

## ENR Legislation Review: Environmental Rights Act

Alternatives North's initial comments March 27, 2018

Key Amendment	Comment
General	<p>Support that this Act goes beyond limiting to discharge of contaminants, and that it includes any act or omission that is detrimental to the environment, including gross emissions of Greenhouse Gases.</p> <p>The right to a healthy environment should be a fundamental principle – the same as other rights in the Canadian Charter of Rights and Freedoms. The Act should establish this right in law – consistent with the <a href="#">Global Pact on the Environment</a>.</p> <p>Consider linking with the concept of Ecological Integrity, for example: The concept of ecological integrity gives us a way of thinking about the health of ecosystems and the stresses acting on them. It gives us the opportunity to identify goals and objectives (to focus our efforts on maintaining ecological integrity) and to develop tests by which to determine the acceptability of proposed activities in the NWT. Ecological integrity can be thought of as ecosystem health, or the natural condition of an ecosystem. An ecosystem has ecological integrity when:</p> <ul style="list-style-type: none"> <li>• the structure and function of the system (or the particular collection of species in the system and the processes by which they are related) are not impaired by human-induced stresses; and</li> <li>• the system retains its resilience, in the sense that the diversity of organisms in it and the processes that support them are likely to persist (adapted from the Great Bear Lake Watershed Management Plan)</li> </ul>
Investigation of Offences	<p>Support changing the right to request an investigation to one person instead of two. This is in keeping with Canadian Environmental Protection Act. More importantly, we can envision instances when someone is alone, or only with family members, out on the land, and sees something that should be investigated. Important that this be allowed without having additional signatures.</p> <p>Suggest removing age restriction altogether – would encourage participation by youth.</p> <p>Concern that the Minister may not be the right body to do these investigations. We don't think this is intended as a "spill response" mechanism – there is already a hot-line for that, but rather a mechanism to investigate a situation where the day-to-day regulatory system is not working.</p> <p><i>Question:</i> Has research been done on advantages of an "environmental ombudsman" to do the investigation, or other mechanism other than the minister? Could this be added to the upcoming ombudsman legislation office responsibilities?</p> <p>Concern that while there would be "right to request an investigation", there is no requirement that the Minister do anything after the "investigation" is completed.</p>

	<p><i>Question:</i> what mechanisms requiring action on the part of the Minister have been evaluated? What could be added to make appropriate action required?</p> <p>Concern also that Minister can refuse to investigate as happened with an ERA request of fracking activities where a request was denied based solely on an interpretation that the issue would be dealt with through the regulatory process when in fact it was not.</p> <p>Concern on public participation (slide 45): "posting will not be required in emergency situations but a public explanation will be provided afterwards". At face value this may be reasonable. However, this requires clarity as to what constitutes an emergency and should be narrowly defined. For example, Giant Mine has been in an 'emergency' situation for many years. This should not be the definition used regarding the Minister's obligation to respond to enquiries.</p>
Definition of the Right to Healthy Environment	<p>Public proposals (slide 46): support that the public should be able to propose policies etc., that impact the right to a healthy environment; that such proposals are posted to the public registry; and that a public comment period is allowed.</p> <p><i>Question:</i> How is this "concept still being evaluated"? What materials are or will be available as background material?</p>
Environmental Reporting	Support this being mandatory; important that this report helps break down the silos between departments and sections within department.
Statements of Environmental Values	<p>Support requirements for departments and agencies to prepare, and for opportunity for public comment.</p> <p><i>Question:</i> can we see the materials being worked on? At the federal level, there is a requirement for a Sustainable Development Strategy for each department. Has such an approach been considered for the NWT, to move us beyond a statement of values to measurable actions and outcomes?</p>
Public Trust	Government's rationale for decisions must be demonstrably based on best science.
Federal Exemption	Support removing exemption for "doing things that are authorised under Acts of Canada"
Right to Protect the Environment	<p>"Concept of assigning rights to nature was discussed at a previous Stakeholder meeting". ENR getting Dr. David Boyd to provide additional info to TWG.</p> <p><i>Questions:</i> When will we be able to see the research on this subject?</p>
anything missing from the key amendments or provisions?	There must be a right to file petitions as is currently the case with the federal Commissioner of the Environment and Sustainable Development. Petitions that must relate to consistency of Territorial activities in relation to sustainable development should become a feature of the GNWT legislative changes.