

# BC Commentary



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## The Ebb and Flow of Environmental Policy in BC

By Dale Marshall

Over the past decade, environmental policy in BC has experienced a roller-coaster ride. A sea change in provincial government attitude to environmental issues occurred in the early 1990s under the Harcourt NDP government, only to roll back like the tide under subsequent leaders. The current provincial government is poised to subsume environmental objectives to corporate interests even further.

Environmental policy, like all policy, is not developed in a vacuum. No matter what the priorities of a government are, their agenda can be diverted or derailed outright by opposition parties, public opinion, or other influential players and events. Such is the nature of politics. Much like the broader political climate over the past decade, the creation and dismantling of environmental policy has been tumultuous—it is a story of government policy shaped in a crucible of dissent by different stakeholders with radically different views on the intersection between the environment and commerce.

### Environmental protection in the Harcourt Era

Premier Mike Harcourt will likely be remembered most for his environmen-

tal policy. He passed important environmental regulations, including the Forest Practices Code, the Mineral Exploration Code, and the Zero AOX Law. On the surface, it would be easy to explain this legacy based on his environmental ethic, and the strength of his Environment Ministers. Certainly, there is some truth to that assessment, but the real situation is more nuanced.

The Forest Practices Code, passed in 1994, is perhaps the most important—or, to some, the most notorious—environmental legislation passed in the 1990s. It changed forest practices so that they were more sensitive to stream protection and wildlife considerations. Harcourt will be remembered for passing it, but the political situation facilitated his ability to do so. In the summer of 1993, 900 environmental protesters were arrested from a logging road in Clayoquot Sound. The situation shined a bright light on forestry practices in BC, providing important political space for Harcourt to implement new environmental policies.

The Code spilled over into other resource sectors, since within its regulations was a stipulation that other resource industries observe similar or better levels of environmental protection. This regulatory requirement gave environmental organizations concerned about BC's mining industry some extra leverage. In this case, it was not on-the-ground activism but high-level policy discussions between BC's environmental movement and the more progressive elements of the Mining Association of

BC (MABC) that led to the Mining Exploration Code. This mining legislation led to improved operations, especially surrounding mine clean-up and reduction of "acid mine drainage."

Alliance-building in the progressive movement also produced some environmental victories. The Windy Craggy mine in Northern BC had its application turned down by Premier Harcourt—in large part due to pressure from both environmentalists and organized labour. The BC Federation of Labour was in no way enamoured with the union-busting activity that Royal Oak, the proponent for the mine, had previously used at other sites.

An even broader coalition came together to fight pulp mill pollution in the late 1980s. At that time, public concern over dioxins—the most toxic pulp mill contaminant—was high. Part of the reason was high levels of dioxins found in shellfish near pulp mills on the coast, which led to the closure of some fisheries. That situation, of course, brought pressure from the United Fishermen and Allied Workers Union. Public concern was so high that the province's pulp mills began changing their processes, beginning in 1989, in the absence of legislation. In 1992, the Harcourt government passed the strongest pulp mill legislation in the world, the so-called Zero AOX Law, which mandated mills to get all chlorinated compounds (including dioxins, furans, and others) out of its effluents. However, the industry was given a long timeline—until the end of

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2002—for implementation.

Overall, the Harcourt era did improve environmental protection. Nevertheless, environmental battles were hard-fought and, at the time, many environmentalists would not have viewed the administration in a favourable light. The next few years would provide some perspective on this assessment.

## Glen Clark and “The Enemies of BC”

When Glen Clark became Premier, he did not bring with him the environmental orientation of his predecessor. At the same time, Premier Clark governed in a decidedly different political environment than did Harcourt.

The latter years of the Harcourt government coincided with rising commodity prices. BC forestry and mining companies were making substantial profits by exporting lumber, pulp, and minerals. This, and public pressure, softened industry to environmental legislation.

The economic situation changed considerably at the same time as Clark took over the Premiership in 1996. Commodity prices began to drop, and with them business profits. The Asian meltdown of 1997 further plunged resource companies everywhere into the red. This had nothing to do with BC, or its government. Resource companies and industry associations knew that. Placer Dome, for example, in its annual reports, blamed low commodity prices for its poor performance. The drop in lumber prices in 1997 alone had more than three times the impact on forestry companies’ bottom lines than the extra costs associated with the Forest Practices Code.

Despite the fact that external factors were highly unfavourable, the corporate lobby went on the offensive with regard to the provincial government. Resource companies, industry associations like the MABC and the Council of Forest Industries, and the Fraser Institute were united in their assault on supposed “over-regulation” and “red tape” in BC. It did not matter that business players were involved in the dis-

cussions surrounding environmental policy only a few years earlier. Most vilified was the Forest Practices Code, but all regulations were criticized. Rarely did a week go by that the *Vancouver Sun* did not print a story about BC’s stifling environmental regulations.

