

A New Approach to Environment and Fisheries Management; Less Red Tape and a Better Environment

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“MP Bob Sopuck – The right-wing environmentalist.” *Toronto Star December 27,2010*

Outline

- Responsible Resource Development and Budget 2012
- Canadian Environmental Assessment Act
- Understanding the Amended Fisheries Act
 - Regulatory Tools and Enabling Partnerships
- Navigable Waters Act
- National Conservation Plan
 - Work of the Standing Committee on Environment and Sustainable Development
- The view from the “Right Wing Environmentalist” and where we should go from here

Budget 2012

Responsible Resource Development

- Canada's resource sector is an asset for Canada's Prosperity.
- \$500 billion will be invested in over 500 projects in next 10 years

The Regulatory Problem

- Maze of overlapping and complex regulatory requirements and red tape.
- Delays investment and job creation
- Does not necessarily contribute to better environmental outcomes.

Efficient regulatory system reduces the burden on businesses and improves Canada's investment climate.

Since 2006, the Government has worked to streamline and improve regulatory processes. However, more needs to be done.

Budget 2012-Responsible Resource Development

- Announced \$165 million dollars for Responsible Resource Development
- Government committed to reforming the regulatory system in the resource sector so that reviews are conducted in a timely and transparent manner, while safeguarding the environment.
- Will increase business confidence and enhance investment and job creation.

Economic Action Plan 2012 will:

Commit to bringing forward legislation for “one project, one review” in a clearly defined time period.

Ensures safety and security; protects the environment as energy resources are developed.

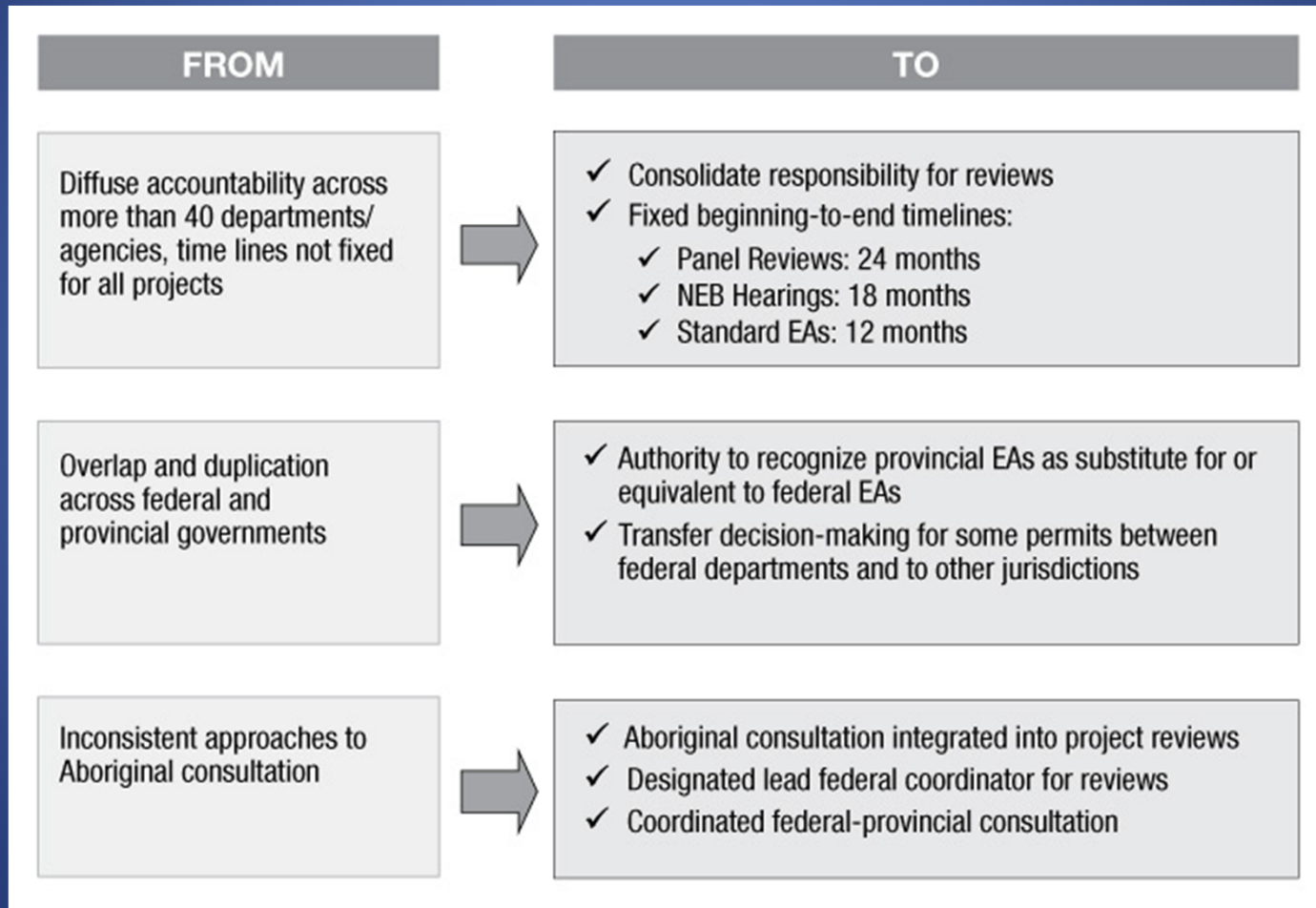
Makes new investments to:

