

2017 B.C. GOVERNMENT REVIEW OF
'THE PROFESSIONAL ACCOUNTABILITY MODEL OR
DEREGULATION OF THE B.C. RESOURCE MANAGEMENT SECTOR
"A prospective from three decades of public service"

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¹July 18, 2017 , Honorable George Heyman, Minister of Environment and Climate Change Strategy Mandate Letter

<https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/heyman-mandate.pdf>

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TABLE OF CONTENTS:

ABSTRACT.....	3
INTRODUCTION	5
THE HISTORY.....	8
THE EFFECT OF DEREGULATION ON AGENCIES	12
THE EFFECT OF DEREGULATION ON ECOSYSTEMS.....	15
THE FALLACIOUS CONCEPT OF THE QUALIFIED PROFESSIONAL.....	19
CONFLICT OF INTEREST.....	22
THE WAY AHEAD:	23
BIOGRAPHIES	27

¹July 18, 2017 , Honorable George Heyman, Minister of Environment and Climate Change Strategy Mandate Letter

<https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/heyman-mandate.pdf>

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ABSTRACT:

This brief is presented to the Government of B.C voluntarily by four natural resource specialists who have, collectively, more than 130 years working experience in the field of natural resource management and the protection of ecosystems in the Province of B.C. Together we have expertise in fisheries, wildlife, forestry, ecosystem management and various impacts from industrial activities. Our whole careers were centered on these specialized areas and thus we have a long standing and passionate interest in the successful stewardship of the natural resources of the Province. We feel that stewardship, and thus the public trust, is presently not being upheld by the Government of B.C. We will provide supporting evidence for our contention. This brief is a cooperative, volunteer effort by us and is not sponsored, supported or paid for by any organization, political party or any other entity. We are presenting this submission not as a scientific journal paper but as the experience and lessons we have learned over the past 30 plus years of public service. Thus, we are including no footnotes or references.

The concept of ‘professional reliance’ was introduced by the provincial government in 2003 and was the result of long and focused lobbying by industrial interests. In this presentation we prefer to call the model what it really is and that is ‘deregulation.’ Of course, attempts at deregulation in B.C. was to be expected after decades of deregulation that began in the Reagan era in the US and followed by the Margaret Thatcher’s deregulation in Britain. One has only to look at the results of these efforts to see three basic outcomes:

1. That investors and industries benefitted enormously from reduced regulation

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2. Governments recognized the savings of not having to develop, monitor and enforce regulations. (Reference here the deregulation of the financial industry and airlines in the US and examples from Britain)

3. In most cases, the public interest paid both financially and in the ‘public trust’ for the benefits realized by the private sector and government bureaucracies.

For those sitting around the forest and mining company board tables in Vancouver, the 2003 introduction of this new natural resource management model (Professional Reliance or PR) must have been a long-awaited reward. For the ‘bean counters’ in the Treasury Board in Victoria, it was a windfall that would increase savings, and thus the Provincial budget’s bottom line by decreasing the size of the civil service.

In this submission we recommend:

1. There needs to be a solid political commitment to change in how ecosystems in B.C. are managed and protected
2. The PR model should be scrapped
3. Legislation should be enacted that clearly sets out the resource management goals and objectives that must be met to ensure the protection and health of the province’s ecosystems and animals (ie. fish, wildlife and other fauna).
4. Sufficient resources and funds must be provided to evaluate, monitor and enforce the legislation.
5. Immediately review and redraft, if necessary, the 2016 B.C. Water Sustainability Act to insure it provides adequate protection for fish and their habitats.

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6. The Province should work with the Federal government to reinstate the habitat and other protective measures that were removed from the Federation Fisheries Act, the Navigable Waters Act and the Environment Assessment Act
7. The Province immediately move to coordinate with the Federal Government the assessment, monitoring and enforcement of federal and provincial statutes that protect ecosystems and fauna.
8. The provincial ministries now responsible for fish, wildlife and ecosystems health must be amalgamated under a single provincial ministry that is responsible for the above-recommended legislation. This ministry must have equal decision making authority with the resource allocation ministries (ie. forestry, mining, agriculture, etc.) and it is critical that sufficient resources be provided so that this ministry is staff by enough experienced professionals and managers.
9. The Forest Practices Board needs to be reestablished as a authority to investigate and make public reports and audits regarding forest operations as well as making recommendations to government.

