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B.C. water legislation has no teeth

It's time for the province to lose its frontier attitude and impose penalties on water-rights abusers

BY TOM SIDDON, SPECIAL TO THE VANCOUVER SUN JULY 19, 2011



The modernization of the B.C. Water Act presents an opportunity to enforce protection of freshwater resources, says writer Tom Siddon.

On Wednesday Premier Christy Clark will be taking the chair of the Council of the Federation, as premiers from all 13 provinces and territories meet in Vancouver to unveil a new national Water Stewardship Council. It comes at a time when British Columbia's own water policy is undergoing a long-needed overhaul. While Clark takes a national lead on water, it is this writer's strongly held wish that she will take on B.C.'s water legislation as part of her personal agenda for the future — and put some teeth into what has in the past focused on largely voluntary objectives.

Water is not an issue of partisan politics. A poll recently released showed that nine out of 10 British Columbians expect better and more effective water rules, and regard clean, abundant water as the province's most valuable resource. Several years ago, the government began a process to review and update the century-old B.C. Water Act. Public response has been enormous, with thousands of letters, blog posts and meetings. With the eyes of Canada on us, there is an opportunity for the new premier to take this popular initiative, and make it her own.

The current B.C. government approach to water is not a model for the rest of the country. Unrestricted access to our streams, lakes and rivers has long been regarded as an important instrument of economic growth. Provincial policy has usually favoured industrial development over environmental protection. A frontier attitude to water licensing, based on the archaic "first in time — first in right" principle has led to widespread exploitation of our lakeshores, streams and rapidly depleting riparian areas.

Last month, a government-funded study found massive lack of enforcement for lakefront alterations and development, and only last week B.C.'s auditor-general described the provincial environmental assessment office as toothless and ineffective, having no adequate mechanism to enforce environmental compliance or to impose penalties on water-rights abusers. As a result, during recent years, a large proportion of the publicly owned, ecologically rich foreshore on our lakes and rivers has

been fenced off and turned into private playgrounds for the wealthy. These alterations are often undertaken with little regard for the environmental consequences.

Environmental protection requires political will, but it can be done. In 1986, as Canada's fisheries minister, I consulted widely and presented to Parliament the world's first Policy on Sustainable Habitat for Fish. This policy incorporated the principles of no net loss of fish habitat, multi-stakeholder planning and co-management, and a net gain of habitat for fisheries enhancement on a region-wide basis. In 1989, I also introduced a 10-fold increase in fines and penalties, to \$1 million per indictable offence, with jail sentences for corporate offenders. These laws are vigorously enforced to this day by the Department of Fisheries and Oceans — but they are focused on marine areas.

In contrast, B.C. has paid little more than lip service to environmental enforcement for freshwater habitats, with minimal effort to deter abusers. And unlike the federal policy to protect fish, the B.C. government has largely neglected protection for the myriad birds, wildlife and plant communities which rely on the rich riparian areas abutting our lakes, streams and rivers. Through downloading environmental responsibilities to local and regional governments, without providing the necessary funding for enforcement, there has been even greater destruction of B.C.'s unique environmental assets.

Nonetheless, the modernization of the B.C. Water Act is an opportunity for change. B.C. is also long overdue for laws to protect groundwater, water for agriculture and mechanisms to share water during shortages. Although 2011 has had a wet summer, looking just over the horizon we can see the population and the economy growing, with the prospect of snow packs and glacier reserves shrinking from climate change, while irrigation demand increases.

Water shortages for human use will place inevitable pressure on the health of natural fresh water systems, so future planning has to be based on binding, comprehensive and integrated legislative reform.

To Clark, I can only say that you have a lot of old baggage to overcome if you plan to lead British Columbia into a more water-conscious future. I trust you will start this process by setting an example for your provincial colleagues. Please take this opportunity to move forward with new legislation that addresses the water needs of the 21st century — and provide the necessary regulatory “bite” to make it effective.

Tom Siddon was the federal fisheries minister from 1985 to 1990; he served as founding chair of the Okanagan Water Stewardship Council from 2006-2009 and was awarded the Okanagan Water Leadership Award in 2009.

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