- improve regulatory reviews,
- streamline the review process for major economic projects,
- support consultation with Aboriginal peoples
- strengthen pipeline and marine safety.

Builds on Major Projects Management Office initiative

- shortens and streamlines reviews and improves accountability.

Summary of Key Improvements to the Canadian Environmental Assessment Act





Fisheries and Oceans
Canada

Pêches et Océans
Canada

Understanding the Amended *Fisheries Act*

Department of Fisheries and Oceans





Fisheries Protection: A New Approach

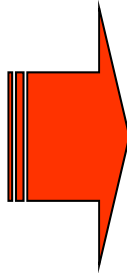
- Amendments to the *Fisheries Act* passed through Parliament and received Royal Assent on June 29, 2012.
- The **fisheries protection provisions** of the *Fisheries Act* enable the management of threats to Canada's commercial, recreational and Aboriginal fisheries and enable the regime, tools and partnerships to protect these fisheries effectively and efficiently



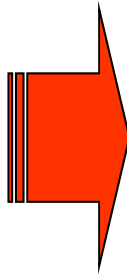
Fisheries Protection: A New Approach

FROM

Equal consideration for all fish species and for all habitat



Reviewing all projects for impacts to fish and fish habitat, and providing advice on a project-by-project basis



Duplication and overlap between federal and provincial review processes



TO

Focus on **sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries**, and **effective management of key threats** (e.g. habitat, aquatic invasive species)

Effective management of projects linked to fisheries of **commercial, recreational and Aboriginal importance**, through the adoption of **best available tools**

Best placed delivery and partnerships with third parties (e.g. professional and conservation organizations) as well as provinces



Understanding the amended *Fisheries Act*

- The amended *Fisheries Act* comes into force in two phases
- Some sections of the Act are already in force in areas such as:
 - Enhanced compliance
 - Regulatory-making authorities
 - Partnerships
- The most significant changes will come into effect later including:
 - Factors to be taken into consideration (section 6)
 - New prohibition (section 35)



Key elements and concepts



The New Prohibition

- Current regime includes two prohibitions: section 32 (killing of fish) and section 35 (harm to fish habitat).
- A **new** prohibition merges these two sections (s.32 and s.35) into a **single prohibition** (section 35)
- It reads:
 - “No person shall carry on any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.” (subsection 35(1))
- The prohibition is only applied to commercial, recreational or Aboriginal fisheries – it is designed to **protect those fisheries and the fish and fish habitat that support those fisheries**