INTRODUCTION:

This review of the Professional Reliance (PR) Model has been conducted by former habitat protection staff of the BC Fish and Wildlife Branch. Together we have more than 100 years' experience working on the front line between the Forest Ministry, the Mines Ministry, B.C.Hydro, the Agriculture Ministry and the other industrial sectors that use public land in BC.

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This review was initiated July 18, 2017 when Premier John Horgan in his mandate letter directed the Honorable George Heyman: “In your role as Minister of Environment and Climate Change Strategy I expect that you will make substantive progress on the following priorities: *Revitalize the Environmental Assessment process and review the professional reliance model* to ensure the legal rights of First Nations are respected, and the public's expectation of a strong, transparent process is met.

“The core issue of this Review is trust. Reliance suggests trust in someone or some entity” In this new model ‘qualified professionals (QP’s) were to bear the brunt of responsibility and trust; thus shifting it away from the provincial government. QP’s would supposedly insure the public trusts in decisions related to industrial developments. Supposedly, the signature of a QP would insure the public trust was being met. The PR model was implemented in BC because policy makers at the time believed (supposedly) it was a more efficient, lower cost form of quality assurance and would be a key contributor to the 2003 Forest Revitalization Plan and a benefit to all industrial developments in the Province.....It Failed.

Instead, PR was a form of ‘deregulation’ that significantly reduced government power and transferred it to the private sector. In effect, it devolved the legal responsibilities of government to QP’s. The PR model has not earned the public’s trust to effectively manage and protect fish and wildlife and their habitats. PR has become a large part of an overall ‘business as usual policy’ for developers and forest companies and has resulted in diminishing returns to the quality of life and economy of British Columbians. We will comment on the performance of the PR model in practice, document major failures, identify the lessons learned and recommend a positive way forward.

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With specific reference to the forest industry (arguably the largest industrial impacter of natural habitats) habitat degradation will almost always occur when forests are mismanaged. Three conventional forest practices which degrade fish and wildlife habitat are:

1. The simplification and homogenization of the forest caused by clear cutting, which causes habitat fragmentation.
2. The consequences of increasing road density (lineal distance/sq. km) on the habitat of wildlife populations, their impact on water yield, sedimentation, blockage to fish passage and fish habitat.
3. Reduced rotation age to as low as 35 years.

All of these factors have or are occurring over the B.C. landscape.

We believe that employees of companies and consultants (QP's) are in a conflict of interest in their responsibility to (a) manage and conserve natural resource values and (b) work for the production interests of their employers. (ie profits)

Today's regional BC forest landscape is vastly different than it was post World War 11. Sixty years of large scale clear-cut logging and many thousands of km of roads has changed its condition dramatically. The degradation of fish and wildlife habitat in BC is associated with a planned decline in timber production, caused by the harvest-scheduling model chosen by the Province in the 1950's. There are other harvest scheduling models, like non-declining even flow, which could have prevented this decline in timber production and reduced the impacts to other resources. The non-declining even flow harvest-scheduling model is used in the National Forests in the USA. The overall fall

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down effect in BC during the 1970's was projected to be a thirty percent decline in timber supply..... with, of course, numerous impacts to all other forest resource values.

THE HISTORY:

We believe it is important to know the history of resource management in B.C. because moving forward should always proceed with knowledge of what has gone before. We can only learn from what has already taken place, not what might take place in the future. Therefore we offer the following brief history of resource management in B.C. from a public servants perspective.

Prior to the NDP government in 1974, the regulation of industrial activity that impacted species and ecosystems was largely nonexistent. There was little planning with regard to forest harvesting impacts to other resources and mining was allowed to proceed wherever minerals made it economic to extract them. However, there was a growing awareness inspired by a new environmental movement that swept most of the western world, starting with Rachel Carson's famous book. This movement inferred that increased thought and planning needed to be added to the frontier mentality that ignored all but development costs. The first attempts in B.C. began in the forest sector and was known as the 'referral system.' Very simply, this was an agreement between the natural resource ministries (known inside as the 'dirt ministries') that when developments were being planned (logging, mining, hydro developments, highways, etc.) the development plans would be referred to those other agencies that had a stake in the outcome of the developments (fish, wildlife, agriculture, forestry). Those agencies to which the plans were 'referred' had the opportunity to comment and hopefully to negotiate the adjustment

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of the plans to avoid impacts to their areas of responsibility. These were not rules or regulations; simply an opportunity to comment. So, there was little real restraint to industry and this model did not add a great burden to the government bureaucracy. This model was given a great boost in 1974 with the hiring of provincial ‘habitat protection biologists’ that were to be located in all regional Fish and Wildlife offices. Their job was to run the referral system and negotiate a reduction of industrial impacts to natural ecosystems..

