
An Environmental Action Plan for British Columbia

by Hon. Moe Sihota, MLA

Environmental protection is one of the most pressing issues facing legislators across Canada. Nowhere is this more true than in British Columbia. This article looks at some legislative initiatives in that province.

When this government came to power in 1991, the Ministry of Environment, Lands and Parks (MELP) was responsible for over 20 Acts that related in some way to environmental management. It was clear that many of these Acts needed review and revision to ensure a solid legislative foundation for the development of innovative policies and programs and to meet emerging environmental challenges. An Environmental Action Plan was created to guide the process of legislative renewal and since 1991, the government has achieved many of the goals set out in the Action Plan including the introduction of several major legislative reforms. These range from amendments to the *Land Title Act*, the *Wildlife Act*, the *Water Act*, and the *Waste Management Act*, to the introduction of the *Environmental Assessment Act* and the *Forest Practices Code of British Columbia Act*.

The Action Plan for Environmental Legislation

To fulfil our mandate, the government developed the *Environmental Action Plan for British Columbia*. This document set out MELP's understanding of the environmental management challenges facing British Columbia and established environmental priorities. The *Environmental Action Plan* also represents a commitment to consultation and review, recognizing that protection of the environment is a regulatory responsibility of

government ministries and agencies, as well as a stewardship responsibility shared by all British Columbians. Understanding the challenges and achieving solutions will require the collective resolve and actions of individuals, groups and communities.

Five priorities are reflected in the Environmental Action Plan:

- Improving Environmental Impact Assessment;
- Preserving Biodiversity and Natural Areas;
- Reducing Waste and Preventing Pollution;
- Improving Water Management; and,
- Strengthening Enforcement and Compliance.

These priorities helped set guidelines for the review and revision of environmental legislation, and for consolidation and reform of all environmental protection legislation to ensure greater effectiveness and efficiency.

To provide direction and consistency in the review of the legislation, MELP adopted the following principles:

- **Openness and Consultation:** The legislation will ensure that information is accessible to British Columbians and that ministry procedures are open, with frequent opportunities for public participation.
- **Integration:** More emphasis on the integrated management of resources is needed. Hence, the legislation will promote greater integration between ministry programs and activities.
- **Innovation:** The legislation will include new ideas and approaches.
- **Delegation:** Where appropriate, the legislation will provide for the delegation of decision-making within the ministry, to other ministries and to local government.

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- **Prevention:** The legislation will reflect a commitment to prevent and resolve environmental concerns before they can become major problems.
- **Effective Compliance and Enforcement:** The legislation will reflect the need for new approaches to promoting compliance and aiding enforcement to ensure that laws on the books reflect practice in the field.

Most importantly, to make this a successful review and restructuring of environmental protection legislation, we decided that a thorough consultation process was essential. For this reason, we approached legislative reform in British Columbia incrementally through the publication of discussion papers followed by review and debate. This has provided a forum for detailed consultation with the public and key stakeholders.

Legislative Accomplishments

Since 1991, both new Acts and many important revisions to existing Acts have been introduced.

Land Title Act: Natural, historical, cultural and environmental qualities of British Columbia require protection and preservation for future generations. Revisions to the *Land Title Act* create conservation covenants for the coordinated protection of areas and offer public benefits not available through more traditional forms of land use regulation.

Amendments to the Act:

- Ensure that private conservation agreements become a practical means of preservation in British Columbia. For example, conservation covenants may be created for purposes such as preserving special wetland areas, restoration of old barns for barn owls and maintenance of an area containing ancient petroglyphs.
- Allow for multiple land uses within a single parcel of land.
- Provide that regulation, monitoring and enforcement of covenants fall upon the non-governmental covenantees.

Wildlife Act: Amendments to the *Wildlife Act* were passed in both 1992 and 1993. Prior to the amendments, wildlife management areas were administered by the Wildlife and Fisheries Branches and only activities managed by these branches could be carried out within these areas. Amendments to the Act allow other government agencies to regulate activities within Wilderness Management Areas where the Wildlife and Fisheries Branches are satisfied the activity is compatible. These changes encourage better use and administration of Wildlife Management Areas, which in turn encourages the creation of more of these areas.