Definitions

- Some definitions have been modified
 - **Fish habitat** – “spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes”
- **New definitions have also been added:**
 - **Commercial** – “in relation to a fishery, means that fish is harvested under the authority of a licence for the purpose of sale, trade or barter”
 - **Recreational** – “in relation to a fishery, means that fish is harvested under the authority of a licence for personal use of the fish or for sport”
 - **Aboriginal** – “in relation to a fishery, means that fish is harvested by an Aboriginal organization or any of its members for the purpose of using the fish as food or for subsistence or for social or ceremonial purposes”
 - **Serious harm to fish** – “the death of fish or any permanent alteration to, or destruction of, fish habitat”



Enhancing Compliance and Protection

- The Act includes a number of **new** provisions that enable enhanced fisheries **protection**.....
 - Ecologically Significant Areas
 - Aquatic Invasive Species
- ...and **compliance**
 - Enforceable Conditions
 - Contraventions
 - Duty to Notify



Regulatory Tools

- Prescribed Works
- Prescribed Waters
- Standards
- Incorporation by reference
- Exemptions
- Exclusions
- Aquatic Invasive Species



Regulatory Tools

- Other regulatory tools aim to facilitate streamlining the process and increasing efficiency
 - Proposed regulations will clarify the **information required** from proponents for a *Fisheries Act* authorization, if one is required
 - Once the information is received, the Department will be bound by set **timelines**, in regulations, for the issuance of an authorization, if required
 - **Equivalency** of regulatory regimes can be declared by Order in Council if the provincial regime meets or beats federal standards (regulations or laws).
 - **Delegation** would enable, through regulations, other government departments (e.g. Canadian Nuclear Safety Commission, National Energy Board) or provinces to issue authorizations under section 35(2)(c) of the *Fisheries Act*.
- DFO is currently developing regulations on **information requirements** and **timelines**



Enabling Partnerships: Provinces and Territories

- In addition to equivalency and delegation, formal **agreement-making** powers provide an opportunity to partner with **Provinces and Territories**, to further the purposes of the Act



Enabling Partnerships: Third Parties

- The Act also provides a number of new provisions to partner with **third parties** to further the purposes of the Act:
 - **Agreements** allows the Minister, in exercising powers and performing functions, to enter into agreements or arrangements or transactions with any person or body
 - **Programs and Projects** enables the Minister to make grants and contributions, make loans, and/or make recoverable expenditures on behalf of any person or body
 - **Incorporation by reference** enables externally developed standards, once recognized by DFO, to be incorporated into regulations



Fish passage and flow

- The fish passage provisions are sections of the Act that support and enable the safe passage of fish around barriers and dams
- These provisions have been **updated** and **consolidated** into **two new sections** (sections 20 and 21)
- Certain antiquated and unused sections have been repealed
- Minister may order, amongst other matters, removal of an obstruction to ensure safe passage of fish
- Section 6 and 6.1 (Purpose and Factors) apply to the decision-making process related to fish passage provisions



Aquatic Invasive Species

- Fisheries and Oceans Canada is working with provinces to develop regulations on aquatic invasive species (AIS) aimed at:
 - Preventing the introduction of aquatic invasive species into Canada, through prohibitions on importing, possessing and transport listed species; and
 - Controlling the spread of aquatic invasive species, through a framework to authorize control and eradication activities.



Enabling Partnerships: Fish allocation for financing purposes

- The amended Fisheries Act provides the Minister with the authority to allocate fisheries resources for the expressed purpose of financing scientific and fisheries management activities as defined in a joint project agreement
- Enables joint project agreements in order to aid in the proper management and control of fisheries and the conservation and protection of fish.

Navigable Waters Act

Canadians have a right to navigation that predates Confederation.



It has been enshrined in our constitution and been **continually enforced by our courts.**

The most recent amendments to the Act were passed in 2009, and introduced the implementation of the Minor Works and Waters (NWPA) Order.

The Order enables low risk works, such as foot bridges across streams and culverts in ditches, to be pre-approved under the Act.

Background

In the 19th Century most goods and people were moved inland on navigable waters, this is no longer true today with our modern highway and railroad system.

