there are 20 proposals for liquefied natural gas (LNG) terminals slated for the Pacific coast. Communities have raised many concerns about them, including the impacts on wild salmon and aquatic life, the violation of the self-determination of Indigenous

communities, the potential for increased fracking and its impacts to water sources, and the increase in greenhouse gas emissions and how this will compromise the 1.5 degree global warming limit Canada agreed to in Paris.

The National Energy Board has granted export licences in response to most of the proposals. Two LNG project proposals were cancelled under the 2012 changes to the CEAA. Several other environmental assessments have been started under the weakened CEAA 2012, which has a narrower scope and narrower definition of "environmental effects." These weakened environmental assessments include projects by Pacific Northwest (led by multinational energy giant Petronas) on Lelu Island, Woodfibre LNG in Howe Sound, WesPac on Tilbury Island in Delta, and Aurora LNG on Digby Island.

Following McKenna's January announcement on interim measures for environmental assessments, steps have also been taken to include consideration of greenhouse gas emissions for the Woodfibre and Aurora LNG projects.

Blakes, a law firm that provides legal services to businesses in Canada and internationally, prepared the assessment *Overview of the Permitting Requirements for LNG Projects in British Columbia*, which highlights how the changes to the former Navigable Waters Protection Act – renamed the Navigation Protection Act (NPA) – affects the permitting process of LNG terminals. The overview points out that "The most significant aspect of the amendments relates to its prohibition and associated approvals of construction of works associated with navigable waters. The NPA will no longer prohibit works over all navigable waters, but rather will only prohibit works on navigable waters that are listed in a schedule to the NPA, which includes three oceans, 97 lakes and 62 rivers across Canada ... [O]nly works associated with the LNG plant that will substantially interfere with navigation on waterways listed in the schedule, will require approvals."

Steps still need to be taken to bring protections back for the 99 per cent of lakes and rivers left unprotected under the Navigation Protection Act. Pipelines must be brought back under this legislation – Harper also exempted them in 2012.

For the Energy East pipeline, which, if approved, would be North America's largest oil pipeline, here is what the interim principles will mean:

- Natural Resources Canada will undertake deeper consultations with Indigenous peoples.
- The government will facilitate expanded public input into the National Energy Board review process.
- The Government of Canada will assess the upstream greenhouse gas emissions associated with the project and make this information public.

While this is promising, the devil is in the details, says Council of Canadians Energy and Climate Justice Campaigner Andrea Harden-Donahue. And it is concerning that just days before McKenna's announcement, Trudeau appeared to throw his support behind the Energy East Pipeline – a pipeline that threatens 961 waterways and would make water issues in communities like Shoal Lake No. 40 First Nation worse.

Federal support for risky pipeline and energy projects will call into question the federal government's commitment to protect freshwater. Members of Parliament must #Pledge2Protect Lakes and Rivers and review all of Harper's omni-budget bill changes to freshwater protections, restore the lost protections, and implement strict safeguards for water within the framework of the United Nations-recognized human right to water.

Respecting Indigenous title and water rights and recognizing that water is a human right, part of a shared commons and a public trust, are essential to the "real change" that people in Canada voted for. A safe and secure future for water depends on it.

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