

July 2002

THE BC GOVERNMENT: A ONE YEAR ENVIRONMENTAL REVIEW

West Coast Environmental Law



EXECUTIVE SUMMARY

In its first year the provincial government made sweeping changes to budgets, laws and policies that will impact the BC environment for years to come. It has reduced the scope and influence of government in British Columbians' daily lives, initiating full reviews of programs, legislation and regulations, budgets and administrative tribunals. Has the government met its commitment to environmental management based on sound science, the highest standards of environmental protection, cleaner water, openness and accountability? What has happened to environmental protection in BC in a year of unprecedented change?

NEW STRUCTURE WEAKENS ENVIRONMENT AGENCY

Immediately on taking power, Premier Campbell on June 5th, 2001 unveiled a new structure for environmental management with the division of the Ministry of the Environment into two ministries. The new Ministry of Water, Land and Air Protection continues to have the environmental mandate in government, but many key staff and functions were transferred to the Ministry of Sustainable Resource Management – a ministry with a mandate to accelerate resource development. Oversight by environmental officials was reduced under the rubric of eliminating 'unnecessary' duplication. They no longer have a legal role in protecting biodiversity and community watersheds under the Forest Practices Code. Similarly, the role of environmental officials has been diminished in dealing with contamination at mine sites. The result of these legal changes is that ministries with mandates to increase natural resource development now have the final say in regulating their industry "clients".

CORE REVIEW AND BUDGET CUTS

In its first days on the job, the government commenced a comprehensive strategic review of government services. The stated goal was to identify what government services were considered core to ministry mandates, and to cut the remainder. Core reviews of all government operations determined the nature of program cuts. These in turn drove large budget and staff cuts. The downsized ministries became a justification for deregulation, as the legal infrastructure for environmental protection was deemed unsupportable given reduced agency staff and reduced mandates. The core review will continue to deliver further cuts to budgets and government services relating to environmental protection over the next three years.

Although the BC government started out as having the second lowest ratio of provincial government employees to population in Canada, cuts were made to all



aspects of government including environment. Each of the five government ministries that deliver programs relating to the environment received major cuts: Water, Land and Air Protection is being cut by 41% by 2004/5; Sustainable Resource Management by 44%; Energy and Mines by 40%; Forests by 44%; and Agriculture, Fisheries and Food by 45%.

Within Water, Land and Air Protection alone, programs that are being immediately eliminated or phased out include: rehabilitation of watersheds damaged by logging; habitat protection advice to industry and local government; and the permit system for low and medium risk pollution sources. The latter cut means that government will no longer be able to impose special conditions on polluters deemed to be medium risk even if they are located near residences or schools, and citizens will no longer be able to challenge permits to pollute in their community. Elimination of habitat protection advice means that local governments will no longer be able to refer development applications to government biologists for advice on how to protect critical habitat and ecosystems.

The government plans to continue with program, budget and human resource cuts through 2004/05. But the first year of a government's mandate is often the critical year featuring a large number of important decisions with long-range implications establishing the government's direction.

TRENDS IN CHANGES TO LEGISLATION AND REGULATION

West Coast Environmental Law has monitored and analyzed changes to policy, legislation and regulations over the last year. Standing back to survey the first year as a whole, West Coast has found a number of disturbing trends. From all indications, British Columbia is moving backwards, with lower standards, less protection and less openness. Trends we have noticed include:

Cuts to public involvement and government accountability:

Notwithstanding commitments to greater openness and accountability, the last year has seen the following actions taken by the government:

- There has been little or no consultation on some major environmental law changes. In some cases consultation has been one-sided: industry has been heavily consulted while community and environmental groups have been shut out.
- The government repealed new legislation that gave courts powers to protect citizens and organizations from lawsuits designed to stifle public debate.
- They repealed provisions that required service plans of all government agencies, and major capital projects of government, to be developed, assessed and audited against sustainability objectives. The government also eliminated the new Commissioner for Environment and Sustainability.
- The re-written Environmental Assessment Act eliminates commitments to public participation in assessment and to an "open, accountable and neutrally administered" assessment process. It also reduces the level of public information the government and proponent is required to produce.

- The proposed results based Forest Practices Code outlines a process where public involvement is only provided for at a general level, and companies are not required to provide even basic information such as the location of cut blocks and access roads.
- Repealed provisions of the *Forest Land Reserve Act* that allowed for local government and public input when private forestland is proposed for urban development (a major issue in the Gulf Islands and south eastern Vancouver Island).
- Budget cuts to the Ministry of Water, Land and Air Protection are forcing the government to abandon its permit system for “medium risk” polluters, with the consequence that citizens will be unable to challenge permits to pollute that affect their community. Presently, such challenges often lead to more stringent conditions being placed in the permit to better protect the environment.

Special Interest Focus:

A limited number of groups representing industrial and business interests appear to have the ear of the government to the exclusion of the broader public. Examples include:

- Despite the existence of an Environmental Assessment Advisory Panel with stakeholder representation, the government developed and implemented a new Act with virtually no consultation. The Act reflected industry wishes.
- Changes affecting the mining industry mirror the Mining Association of BC's long-standing policy demands. The government made no effort to consult outside the industry, despite the obvious potential for environmental impacts.
- Government repealed legislation prohibiting mining companies from obstructing or interfering with activities on private land. The tribunal responsible for resolving mining company – land owner disputes can no longer deny access to mineral claims even if access involves undue interference with a landowner's buildings or operations.
- Government has proposed weakening of the Kootenay - Boundary Land Use Plan to allow logging in areas designate for habitat protection in response to an extensive list of specific demands from the Interior Lumber Manufacturers Association.
- The Oil and Gas Commission independence was reduced by giving a senior Mines' official – with a mandate to double oil and gas production -- the 'tie breaking vote' on commission decisions. The commission regulates the oil and gas industry.
- The government has established numerous committees with the forest industry to rewrite the Forest Practices Code, and seems to be ignoring the recommendations of a UBC professor hired to facilitate public input.

Lower Standards:

Despite promises to maintain environmental standards, some standards are being lowered. The government has:

- Lowered pulp mill effluent standards.
- Proposed a results-based *Forest Practices Code* that eliminates stand level logging plans necessary for oversight of environmental values, eliminates



requirements to assess stability of steep slopes, and proposes unenforceable results that will lead to ineffectual enforcement and accountability.

- Eliminated minimum standards for the environmental assessment process.
- Reduced the independence of the environmental assessment process by requiring assessments to reflect government policy.
- Eliminated the moratorium on offshore oil and gas development.
- Eliminated the moratorium on fish farms, and ignored key recommendations of the Salmon Aquaculture Review panel.