The NWPA was originally enacted in 1882 to aid trade and commerce by balancing the efficient movement of commercial marine traffic with the need to construct works which might obstruct navigation.



However, primarily through court decisions, the scope of the NWPA has expanded to apply to all waters to include ditches, brooks and streams.

This has created a back log and lengthy approval timelines.

Proposed Amendments to the Navigable Waters Act



- Change the name to **Navigation Protection Act** to reflect its original intent.
- Instead of regulating all waterways, the Act would focus on major waterways where impediment to marine traffic is of greater risk (coastal waters, St Lawrence Seaway, Great Lakes, Winnipeg River, Lake Manitoba etc).
- Public right to navigation would be protected and upheld in the courts on the non listed waterways as it has for decades.
- Builders in non-regulated waterways might want to avoid being subject to court challenges. A builder can opt-in to Transport Canada's regulatory review, giving more certainty and leverage in case of a lawsuit.
- Look at updating the list of projects that would be pre-approved (such as boat launch ramps and boathouses).

Listed waterways in Manitoba



- Winnipeg River
- Lake Manitoba
- Red River
- Lake Winnipeg
- Lake Winnipegosis
- Assiniboine River
- Hudson Bay



Lake Winnipeg

National Conservation Plan



- Winter 2012
 - Minister began preliminary consultations on a National Conservation Plan.
 - The Standing Committee on Environment and Sustainable Development conducted initial public hearings on the framework for the development of our Government's initiative to create Canada's National Conservation Plan
 - Currently the Minister is working on a response to this Committee report that will lead to further NCP hearings and a final report by the Environment Committee.

Where is it headed?

- Focused on the “working landscape” and urban Canada where the greatest opportunities are to improve conservation outcomes.
- Environment committee currently conducting a study on urban conservation that will support its work on a National Conservation Plan.
- Once the Committee’s work is done, the Minister and Department will finalize the National Conservation Plan.

Why the NCP matters and what are the opportunities.

- The NCP gives us the opportunity to develop programming that will bring real results for biodiversity, wetland conservation, ground water recharge, health of wildlife populations

