

April 17, 2017

The Liberals under Premier Wade MacLauchlan say they want to protect our water, and believe the way to do it is with a new Water Act. The proposed Act has been applauded by many, and considered to be the legacy the Premier will leave behind. I would respectfully disagree.

We currently have many laws in place to protect the waterways, many of which can be found in the Environmental Protection Act (EPA). This Act was brought in by the late Liberal MLA, Gilbert Clements. He was a man with the vision to lay down the groundwork for a sustainable environment. The Honourable Gilbert Clements established the first Department of Environment in Canada, and with it he brought in a recycling program with regulations for reusable containers. The legacy he left behind was one of valuing and protecting the environment. When Robert Ghiz became Premier of the Liberal party, the reusable container regulations, which had become the envy of many other provinces and the U.S. was all but wiped out. Needless to say it has led to an influx of plastic containers, only adding to the critical level of plastics contaminating our oceans.

I would argue that strengthening the EPA would result in a more strategic and effective means of protecting our water resources. While working in wildlife management, I knew that one species cannot be managed in isolation of others. Every species is connected to the whole ecosystem, belonging to a complex web of relationships. As a result, what happens to one species, impacts many others. The same is also true of the environment. Likewise, water management must take into consideration the air, land, wildlife, and human activities. The environment has many complex interrelationships that our very existence depends upon. For example, air carries the replenishing water through the water cycle. When this occurs, manmade contaminants such as mercury, sulfur dioxide and nitrogen oxides are also redistributed into the waterways making the water more acidic and the fish less edible. With the acidification of our oceans there will even be less fish, as they are unable to survive the toxic environment. The green house gases like carbon and methane in the air result in a warming ocean and along with it, all the negative impacts that go with climate change. Under the current EPA there are Air Quality Regulations which helps the province deal with some of these issues.

Human activity on the land has lead to nitrate pollution of our ground water. Meanwhile, runoff from the fields has led to siltation and contamination of our waterways. Silt is by far one of the worst contaminants we have running off the land. It smothers billions of fish eggs, fills in our waterways- raising water temperatures, taking cover away from aquatic animals, and carrying pesticides with it. Stopping siltation of the rivers will also stop most of the fish kills from pesticide. The EPA could be amended to better deal with this issue. Incorporating the Agricultural Crop Rotation Act under the Environmental Protection Act could help address this, by giving the Minister the power to issue orders for non compliance. This Act also has to take into account not only the steep of a slope but the length. A minor amendment in the EPA listing a

specific level of suspended solid as a contaminant would also help resolve some of the issues concerning runoff giving the Environment Officers a leverage to address siltation.

Under the Environmental Protection Act, there are many regulations that are designed to prevent the release of contaminants using a permit system and laying out conditions under a permit. This is administered effectively under the requirement for watercourse or wetland alteration permits and through specific buffer zone regulations.

Understandable, many farmers get upset when a new law that hurts their bottom line is announced, as they contend with many regulations. The bulk of sedimentation issues originate on farmland and government roads. The road ditches need to be treated more like waterways as they lead many contaminants to our watercourses. A new Act does not in itself solve the problem and can create more problems if it has not been carefully planned out. A comprehensive strategy created by involving farmers and other stakeholders is more likely to succeed. Making activities illegal without an inclusive strategy in place is counter-productive and lacks vision.

Oil contamination of groundwater from oil tanks is another nightmare. The current government developed a strategy through consultation which included licensing tanks, inspections, training and education. This strategy has worked for the most part and these regulations can be found under the EPA.

The best tool that government has under the EPA is the power of the Minister to issue Orders, which tells a person what to do, and if they do not follow the rules there are significant consequences. The Minister can issue an Order, if there is a violation of the EPA, or even if there is not a violation but a potential threat to the environment. Unfortunately, some would argue this power is not used enough. Failing to comply with an Order can potentially cost a company \$50,000 a day, or an individual as much as \$10,000 a day and 90 days in jail. That should be a good deterrent, but it requires work and follow up which can be tie up resources and be politically motivated. Under the EPA, not only can a person be fined and jailed, the government can remediate the non-compliant and put a lean on the property for recovery of cost. However, trying to fix an expensive problem with no budget or political resolve is challenging.