The next step was the development of legislation that actually put some legal requirements onto developers. This process began with ‘pollution control legislation’ and was followed up with legislation in forestry subsequent to the ‘Peter Pearse Commission’ that reviewed forestry in B.C. in the mid 1970’s. During this period there were various legislated restrictions put in place such as a ‘Pesticide Control Act,’ the Agricultural Land Commission and others. This is the era that brought significant ‘push back’ from industry. The habitat provisions of the Federal Fisheries Act were being used extensively. Also, the B.C. Pollution Control Board held numerous hearings into pollution of the Fraser River, sewage treatment systems, and discharges from pulp and saw mills, etc. Industry and government argued both sides of these issues using professionals. Industry hired professionals to be ‘expert witnesses’ to make their cases for them and these were met with other expert witnesses from government. Maybe this was the birth of the ‘professional reliance’ concept!! And maybe this should have been a lesson to us that PR also wouldn’t work because the nuances of resource management are subtle and professionals can be hired to take various sides of an argument. In some cases there is no

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‘right’ conclusion. The lesson here is that decisions need to be made that favour ecosystem health and not exclusively profits.

At any rate, it became clear that industry in general was becoming more concerned with the growing regulation and enforcement related to their impacts to ecosystems in B.C. At about this time, the Federal Fisheries Department began to develop a policy that became known as the ‘no net loss of habitat policy.’ Basically, it meant that if a development was to proceed and there was no method to avoid the loss of fish habitat, then equivalent fish habitat had to be developed at the expense of the developer. This new federal policy definitely ‘ratcheted up’ the level of concern by those who profited by impacting fish habitat. At the time, it was evident that industry felt that both the federal and provincial governments were attacking their profits.

Then the government again changed and with lobbying pressure, a somewhat softer approach was taken in the 1980’s. This was the era of the ‘guidelines.’ It was brought to a head in the Queen Charlotte Islands (now Haida Gwaii) when logging practices conflicted with federal government fish habitat policies and this resulted in some loggers being arrested and jailed by federal fisheries officers. Of course, this resulted in a significant political uproar as industry and the unions claimed that democracy was dead, etc. An agreement was eventually reached between the provincial and federal governments that a series of guidelines (along with research into fish habitat impacts) would be developed to ‘guide’ the forest industry in situations where their activities could impact fish and wildlife habitats. Industry was to be part of this effort and the result was known as the ‘B.C. Fish/Forestry Guidelines.’ These guidelines were never effective

because they were not enforceable, the industry only half-heartedly supported them and

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they could be ignored at will. They were, in short, a waste of taxpayer's money. So this is a historical lesson!

The Government in B.C. again changed in the late 1980's and the 'Forest Practices Code (FPC)' supplanted the guideline era. This was a massive effort to codify virtually all forest practices and provide the 'go to' manual on how to extract timber, minimize impacts on other resources and, at the same time, spell out to the licensee's what their responsibilities were for maintaining healthy forest ecosystems into the future. Millions of dollars were spent on this code and it was even taken to Europe in an attempt to sell it to the markets and to demonstrate how 'green' forestry was in B.C. The FPC lasted from about the mid 1990's until B.C experienced another government change. It is hard to say whether the Forest Practices Code was a great success or not because it was only in place for a few years.

The new government began the move to deregulation in 2002. This was arguably the most massive and momentous change to natural resource management in the Province's history. It reduced industry's responsibilities, it changed the responsibility of government agencies that are legally responsible for the 'public trust,' it greatly reduced provincial government staff numbers, it eliminated virtually all of the 'dirt agencies' corporate memory and almost all of their specialized expertise, it reduced resource management budgets, it reduced environmental enforcement and monitoring and it gave developers and industrial interests a free 'environment' in which to increase profits and reduce costs. Some called this a win, win!! This model has now been in place for a decade and a half.