The view from the “Right Wing” Environmentalist

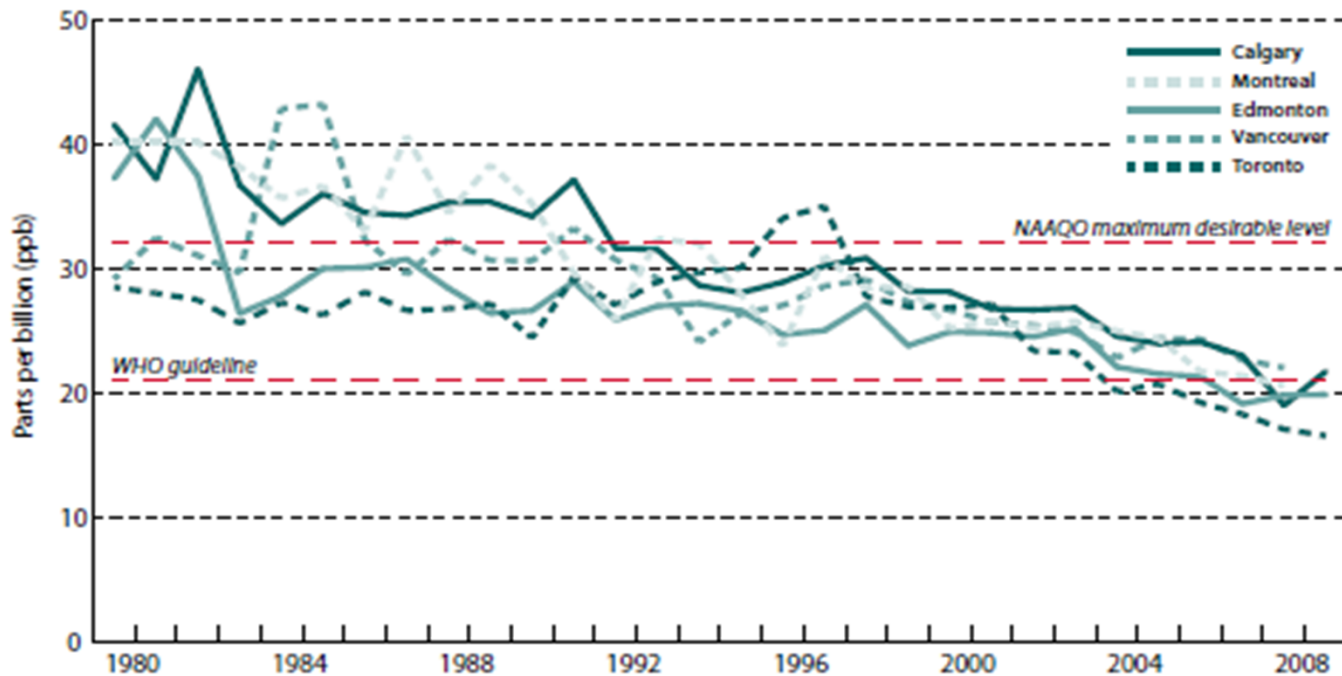


Six Principles for Making Environmental Policy

1. Rely on truly unbiased science
2. Focus on measurable results and quantifiable environmental indicators

Measurable Results

Figure 2: Annual concentrations of Nitrogen Dioxide in major Canadian cities, 1980–2009