More Cabinet Discretion:

A series of amendments have given cabinet, ministers or government officials increased powers to grant exemptions to laws. Cabinet, ministers or government officials have new powers to:

- exempt project proponents from environmental assessment;
- exempt mining companies from regulations that require environmental impact information and clean-up;
- exempt mines from requirements for permits under the *Waste Management Act* and *Mines Act*; and
- exempt companies from oil and gas well spacing regulations, which may negatively impact wilderness and wildlife habitat.

In all of the above cases the legislation failed to limit exemption powers by setting criteria as to when, why or how exemptions could be granted.

Science ignored:

The government's political platform promised science-based regulation, but use of science has been selective:

- The government ignored dozens of recommendations made by the Salmon Aquaculture Review panel, and in some cases is making changes in direct opposition to scientific recommendations.
- The government accepted the opinion of its scientific panel that certain pulp mill effluent standards could be weakened, but has no immediate plans to deal with other pollution problems identified by the panel.
- The proposed results based code for the forest industry gives target levels for harvesting priority over what scientists recommend to protect biodiversity and wildlife.

Private Gain, Public Liability:

In a number of cases, government has made or is proposing changes that guarantee industry access to public resources on public land, increase the potential liability of government, and/or reduce the ability of government to protect land from development:

- Reduced the financial security provisions applicable to mines. These are used to ensure that abandoned mine sites are cleaned up. Costs of clean up could be shifted to government.

- Proposed changing the nature of mineral tenure so that mining companies would have an entitlement to compensation if government action precludes mining.
- Proposed “Working Forest” legislation that would grant the timber industry increased rights of access to public forests and grant mandatory compensation for changes in public land use.



“It’s time for a New Era of environmental management, based on sound science, cleaner water and sustainable practices.”

BC Liberal Party Platform, May 2001

“BC intends to lead in the creation of sustainable environmental stewardship. The Minister of Water, Land and Air Protection will ensure environmental protection and prudence are of the highest standards.”

Premier Gordon Campbell, Cabinet Swearing In, June 5, 2001

In its first year the provincial government has made sweeping changes to budgets, laws, regulations and policies that will impact the BC environment for years to come. Yet with the words above, Premier Gordon Campbell unveiled his cabinet and provided direction for his new government at the official swearing in ceremony, June 5, 2001. The words echo the BC Liberal promises from the May 2001 campaign. During that campaign the Campbell Liberals promised to cut regulation, restore the forest and mining sectors and get BC’s economy moving while maintaining the highest environmental standards.

Campbell’s Liberals also promised to deliver this new vision in a new inclusive way. Campaigning to become Premier, Campbell said his government would introduce a new era of openness and accountability, telling British Columbians “we are going to include every British Columbian in the opportunities to shape the future of this province.”

It’s been one year, with an unprecedented review of government operations, two budgets and two legislative sessions. Is the new Liberal government meeting the environmental challenge they laid out for themselves? Are they maintaining standards? Including all points of view? What are the new government’s successes? What are the failures? What are the directions for the next three years as the government looks towards the newly fixed election date of May 2005?

These are some of the questions we’ll look at as we review and assess the BC Liberals’ first year in government and their record on environmental laws, policies and programs.

A YEAR OF CHANGE

The year since the election has been one of constant fast-paced change. The new BC Liberal government acted immediately and decisively to reduce the scope and influence of government in British Columbians’ daily lives, initiating full reviews of programs, legislation and regulations, budgets and administrative tribunals.

Environmental laws, policies and programs didn’t escape these changes. As with other areas of government, there were significant shifts in direction for the laws, policies and resources that government puts in place to support resource

management, environmental protection and renewal and planning for sustainability. Notwithstanding the cuts by the NDP in the late nineties, the Liberal government actively sought ways to significantly reduce its activities in these areas.

The government chose a comprehensive strategic planning exercise to drive the reduction of government services. Core reviews began in July 2001 and determined the nature of program cuts. These in turn drove budget and staff cuts. Legislative and regulatory changes helped ensure laws and regulation reflected new, reduced mandates.

TRENDS: MOVING BACKWARDS?

The Liberal core review will continue to deliver further cuts to budgets and government services relating to environmental protection over the next three years, as the publicly available documents make clear. They outline program, budget and human resource cuts through 2004/05. But the first year of a government's mandate is often the critical year featuring a large number of important decisions with long-range implications establishing the government's direction.

West Coast Environmental Law has monitored and analyzed the government's changes over the past year, paying particular attention to legislation and regulations that, in part, drive program and budgetary decisions. While each decision, and every piece of legislation, has its own important implications, standing back to survey the first year as a whole, West Coast has found a number of disturbing trends. From all indications, British Columbia is moving backwards, with lower standards, less protection and less openness. Trends we have notice include:

- **Cuts to public involvement:** there has been far less consultation over new laws and policies, and a reduction in public involvement opportunities required under laws.
- **Special Interest Focus:** a limited number of groups representing industrial and business interests appear to have the ear of the government to the exclusion of the broader public.
- **Lower Standards:** despite promises to maintain environmental standards, some standards are being lowered, coupled with expanding powers of exemption.
- **More Cabinet Discretion:** increased Cabinet powers to make regulations and grant exemptions to laws, which do not receive legislative debate or public notice.
- **Science ignored:** while the New Era platform promised science-based regulation, few of the changes made by the government underwent scientific review. Those that did suffered from very selective use of scientific advice.
- **Private Gain, Public Liability:** some changes have increased private control or access to public resources on public land, coupled with offloading liability onto taxpayers.



Each of these will be discussed in greater detail below.

THE FIRST YEAR: KEY EVENTS

NEW STRUCTURE WEAKENS ENVIRONMENT AGENCY

Immediately on taking power, Premier Campbell on June 5th, 2001 unveiled a new structure for environmental management with the elimination of the Ministry of the Environment and its replacement with a diminished Ministry of Water, Land and Air Protection.

Functions related to resource management and sustainability were transferred to a separate ministry, Sustainable Resource Management, with a mandate to develop the resource economy while continuing to implement high environmental standards. The problem is that the government's message on greasing the skids for resource extraction is much louder, and more consistent with its actions.

The division of Environment into two ministries was a key step in reducing the oversight role played by the former ministry. The new Ministry of Water, Land and Air Protection continues to have the environmental mandate in government, but many key staff and functions were transferred to the Ministry of Sustainable Resource Management which has a development mandate.

A second step towards reducing environmental oversight occurred under the rubric of eliminating 'unnecessary' duplication. Resource extraction ministries regained the upper hand in the environmental regulation of resource activities. For example, environment officials no longer have a legal role in protecting biodiversity and community watersheds under the Forest Practices Code.

