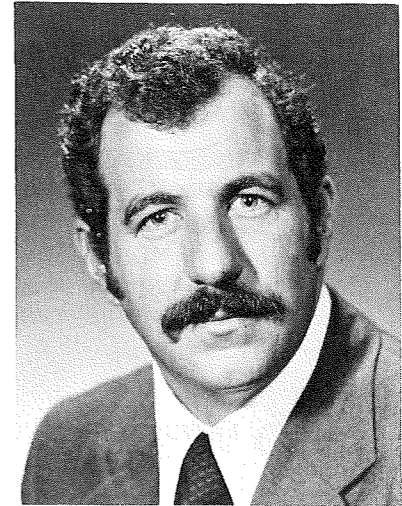


Summary of  
Environmental Assessment  
April 1987



Province of British Columbia Ministry of Environment



## MINISTER'S MESSAGE

The Environment Management Act is our response to steadily growing public concern for environmental quality — a response that combines the powers necessary to take effective steps in environmental protection with the tools required for ongoing environmental management. The Act will create an integrated legislative base for the management and protection of the British Columbia environment, and will be followed by the introduction of other new legislation which will deal specifically with component responsibilities of the new Ministry of Environment.

The measure of legislation is not simply the powers contained but the logic of the processes by which these powers are to be exercised. By taking this integrative approach, the Environment Management Act creates a basis for management processes which will facilitate everyone's interest, from the concerns of interested citizens for environmental protection to the legitimate demands of industry for a timely and logical examination of their proposals.

It is an Act of which all people of the Province, regardless of their interests, can be proud.

A handwritten signature in cursive script that reads "Stephen Rogers".

Stephen Rogers,  
Minister of Environment.

## WHAT IS THE ACT?

The EMA is a necessary piece of legislation designed to enable the Ministry of Environment to effectively manage and protect the environment of British Columbia. It will enable the government to take a positive approach to environmental management and streamline the process through which environmental and developmental decisions are made.

## WHY DO WE NEED IT?

The EMA is the logical result of the process begun with the consolidation of management responsibilities into the new Ministry of Environment during the last cabinet reorganization. It was apparent then, as now, that protection of the environment is of major concern to the people of British Columbia, and that this concern could be met most effectively by assembling all related environmental management agencies in a single ministry with a clear overall direction. At the same time, this consolidation allowed for the creation of coordinated systems for environmental study and decisions, so that both the public and other ministries of government could expect efficient and consistent consideration of their concerns.

Good environmental management and planning inspires public confidence, facilitating legitimate industrial and resource development for which the government must take responsibility. In keeping with this principle, the EMA accomplishes three major things:

1. It provides a framework for existing powers and policy brought together by Ministry reorganization, and transfers final authority for environmental decisions accordingly;
2. It provides additional legislation to put these various responsibilities together into an effective management system and to provide the Minister of Environment with an effective means for carrying out the environmental mandate, and
3. By eliminating duplications and regionalizing many important environmental functions, it provides an efficient and streamlined process for the implementation of environmental policy.

## THE LEGISLATION

The basic elements of the legislation are those which provide an orderly management process; that is:

1. The development of management plans to provide a framework for environmental decisions and to match environmental priorities and concerns with those of other ministries;
2. The development of environmental guidelines to assist all those involved with environmental issues in determining a proper course of action;
3. The means by which the Minister of Environment can investigate environmental issues and acquire important information relative to environmental impact and protection;
4. The means by which the Minister of Environment can take action to prevent environmental damage either in an emergency or where there is some question to be answered on the effects of certain activities with the potential for environmental damage;
5. A process for the enforcement of regulations set for the protection of the environment, and
6. An appeal process which provides for the consideration of appeals to environmental legislation in an efficient and judicious manner.

Collectively, these components provide a complete environmental management process, from inventory and analysis to fair and consistent decision making, and do so in a manner that lends itself to efficient implementation of government policy on the environment and to proper consideration of other areas of government affected by environmental issues.