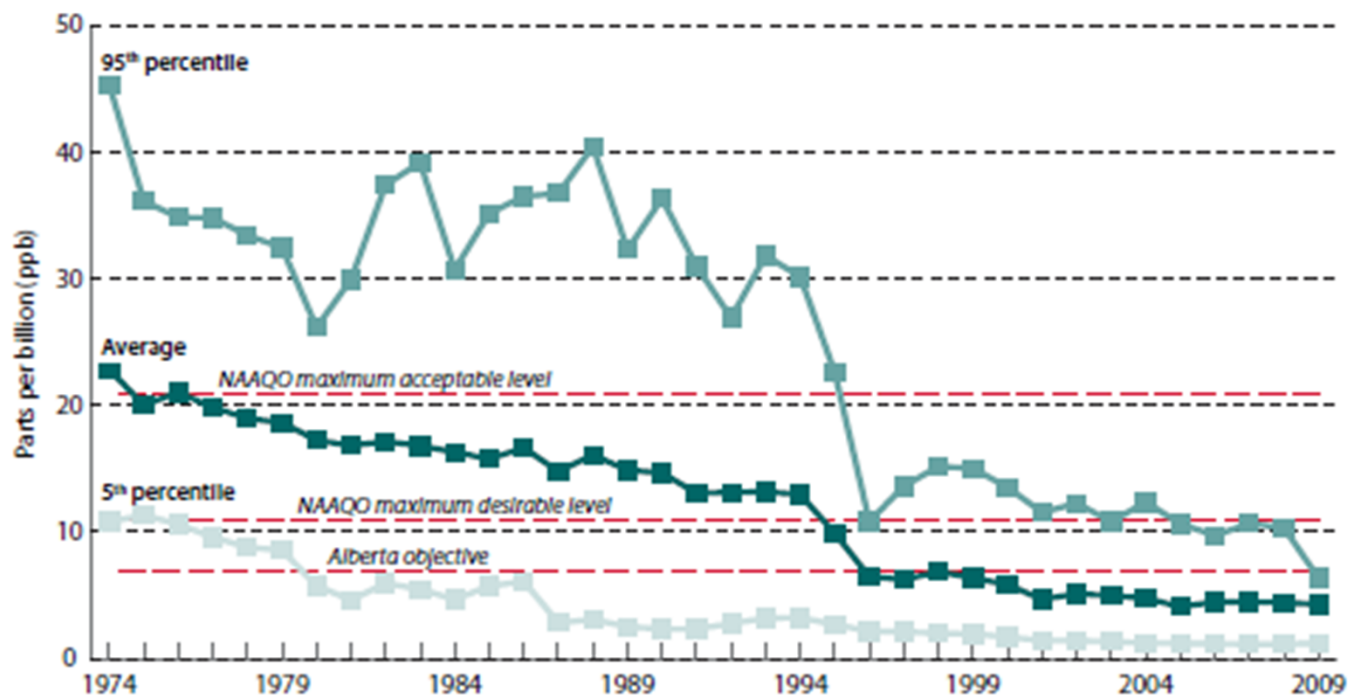


Note: The data are annual average concentrations. For Calgary and Toronto, the monitoring record used multiple stations within a 5 km radius. The station numbers are: 050115, 060401, 060417, 060424, 060425, 060433, 080130, 080227, 080228, 100112.