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DEREGULATION'S EFFECTS ON GOVERNMENT AGENCIES

Professional accountability¹ was to be sold to the bureaucracies on the basis that what really mattered in the end was the results of managing impacts to the environment (i.e. results based management). Who could argue with that? So, the idea was that 'qualified professionals' would make professional decisions, presumably based on scientific principles, and would be held accountable for these professional decisions; not by government but by their professional associations. The provincial government would supply the various industries with sets of requirements that were to be met in both the planning of developments and the execution of the plans. These plans would be developed by industry paid professionals and when completed would be signed off by professionals (QP's) in the pay of industry. Government's role would be to monitor whether the plans and execution were following the government's requirements and whether the execution of these plans was resulting in the desired outcomes in terms of ecosystem sustainability, protection of natural resource values and generally meeting the 'public trust. 'The first step in this management model shift was to sell the concept 'in house.'

To do this the bureaucrats deemed it most desirable not to be burdened by the 'old line employees' who were largely the senior managers in the resource ministries. They were considered the ones who would be most averse to change of this magnitude and would not be able to contribute 'fresh new ideas' to the change. And, it so happened, a large number of those falling into this category were of retirement age or near to it. Large numbers of these most experienced managers (many with decades of expertise paid for by the tax payer) were bought off with 'golden handshakes.' In their places, were

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installed largely inexperienced, junior and often unqualified employees. Thus, we found in 2004/5 there were largely ex Parks or Forest Ministry employees in positions responsible for managing fish and wildlife resources, many of them with little or no experience in the area of responsibilities they were given. A whole generation of biological management expertise and experience was lost from the Ministries of Forests and Environment. As an example, this ‘reorganization’ even went so far as to put experienced wildlife biologists; who were working full time at managing regional wildlife populations, also in charge of managing regional fisheries programs. A quote from a regional wildlife biologist at the time, when told he was now also responsible for managing all the fisheries in the region was: *“What the hell is this insanity; I don’t know a damn thing about fisheries and couldn’t care less about managing fish! Am I now supposed to do two jobs!!!”?*

Around the same time the ‘Ministry of Environment’ was bisected into two ministries; the Ministry of Environment and the newly created Ministry of Sustainable Resource Management, which cleaved the remaining Habitat Protection/Forest Ecosystem Specialist staff into the two ministries. The two ministries had confusing, disjointed mandates, which compromised any hope of holistic delivery of an effective ecosystem management outcome. So, the downsizing continued by not only reducing the number of professionals who were regulating industry (i.e. the original intent) but also and equally those who were managing the natural resources for which the province is responsible. Where once there was five fisheries management staff, now there was one. This reduction in management resources continued throughout the mid 2000’s mostly in the Ministry of Environment (i.e., or whatever its new name was changed to) and the

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Ministry of Forests. Finally, in 2013, what had been the Ministry of Environment regional deliver arm was swallowed up by Forestry and called the Ministry of Forest, Lands and Natural Resource Operations (FLNRO). A skeletal Ministry of Environment remained with only an office in Victoria. And, by now, for one example, the Victoria fisheries program which had once consisted of some 40 -50 staff in Victoria was reduced to a staff of less than 10. This reorganization resulted in a disconnect between the Victoria policy and planning functions (in the Ministry of Environment) with the regional program delivery function (in the Ministry of FLNRO). It meant there was no peer review of fisheries and wildlife programs and regional staff simply went off on their own; made their own priorities and did so in virtual isolation. In short, there was no overall sets of plans, goals and objectives and no monitoring of results. Today we have virtually no Provincial wildlife and fisheries species management plans, no Provincial plans for managing predators, for managing ungulates, etc.

And, to top this disfunction off, the provincial government didn't bother to provide the staff and resources to do the monitoring and evaluation necessary to validate or not this new PR model.

And then the big question to come out of all this is: who now is responsible for the day-to-day management of these resources...fisheries, wildlife, forests, water?