Since 1991, the government has established major Wildlife Management Areas to secure important habitats in the South Arm of the Fraser River, the Englishman River Estuary on Vancouver Island and the South Okanagan at the north end of Osoyoos Lake.

Water Act: Revisions to the *Water Act* were long overdue and measures to improve water management activities throughout the province were urgently needed. Four amendments have been made to the *Water Act*.

- Stream management activities: development activities on the bed and banks of rivers, streams and lakes have the obvious potential to damage ecosystems and can result in downstream flooding. Prior to amendment, actual diversion or use of water was required before an approval under the *Water Act* was necessary. As a result, bridge construction, pipeline crossings, the placing of culverts and other similar activities escaped regulation. Amendments now provide MELP with the authority to regulate changes in and about watercourses even though there is no diversion or direct use of the water resource.
- Delegation of decision-making: confirms the roles, responsibilities, and method of appointment of officials under the *Water Act*. This enables decision-making to be delegated to the most appropriate individuals in MELP's regional offices.
- Standardization of the appeal process: there is a new process relating to the cancellation of water licenses and approvals. Appeals are now heard by the Environmental Appeal Board rather than by the B.C. Supreme Court.
- Strengthened penalties: the Act now contains penalties that are consistent with modern environmental legislation.

Waste Management Act: For the past decade, the principal Act concerning the protection of the environment in British Columbia has been the *Waste Management Act*. The main purpose of this Act is to control or prohibit waste discharges. Growing public concerns, new scientific understanding and improved technology with respect to waste management were driving forces in the review of the Act and subsequent amendments. Revisions were made to the Act in 1992, 1993 and 1994.

The 1992 amendments provide for: better legislation to prevent air pollution; improved provisions for local government waste management planning; new provisions to encourage reduction, re-use and recycling of waste; and improvements in enforcement. These changes include:

- New authority in the Act to control the use and sale of packaging, product

- containers and disposable products. These changes will reduce waste and encourage the use of recyclable materials in the packaging of products.
- Improved waste management planning for municipal solid waste, liquid waste and recyclable material.

The 1993 amendments also reflected a thorough reform of the way in which contaminated sites are managed and regulated in British Columbia. These amendments were the result of several years of extensive consultation with interested parties both inside and outside government. The amendments embody the "polluter pays" principle by striving to ensure, to the greatest extent possible, that innocent persons and government do not have to bear the costs and liability associated with the identification and remediation of contaminated sites.

Amendments to the Act will:

- Permit the collection of information to ensure identification of contaminated sites. For example, site information will be required as part of the municipal approval process on application for subdivision and rezoning.
- Establish an orderly process for the assessment and clean-up of contaminated sites.
- Establish a "site registry" which records information about the condition of each individual site investigated and the status of the remediation process.
- Provide rules and principles which define responsible persons and govern the liability provisions for site clean-up.
- Allow the Minister to carry out remediation activities where necessary and to recover the cost from the responsible parties. Amendments also enable the Minister to undertake remediation of high risk orphan sites by sharing costs on a 50/50 basis with the federal government.

Cleaner air is also a major policy objective of the government and it is our intention to ensure that cleaner vehicles, fuels and lower emission wood stoves are available in British Columbia. Amendments to the *Waste Management Act* in 1994 contained three separate legislative initiatives in these areas: the creation of regulatory power to control emissions from engines, motor vehicles, propulsion systems and fuels; the creation of regulatory power to control solid fuel burning domestic appliances; and the repeal of an outdated section of the *Motor Vehicle Act* that pertains to emission standards for vehicles.

More specifically these legislative amendments include:

- Provision of power to negotiate with the auto and oil industry and, if necessary, introduce regulations to ensure that British Columbia receives vehicles with

lower emissions and cleaner fuels. The amendments establish powers to regulate emissions from all types of engines as well as the quality, quantity and type of fuels to be supplied in the province.

- Regulation of new solid fuel burning domestic appliances such as wood stoves and fireplace inserts. Only those such devices which meet strict particulate emission standards will be available for purchase.

Changes to the *Motor Vehicle Act* which move the authority to regulate new vehicle emissions to the *Waste Management Act* and which promote the use of low-and zero-emission vehicles such as those powered by batteries or hydrogen charged fuel cells or those using electric motors.

