



WHO'S LOOKING OUT FOR CANADA'S ENVIRONMENT?



OTTAWA GUTS ENVIRONMENTAL PROTECTION LAWS



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Polls repeatedly show that Canadians value honesty, accountability and kindness—attributes that are completely missing these days from the federal government's approach to the environment.

The government's sweeping budget bill was a case in point. Tabled on April 26th, 2012, **Bill C-38** dedicated over a third of its 420 pages to rolling back environmental legislation that generations of Canadians have fought to establish.

Written with no public consultation, the bill waged war on laws that protect our air and water, on regulations to safeguard fish habitat, on public participation in environmental assessments and on government oversight of large industrial projects.

Ottawa cloaked these draconian changes with soothing language. Decimating environmental standards was portrayed as providing "certainty" and "efficiency" for industry, while gutting conservation laws was characterized as "streamlining" and removing "red tape." This language is misleading and fundamentally dishonest to the vast majority of Canadians who value clean air and

fresh water. These legislative changes are also harmful to industry. Low environmental standards, reduced public participation and increased political interference provide neither certainty nor public support for business. In fact, a dramatically weakened regulatory environment is a recipe for litigation,

civil disobedience and certain environmental damage.

History has shown us that rock bottom environmental standards don't make for better projects, good jobs or healthy communities. Right now the federal government and taxpayers across the country are on the hook for \$7.7 billion in cleanup costs for over 10,000 contaminated sites, ranging from abandoned mines to old fuel spills. Low environmental standards and lax enforcement in the past have created this situation, and more of the same bad medicine will only make the problem worse.

Read this paper to better understand what these regulatory rollbacks really mean to:

- the protection of wild salmon and endangered species
- our fight against climate change
- the battle to safeguard fresh water and clean air



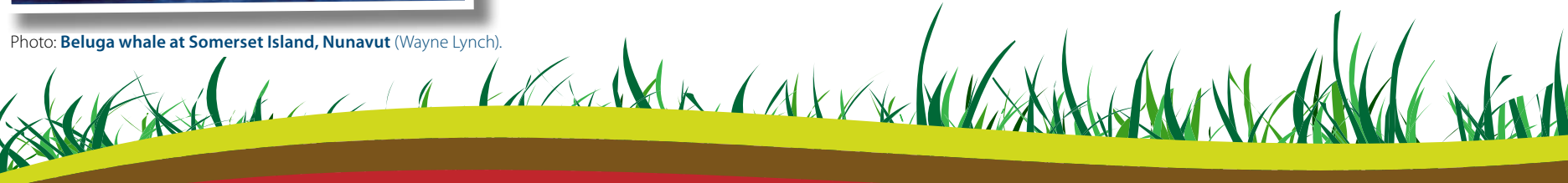
Photo top: **Hiker at Lake O'Hara, Yoho National Park** (John E Marriott), above: **Wildflowers at Garibaldi Provincial Park** (Michael Wheatley), **Ancient tree on Meares Island, BC** (Mike Grandmaison).

- democratic participation and science-based decision making
- Canada's international reputation

Find out what really needs to be done to protect our environment from coast to coast to coast, and learn about what you can do to ensure that Canada's natural heritage—which our parents and grandparents fought to protect—remains intact.



Photo: **Beluga whale at Somerset Island, Nunavut** (Wayne Lynch).



FISHERIES ACT: VANISHING ACT

“They are totally watering down and emasculating the Fisheries Act. They are really taking the guts out of the Fisheries Act and it’s in devious little ways if you read all the fine print...they are making a Swiss cheese out of [it]...”

—Tom Siddon,
Fisheries Minister for former Conservative Prime Minister Brian Mulroney from 1985 to 1990¹

One of the most controversial elements of the federal budget bill is the weakening of the **Fisheries Act**. Bill C-38 strips requirements to protect fish habitat and narrowly focuses on supporting “commercial, recreational and aboriginal fisheries.” Hundreds of scientists across Canada have condemned the changes, which remove protection for most freshwater fish in Canada.² When fully implemented, Bill C-38 will replace the ban on any activity that results in “harmful” alteration, disruption or destruction of fish habitat with a much narrower prohibition, against actions that cause “serious harm” to only the newly specified fisheries. Serious harm is defined as the *killing* of fish, or *permanent alteration or destruction* of those specified fisheries. In a nutshell, Ottawa is eliminating its role

in protecting fish habitat in all but the most obvious of cases. Additionally, the federal government can now declare that habitat protection and some other provisions of the Act simply don’t apply to some waters. The government can also hand over power to provincial governments to authorize the destruction of fish habitat, which will result in a piecemeal application of the Act.