Well, of course, the provincial government is legally responsible for management of these resources. But it is our contention that the provincial government gave away most of this 'public trust' and its legal responsibility with this new model and this is a trust they are not free to simply 'give away' to industrial interests. The 'new model' of

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resource management has not succeeded in protecting the ecosystems of B.C. and it needs to be fixed.

To summarize, the effect of this deregulation experiment has been to reduce the once effective and internationally recognized and respected professional fish and wildlife agency to an understaffed, under experienced, under qualified and generally ineffective organizations.

THE EFFECTS OF DEREGULATION ON SPECIES AND ECOSYSTEMS

Fisheries management and fish habitat protection has, and continues to be, the purview of the Federal Government under the Canada Fisheries Act. The Province has never had a direct legislative mandate to protect fish habitat. This has hampered effective fish habitat protection for decades as the vast majority of habitat destroying or altering impacts come from developments, which are the purview of Provincial regulation. There have been several attempts over the years to integrate fish (and wildlife) needs into the Acts, Regulations or operational guidelines that govern and control human activities on the landscape. Few if any of these strategies made significant gains in protecting fish or their habitat. It should be noted that the Province does not have any legislation that protects wildlife or their habitats. However, the attempt that would have made a great improvement was the *Forest Practices Code* and the associated species workbooks. Unfortunately, this attempt, which cost unknown millions of dollars and thousands of FTEs, was eventually scuttled by industry during the industry sympathetic reign of the Clark BC Liberals. In addition, they established a very 'low bar' for projects being reviewed under the BC Environmental Assessment Act. Almost simultaneously with the

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Christie Clark BC Liberals the Federal Conservatives came to power from 2008 to 2015. From this point onward, it was clear that the Federal Conservatives were bent on removing as much environmental protection as possible. The Fisheries Act, the Canadian Environmental Assessment Act and the Navigable Waters Protection Act were singled out for unconscionable watering down. The result of this double-barreled attack from both senior levels of government was that fish and wildlife management and habitat protection took a huge backward step. Not surprisingly, local governments saw an opportunity to follow suit and municipal environmental oversight also suffered. Many local stewardship groups and fish and wildlife clubs stepped up to stem the losses but there were not enough of them and they had virtually no power, so their successes were sporadic and largely uncoordinated. One of the most egregious failures of the system in BC was the Mount Polley mine disaster in 2014 where 24 million cubic meters of mine waste was released into lakes and tributaries of the upper Fraser River - the heart of BC's salmon production. The then Minister of Mines, Bill Bennett, claimed in the media that all was fine and that the company and his ministry were not to blame. But in two years the then Auditor General, Carol Bellringer produced a report that held that the regulatory system and the company failed to provide the necessary environmental protection for the Province. To this day, not a single charge, federal or provincial, has been laid. This is the regulatory milieu in which we find ourselves today. Fish and wildlife declines are now common, and the past decade and a half of declining environmental protection, together with the effects of global climate change, do not augur well for our natural resources. Very rarely in the decision between development and fish habitat is the value of fisheries

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taken into account. Governments and citizens need to draw a line in the sand beyond which they will not countenance any further losses of productive fish habitat.

In 2017 there are significant examples of degraded ecosystems, reduced fisheries populations, reduced wildlife populations and numerous threatened and endangered species. A few examples will suffice:

1. The collapse of the world famous Gerrard rainbow trout fishery in Kootenay Lake. This was one of the most important and economically valuable inland fisheries in the Province. It brought in millions of dollars in revenue to the local economy. This fishery, which once yielded 20lb. plus rainbows, is now reduced to 2 to 6 lb. fish and the reduction in this fishery continues down hill. The winner of a 2017 fishing derby on Kootenay Lake was a 3.5 lb. Gerrard rainbow!!!! The prey species of the Gerrard rainbows is kokanee salmon whose populations in Kootenay Lake are decimated and at historical low levels.
2. Moose populations in the B.C. interior are now the lowest on record...so low that some areas may have to be closed to all hunting!
3. Elk populations in the Kootenays are now reduced in some areas to the point that all hunting may have to be closed for conservation concerns. In the early 2000's elk populations in the East Kootenay were estimated at more than 30,0000. We are now down to perhaps one third of this estimate.
4. Thompson River steelhead populations are now so low (i.e. in the hundreds) that they could be put on the endangered list.
5. Most B.C. Mountain Caribou herds are endangered and many professionals believe in extinctions of a number of herds.