PROGRAM CUTS

Five government ministries deliver most programs relating to the environment: Water, Land and Air Protection, Sustainable Resource Management, Energy and Mines, Forests and Agriculture, Fisheries and Food. Program cuts took place in each ministry, diminishing the capacity of the government to deliver environmental planning, protection, monitoring and enforcement.

In some cases program cuts mean the complete elimination of a program. In other cases program resources were cut, reducing the ability to deliver the service broadly or effectively.

Following is a rundown of significant program cuts by Ministry. In most cases, ministries have provided little information on the exact nature or the timing of the cuts. Therefore it is likely that this is not an exhaustive list of current and upcoming cuts.

Ministry of Water, Land and Air Protection

Cuts occurred across almost all ministry programs. Enforcement programs and staff were reduced. Many programs investing in environmental rehabilitation work were eliminated. By the end of the year the agency will no longer be providing advice on habitat and ecosystem protection to industry and local governments regarding the impacts of development proposals.

PROGRAM REDUCTIONS

- Environmental compliance and monitoring
- Habitat protection and fish and wildlife management
- Camping and recreational services
- Community outreach to Park users
- Disabled subsidies for park use reduced

PROGRAMS ELIMINATED

- Watershed rehabilitation – rebuilding watersheds damaged by poor logging practices
- Urban Salmon Habitat – rebuilding urban salmon runs.
- Youth e-teams – youth employment in environmental restoration
- Green economy secretariat – supporting the development of environmentally friendly industries
- Park services
 - All services at 45 sites closed (some later re-opened)
 - All park interpretive services

PROGRAMS PHASED OUT

- Habitat and ecosystem protection advice to industry and local government
- Response to low-risk human-wildlife conflicts
- Assessment and permitting of low- and medium-risk pollution sources



Ministry of Forests

PROGRAM REDUCTIONS

- Forest Practices compliance and enforcement
- Silviculture programs and reforestation
- Non-industrial forest road maintenance – (roads that provide recreational access)

PROGRAMS ELIMINATED

- Forest Renewal BC –affecting programs in reforestation, watershed restoration, forestry and wildlife research and inventory, job assistance for displaced workers.

PROGRAMS PHASED OUT

- Publicly funded reforestation
- Maintenance of 7,700 kilometres of forest service road
- Maintenance of 650 access trails
- 1,240 Forest recreation campsites
- Seed orchards and tree nurseries

Sustainable Resource Management

- The Province withdrew its support for Community Resource Boards around the province. These boards brought stakeholders together to work out important details for achieving regional land use plan objectives. The Muskwa-Kechika Board, which was in a better position because it is established under its own legislation, will see the withdrawal of two thirds of its provincial funding.

Ministry of Energy and Mines

- Enforcement and compliance was reduced.

Agriculture Fisheries and Food

- Fisheries Renewal BC was eliminated. This program supported extensive fish stream rehabilitation, research and inventory projects around the province. At the time it eliminated Fisheries Renewal, the government claimed that funding from the federal government would fill the void, but this too is being

cut substantially. Dozens of stream enhancement and stewardship projects may have to shut down.

Enhancements

In some cases the government enhanced programs or benefits as funds became available.

- In 2001 the provincial government provided \$25 million for the creation of the Gulf Island National Park.

LEGISLATION

In two legislative sessions the BC Liberal Government amended many of BC's key environmental statutes. Changes made in the first year emphasize economic development in the oil and gas, mining, agriculture and land development. Next year the government has indicated it will continue in this direction, turning its attention to forest legislation.

Most of the government's new legislation was not subject to public consultation, although some special interest groups may have been consulted privately. In many cases, the legislative changes were proposed by business groups such as the Business Council of BC and the Mining Association of British Columbia.

REPEALED

Bill 5 - *Budget Transparency and Accountability Amendment Act, 2001*

- Repeals government accountability for sustainability when auditing major capital projects and ministry service plans
- Repeals provisions establishing the Commissioner for Environment and Sustainability as auditor for environmental matters

Bill 11 - *Miscellaneous Statutes Amendment Act, 2001*

- Repealed Protection of Public Participation Act that gave courts additional powers to protect citizens and organizations from lawsuits designed to put a chill on public debate.

Bill 2 - *Budget Measures Implementation Act, 2002*

- Repealed the Forest Renewal Act and Fisheries Renewal Act, thereby eliminating the Forest Renewal and Fisheries Renewal programs.

Bill 8 - *Deregulation Statutes Amendment Act, 2002*

- Repealed the Dogwood, Rhododendron and Trillium Protection Act, even though a subspecies of trillium is endangered. This 1931 Act was very weak, but now there's no protection.



PASSED

Bill 21 - *Agricultural Land Commission Act*

- Creates a regional structure for the commission.
- Provides new exemptions, streamlined process for some exemptions, more power to make regulations for permitted and non-farm uses.
- Increases Commission's power to delegate authority over non-farm use and subdivision applications to local governments and other 'public bodies' such as Oil and Gas Commission; raises conflict of mandate issues.
- Repeals most of the essential features of the Forest Land Reserve Act that were designed to protect private forest land from urban development (a major public issue in the Gulf Islands and eastern Vancouver Island).

Bill 32 - *Waste Management Amendment Act, 2002*

- Removes ability of Water, Land and Air Protection ministry to issue remediation orders at active mine sites, except in limited circumstances such as at the request of the Chief Inspector of Mines.
- Changes the liability regime for mining industry exploration operations at historic mine sites that are contaminated; this could reduce clean-up incentives.
- Exempts mining industry from financial security provisions of Waste Management Act, resorting instead to the Mines Act bonding process which is less adequate to protect against environmental risks.
- Diminishes role of Water, Land and Air Protection ministry plays in environmental contamination from mining industry, in favour of the Mines and Energy ministry.
- Overall, increases the potential for the BC taxpayer to be on the hook for environmental problems caused by mining industry.

Bill 36 - *Energy and Mines Statutes Amendment Act, 2002*

- Reduces independence of the Oil and Gas Commission by appointing senior Mines' official who gets 'tie breaking vote' on commission decisions. Commission neutrality reduced, given Mines' ministry mandate to double oil and gas production.
- Allows Cabinet to grant exemptions to Petroleum and Natural Gas Act regulations.
- Enables closer spacing of gas wells.
- Allows Cabinet to pass regulations allowing the Commission or Minister to exempt a person from any regulation.