The Clark government, not surprisingly, felt the pressure and responded to the demands of the business lobby. The government twice “streamlined” the Code. It also decreased stumpage rates, the rent that forestry companies were paying for cutting wood on BC’s public land. With little consultation, the government passed the Mining Rights Amendment Act. This gave mining companies priority over land use in BC. It also guaranteed compensation to mining companies for parks creation that took away mineral rights.

The environmental movement in BC, accustomed to the open, conciliatory nature of Mike Harcourt, suddenly had limited access to the Premier’s office. Their strategy shifted to a markets campaign, whereby they went to BC’s forest products markets—mostly Europe, but also the U.S.—and spoke of forestry practices in the province. This led to Premier Clark’s now-famous statement that environmentalists were “the enemies of BC.” However, the campaign proved effective. Buyers of BC forestry products—major players such as Lowe’s and Home Depot—began insisting on improved practices. Eco-certification was one avenue in which they were interested. Eventually, this pressure forced the BC forest industry to sit down with environmental groups to negotiate over the so-called Great Bear Rainforest, the mostly old-growth forests of BC’s mid-coast.

The second NDP mandate did continue one important environmental initiative: the creation of provincial parks. Buoyed by public support, the Clark government followed through on a Harcourt government’s promise to protect 12% of the province as park land. It also established a Green Economy Secretariat to advance environmental job creation and investment.

## The Dosanjh Moment in Time

After Glen Clark was forced out of office and a new Premier was decided upon, the NDP government appeared to regain its environmental agenda. Premier Dosanjh proudly announced the Great Bear Rainforest agreement, even though the government came to the table at the tail end of the negotiations. Other significant environmental initiatives were introduced. A moratorium was placed on grizzly bear hunting. New parks continued to be created.

This too was influenced by forces outside government. The NDP’s popularity had sunk in the polls and it appeared inevitable that they would lose the next election. Gordon Campbell appeared ready to head the next government, and the Green Party was eroding Dosanjh’s support among environmentalists.

## Gordon Campbell and the New Era

After less than a year in power, it is clear that Gordon Campbell will not fulfill his promise of environmental protection and accountability. Despite considerable opposition, the new BC government has rolled back important regulations. The moratorium on grizzly bear hunting was lifted. Mining projects will not be approved by the Environment Ministry but by the Ministry of Mines and Energy. The moratorium on new fish farms has been lifted. The public service—including staff at the Ministries of Water, Land and Air Protection; Sustainable Resource Management; and Forests—is being scaled back. The list goes on and on. The new environmental mandate appears to be “client service” and “facilitating economic development,” not protecting BC’s natural resources and environmental quality.

Unfortunately, more environmentally regressive changes will occur. The government has asked a panel of scientists to evaluate the Zero AOX Law and, not surprisingly, the panel suggested it be eliminated. The Forest Practices

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# Softwood Lumber and the Failure of Free Trade

By Marc Lee



Just over a year ago, on March 31, 2001, the Canada-US *Softwood Lumber Agreement* expired. Since then, high-level negotiations have been unable to reach a compromise. US countervailing and antidumping duties have hit Canadian producers hard, especially in BC, which is responsible for about half of Canada's exports of softwood lumber to the US. BC's softwood exports to the US amounted to \$4.8 billion in 2001, or 22% of BC's total exports of goods south of the border. Layoffs in the forestry sector and mill closures have been the result, thereby exacerbating the local impact of a global economic downturn.

Perhaps now is a good time to think about what political factors are behind US moves, and to contemplate how this relates to creating a vibrant and sustainable forest sector in BC.

The softwood lumber dispute hinges on domestic political pressures in the world's most powerful nation. US producers are seeking to restrict access to the US market by Canadian producers. This has the effect of increasing prices for wood in the US, which directly contributes to the US industry's bottom line. In addition, recent changes to US trade law now mean that the complaining US companies actually receive the duties, giving them an additional monetary incentive.

Since 1982, the US forestry industry has continuously lobbied Washington to levy duties on Canadian softwood exports. Their argument is that stumpage fees paid for timber harvested in BC and other provinces on Crown land are too low and thus constitute a subsidy to the Canadian industry. In recent years, the US has argued that bans on raw log exports are also a subsidy.

A series of battles were fought over the issue in the 1980s and 1990s, with Canada consistently appearing as the winner. However, US producers have not accepted no for an answer. Even when Canada wins a dispute, the US response has been to stall and change tactics, thereby continuing to harm the Canadian industry. These ongoing legal battles culminated in the 1996 Softwood Lumber Agreement, which set quotas on tariff-free Canadian access to the US market, in exchange for an end to the harassment.

The current dispute is essentially a rerun of this drama, with the US pushing Canada to make new concessions. Yet, the fact that this is happening demonstrates the failure of the

original Canada-US Free Trade Agreement and the subsequent NAFTA. Canada was unable to get a clear exemption from US trade laws, or to get the US to agree to binding dispute settlement procedures. The best Canada was able to do was to negotiate a review process to oversee whether the other country was properly enforcing its own trade laws—hardly the teeth that Canada needs in situations like softwood lumber.