The Low Sulphur Diesel Fuel Regulation passed by Cabinet in July. This regulation will come into effect on October 1, 1994. The regulation makes the sale of low diesel fuel mandatory in British Columbia.

Environmental Assessment Act: The *Environmental Assessment Act* was passed in July of this year and is anticipated to come into effect early in 1995. This is a new Act which represents a significant advance in environmental assessment and protection legislation in British Columbia.

The objective of this Act is to provide a comprehensive, effective and efficient process to assess major projects and activities that have significant impacts on the environment. The Act allows for significant public and stakeholder input. The Act will:

- Establish a process for identifying any potential impacts of major projects,
- including the evaluation of economic and social benefits and of measures to prevent or mitigate adverse environmental or other impacts.
- Allow permitting and licensing reviews required under other legislation to be carried out concurrently with an environmental assessment.
- Allow public advisory committees to be established as needed to make recommendations on applications.
- Require a Category Assessment Specifications document to be used by the Executive Director and the proponent to allow a more efficient review of projects. This document sets out information about the predictable effects of a category of projects.
- Ensure information related to projects being reviewed will be made available to the public as early as possible.
- Create an Environmental Assessment Board to conduct independent public reviews of complex and contentious projects.
- Ensure compatibility with the *Federal Environmental Assessment Act* in order to avoid duplication of effort.

Forest Practices Code of British Columbia Act: The Forest Practices Code, introduced and coordinated by the Ministry of Forests, is a system of legislation, regulations, standards and field guides that will be used to regulate the use of forest, range and recreation resources. The *Forest Practices Code of British Columbia Act* is the enabling legislation for this system. The Act responds to the challenge of ensuring sustainable forest practices: it seeks to provide a more balanced use of forest resources and practices that respond to the entire spectrum of current needs without compromising the demands of future generations.

The major contributions of the Act include:

- A commitment to sustainable forest use;
- A single, legally enforceable, management framework;
- A new framework for zoning of forest lands and planning forest operations;
- Increased recognition of all forest resources and improved capacity for the government to regulate forest practices;
- Strong compliance and enforcement powers; and,
- A Forest Practices Board to monitor compliance with the Code and a Forest Appeals Commission to hear appeals under the Act.

This Act establishes British Columbia's first Forest Practices Code, which will regulate forest practices through standards that are clearly defined, mandatory and enforceable. It provides an entirely new framework for provincial forest management. This Code will replace a mix of statutes, regulations and guidelines, many of which were overlapping, confusing and costly to comply with, and contradictory or unenforceable.

By ensuring that sustainable forestry is practised in those areas that do not receive protected status, the Code will protect biodiversity and complement major land use planning initiatives being carried out through the Commission on Resources and the Environment and the Protected Areas Strategy.

The forestry legislation is accompanied by a jobs strategy designed to generate employment through

environmental restoration and silviculture projects. This Forest Renewal Plan, initiated this year, is developing partnership between government, the forest industry, environmentalists, First Nations, and communities.

Future Legislative Initiatives

The review and revision of environmental legislation is an ongoing process in British Columbia. While much has been accomplished since 1991, environmental challenges continue to change and grow. As a result there is continuing need for review and revision of environmental protection legislation.

Two of the most significant areas of legislation that are being considered for introduction in future legislative sessions are the *British Columbia Environmental Protection Act* (BCEPA) and further reforms to water legislation.

The *British Columbia Environmental Protection Act* will be the major environmental protection act of this ministry. It will group together the provisions that apply to all environmental legislation - such as the general principles of environmental management, enforcement, environmental rights and obligations, appeals and emergency measures. As well, the BCEPA will establish the legislative basis for programs related to pollution prevention and control, air quality, water quality, pesticides and waste management.

Reforms to water legislation will look at consolidating all provisions dealing with the effective management of water. This will include groundwater protection, instream flow protection, water management planning and water export.

The Government of British Columbia has set an ambitious goal for reforming environmental laws and practices. The objective is to create new and modern legislation to promote environmental protection. MELP is well on its way to accomplishing many of the goals and objectives set by the government. As our understanding of environmental issues develops and grows, continuing review and revision of our environmental legislation will help us to better protect the environment. ♦