Bill 35 - *Deregulation Statutes Amendment Act (No.2), 2002*

- Removes requirement for environmental official to approve logging and road building in community watersheds.
- Allows Chief Forester to postpone allowable annual cut determinations for up to 10 years if "not likely to be changed significantly."
- Eliminates stand management plans for second growth forests.
- For mining industry, eliminates requirement for site profiles permits that identify extent of contamination at mine sites

Bill 38 – *Environmental Assessment Act, 2002*

- New Act eliminates basic minimum requirements for assessment. Projects that previously triggered an automatic assessment now only assessed at discretion of government.
- Eliminates general commitment to public participation in assessment and to an “open, accountable and neutrally administered” assessment process.
- Reduces the independence of the assessment process by requiring them to reflect government policy.
- Public access to assessment information now discretionary.
- May allow new unrealistic 6 month time limit.

Bill 54 – *Miscellaneous Statutes Amendment Act (No.2), 2002*

- Allows Cabinet to set regulations exempting mining operations from permit requirements and pollution requirements.
- Increases mining industry rights of access to private and public land.
- Repeals requirement that miners not obstruct or interfere with buildings and works on private land.
- Gives mineral claims precedence over other land use designations (outside parks).

Bill 22 – *Sustainable Resource Management Statutes Amendment Act, 2002*

- Allows cabinet to deregulate the diversion and use of water for a term less than 12 months.
- Reduces notice requirements for amendments to water license approvals.
- Removes environment officials from approval of habitat objectives for landscape level forestry planning.

Bill 31 – *Environment Management Amendment Act, 2002*

- Minor improvements to the legislation governing the Conservation Officer Service, mostly of a ‘housekeeping’ nature.

Bill 39 - *Protected Areas Forest Compensation Act, 2002*

- Enshrines right to compensation for creation of protected areas.

Bill 7 – *Freedom of Information and Protection of Privacy Amendment Act, 2002*

- Increases response times
- Expands grounds for refusal to provide information

PROPOSED

Results-based Forest Practices Code – Fall 2002

- Extensive deregulation of forest practices.
- Eliminates stand level logging plans entirely, which are necessary for agency and public oversight for environmental values.
- Eliminates assessments for steep slopes, watersheds, visually sensitive areas, cultural heritage, etc.
- Proposes vague and unenforceable ‘results’, which will lead to ineffectual enforcement and accountability. E.g. “Maintenance of water quality within the



natural range of variation.” “Coarse woody debris retention will be balanced with other resource management objectives and results.”

- Does not incorporate science-based standards for protecting the environment; instead current target levels for harvesting have priority over what is scientifically required to protect streams, fish, biodiversity and wildlife.
- Reduces opportunities for public input.
- Resource development permits don't require logging industry to specify where they intend to log and build roads
- Will be coupled with “Working Forest” legislation that increases legal rights for industrial forestry access to public land as against non-timber values;
- Also to be coupled with “Sustainable Resource Management” planning that gives forest industry greater control over planning for public non-timber values – a clear conflict of interest.

Drinking Water Standards Act – Fall 2002

- The government eliminated standards that require the testing for and remedying of chemical and physical tap water contamination in September 2001. It also appointed a Drinking Water Review Panel to review drinking water issues.
- The review panel reported out in February 2002 with 26 recommendations. New legislation to strengthen drinking water and ground water protection was promised in the February 2002 throne speech, but has not yet been introduced.
- Contrary to the spirit and intent of recommendations from the panel regarding the importance of source protection, Bill 22 took away environment official decision making over logging in community watersheds.
- In June 2002 Cabinet approved an Action Plan that includes legislation, regulations and other initiatives to address drinking water.

Contaminated Sites Review – Fall 2002

- The government has struck a panel to review the entire regime for regulating contaminated sites. The panel has been asked to consider even whether there should be a legislated regime at all, a backwards move that would require everyone affected to litigate all disputes in courts under the common law.

Proposed Mineral Tenure Act Changes

- The Minister of Energy and Mines has promised to increase the legal rights of mining claim holders, by converting what the courts have said is a “chattel” interest, into a more secure “property” interest. This would create a new entitlement to compensation in the event of changes in public land use that preclude mining, and seems designed to discourage such flexibility on the grounds that it is unaffordable.

REGULATIONS RE-WRITTEN

In addition to legislative changes that repealed, amended or re-cast environmental laws the government was active re-writing regulations. These activities, generally out of the public view, are critical to environmental protection because they contain key

details regarding how industries that affect the environment are regulated. For example, a law may require that drinking water be tested but for what elements and how testing is to be done may be laid out in regulations.

Since taking office, the new Liberal government has launched a number of regulatory reviews, leading to significant overhauls:

NEW REGULATIONS

Aquaculture Regulation (*Fisheries Act*)

- Reduces net/pen inspection requirements.
- Do not implement recommendations of the 1997 Salmon Aquaculture Review, a scientific review conducted by the Environmental Assessment Office.

Proposed Aquaculture Waste Control Regulation (*Waste Management Act*)

- No requirements for disease monitoring or regulation.
- Regulates only one pollutant with limits set at levels known to be harmful.
- Large tenure areas seem to allow fish farms to remain compliant by simply relocating within boundaries rather than reducing discharge levels.

Reviewable Projects Regulation (*Environmental Assessment Act*)

- Thresholds that establish when environmental assessment may be required are amended.
- Dams for drinking water reservoirs are completely exempted from environmental assessment unless they flood over 20 hectares of land. Previous threshold was 2 hectares.
- Thresholds weakened for dykes and water diversion projects that disturb shoreline.
- Thresholds weakened for resort developments; only “commercial bed units” counted when deciding if development is exempted.

REGULATIONS UNDER REVIEW

Streamside Protection Regulation

- Regulations control urban development affecting fish bearing streams and watercourses.

Contaminated Sites Regulation

- Regulations requiring clean up of sites contaminated by past industrial activity.

Agricultural Land Commission

- New regulations dealing with permitted uses of agricultural land, exemptions and other matters to be developed pursuant to the new act.

Safe Water Drinking Regulations (See: Proposed Legislation, *Drinking Water Protection Act*)



POLICY DEVELOPMENT

In addition to the content of statutes and regulations, governments have enormous influence on the environment through the policies they develop. These policies direct the civil service to administer laws or carry out their functions in a certain way. Policy change is a fourth area that saw significant change through the year. Again, changes most often reflected the growing importance of economic development and the increasing marginalization of environmental concerns.

Aquaculture

At the same time the government reduced environmental protection rules for the aquaculture industry, it announced its intention to lift the moratorium on aquaculture expansion.

Land use Planning

The new Liberal government quickly put a hold on land use decisions made at the end of the previous government's term and started to weaken other land use plans.