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Are we asserting the above examples (and there are many more examples around the province) are the result of deregulation? Of course we cannot prove this. However, there certainly has been a reduction in management efforts and effectiveness but no one can say with certainty to what extent deregulation has influenced the disaster that the province now faces with regard to fish and wildlife populations. What is known is that some corrective action must be taken at the highest levels of government and it must be taken immediately.

One of the reasons that ‘deregulation’ cannot be proven to be the root cause of our ecosystem problems lies in the following. The mantra of the government during the model change was to follow two keystone paths in the new order of ecosystem protection and management. They were meant to verify “success” and create a continuous improvement loop. These were

1. Compliance Monitoring, and
2. Effective Evaluations.

The former was to determine if work by industry adhered to their approved plans and the latter to determine if the “results” of adhering to such plans resulted in the achievement of the goals and objectives set out from an ecosystem perspective. Now, over ten years into this PR experiment, it is obvious that adequate government resources were never provided to conduct the ‘promised’ *monitoring and/or evaluations* of these critical success factors. There has never been any rigorous analysis of these key success factors. Public trust can only be regained if the government’s job of assessing objectively these outcomes is completed and is transparent. The public has no idea whether the stated objectives have been achieved? Where’s the data? Has the outcome of these

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assessments been summarized anywhere? To earn trust, these questions need to be honestly answered. Since none of this data has been provided, who can tell what the ‘on ground effect’ of PR has been. However, the circumstantial evidence is that the animal well fare and ecosystem health has drastically been reduced since the introduction of the PR model.

THE FALLACIOUS CONCEPT OF THE ‘QUALIFIED PROFESSIONALS’

The cornerstone of the PR mode was to turn over decision making to ‘qualified professionals.’ But which qualified professionals because there are many...foresters, biologists, agrolologists, geologists, etc.? Can any of these make decisions within the expertise of another category of professionals? The government got around this issue by enshrining in legislation the ‘right to practice.’ This meant that as a qualified professional a person could make decision in areas outside his/her expertise.

Now, over 10 years after FRPA (Forest and Range Protection Act), thousands of (statutory) decisions have been made and operational activities undertaken. Many of these approved activities were authorized by professionals with great expertise in ‘tree farming for fiber production.’ Many are professionals with “Right to Practice” which was enshrined in the legislation that oversees their Association. However, their education and training does not imply they also have knowledge, training and experience integral to wildlife and fish habitat management/protection or a grasp of complex ecosystems pathways so often missed in an industrial forestry-as-agriculture world. Professional Biologists, on the other hand were NOT given the exclusive ‘Right to Practice’ biology, only the ‘Right to Title’ as ‘Professional Biologists’ when the Act establishing the

College of Applied Biology was passed. This had the effect of confounding the

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professional responsibilities for forest ecosystem management (i.e. fish and wildlife and habitat), by allowing professionals in other disciplines to instill their version of balancing the values of economic, environmental and social values with the destruction of habitat. So were these decisions made by a ‘qualified professional ?’ We think that in many cases they were not. Serious concerns were expressed to some of us that were involved with the PR process in the drafting of statutes and regulations that would create the professional reliance model. Many of our colleagues from various “dirt disciplines” that were government employees expressed serious reservations with the new direction. Also, those of us that were charged with delivering training to both government and industry practitioners during provincial training sessions, heard loud and clear the trepidation from members of both target groups in these sessions. Although not necessarily always for the same reason, there was serious angst for the wholesale shift in responsibilities. Now, years later, after thousands of statutory decisions authorizing actions on the ground, there is little to support the notion that this PR experiment has resulted any positive long term sustainable resource(s) management (not to be confused with fiber management). As was noted in the May – June (2014) issue of the ‘BC Forest Professional’ in a letter to the editor by a registered professional forester: “Request by ABCFP to the Deputy Minister of the Environment (then ██████████ to obtain ‘freedom to manage’ marbled Murrelet habitat. The Deputy Minister denied this request stating his concern about the efficacy (results achieved) via the FRPA professional reliance model. Based on this concern he stated: *“The result leaves government with diminished confidence that environmental values will be adequately managed on the basis of simply providing information to professionals, as compared to establishing legal standards”*. If one asks what would be