Sources: Environment Canada, 2010b; calculations by author.

Measurable Results

Figure 8: Average annual concentrations of Sulfur Dioxide in Canada, 1974–2009



Notes: The figure displays average, 95th percentile, and 5th percentile values of annual average SO₂ concentrations from stations across Canada. In a given year, 95% of stations have concentrations below the 95th percentile value. Similarly, 5% of stations report concentrations below the 5th percentile value.

Sources: Environment Canada, 2010b; calculations by author.

Clear Lake, MB – Phosphorus reduction

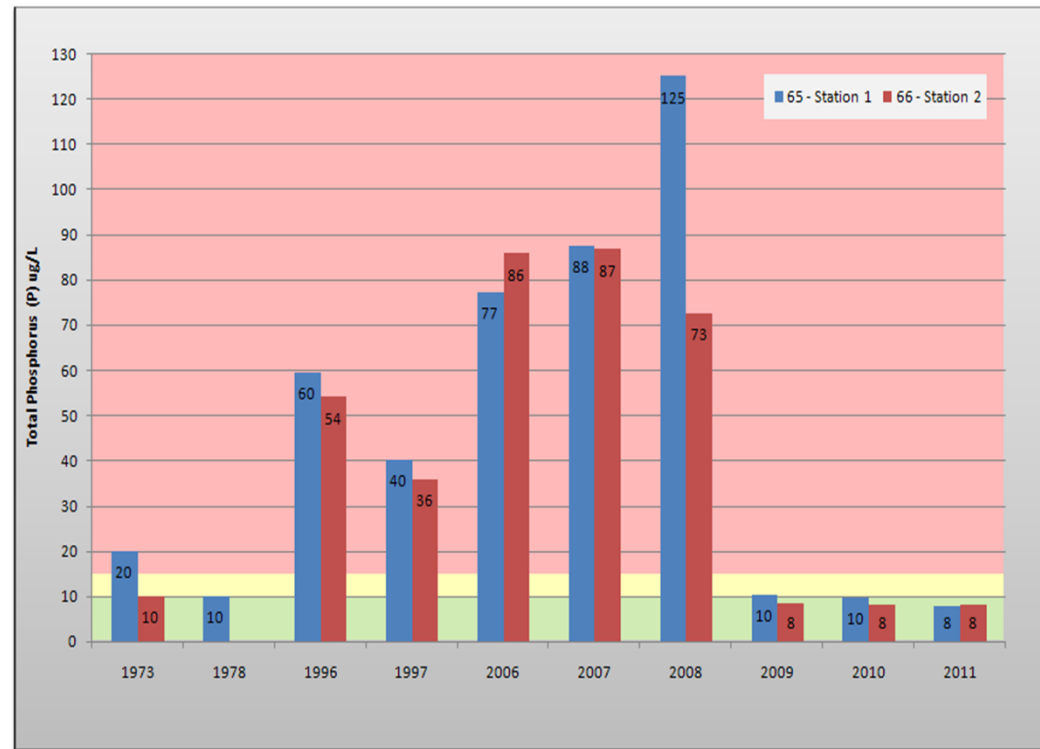
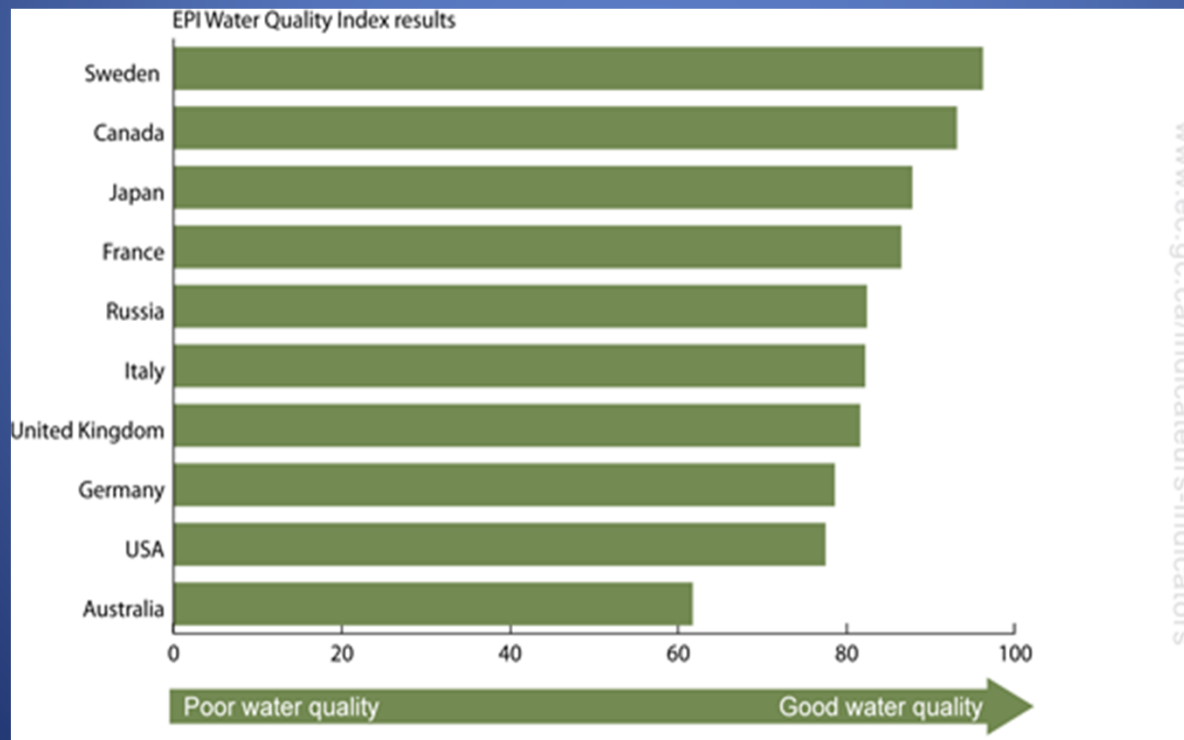