It repealed the Southern Rocky Mountain Conservation Area order, overturning the plan and establishing a new process to deal with the Southern Rockies. The government also decided to re-open the land use decision made by the NDP following years of negotiation by stakeholders at the Lillooet Land and Resource Management Plan process. The NDP decision approved a number of new protected areas, which are now under review by the Liberals. A decision is expected in Fall 2002.

The government took some positive steps on the Central Coast, where there was agreement by the forest industry and other stakeholders. However, it has begun to weaken environmental protection measures under the Kootenay-Boundary Land Use Plan. Proposed alterations to the plan would allow the logging of more mature forests in areas that were previously to be maintained for protection of wildlife habitat. Other changes take away some of the former balance the plan sought to achieve. In the Cariboo-Chilcotin, the government appears to be rejecting the recommendations of its caribou experts regarding the Eastern Caribou herd. A final decision is expected in Fall 2002.

Many regional land use plans have broad or general objectives, and rely on stakeholder tables to sort out important details through regional resource boards. As noted earlier, the government withdrew its funding of the four community resource boards in the province (Nootka, Mt. Waddington, Cariboo and Bulkley), and has substantially reduced its support for the Muskwa-Kechika board.

Offshore oil and gas

The new Liberal government set a policy of doubling oil and gas production over the next five years. This is not a change in direction. Rather it extends the policies of the previous government. But the current government has gone further, reversing the moratorium on offshore oil and gas exploration, first put in place in 1972. It has approved \$2 million in funding to be managed by the University of Northern BC for development of the knowledge base necessary to allow offshore drilling.

Energy policy

In August of 2001, the Liberal government established a task force and process to set a provincial energy policy. An interim report suggested significant new policy directions with both good and bad environmental impacts. Of particular concern is the increased reliance on fossil fuel energy sources, support for coal fired power generation, and support for deregulation without addressing mechanisms to encourage energy efficiency or renewable energy. A positive development is a move toward higher pricing, which can trigger conservation decisions.

Climate change

The government made tentative steps to distance itself from the Kyoto Accord, supporting Alberta's demands for further study and provincial veto. The government has not taken a stand on ratification. The province also eliminated funding to implement many aspects of the BC Business Plan on Climate Change.

Parks

In the wake of budget cuts, the government closed 45 provincial parks to the public on April 1. It has proposed offloading the management of 53 additional parks to local governments, and 168 parks in which they want local volunteer groups to deliver park services. Due to community outcry, services at 24 of the 'closed' parks were restored, but in some cases by local governments or volunteer groups.

Park naturalist services have been eliminated entirely, as the government closed offices and cut parks staff across the province. More cuts are scheduled. For example, the heavily visited Lower Mainland region of BC Parks will go from a present staff of 20 down to 11 by 2004. The government has admitted that it can no longer provide park services effectively given this level of budget and staff cutbacks. It has appointed a panel to review and evaluate "options for funding, service delivery and public involvement in ongoing delivery of park, fish and wildlife recreation opportunities." Options will include increased privatization and commercial activity in BC's parks.



On the positive side, one small new marine park was established in June 2002 at Wakes Cove on Gabriola Island. Steps also were also taken to allow the federal government to create national marine parks in the Gulf Islands.

RESOURCES

Finally, if one thing characterized the activities of the Liberal government over the last year, it was budget cuts and staff lay-offs. And while health care, education and welfare cuts garnered more media and public attention, resource cuts hit environmental functions hard.

It's one thing to have laws protecting the environment, and another thing to ensure that those laws are enforced. Despite its acknowledgement of the importance of enforcement, the government's actions have clearly reduced its capacity to deliver it. For example, this year the Conservation Officer Service, which is responsible for enforcing environmental laws, lost twenty-two positions. Eight offices around the province were closed entirely, including Hazelton, Houston, Valemount, Golden, Nakusp, Salmon Arm, Clinton and Alexis Creek. There are now fewer conservation officers in Cranbrook, Duncan, Grand Forks, Chetwynd and MacKenzie. In place of agency monitoring and enforcement, the government intends to rely on more self-monitoring by industry.

Just as important as enforcement is the role the environment agency has played in reviewing development proposals and making recommendations that proactively try to avoid environmental problems. Because the agency rarely has decision making power under BC laws, environmental protection throughout the province has relied heavily on a 'referral system' in which development projects are assessed and advice provided. It was a weak system at best, but the cuts have hit the agency so hard that it has announced that it is getting out of the business of providing advice to industry and local government on habitat and ecosystem protection.

In looking at budget and staff cuts that affect the government's ability to deliver environmental programs and services it must be remembered that this year's and future cuts come on top of a half decade of cuts. Resource ministry budgets declined by about one-third between 1997 and 2002. Staff cuts were similar.

The following chart shows budget and staff cuts by ministry for the current fiscal year as well as planned cuts for the following two years ending with the 2004/2005 fiscal year. While statistics alone may not adequately portray the true impact the cuts will have on the BC environment, the extent of these cuts clearly will reduce the ability of government to deliver programs and meet its statutory obligations.

Ministry	2001/02 Restated Estimates	2002/03 Estimates	2003/04 Plan	2004/05 Plan
Water, Land and Air Protection				
Budget (\$000s)	214,266	162,494	143,993	127,007
<i>% change from 01/02</i>		-24%	-33%	-41%
Staff Full Time Equivalents ("FTE's")	1,298	1,138	930	897
<i>% change from 01/02</i>		-12%	-28%	-31%
Sustainable Resource Management				
Budget (\$000s)	133,222	117,770	99,370	75,123
<i>% change from 01/02</i>		-12%	-25%	-44%
FTEs	1,520	1,385	1210	972
<i>% change from 01/02</i>		-9%	-20%	-36%
Forests				
Budget (\$000s)	831,655	620,914	528,273	475,951
<i>% change from 01/02</i>		-25%	-36.5%	-44%
FTEs	4,183	3,569	2,932	2,628
<i>% change from 01/02</i>		-15%	-30%	-37%
Agriculture, Food and Fisheries				
Budget (\$000s)	80,988	64,078	57,820	44,709
<i>% change from 01/02</i>		-21%	-28%	-45%
FTEs	395	360	338	327
<i>% change from 01/02</i>		-9%	-14%	-17%
Energy, Mines and Resources				
Budget (\$000s)	67,112	50,144	45,033	40,183
<i>% change from 01/02</i>		-25%	-33%	-40%
FTEs	280	243	205	174
<i>% change from 01/02</i>		-13%	-27%	-38%

PROMISES, PROMISES

The Liberal government promised high environmental standards, prudence, sound science based management and sustainable practices. They also promised a new era of openness in government, with public involvement in decision-making and openness in government decision-making. Let's look at each of these:

Even the most cursory review of the new government's actions over its first year shows that, contrary to its oft-repeated promise, the government is not maintaining high environmental standards in BC. The Liberal government has clearly lowered



standards for environmental protection and sustainability. A number of factors brought into play by the government are contributing to lower standards:

- Some legislative and regulatory changes have explicitly removed or lowered standards.
- The government has increased the discretionary power of Cabinet, Ministers and Appointees to provide exemptions to environmental requirements.
- The government has cut the resources and staff required to make standards effective.