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the possible reason for such ‘diminished confidence’, one need only look to the Forest Planning and Practices Regulation. Consider this example of repetitive over-arching language affecting the protection of environmental values.... The clause, ripe for interpretation by many with timber interests who have been bestowed with the ‘freedom to manage’ through Professional Reliance states the following:

“Objectives set by government for wildlife:

7 (1) The objective set by government for wildlife is, without unduly reducing the supply of timber (what does this mean?) from British Columbia's forests, to conserve sufficient wildlife habitat in terms of amount of area, distribution of areas and attributes of those areas, for:

(a) The survival of species at risk,

(b) The survival of regionally important wildlife, and

(c) The winter survival of specified ungulate species.”

One must note here that ‘survival’ is the bottom line... just survival....not healthy populations, not ecosystem viability, not sustainable ecosystems. We suggest this is basically ‘managing to zero!!!’ Caribou are now still surviving but many herds may soon be extinct. According to this legislation their situation is fine because they still survive! Perhaps a confidential questionnaire to elicit the honest views of the practitioners of ecosystem protection (e.g. those extinct positions formerly known as Forest Ecosystem Specialists) might just provide us with some on the ground insight.

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CONFLICT OF INTEREST

There is an inherent conflict of interest when one has the ‘opportunity’ to gain from a decision they are making on another person’s behalf...whether you are a professional or not. If you are an employee and you are making decisions that benefit your employer, that is what you are employed to do...benefit your employer. However, when you are supposed to be making those decisions on behalf of someone other than your employer (in this case government) you are in a conflicted situation. Do you benefit your employer or government?in this case, the natural resources of the province?

The concept of the 'Professional Reliance' model in resource management is seductive for both industry and government. Both parties do not have to build a cadre of well-qualified and experienced professionals. There are great cost saving and the possibility that either party could 'scapegoat' or blame their hired professionals and confuse any official inquiry into poor practices. The very core of this modus operandi is trust. Trust by industry, government and the public. While the prime movers of the development approval process seem satisfied with the status quo, it is abundantly clear that the public is not. The perception that we have left ‘the fox to guard the chickens’ is a common reaction. Trust may be perfect, but the trusted are not always so. One can imagine a host of ways pressure can be brought to bear on a professional to obtain the developer's desired outcome. Professional associations are there to police their memberships, but the system is by no means perfect. In all of more than a decade that the PR model has been in effect, there have been very few, if any, members of the relevant professional associations disciplined for their decisions as a QP. The reliance on

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professional associations to police the decision-making in natural resource management does not work

Therefore, as the resources being exploited belong to the public, there has to be a much more robust oversight model. It existed in the past where government hired the monitors, sometimes with the assistance of hired temporary professionals, but the data and reportage was vetted through government staff.

THE WAY AHEAD:

First and foremost there needs to be a strong political commitment to the real management and the real protection of B.C.'s ecosystems. Along with this is needed a political commitment to change the present model (PR) which is not working. We have explained how and why it does not work to protect B.C. valuable ecosystems and fauna.

The fact is that scientists and professionals can present a wealth of data and information regarding ecosystem impacts in B.C., with lots of supporting examples of what is happening on the landscape. But, without a political commitment to change the present mode of management, we are wasting our time. We recognize fully that a political horizon of four years is totally inadequate to manage natural resources that cycle in terms of decades and, in the case of forests, a hundred years or more. It is a very dedicated and far sited politician that will make decisions in the best interest of resources when the results won't be recognized until long after he/she is forgotten.

The solution to this dilemma is our second recommendation which is that the most important decisions that will preserve B.C.'s natural resources need to be enshrined

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in legislation so that 'one off' decisions for political expediency cannot be made without transparency and cannot be transferred to another party such as a QP. We've explained how guidelines are a waste of time and money. We have seen how simply turning over decisions to 'qualified professionals' has been a failure. What are needed are clear legislated requirements and adequate evaluation and monitoring to determine how effective the management regimes are working. And, of prime importance, is enforcement of the legislation. Without vigorous enforcement the legislation is only words on paper.

Along with this recommendation is the contention that it is critical that sufficient funds and resources must be provided to monitor and enforce this new legislation. The legislation is worthless without enforcement.