Figure 1: Average annual Total Phosphorous measurements for Clear Lake from 1973 – 2011.

Background colours indicate threshold values. The first phase of wastewater infrastructure improvement was completed in December 2008. (Phosphorous values are in ug/L).

Canada's Freshwater Quality in a Global Context

- Canada had the second-best water-quality ranking among selected industrialized countries based on the Environmental Performance Index (EPI). Canada ranked ninth overall among the 157 countries assessed.
- **Water quality rankings of selected industrialized countries according to the 2010 Environmental Performance Index**

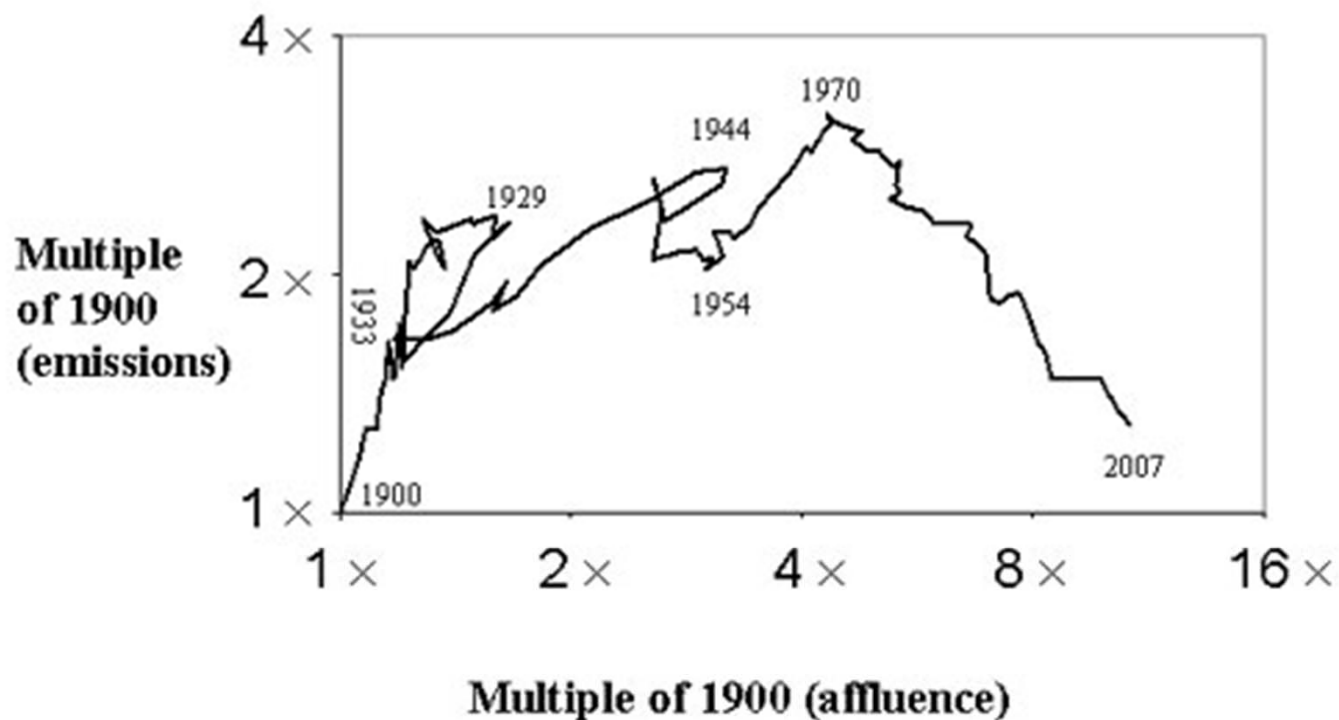


3. Celebrate wealth creation as the wellspring
for environmental improvement

OR

“Let’s All Get Rich and Save the Environment!!!”

Environmental Kuznets Curve for USA sulfur dioxide emissions



J. Ausubel and P. Waggoner, 2009

As America got richer in the the 20th century, emissions of sulphur dioxide rose. But thanks to new technologies, new laws and new desires for cleaner air, the trend reversed, and sulphur-dioxide pollution declined even though population and wealth kept rising.

UNESCO Water Quality Indicators by Country

Rank	Country	Indicator Value	Rank	Country	Indicator Value
1	Finland	1.85	108	Uganda	-.70
2	Canada	1.45	109	Ethiopia	-.74
3	New Zealand	1.53	110	Indonesia	-.77
4	United Kingdom	1.42	111	Malawi	-.77
5	Japan	1.32	112	Mauritius	-.77
6	Norway	1.31	113	Rwanda	-.78
7	Russian Federation	1.30	114	Central African Rep.	-.81
8	Republic of Korea	1.27	115	Burundi	-.95
9	Sweden	1.19	116	Burkina Faso	-1.0
10	France	1.13	117	Niger	-1.04
11	Portugal	1.09	118	Sudan	-1.06
12	United States	1.04	119	Jordan	-1.26
13	Argentina	1.03	120	India	-1.31
14	Hungary	.93	121	Morocco	-1.36
15	Philippines	.91	122	Belgium	-2.25

4. Substitute risk and cost/benefit analysis for the precautionary principle
5. Embrace environmentally friendly technology
6. Focus on incentives via property rights, direct payments, and proper pricing while implementing “smart” regulations where necessary.

Conservative-Style Conservation in Action

Poplar cut in 1988 with new tree replacing it via natural regeneration



Caroline and her Mother's Day log splitter