What it means on the ground:

Less protection for the majority of freshwater fish in Canada; significantly reduced habitat protection for all fish; creating a hierarchy of fish protection—prioritizing fish of particular value to humans and providing significantly less ecosystem protection to all other fish species; and removing protection for lakes, streams and rivers identified as “non-vital” or “minor waters.”



Photo: Sockeye salmon in Adams River, BC (Dale Sanders).

NATIONAL ENERGY BOARD ACT: POLITICS TRUMPS PROCESS

Key sections of the *National Energy Board Act (NEB)* have been rewritten and weakened. Reviews of “major” projects, such as the contentious Enbridge Northern Gateway pipeline proposal, are limited to two years and cabinet now has the power to approve a project even if it has been rejected by the Board.

KYOTO PROTOCOL IMPLEMENTATION ACT

First the federal government pulled out of the Kyoto Protocol, and then the *Kyoto Protocol Implementation Act* was axed. The Kyoto Protocol Implementation Act was the only legislation requiring the government to report regularly on its progress towards reducing greenhouse gas emissions and meeting climate change goals. The Bill also eliminated the National

Roundtable on the Environment and the Economy—an expert body charged with evaluating the government’s reports on greenhouse gas reductions. Senior government ministers have confirmed that the Roundtable was killed because the government did not like the body’s recommendations related to climate change and setting a price on greenhouse gas emissions.

SPECIES AT RISK ACT ENDANGERED

Regressive changes mean that companies no longer have to renew permits to operate in the critical habitat of species at risk. Previously, permits needed to be renewed every five years. Additionally, the National Energy Board is exempted from having to address critical habitat requirements in pipeline projects it approves. It is anticipated that the federal government will further

weaken the *Species at Risk Act (SARA)* in the fall of 2012—potentially removing provisions for the protection of critical habitat. Scientists agree that the designation and protection of habitat at risk; in Canada, habitat destruction and fragmentation is the primary threat to 84 per cent of these threatened species.

FISH LAKE: DOUBLE TROUBLE

In 2010, the BC government approved Taseko Mines’ controversial **Prosperity Mine** proposal near Williams Lake. The provincial assessment said that negative environmental impacts—which included the draining of Fish Lake to deposit rock waste, and the loss of the lake which supports 85,000 rainbow trout—would be offset by the economic benefits of the development.

However, a federal review panel tasked with assessing the proposal under CEAA came to a different decision, rejecting the environmentally damaging proposal because of its significant impacts on fish and grizzly bear habitat, and on the traditional

territory of the Tsilhqot’in Nation. Fish Lake illustrates that lowering environmental standards and delegating authority to the provincial bodies, which have a patchwork quilt of environmental standards, is a recipe for ecological damage.

Now, with weakened federal environmental protections and a new federal Environment Minister in charge, Taseko has been allowed to re-apply with a revised **New Prosperity Mine** proposal. Local communities are once again spending their meagre resources to fend off this destructive development.



Photo: Fish Lake (Lee-Anne Stack).



WHAT'S AT RISK?

“Weakening habitat protections will make Canada look irresponsible internationally. All species, including humans, require functioning ecosystems based on healthy habitats. It is the explicit role of government to find the balance between protecting this habitat and encouraging sustainable economic growth – not to pit them against one another.”

—Dr. David Schindler,
World-renowned freshwater scientist and co-founder of the Experimental Lakes Area⁷



Photo: Monarch butterfly on sumac (Robert McCaw).

ENVIRONMENTAL ASSESSMENT ACT

“An overall trend is to remove specific rules in the various acts, and replace them with regulation, which is easier to change, and ministerial discretion.”

—The Globe and Mail, May 9, 2012³

The former **Canadian Environmental Assessment Act (CEAA)**, which came into force in 1995, was designed to promote sustainable development across Canada. The original CEAA applied to any project that received federal funding, affected federal land, was proposed by the federal government or “triggered” an environmental law—such as the Fisheries Act or environmental provisions under other Acts. In essence, CEAA was created to promote sustainable development and prevent environmental harm before it occurred.

Now, this has all changed.

Under Bill C-38, the federal government has created an entirely new Canadian Environmental

Assessment Act 2012, which bears scant resemblance to the original law. The new Act:

- expressly permits political interference,
- no longer conducts an assessment when a province provides an “appropriate substitute,”
- eliminates environmental assessments for thousands of projects across Canada—in BC alone, 492 developments ranging from power projects to hazardous waste facilities will no longer be reviewed under CEAA⁴,
- reduces the number of departments that can conduct an environmental review from 40 to just three (the Canadian Environmental Assessment Agency, the National

Energy Board and the Canadian Nuclear Safety Commission),

- arbitrarily shortens timelines required to conduct reviews (one year for most projects),
- constrains public participation for some projects by requiring people to show that they are “directly impacted” or have “relevant information” or expertise.

