

Time for a Water Policy That's "True D'eau"

By Emma Lui



The Trudeau government failed to reinstate protections for the majority of lakes and rivers in Canada new water and environmental legislation which gives more power to energy corporations.

Despite the intensifying opposition to the Kinder Morgan pipeline, the Trudeau government is pushing through legislation that would continue to grease the wheels for energy projects.

The Trudeau government's recent announcement of its intent to purchase the Kinder Morgan pipeline, which runs from Alberta's tar sands to B.C., has solidified the government's position as a champion of extreme energy projects, no matter the cost to water or our environment.

In early February, the Liberal government introduced Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, which proposes to make sweeping changes to Canada's water, environmental and energy legislation.

Buried in the lengthy Bill, which is more than 400 pages long, are changes to the Navigation Protection Act (NPA), to be named the Canadian Navigable Waters Act (CNWA). Despite the Liberal government's commitment to restore protections for water and implement modern safeguards, the legislation does neither.

Yet the Bill was moved quickly through the different stages. The Trudeau government introduced a "time allocation" motion at the end of February that shut down debate on the Bill after just two days in the House of Commons.

In March, the Parliamentary Standing Committee on Environment and Sustainable Development invited witnesses to present comments about the Bill. Besides ministers and government officials, Big Oil associations like the Canadian

Association of Petroleum Producers and the Canadian Energy Pipeline Association were some of the first witnesses to present, followed by environmental groups, Indigenous nations and academics.

The Liberal-dominated environment committee shut debate down once again during the clause by clause review. The Bill came back to the House of Commons to go through report stage and third reading where the Liberals have introduced more time allocation motions to shut down debate a third and fourth time. Members of Parliament narrowly voted to pass the Bill in June despite democratic debate and scrutiny being stifled at every turn.

Under the new CNWA, pipelines and powerlines are still exempt. Pipelines like Kinder Morgan's Trans Mountain pipeline, which crosses 1,355 waterways, would still not be regulated under this proposed Act. Environment and Climate Change Minister Catherine McKenna has stated the Kinder Morgan pipeline would have been approved under the new Act.

The CNWA also defines "navigable waters" more narrowly. West Coast Environmental Law has pointed out: "While the courts have defined navigable waters as including any river or lake that is deep enough to float a boat, the new definition would only include rivers and lakes that are actually or 'reasonably likely' to be used for commercial, recreational or Indigenous navigation and where currently: there is public access (including by navigating along a river or other water body); there are multiple owners of the land along the river or lake; or the federal or provincial government is the owner of lands along the water body."

In a recent op-ed, Indigenous lawyer Pam Palmater and Council of Canadians Honorary Chairperson Maude Barlow pointed out that while the proposed CNWA includes a section on Indigenous Peoples of Canada and references Indigenous traditional knowledge, the legislation falls short of requiring free, prior and informed consent as required by the UN Declaration on the Rights of Indigenous Peoples.

The changes could also allow B.C.'s illegal fracking dams to be built without review. In 2017, the Canadian Centre for Policy Alternatives reported that dozens of unauthorized dams have been built in northern B.C. "to trap hundreds of millions of gallons of water used in its controversial fracking operations," including some that were built by the energy corporation Petronas without government approval.

The Council of Canadians is calling for much stronger water protection legislation that protects all lakes, rivers and watersheds and upholds Canada's obligation to implement the UN Declaration on the Rights of Indigenous Peoples. The Council is also calling for the appointment of a federal water minister position to advocate for the protection of water.

With record-dry weather, flooding and other climate-induced weather impacts from coast-to-coast-to-coast, the Trudeau government must take bold action to protect water for current and future generations.

Read more about the Council of Canadians' campaigns to protect water at canadians.org/water.

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