## SOME IMPORTANT COMPONENTS OF THE ACT: A DESCRIPTION

### Environmental Management

This section defines the major elements of the environmental mandate as follows:

- a) planning, research and investigation with respect to the environment;
- b) developing policies for the management, protection and use of the environment;
- c) planning, designing, constructing, operating and maintaining works and undertakings for the management, protection or enhancement of the environment;
- d) providing information to the public with respect to the quality and use of the environment.

The intent is to fulfill this mandate not through intrusion upon the jurisdictions of other ministries, but rather in cooperation both with agencies of government and with the private sector.

### Environmental Impact Assessment

This section provides a legislative base from which the Minister of Environment can require that information be supplied on activities which may have adverse environmental impacts. Guidelines will be developed to provide a specific means by which this requirement is applied, and will ensure there is no duplication of other impact assessment requirements. In most cases it is anticipated that the various procedures presently in place for assembling projects and activities by industry and various levels of government would satisfy the interest of the Ministry of Environment at the outset. This legislation would normally only apply to activities which were not completely covered by the present assessment procedures, or which such procedures were not intended to cover.

The main purpose of this section is to determine any detrimental effects resulting from an activity, either in advance or from an existing activity where evidence suggests the probability of environmental damage. In this way, both the environment and the activity in question are protected from after-the-fact damage and the need for subsequent restoration.

### Environmental Protection Orders

This section empowers the Minister of Environment or the Lieutenant-Governor in Council to issue an environmental protection order. This is an order intended to delay, or stop, activities which could have serious and, in some cases, irreversible

effects on the environment, until such time as the impact of such actions is assessed and the planning activity is accepted, modified or rejected, or to order an action to prevent such effect. Situations in which an environmental protection order might have been issued had this legislation been in effect include:

1. Riley Creek (Logging - Fisheries conflict)
2. Nechako River discharge (ALCAN)
3. Coquitlam River industrial gravel processing operation
4. Garibaldi - potential landslide threat.

Normally, an order would be made by the Lieutenant-Governor in Council, but if immediate action were necessary, the Minister has the power to issue it. The term of effect for the Minister's order is fifteen days, after which the order must be confirmed or withdrawn by the Lieutenant-Governor in Council. This period should provide sufficient time for the Lieutenant-Governor in Council to be satisfied that the order of the Minister is with or without merit without causing undue hardship to those affected by the order.

### Environmental Emergency Measures

While the issuance of environmental protection orders is intended to forestall potential environmental damages, there is also a need for authority to deal with unexpected or emergency impacts on the environment. These provisions would allow immediate and decisive action to be taken in response to an environmental emergency when it is apparent that such response is not likely to be taken by, or is not within the capabilities of, other responsible parties.

Examples of this type of impact include spills of hazardous substances, such as oil or pesticides, or, as was recently the case in Salmon Arm, gasoline was leaked into storm sewers and threatened the entire town with an explosion. Other events demanding emergency action might involve sudden blockages of fish spawning areas, the accidental release of toxic chemicals or the discovery of abandoned hazardous waste dumps, all of which have occurred in the last year.

This legislation replaces and expands on legislation currently within the Pollution Control Act. Previous experience has proven the value of such legislation in responding to a number of major environmental hazards over the last two years.

### Recovery of Costs

This section gives the Minister of Environment authority to advance funds from consolidated revenue for immediate response to an environmental emergency. This advance is to be documented by certificate and will be recoverable from any person or corporation who caused the emergency through either direct action or neglect.

## **Inquiries and Technical Assistance**

This section empowers the Minister of Environment to hold an inquiry to properly determine any matter within his jurisdiction, including matters relative to the orders described in Sections 7 and 8.

