

**THE NEED TO REBUILD PUBLIC TRUST IN THE MANAGEMENT
OF BC'S PUBLIC LANDS AND WATER**

Submitted by:

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Professional reliance (PR), as I understand it, is:

- the process where resource sector activities are overseen by qualified professionals in the private or government sector, monitored by self-governing professional organizations responsible for enforcing codes of ethics, professional standards and disciplinary processes.
- a measured approach to receiving advice or delegating work and shared accountability by an employer or government official to a professional with the intent to ensure quality.
- a mechanism that allows parties to exchange and rely on data or information that is used to manage and administer the provinces land, air and water environments.

However, the approach to PR in the province no longer reflects this perspective. It has changed dramatically as a result of the BC government's de-regulatory reform initiatives of the proceeding 12-15 years¹. As I understand it, these changes were undertaken to reduce the regulatory burden on industry, reduce the size of the civil service and its role in resource management governance. The intention was that professional accountability across all natural resource sectors would be maintained primarily through the enforcement of codes of ethics and the disciplinary processes of the professional associations. In certain situations, PR has even been changed to the degree that qualified professionals have been delegated the authority and associated responsibilities to make statutory decisions on government's behalf.

As a result, over the past decade people like myself have become increasingly concerned about the direction that professional reliance has taken. I believe that government's regulatory outsourcing has gone too far in handing over what are matters of public interest to individuals employed by industry and the private sector.

Since 2013 I am aware that the Environmental Appeal Board, the Forest Practices Board, the Office of the Auditor General and the Office of the Ombudsperson have each investigated whether the current PR model performs the requirement to provide independent, objective advice to government regulators. In addition, the Environmental Law Centre² and the Professional

¹ In particular, in 2005 when there was a change in legislation from the previous Forest Practices Code (FPC) to the current Forest and Range Practices Act (FRPA).

² http://www.elc.uvic.ca/wordpress/wp-content/uploads/2015/02/Professional-Reliance-and-Environmental-Regulation-in-BC_2015Feb9.pdf

Employees Association^{3 4} have produced a series of informative reports. Each of these reports has highlighted the need for improved oversight of qualified professionals, along with concern related to specific instances of decision making based on the current PR model; for example, the Mount Polley event, and the direction that forest management and harvesting has taken in this province.

It seems clear that certain matters must be addressed to restore public confidence, such as:

- clarity on who is qualified to perform PR functions,
- what roles must be reserved for government and not be delegated to industry,
- enforceable conflict of interest guidelines,
- transparent record-keeping,
- the duty to report non-compliance,
- the conducting of formal public audits,
- and a process for regular monitoring, compliance and enforcement.

I want to be clear, any such review needs to distinguish between the performance of professionals and the regulatory structure under which they operate. It is essential to understand that my concern related to professional reliance is with the design, function and delivery of current regulations and policy; and is not a critique of the competence of individual professionals nor any group of professionals.

Correcting the government's approach to PR and how we manage resource development is a defining issue with far-reaching environmental impacts throughout the province. We need PR that can be trusted to ensure the public has confidence that a proper resource management framework is in place so that government land and water use planning and management initiatives relate to land, air and water management will have the opportunity for success.

Someone I know described professional reliance as '*that bar in the closet on which all your clothes hang*', which seems like an apt metaphor to me.

Rebuilding public trust around PR is timely, critical and clearly has province-wide ramifications.

To this end I believe that:

- The current approach to professional reliance needs to be reset so that proposed government environment and natural resource reforms (such as: land use planning, endangered species protection, reconciliation, mining reform, fish and wildlife management, water sustainability, forest management and retention of old growth, salmon management and fish farming) will have the proper regulatory support in place.
- The BC government's current approach to professional reliance program has gone too far in regulation outsourcing and handing over what are essentially matters of public interest

³ <http://endangeredexperts.ca/>

⁴ Also, Evidence for Democracy Report <https://evidencefordemocracy.ca/en/research/reports/bc>

to those employed by industry; by substituting professional opinion from experts inside of government for that of professionals in the employ of proponents⁵.

- Regulatory outsourcing has had far-reaching impacts across the province, with:
 - Harm to the environment
 - Mismanagement of fish and wildlife habitat
 - Damage to local economies
 - Increased user conflicts
 - Inconsistency in application
 - Increased risk to public safety and health
 - Lack of public involvement and transparency in decision-making
 - Limited government and public oversight.
- We need to protect public interest and rebuild public trust and confidence in government and industry decision-making, by:
 - Updating current laws, regulations and policy to bring decision-making and required expertise back into the government.
 - Outlining a clear role and appropriate actions for qualified professionals and their organizations.
 - Re-building government expertise and capacity (staff and funds).
 - Bolstering efforts at compliance, enforcement and independent monitoring.
 - Ensuring whistle-blower protection.
 - Updating policy to allow scientific and other experts to communicate externally.

⁵ My research shows the estimates are that government capacity has dropped by a minimum of 25% over the last 10-15 years. This reduction in capacity (staff and money) has caused government to not be able to conduct the scientific and research work that would best support changes in policy. Instead policy has most often developed as a result of political pressure from select interest groups, in particular tenure holders and industry stakeholders.