

ENVIRONMENTAL ASSESSMENT ACT NEEDS TO BE REVAMPED¹

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Ottawa's rejection of the Prosperity Mine did more than just stop an ill-conceived plan to destroy Fish Lake. The decision also vividly demonstrates the problems with British Columbia's environmental assessment law. The plan to drain Fish Lake sailed through the provincial assessment process without a hitch. Yet then federal environment minister Jim Prentice came to the opposite conclusion, and nixed the idea. He noted: "Fish Lake would be drained, and there would be the loss of all the associated wetlands and a number of streams. Really, it was the loss of the whole ecosystem. . . ." Prentice's decision was based on a detailed analysis by a panel of experts appointed under the federal environmental assessment law. The provincial government declined to participate in this review process.



Ottawa's rejection of the Prosperity Mine did more than just stop an ill-conceived plan to destroy Fish Lake. The decision also vividly demonstrates the problems with British Columbia's environmental assessment law. Photograph by: Submitted, Vancouver Sun

The panel concluded that the Prosperity Mine would:

- (1) create high magnitude and irreversible effects on fish, and significant effects on grizzly bears; and
- (2) destroy an important cultural and spiritual area of the Tsilhqot'in people.

This federal decision stands in marked contrast to the approach taken by B.C.'s Environmental Assessment Office, which rejected expertise from its own ministry of environment and recommended approval of the project. This was consistent with the B.C. office's record: It has never recommended that a project be rejected (although it has recommended further study).

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It is time for a major overhaul of B.C.'s Environmental Assessment Act, a law that was severely weakened by the Gordon Campbell government in 2002. The Environmental Law Centre has just published a comprehensive study on how the act can be improved to be more effective and still encourage sustainable development. Citing precedents from other countries and provinces, the report recommends the following measures:

- Adopt a "traffic light" (green/amber/ red) approach that addresses big-picture issues such as aboriginal title and rights, land use planning and community suitability up front -- before millions of dollars are invested in detailed engineering and feasibility studies.
- Utilize "strategic-level" environmental assessments of government programs, policies and laws instead of requiring that everything be addressed by proponents at the "project-level."
- Develop sustainability-based criteria for decisions on whether projects should be approved. The law should do more than set out procedural steps. It should require that a project actually meet substantive sustainability criteria.
- Require more rigorous and objective fact-finding procedures when company experts disagree with government experts.
- Require that alternatives to a proposed project be considered more diligently.
- Compel a rigorous assessment of cumulative environmental impacts of major projects.
- Enable the public to participate in assessments in a meaningful, constructive, timely fashion.
- Ensure that measurable and verifiable environmental performance conditions are placed on approved projects, so that proponent promises can be monitored and enforced over time.

It is clear that the federal government should not defer to provincial processes. One of the B.C. government's "Five Great Goals" has been clearly articulated: Leading the world in sustainable environmental management, with the best air and water quality, and the best fisheries management, bar none. We support that goal, and call on the next premier to implement it. B.C.'s natural environment is first class -- our environmental laws should be as well. The B.C. Environmental Assessment Act needs reform.