The reasons for including this section rather than using the Public Inquiries Act are as follows:

1. Frequently, the matter under consideration involves new technology, techniques, or products, and this necessitates a private rather than a public hearing in order to protect the interest of those giving evidence. The Public Inquiries Act does not make provision for in camera hearings.
2. The Public Inquiries Act requires the panel to report to the Legislative Assembly. In a majority of these hearings, the panel should report to the Minister and/or Cabinet rather than the Legislative Assembly.

## **Entry on Private Land**

This section relates to powers required by Ministry staff in carrying out responsibilities under this act. Although some employees of the Ministry are covered by statute in matters of ingress and egress (e.g. Pollution Control Act), many are not. The purpose of this section is to provide similarly controlled rights of ingress and egress to employees who, in the course of carrying out their duties, must have access to private as well as public lands.

## **Enforcement**

The intent of this section is to establish an enforcement service to be known as the Conservation Officer Service and to provide a framework within which it enforces the legislation of the Ministry.

## **Evidence**

This section also relates to enforcement of environmental legislation. Its intent is to improve efficiency and to effect financial savings in the Ministry by reducing the presence of officials and particularly of laboratory analysts in legal action. Further, it provides for the Ministry to standardize analytical procedures in order that analytical parameters are all measured on the same technical scales, thus avoiding confusion and eliminating conflict.

## **Environmental Appeal Board**

The purpose of this section is to establish a board to hear appeals to decisions under environmental legislation.

At present, several pieces of Ministry legislation include a right of appeal to Cabinet. This process has proven inefficient and ineffective. It is difficult to convene a meeting of busy Ministers with the appellant; the matter is often technical in nature rather than policy oriented; a full hearing often requires several days; and occasionally the appellant is pursuing a frivolous matter.

It is therefore proposed to have these appeals heard by a Board appointed by Cabinet. The Board would include those who have the time and expertise to deal with these appeals expeditiously, and would replace the present proliferation of appeal boards, including the Pollution Control Board and the Pesticide Appeal Board. The findings of the Board would be presented to the Minister of the Environment.

## **Variation and Rescission**

Decisions of the Environmental Appeal Board may be varied or rescinded by cabinet.

## **Penalties under the Act**

This section establishes penalties for contravention of the terms of the Act. Provision is made for a maximum \$100,000 penalty for offences against the Environment Management Act. In assessing penalties, the courts reserve the maximum penalty provided by legislation for the worst conceivable offence and relate all other offences to that maximum. The courts also take into consideration, in their assessments, the fact that the offence is accidental, negligent or intentional.

A further sub-section on liability indicates the Crown's right to pursue liability actions for environmental damages.



## HOW DOES THE ACT COMPARE WITH THOSE OF OTHER PROVINCES?

The major components of the EMA are those which have developed consistently in similar environmental legislation across Canada. In all cases, such legislation combines the need for an investigative and planning capability with the power required to act where necessary to prevent apparent or potential environmental damage.

Environmental protection orders are a basic tool in this process, and are generally required only when preparatory measures such as environmental objectives and protection guidelines prove insufficient. As these preparatory measures become better known and understood, the need for protection orders is correspondingly reduced. Environmental emergency orders provide the emergency capability for dealing with the unexpected, and are again a consistent need in environmental legislation.

In all these terms, the EMA is among the best in any jurisdiction.

## SUMMARY

The Environment Management Act is intended to develop a comprehensive legislative base for environmental management and protection in B.C. and to do so in a way that provides for an orderly and consistent review of environmental and development issues. In so doing, it will meet both the demands of the public for environmental protection and those of developers and development agencies for a coordinated and streamlined process of environmental review. In addition, it provides for the development of standards and management objectives which will give prior notice of specific environmental priorities and concerns throughout B.C., thus assisting in the overall implementation of government development policies. The components of the legislation are consistent with environmental assessment and protection legislation throughout Canada, and reflect the growing awareness of a need to meet rising public expectations for a quality environment while still providing an efficient process for a consideration of legitimate development proposals. They provide a positive basis for the participation of the Environment Ministry in the overall land and resource use strategy for British Columbia.