Our fourth recommendation is that at the very next First Minister's Conference, the Premier of BC must make, as a priority, a strong request to the Prime Minister that he and his officials accelerate their work to rebuild the Canada Fisheries Act and, specifically, to rebuild a strong habitat section as in the previous Sec: 35. This work was an election promise of the Liberal government. In addition, B.C. needs to request that the Canadian Environmental Assessment Act and the Navigable Waters Protection Act be restored to at least their former states.

In April 1997, Prime Minister Jean Chretien and Premier Glen Clark, signed what could be the impetus for a virtual renaissance in Federal – Provincial cooperation on fisheries. It is called, Canada – British Columbia Agreement on the Management of Pacific Salmon Fishery Issues. This agreement lays out an agreement to “develop joint objectives for habitat protection” and to “work jointly in watershed fish production processes to be

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structured in consultation with stakeholders”. (Some details of the agreement are to be found in a report published in 1998 by an independent panel with over 200 years of collective fisheries expertise. The report is entitled *Living Blueprint for Salmon Habitat*, ISBN 9683879-0-X.) While this document deals specifically with salmon, all the recommendations are applicable for resident fish as well. Both governments are already committed by this agreement to the principle of strengthening their habitat protection legislation. Both governments must revive this historic agreement and recommit to its objective.

In the 70's and 80's both governments frequently collaborated in fish habitat prosecutions. In fact, joint expert witness courses were carried out for biologists and technicians to achieve better success in habitat cases. The Province, in the spirit of the Federal – Provincial agreement, needs to revive this cooperation.

We also recommend the Province immediately review the new *Water Sustainability Act of 2016* to ensure that the Act and Regulations adequately represent fish habitat needs. This act then needs to be completely implemented.

We also recommend the Ministry of Environment be reformed and be held responsible for the legislation we have recommended above. This ministry must have adequate regional staff and a significant headquarters program from which provincial coordination, planning, research, program oversight and monitoring would take place. This ministry must have equal decision making authority with the ‘allocation ministries.’ In addition, the ministry must have an enforcement arm that diligently enforces the legislation for which the ministry is responsible.

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Finally, there needs to be mention of the Forest Practices Board (FPB) that was established in the 1990's. The concept was that of a 'forest overseer' that could investigate, audit and identify poor practices, breaches of statutes and regulations and make recommendations to government. With the implementation of the PR model much of the authority of the FRB was removed. We recommend the FRB be reinstated to its original concept and be given authority as a forestry watch dog.

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BIOGRAPHIES

Geoff Chislett B.Sc. (McGill); M.Sc. (Mc Gill); Registered Professional Biologist until 2006.

- Two years as biologist and gear technologist for the United Nations Development Program fishery investigation in the Caribbean.
- Two years as fisheries technician for DFO in Owikeno Lake, Sockeye enumeration project.
- 10 years as Regional Fisheries Biologist in Prince George.
- 4 years as head of the shellfish aquaculture program.
- 5 years as head of the provincial fisheries habitat protection section

Gerry Fox B.Sc. (Hons) B.C. Registered Professional Biologist 1988-2015

- 27 years as a Habitat Protection Biologist/Ecosystems Biologist BC Fish and Wildlife Branch, Ministry of Environment
- 6 years as a Senior Environmental Specialist, BC Oil and Gas Commission Retired 2012

Richard Morley, B.Sc. M.Sc., Ph.D. candidate, University of London, England

- Registered Professional Biologist from 1992 – 2010.
- 17 years as a biologist and manager of habitat protection, Fish and Wildlife Branch, B.C. Ministry of Environment.
- 12 years as Regional Fish and Wildlife Manager, Kootenay Region, Ministry of Environment
- Retired 2002.

Ray Travers B.Sc.F 1966 UBC; M.F. 1970 Oregon State University

- BC Forest Products, 1966 to 1971, Environmental Forester.
- Indian and Northern Affairs, 1971 to 1973 District Superintendent, Inuvik, NWT.
- Environmental and Land Use Committee Secretariat, 1974 to 1980, Forest Planner.
- Fish and Wildlife Branch, 1981 to 1990, Habitat Planner.
 - Private Forestry Consultant 1991 to present.

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