Another of the better tools found in the EPA to protect Water is the environmental assessment process. This requires the proponent to identify environmental issues before they can happen and address them before a permit is issued for an undertaking. If the Minister approves, an Order is issued to the proponent requiring adherence to conditions found in an approval permit. Failure to comply can be costly to the person and very costly to the environment.

The following is a partial list of regulations under the Environmental Protection Act. Each and every one of them plays a role in protecting our water.

- Litter Control Regulations
- Air Quality Regulations

- Sewage Disposal System Regulations
- Drinking Water and Waste Water Facility Operating Regulations
- Petroleum Hydrocarbon Remediation Regulations
- Petroleum Storage Tank Regulations
- Ozone Layer Protection Regulations
- Water Well Regulations
- Home Heat Tank Regulations
- Materials Stewardship Regulations
- Contaminated Sites Regulations
- Waste Resource Management Regulations
- Excavation Pits Regulations
- Environment Records Review Regulations

Other Acts are in place to protect water. They include the aforementioned Agricultural Crop Rotation Act. This requires farmers to responsibly manage the land. Conserving the integrity of the soil will reduce sedimentation of our watercourses and in the long run profit the farmer. It sounds like an unnecessary law, and in the day of family farms it could have been avoided. However, the changeover to industrial farming and increasing demands for produce has changed what our laws need to include.

The many other Acts protecting our waterways include the Pesticide Control Act which controls the application of pesticides. The Planning act, which controls development and protects offshore Islands, while establishing the Morrell River Conservation Zone- one of the best watershed protected areas on the Island. The Natural Area Protection Act, Forest Management Act, and the Wildlife Conservation Act, are all in place to protect our waterways. Not to mention the multitude of Federal Acts and Regulations which also protect our water.

So, why are we still having problems? A new Act does not address the issues. It does even less as a standalone document. Water protection is environment protection. Air pollution and land pollution eventually lead to degraded water supplies, whether it be directly or indirectly. The existing EPA already a framework for this. For example, it protects ground water from oil pollution within the Home Heat Tank regulations, or watercourses from mercury contamination under the Air Quality regulations.

The EPA has been in effect since 1988, has undergone many amendments, and is being tested in court. Whether it wins or loses in court, the EPA becomes better each time. The cases that end up in court can take months of investigative and could takes years to work its way through court. A new Act will take years to be tested and amended before being an effective tool. What we really need is not more Acts, but more action. The government needs to increase resources to achieve successful prosecutions and maintain the level of enforcement needed for all the water related Acts without bringing in a new one. There are many regulations under the

existing EPA to work with. Yes, closing loopholes and strengthening the existing Environmental Protection Act will help to achieve these goals. There is a need for government to have emergency funding to deal with the costs of cleaning up contaminants and restoring ecosystems. However, a new Water Act is not the answer. It will create more problems in the long run. Start by identifying the problems public meetings have addressed, and come up with creative solutions. Look at cross compliance, incentives, buy-outs. Examine existing legislation, and policy that runs contrary to protecting our water resources. Talk to the Environment Officers and the Crown Prosecutors to gain a better understanding of the enforcement issues with the existing legislation.

I hope the Liberals will reconsider and look at the bigger picture by really committing to protecting our water resources by protecting the whole environment. There is so much we could be doing better to improve our environmental future. Instead of smoke and mirrors lets really do something good.

Former Conservation Officer
Former Environment Officer
Former Chief Water Resources Officer
Former Head of Investigation and Enforcement for PEI Environment
Former Head of Fish and Wildlife