It seems this trend will continue. The government has set in place a series of reviews that appear to set the stage for further relaxation of environmental standards. Further cuts to staff and budgets are scheduled through 2004. Assessing the environmental impacts of these measures is not happening.

LOWERING POLLUTION, ENVIRONMENTAL DAMAGE AND HEALTH STANDARDS

Aquaculture

Despite growing concerns about the impacts of fish farming on wild salmon stocks and the environment, the government is moving quickly to deregulate the aquaculture industry on several fronts. The Cabinet passed a new Aquaculture Regulation that lowers the standards for inspection of net pens and increases reliance on self-monitoring by industry. These changes increase the likelihood of escapes by farm fish into wild salmon streams.

At the same time, the Liberal government has announced that it will lift a moratorium on aquaculture expansion. It has drafted a new Aquaculture Waste Management Regulation that fails to address known environmental impacts of the industry. For example, it only deals with one pollutant – sulphide – and would set standards at levels that are more than double those found to be harmful by scientists. It ignores other chemicals, disease organisms, parasites, pesticides, and drugs found in the industry and known to be harmful to the marine environment.

The new regulations also ignore scientific recommendations for monitoring and containing disease outbreaks. Operators still do not have to report disease outbreaks. The government's disregard for disease outbreaks has raised the concern of both the Alaskan and Washington governments, where such regulations are already in force. The government has also ignored the vast majority of scientifically based recommendations made in 1997 by the Environmental Assessment Office in its Salmon Aquaculture Review.

Drinking Water

BC has the highest number of boil water advisories in Canada coupled with some of the lowest drinking water standards in North America according to statistics released by the Provincial Medical Health Officer and the Drinking Water Review Panel. Yet, in September 2001 the Province eliminated standards that require the testing for and remedying of chemical and physical tap water contamination. In April 2002 the government eliminated requirements for environmental officials to approve logging and road building in community watersheds.

At the same time as it eliminated tap water standards, the government announced an independent panel to review the Drinking Water Protection Act. The Act established a process for assessing threats to drinking water and developing legally binding plans to avoid or remedy drinking water contamination. In February 2002, the panel report recommended that the Province adopt and strengthen the Act. The Throne Speech promised "British Columbians' health will be better safeguarded under new legislation to strengthen drinking water and ground water protection," but no such legislation has been introduced yet.

In June 2002 the government released a short description of its Drinking Water Action Plan. The actual action plan is not released, but it appears to include some positive measures: a commitment to assessing the threats to water quality, creation of drinking water protection officers; money for monitoring, and development of new tap water standards to replace the standards eliminated 9 months earlier. However, the government has not accepted key recommendations of the government's advisory panel: there is no commitment to bring the Drinking Water Protection Act into force; it did not create a Drinking Water Protection Agency; drinking water protection is not given priority over other resource uses in high risk watersheds; there is no commitment to regulations that will protect drinking water sources; and there is no increase in protection powers for government.

Forest Practices

Deregulating forest practices was one of the government's key commitments to the forest industry. In its first year in office the government set the stage for a major deregulation initiative by releasing a discussion paper on its proposed Results Based Code, with the intent that legislation will be introduced in the Fall 2002 legislative session. This is one of the few deregulation initiatives for which the government has sought public input, however, concerns have been raised because, due to the tight timelines, the legislation is being drafted before the government has seen the public comment.

Because of this overarching initiative, in its first year the government did not lower standards in the current Forest Practices Code per se. However, it did amend the Code to remove key oversight by environment officials. As a result of Bills 22 & 35, no



longer does the law require the approval of environment officials in the Ministry of Water, Land and Air Protection for logging in community watersheds or for landscape level planning objectives relating to biodiversity and wildlife habitat. Also, companies are no longer required to prepare stand management plans for silviculture activities such as thinning and spacing.

The proposed Results based Code is being widely criticized for lowering the level of oversight as well as performance standards. The independent Forest Practices Board has stated “the intended results described in the discussion paper are not clear or measurable.” Many require baseline data that is not being collected due to budget and program cuts, which will likely render enforcement almost legally impossible. In addition, it removes important impact assessments (e.g. for steep slopes, watersheds, scenic areas) and the obligation for logging companies to get approval for the specific areas they will log. Some of these changes turn back the clock a couple of decades.

Proposed “working forests” legislation is equally if not more troubling. Although it is still a proposal, it would legally grant increased rights of timber industry access to public forests, and significantly hamper the ability of agencies to protect wildlife habitat or make other changes to land use. It could create entitlements to compensation that are not justified under the present law, which would act as a significant disincentive to proper planning (i.e. allowing for arguments that we can no longer afford to protect for public resources on public land.

Pulp Pollution

In 2001 the government appointed a panel to review the 1992 requirement for pulp mills to reach the target of zero discharge of AOX by the end of 2002. AOX measures chlorine in pulp mill effluent, and include dioxins and myriad other substances. The zero standard was the highest standard in the world for pulp mills.

The Panel recommended that the zero AOX standard be abandoned due to a number of factors, but primarily because it did not consider that the environmental benefit of achieving zero discharge was certain enough to justify the cost of converting BC pulp mills to total chlorine free (TCF) processes, particularly when other pulp pollutants, such as black liquor, are not being adequately addressed and are known to harm the environment. Panel members also identified air emissions from pulp mills as being matters of concern, and Environment Canada has identified BC coastal pulp mills as among the largest emitters of dioxins in Canada.

In July 2002 the Liberals repealed the zero discharge standard and replaced it with a far weaker standard. The new AOX standard is lower than that used in Sweden, Finland and much of Europe. Although the new BC AOX standard is equal to the US standard for AOX, pulp mill regulations in BC are far less stringent than US regulations when it comes to air emissions and water emissions of other toxic substances.

The government chose to implement the recommendation not to compel the pulp industry to reach zero AOX emissions, but ignored both counterbalancing recommendation that black liquor pollution be dealt with and ignored concerns regarding dioxins and air emissions from pulp mills. As a result, there are no requirements for B.C.'s pulp mills to deal with outstanding environmental concerns.