This is a lesson other countries need to keep in mind, as they are lured by enhanced access to the US market through negotiations on the Free Trade Area of the Americas and the new Doha Round at the WTO.

So what does this mean for BC workers and communities caught up in the political fray? Over the long term, we first need to ask what kind of industry we want to have in BC. The forest industry does need restructuring so that it can be more ecologically sustainable while providing economic stability for communities. This means reforming the tenure system so that more smaller producers can practice eco-forestry and that BC wood products are increasingly eco-certified. It also means getting more wood into the hands of small business, First Nations, cooperatives and so on to do more value-added processing in BC.

The big danger is that "resolution" of the current dispute will see us move in exactly the opposite direction—more logging and less value-added—caught between pressures from the US and our ideological provincial government. The BC government wants to move away from requirements that licenses cutting timber on Crown land process that wood in local mills, a measure designed to provide stable employment. The government is also contravening provincial restrictions on raw log exports on Crown land by increasing raw log exports.

While the dispute has most British Columbians on-side in opposition to the US, a resolution of the dispute might mean more BC logs crossing the border to be processed in US mills. Indeed, it seems likely that the US producers want exactly this. The result would be highly environmentally destructive, with little in the way of income generated for workers. BC needs to take the opportunity to move up the value chain, not down it.

Tightening the ban on raw log exports should be a first step for BC in facing the dispute. This would definitely catch the attention of US negotiators. Second, BC should raise stumpage fees for harvesting timber, which in some cases are pitifully low given the value of the resource. This would create a fund that could be used to finance new investment in value-added and eco-certified production (see Dale Marshall's CCPA publication "Recapturing the Wealth" for more). However, for this to work, the federal government needs to cover the costs of the US duties for BC exporters until the dispute can be settled at the WTO. Third, the federal government also needs to step in to provide assistance to those workers who, through no fault of their own, have been hurt by the trade dispute.

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# Did you know?

## Democracy Snapshot

The 2001 provincial election provided the BC Liberals with an overwhelming mandate to do just about whatever they feel is necessary. Or did it? Yes, the Liberals won 77 out of 79 seats, but in BC's (and Canada's) wacky first-past-the-post electoral system, this kind of result can be highly misleading.

	Seats Won	Percentage of Seats	Percentage of Popular Vote	Hypothetical Number of Seats if Allocated by Popular Vote
Liberal	77	97.5%	57.5%	45
NDP	2	2.5%	21.6%	17
Green	0	0.0%	12.4%	10
Other	0	0.0%	8.5%	7

Source: Vancouver Sun; Author's calculations.

## Making Students Pay

BC will soon be facing a skills shortage, but the BC government has decided that tuition fees need to go up—way up. Here's a look at how tuition compared to other provinces before the changes, and a glance at how high they might rise over the next few years if increases in BC follow trends in other provinces.

Average undergraduate arts tuition, 2000-01

	Tuition (\$)	Rank	% change, 1990-91 to 2000-01
Que	\$1,898	1	110.4
BC	\$2,520	2	45.9
Man	\$2,873	3	103
Newf	\$3,300	4	145.5
Sask	\$3,304	5	116.6
PEI	\$3,480	6	89.1
NB	\$3,519	7	85.4
Alb	\$3,841	8	208.8
Ont	\$3,971	9	140.2
NS	\$4,408	10	126.9

Note: Average tuition weighted by number of students. Includes public and private institutions.  
Source: Statistics Canada

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Code will be changed to a “results-based code.” While nobody would argue that striving for results is a good thing, the leaked white paper appears to suggest that many of the new regulations will be discretionary. Gordon Campbell has also been strident about the need to lift the moratorium on offshore oil development. Most disturbingly, the government has decided to not release the scientific report or the public consultation report until a final decision is made, removing any ability for the majority of British Columbians to give input.

The encouraging news is that many British Columbians will not stand for this environmental erosion. In one way or another, citizens who have been denied any say will find a way to make their opinions heard. This is already happening. What recent BC history also tells us is that no government operates in a vacuum—no matter how much power they appear to have, their choices must be cognizant of the political space provided by public opinion.

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But Canada should go further, and consider pulling out of the NAFTA altogether, falling back on WTO rules. Getting out of the NAFTA, or at least threatening to do so, would increase our bargaining power in two ways. It would get Canada out of the much-criticized Investment chapter of NAFTA, and its investor-state dispute process that lets foreign corporations sue the federal government for actions “tantamount to expropriation.” It would also get Canada out of the proportional sharing requirements of the Energy chapter, wherein Canada promises to guarantee supply to the US market, even in times of crisis, in the same proportions prevailing prior to the change. Both of these provisions are precious to the US.

This does not mean that Canada should stop trading with the US. But we must recognize that free trade has been a failure in securing market access—in spite of the high price we paid to get the FTA and, later, NAFTA. We need to take steps that bolster our position, but at the same time lead us down a path towards a more sustainable industry.

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