Additionally, the federal Minister of the Environment or cabinet now has discretion to remove projects from an assessment, whereas previously, explicit provisions for exemptions needed to be contained in regulations. Assessments no longer include the impact of federal projects on renewable resources to meet the needs of present and

future generations, and scrutiny of environmental impacts will be limited to areas of federal jurisdiction such as fish, aquatic species at risk, migratory birds, First Nations and projects on federal lands.

What it means on the ground:

Fewer and less robust environmental assessments; more delegation to provincial authorities, which means uneven results due to significant differences in the environmental laws of the provinces; more political discretion as decisions are increasingly left to the cabinet and federal Environment Minister; reduced public participation and shortened timelines to conduct the environmental assessments that do occur.



Photo: Male ruby-throated hummingbird (Robert McCaw).

ENVIRONMENTAL GROUPS UNDER ATTACK

Accompanying the government’s scorched earth approach to environmental laws is rhetoric that reflects American-style politics. Environmental organizations have been branded as “radical,” accused of laundering money and undermining Canada’s national interest, and have had their charitable status targeted. Silencing critics through the powers of the state, rather than engaging in an informed debate, has become the new norm.



Photo top left: Killer whales in Johnstone Strait, BC (Don Johnston), above: Atlantic puffin with capelin (Robert McCaw), right: Arbutus and Douglas-fir trees, Saturna Island (Dean van’t Schip).

DEATH BY A THOUSAND CUTS

WORLD-CLASS EXPERT OUT OF WORK

Dr. Peter Ross is another casualty of the federal government’s cuts to key environmental programs. Despite his status as one of the world’s leading experts on killer whales (he identified that aquatic contaminants have made BC’s killer whales the most toxic marine mammals on earth), Dr. Ross lost his job when the federal government cut nearly all employees who monitor marine pollution in Canada. He’s just one of thousands of government employees now out of work. The marine contaminants program, which monitors sewage, pesticide and organic pollutants, is being permanently closed in April 2013.⁵

FUNDS RUNNING DRY FOR EXPERIMENTAL LAKES

The federal government’s cuts to environmental protection in Canada include the famous **Experimental Lakes Area** in northwestern Ontario. The 58 lakes have served as a living laboratory for over 40 years, allowing scientists to assess the impacts of acid rain and toxins on fresh water. In one well-known experiment, a thin plastic curtain was used to separate two basins in a lake so that scientists could examine

the impacts of phosphates (common in laundry detergents) in fresh water. The portion of the lake in which phosphates were added quickly turned green with algae, prompting the government to introduce phosphate regulations. The federal government is planning to close the world-renowned program in March 2013. For more information, please visit: saveela.org

PEARL OF WISDOM TO BE SHUT DOWN

The **Polar Environment Atmospheric Research Laboratory (PEARL)** in Eureka, Nunavut, which measures ozone depletion and climate change impacts, will be shut down in 2013. The loss of this critical research station in the High Arctic will reduce the accuracy of climate change models that are integral to scientists around the world.⁶

IT'S ALL ABOUT THE ENBRIDGE NORTHERN GATEWAY PIPELINE

The impetus for a dramatically weakened regulatory environment appears to be the Alberta tar sands and proposed resource developments in British Columbia, where pipelines, oil tankers and mines have created the perfect storm of controversy. The concern is particularly charged in BC because after a decade of provincial environmental cuts, the federal rollbacks will leave the province’s environment with just the illusion of protection. Thousands of miles of coastline, hundreds of wild salmon rivers and the belief in good government and rule of law hang in the balance.

While Prime Minister Harper has emphasized that the fate of Enbridge’s Northern Gateway pipeline will be decided by science and not politics, critics say Bill C-38 has “disembowelled” the science needed for a proper environmental review.⁸ The government has slashed the operational budget for the Department of Fisheries and Oceans (DFO), laid off numerous scientists and staff members, and closed down field offices—leaving federal agencies ill-equipped to complete a scientific review in the limited time frame given for Enbridge’s assessment.