INCREASING CABINET AND MINISTERIAL POWER TO LOWER STANDARDS

Another trend that opens the door to lower environmental standards is the increasing delegation of power to Cabinet, Ministers and Government appointees in environmental legislation. The government passed more than ten Bills re-writing or amending environmental legislation in its first full session. In many of them, Cabinet or individual ministers were granted explicit powers to either set the rules or provide exemptions from them. Examples include environmental assessment (Bill 38), non-farm uses of agricultural land (Bill 21), mining industry exemptions from permitting and pollution provisions (Bill 54) and landscape level (e.g. biodiversity) objectives for forestry (Bill 22).

While it is not uncommon to empower Cabinet, minister or officials to administer the finer details of legislation, we become concerned when no clear parameters are defined for the power of these officials to grant exemptions to laws the Legislature has passed. Many commentators have noted that the trend towards increasing use of enabling legislation leads to less government accountability, increased susceptibility to special interest lobbies and lower standards.

Environmental Assessment

Bill 38, the new Environmental Assessment Act, abolishes the previous assessment process replacing it with a completely discretionary process. Commonly, environmental assessment is a decision making tool to ensure that projects are reviewed for negative impacts on the environment. Through the assessment process those impacts are identified and mitigated.

The new BC legislation turns that rationale on its head. The process designed by the new Liberal government makes assumptions about the negative impacts and then decides whether to do an assessment. That decision is at the complete discretion of a government appointee.

If a project is ordered into an assessment process, the new act gives politicians and government appointees even more discretion. Standards on how to conduct an assessment have been thrown out and government appointees have been given broad discretion as to the scope, procedures and methods of the assessment. In addition the



government can establish policies dictating environmental impacts that should be excluded from assessment or dictating that environmental assessments not interfere with government's resource development priorities. With standards replaced by discretionary authority, it is impossible to describe the new process as one that maintains standards for environmental assessment. The government has also expanded the exemptions from environmental assessment for dams and resort developments.

Agricultural Land Commission Act

The passage of a new Agricultural Land Commission Act fulfills a campaign promise to allow more regional control over agricultural land use decisions. But the new Act also expands the ability of the Commission to delegate its powers to local governments and other authorities to permit non-farm use and subdivision of agricultural land, raising concerns about conflict of interest.

The new Act also gives Cabinet greater authority to make regulations concerning the use of agricultural land including permissible non-farm uses of agricultural land. The Commission is currently drafting a major rewrite of the regulations giving substance to these new powers, but the fact that the Bill enables broader exclusions raises concerns about potential farmland and greenbelt attrition.

Receiving no public attention, Bill 21 also stripped the Forest Land Reserve of its key purpose: regulating and providing a public process for the conversion of private forest lands into urban and rural development. There are now no provincial laws protecting designated forest land from conversion into non-forest use, particularly uses relating to suburban development.

Mining legislation and regulation

Approximately half of the legislative changes affecting environmental protection standards made in the government's first year came at the request of the mining industry.

Bill 36, the Energy and Mines Statutes Amendment Act, amended a number of statutes to expand Cabinet's power to exempt mining companies from geophysical and oil sands regulations that require environmental impact information and clean-up.

The minister of Energy and Mines and/or the Oil and Gas Commission gained powers to allow companies to by-pass well spacing regulations, which may negatively impact wilderness and wildlife habitat.

Changed spacing requirements also open the door to closely spaced coal bed methane wells. Coal bed methane is a rapidly growing industry that the BC government is spurring with tax credits of \$50,000 per well. While relatively new to BC, coal bed methane development has proved to be an environmental menace in the US with wells removing 15,000 gallons of water per day from aquifers, drawing down aquifers by as much as 200 feet. Densely packed gas wells have fragmented the landscape, and methane migrating to the surface has created explosive conditions.

Another bill, Bill 54, broadened the regulatory exemptions available to the mining industry. It increases the conditions under which a company can get an exemption from the requirement to obtain a permit under the Mining Act. Bill 54 then provides an additional exemption to the *Waste Management Act* if a company has an exemption from the requirement to get a permit under the *Mines Act*. Taken together this means that mining could be conducted with no regulatory oversight from the Ministry of Mines and be immune from prosecution for any environmental damage under the *Waste Management Act*.

FEWER RESOURCES MEANS LOWER COMPLIANCE

Budget cuts since 1996 have significantly cut into BC's ability monitor and enforce existing standards. West Coast's report "Undermining the Law" documented the results in the mining sector. Compliance suffers when monitoring and enforcement activities are cut.

Little information at the line item level is available about the extent of staff and budget cuts within ministries. What is available indicates environmental monitoring and enforcement will suffer along with other functions. As mentioned above, the Conservation Officer Service has lost 22 officers: with 8 offices closed across rural BC, it must operate at 78% of 1996 levels. Additional cuts in the Ministry of Water, Land and Air Protection have affected wildlife, fisheries and habitat protection programs and staff responsible for the under review Streamside Protection Regulation have been eliminated. The Deputy Minister of Forests has indicated that cuts to forest practices enforcement will total about 14% this year.

Budget cuts are impairing government's ability to hold companies to high environmental standards in other, more insidious ways. An important element of environmental monitoring is site visits. But travel budget cuts are impairing staff's ability to conduct visits. Anecdotally, an enforcement officer has indicated that the office responsible for monitoring mining activity in the entire Northern two thirds of the province has had its travel budget reduced to \$77,000 this year. Fulfilling its monitoring and enforcement responsibilities is not an option.



With budget and staff cuts scheduled to continue over the next three years the situation can only worsen.

LOWER STANDARDS TO COME?

There are several more reviews of important regulations underway. The Results Based Code for forest practices will have wide reaching impacts across the province. The government also has bowed to the development industry and launched a review of the Streamside Protection Regulation that protects urban streams and fish habitat from destruction from urban development. Cabinet is expected to announce the results of the review shortly.

Finally, the government has launched a review of contaminated sites legislation and regulations. Although adjustments to the legislation could help in deciding who is responsible for clean up of contaminated sites, industry is promoting a self-regulation model with less stringent standards for reporting and rehabilitation.

SCIENCE-BASED REGULATION

Seeking election, the government promised to base its environmental management decisions on science. But in our review of the government's regulatory initiatives to date, it is clear that science has been discarded where it doesn't fit with the government agenda.

In the case of the aquaculture industry, the government ignored dozens of recommendations made by the scientific panel that were based on documented impacts of the industry, in some cases making changes in direct opposition to scientific recommendations. It is proposing to lower waste management standards while neglecting to regulate other causes of environmental harm. The weakening of the Environmental Assessment Act and regulations is not based on scientific evidence that the new thresholds are consistent with actual environmental impacts (in our opinion the previous thresholds already allowed too many projects with environmental impacts to escape assessment). Rather, they were based on the government's desire to eliminate "red tape."

