

Green Scene: Fish Habitat Protection

By Elaine Golds

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Just as humans need a home, fish require habitat. These salmon seek shelter under woody debris in Hoy Creek in Coquitlam. V. Otton photo.



Although World Water Day (March 22), is intended to be a time to appreciate the value of water, many people who care about the environment have been alarmed by a press release suggesting the federal government intends to dismantle legislation that has protected fish habitat since 1976. The 1970s, for those of us old enough to remember, was time when people finally realized a variety human

activities were having terrible impacts on the environment. Earth Day was initiated and, in the USA, legislation was passed to protect water quality, clean air, species at risk and a healthy environment. In Canada, some critical words were added to the 1868 Fisheries Act which had a profound impact by finally requiring the protection of fish habitat. Like all good legislation, the words were simple and clear: “No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.”

For people with a passion for all things aquatic, the Harmful Alteration, Disruption or Destruction of fish habitat has become a mantra known as a “HADD”. It has been enormously effective in protecting aquatic habitat. Nor, it important to note, has this legislation been used like a sledge hammer. In fact, its application has been extremely reasonable. While it is always best to protect naturally-existing fish habitat, sometimes this is not possible. When projects are proposed, such as the construction of a bridge, pipeline or fire hall that would cause a “HADD”, permission can still be granted by the Minister of Fisheries and Oceans Canada but the proponent will be required to create compensatory habitat. This is known as habitat compensation and must be approved in advance of the work. The Tri-Cities area is replete with many such fish habitat compensation projects. Creating fish habitat is something nature does extremely well but humans less so. Thus, some of these compensation projects have been more successful than others. While we are still on a steep learning curve for the creation of fish habitat, our grades have been improving significantly in recent years.

On rare occasions, the potential damage to fish habitat will be so extreme as to stop a project. For example, this was the case in 2010 with the Taseko Mines proposal for Fish Lake in BC which would have turned this pristine lake of special significance to First Nations into a toxic tailings dump with 90,000 dead rainbow trout. Wisely, this proposal was turned down at the conclusion of a carefully-considered and closely-watched Canadian Environmental Assessment process. The habitat protection provisions of the Fisheries Act

provide a strong incentive for industry to seek ways to undertake projects without damaging fish habitat or to design and construct adequate fish habitat compensation. With such effective but reasonable legislation, what could possibly need changing?

The information recently leaked to Otto Langer, a retired biologist from Fisheries and Oceans Canada suggests the federal government is planning to eliminate the effective habitat protection measures in the Fisheries Act and replace it with such vague words that it will result in many lawyers spending many days in court discussing many permutations. Equally distressing, the government intends to append this change to the Budget Omnibus Bill which is expected to be introduced to the House and passed near the end of March. This is a deceitful and undemocratic maneuver which will eliminate any opportunity for public consultation. Rather than a timely announcement that consideration for a change in wording is underway and consultation with the public, biologists and businesses will follow, the Harper government was apparently planning on slipping this one by under our noses. The Constitution of Canada promises us peace, order and good government. To my mind, this maneuver is neither orderly nor good government. And it is not likely to result in much peace, either.

My fellow environmental colleague, Linda Nowlan, a World Wildlife Fund-Canada Director, in her blog on these apparently unannounced but forthcoming changes to the Fisheries Act, said she had HADD enough. Me, too. What about you?