Photo above: Polar bear mother and cub (Don Johnston), right: Rockwall Trail, Kootenay National Park, BC (John E. Marriott)

FEWER PEOPLE ENFORCING WEAKER LAWS

Lowering Canada's environmental standards through legislative rollbacks has also been accompanied by significant cuts to the departments and programs that protect Canada's ecological heritage. In the future, there will be fewer government staff enforcing weaker laws. The Department of Fisheries and Oceans, Natural Resources Canada, Environment Canada and Parks Canada have all received significant budget cuts and have lost hundreds

of scientific experts including biologists, hydrologists, ecologists and marine pollution experts. The DFO has had \$79 million cut from its budget, and it anticipated that funding for the department will have shrunk by 25 per cent between 2011 and 2015.

At the latest count almost 3,500 employees in these four ministries have received notice that they may be laid off.^{9,10} These cuts include the loss of one third of DFO habitat staff in British Columbia¹¹, and the closure

of a regional environmental emergency response centre in Vancouver.

Enforcement of the Fisheries Act was already weak before these rollbacks. In 2009, there were 14 successful convictions for violations of the Fisheries Act in BC; in 2010, just six charges and convictions were obtained and by 2011 this number had dwindled to just one successful Fisheries Act prosecution. With fewer staff, weaker laws and decimated budgets, Canadians can expect almost certain damage to the environment.

Bolivia: The Mother Earth Law
Corporations have rights. Shouldn't Mother Earth? The Bolivian government thought so, and last year they introduced a "Mother Earth" law which gave nature legal rights. The legislation was heavily influenced by the Andean spiritual belief in *Pachamama* (Mother Earth and the centre of all life) and an indigenous concept *Sumaj Kawsay* or *Vivir Bien*, which roughly translates to living well and in harmony with nature. The law gives legal rights to nature including the right to life, regeneration, clean air, fresh water and biodiversity. Giving legal rights to ensure a healthy and functioning environment is an idea whose time has come—the Canadian government could learn something from this bold and visionary law.^{13,14}

WHAT WE NEED



One third of DFO habitat staff has been eliminated in BC.

Ottawa is correct when it says that a regulatory overhaul is needed for environmental laws—but they are headed in the wrong direction. More democracy, enhanced citizen engagement and robustly enforced environmental laws are the cure for what ails us, not the illness.

As a starting point, we need to reverse and halt any further cuts to environmental protections. Specifically, habitat protection for fish must be reinstated in the Fisheries Act and meaningful public participation must be put back

into the Canadian Environmental Assessment Act. But that won't be nearly enough. Sustainability must be at the core of an improved environmental assessment process.

Language to protect our environment must be binding, existing laws properly enforced and the cuts of thousands of staff and tens of millions of budget dollars reversed. Canada needs to regain its place as an environmental leader on the world stage. We should start by enacting an Environmental Bill of Rights (EBR). A Canadian EBR would

enshrine a statutory right to a healthy environment and impose a legal duty upon the federal government to protect this right. It would also empower Canadian citizens, in limited cases, to take the government to court for failing to uphold environmental laws.

At the end of the day, environmental laws should protect the public good. If we want clean air, fresh water and a stable climate in our future then we must have a government that is prepared to make and enforce strong environmental laws.

Of the 682 positions being eliminated by Parks Canada, almost one third are scientists and technicians who monitor the ecological health of Canada's federal park system.¹²

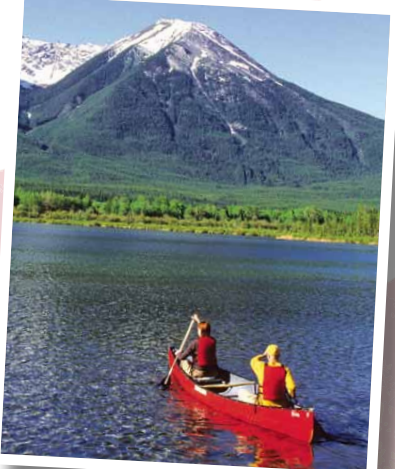


Photo: **Canoeing at Vermilion Lakes, Alberta** (John E Marriott).

TAKE ACTION



Photo: **Grizzly bear cub** (Gordon Court).

Your letter can make a difference. Please write to Prime Minister Stephen Harper, and demand that the federal government live up to its responsibility to protect Canada's environment for all Canadians.

Ask the Government of Canada to:

- Reverse recent environmental cuts and enact strong and effective environmental legislation
- Ensure proper enforcement of environmental laws
- Enact a Canadian Environmental Bill of Rights

Contact information:

Prime Minister of Canada
80 Wellington Street
Ottawa, ON, K1A 0A2
613-941-6900
@ pm@pm.gc.ca



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LINKS

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