When it came to pulp mill pollution, the government accepted the opinion of its AOX Scientific Panel that pulp mill standards should be weakened, but did not deal with other pollution problems identified by the panel.

As currently proposed, the Results Based Code for the forest industry lacks grounding in conservation science and instead maintains the timber driven allowable cut targets that have prevented the current Code from achieving positive results for wildlife habitat. There is little discussion of science-based management at all in the proposed new code.

In the review of the Streamside Protection regulation, it appears likely that government will bow to development industry pressure and discard scientific evidence of the need for buffers between urban developments and streams. While scientists recommend riparian set backs of 46 to 76 meters to protect riparian habitat, the BC government is deciding whether to eliminate existing requirements for 5 to 30 meter set backs. Facing pressure from the development industry, the government appears poised to drop the requirements entirely.

OPEN GOVERNMENT

On the first page of the Liberal 'New Era' platform, Liberal Leader Campbell promised "the most open, accountable and democratic government in Canada." Later as Premier, he promised to involve British Columbians directly in the government's decision-making.

The government's record with respect to environmental decision-making has been disappointing to date. There was little to no consultation on the environmental bills introduced in the Legislature, or the regulations approved by Cabinet. However, the government is consulting with the public on some fronts:

- The Drinking Water Review Panel conducted extensive consultation and produced a strong report that recognized BC's drinking water problems. It is unclear whether the government will adopt their recommendations.
- The process to rewrite the Forest Practices Code has two public consultation vehicles, although timeframes and short notice unduly limited the ability of many to engage in the process. The MLA panel avoided scheduling a hearing in Greater Vancouver, home to half the residents of BC.
- The Contaminated Sites Panel is in the midst of consulting with various stakeholders including developers, lawyers and environmental groups.

ACCOUNTABILITY REDUCED

The government has taken significant steps to reduce public accountability and government openness when it comes to the environment. One of the first laws it amended, in August 2001, was the Budget Transparency and Accountability Act, to eliminate government accountability for sustainability. It repealed provisions that would have required by 2003 that the service plans of all government agencies, and major capital projects of government, to be developed and assessed against sustainability objectives. This would have required the new agency service plans that outlined budget and staff cuts to be assessed against sustainability objectives that



include environmental and social impacts, in addition to economic impacts. It also would have required government agencies to incorporate environmental sustainability goals into their plans and major project spending.

The same Act was also amended to eliminate the position of Commissioner for Environment and Sustainability. The previous Act empowered the commissioner to report, independently of government, on the government's efforts to achieve sustainability and protect BC's environment. Ontario's commissioner played an important role in furthering the public interest in the Walkerton inquiry. The federal Commissioner of the Environment and Sustainable Development has also worked since 1997 to independently assess how government programs are meeting environmental sustainability goals.

PUBLIC INVOLVEMENT CUT

Contrary to the government's promise to include the public in government processes, legislative and policy changes made in the first year rolls back public involvement. This has happened in two ways: 1) there has been little or no consultation on the legislative, regulatory and policy changes that have taken place; and 2) equally or perhaps more importantly, public consultation opportunities have been cut or diminished as a result of the legislative changes.

The government has closed down many formal and informal avenues of consultation with groups and individuals concerned about the environment. When consultation is announced it is often narrowly focused with impossible time-lines. In most cases, significant changes have gone ahead with no public consultation. For example, the government rewrote the Environmental Assessment Act, Agriculture Land Commission Act and the parts of the Waste Management Act dealing with mining industry liability for contaminated sites, with no public consultation. New regulations have been brought in without consultation as well.

Some of the legislative changes cut or diminish public involvement opportunities. The new Environmental Assessment Act eliminates commitments to public participation in assessment and to an "open, accountable and neutrally administered" assessment process. It also reduces the level of public information the government and proponent is required to produce. Fewer major projects will undergo environmental assessment as well, meaning the projects will not be subject to public hearings. Mineral Tenure Act amendments reduce the scope of issues that private landowners affected by mining operations may bring before the Mediation and Arbitration Board.

By repealing the Protection of Public Participation Act the new government took away provisions courts could use to protect citizens from corporations and others bringing

litigation (“SLAPP” suits) to intimidate and muzzle public participation in environmental decision-making.

Major initiatives under way show this trend continuing. The discussion paper released for the new Results Based Code for forestry outlines a process where public involvement is only provided for at a general level, and companies are not required to provide even basic information such as the location of cut blocks and access roads. The Forest Practices Board has said that “The Discussion Paper does not propose an effective way to engage the public, and it does not provide a goal or result against which to evaluate whether public involvement is effective or adequate.”

SPECIAL INTEREST FOCUS

The government gets credit for the public consultation processes it has engaged in. But it must be noted that more often it developed and unveiled significant legislative and regulatory changes with neither public nor full stakeholder consultation.

Despite the existence of an Environmental Assessment Advisory Panel with stakeholder representation, the government developed and implemented a new Act with no consultation. The Act reflected industry wishes.

The government’s special interest focus was very clear with respect to its legislation affecting mining and oil and gas interests. Changes affecting the mining industry mirror the Mining Association of BC’s long-standing policy demands. The government made no effort to consult outside the industry, despite the obvious potential for environmental impacts.

The proposed weakening of the Kootenay - Boundary Land Use Plan referred to above is in response to an extensive list of specific demands from the Interior Lumber Manufacturers Association, representing over 20 logging companies in that region.

The government took a similar approach in developing its new aquaculture regulations. Again, scientific advice was neglected and the standards were lowered reflecting industry views.

PRIVATE GAIN, PUBLIC LIABILITY

The special interest focus of the government’s environmental initiatives is apparent in another way. Private industries extracting public resources from public land should face clear liability for operations that harm the environment. Governments have to balance the public interest in revenue from these industries and the economic activity they generate against the risk of harm to the environment and the possibility that the taxpayer is left holding the bag for polluters.



The government has begun to change that balance. For example, the government's mining legislation exempted mining companies from the financial security provisions of the Waste Management Act. The more limited process under the Mines Act still applies, but could leave taxpayers more likely to incur costs for clean-up of abandoned mines. The liability shift is taking place at the same time the government is moving to increase industry access rights over public and private lands, at the urging of the mining industry.

Similar shifts in liability could result from the government's review of contaminated sites legislation and its 'results-based' Forest Practices Code. While final decisions have not yet been made, indications are that this trend could continue with new limitations on contaminated sites liability, and weak forest practices legislation that has logging companies providing less information, with less agency oversight, and a lack of clear, measurable results required for enforceability.