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Access to Bodies of Water in Québec: Reconciling Private Property and Collective Rights

On June 18, the Fondation Rivières, an organization dedicated to river access, protection, enhancement, and restoration, released a report¹ stating that approximately 98% of lakeshores and riverbanks in Québec are inaccessible to the public. This finding may seem surprising, given that Québec law recognizes water as a collective resource.

Indeed, both the *Act to affirm the collective nature of water resources and to promote better governance of water and associated environments* (Water Act) and section 913 of the *Civil Code of Québec* establish that water is part of the common heritage and cannot be appropriated. Lake- and riverbeds form part of the public domain and are the property of the Québec government up to the boundary of riparian private land.² This boundary is determined by the high-water line.³ Consequently, citizens have the right to travel on lakes and rivers. However, this right is subject to certain conditions, including the need to gain legal access.⁴

When riverbanks and lakeshores are fully privately owned, the public does not automatically have the right of access, and opportunities for legal access are limited. Citizens need to get permission from a riparian owner to access the body of water from their private property. This permission, left entirely to the owner's discretion, may take the form of verbal or written consent, or be recorded in an act establishing a servitude.⁵ Ultimately, even though the right to travel on the water itself is recognized, the fact that some lakes and rivers are surrounded by private property effectively restricts the public's right of access.

Meanwhile, when a riparian property belongs to the Québec government, citizens can, in principle, use it to access lakes and rivers freely, unless laws or by-laws impose limitations. According to the *Act respecting land use planning and development* (ALPD), RCMs and municipalities are responsible for managing access to watercourses. To this end, RCMs must first identify "any lake or watercourse that is of recreational interest with a view to ensuring its public accessibility,"⁶ incorporating them into their land use and development plans.⁷ Municipalities are then obliged to adopt by-laws allowing access to the watercourses specified in the plan.

There are several legal tools that municipalities can use to create or maintain public access. These include acquiring riparian land by purchase or donation, negotiating a right-of-way servitude with a landowner, and using the mechanisms in the ALPD. For example, the act allows them to require an owner to cede a portion of land or a servitude for the creation of parks or natural spaces when subdividing or building.⁸ In certain cases, municipalities may also exercise a pre-emptive right or resort to expropriation if it is justified by public interest.

Municipalities that permit public access to riverbanks have certain responsibilities and obligations. For instance, when providing public access for recreational purposes, they must ensure that the site is safe. For beaches, this involves marking out swimming areas and providing lifeguards.⁹ Municipalities that make sites open to the public also need to ensure they are properly maintained and signposted. Consequently, opening up access to watercourses can present challenges for municipalities. In addition to safety concerns, they could face financial challenges and opposition from nearby residents who are concerned about potential nuisances. At the same time, if they charge fees or only allow residents to access the water, they risk provoking reactions from citizens.¹⁰

Overall, while water is recognized as a public resource and the *Civil Code of Québec* grants the right of travel, that right is still limited in practice because of private properties along shorelines and the legal constraints associated with developing public accesses. To address this issue, the Fondation Rivières report suggests several potential solutions, including the establishment of a clear legislative framework to improve the management of access to bodies of water.¹¹ The Québec government's decision on whether to adopt the proposed measures will determine what happens next.

¹ Fondation Rivières, "L'accès aux rivières et aux lacs au Québec: tour d'horizon réglementaire et pistes de solution", PDF (June 2025).

² *Civil Code of Québec* (CCQ), s. 919.

³ *Ibid.* In areas not subject to the effects of the tide, the high-water line is the point where the body of water touches land when it is at its highest level, without causing overflow or flooding. See Government of Québec, "High-water line," online: <https://www.quebec.ca/en/agriculture-environnement-et-ressources-naturelles/eau/gestion-domaine-hydrique-etat/a-propos-domaine-hydrique-etat/high-water-line>.

⁴ CCQ, s. 920.

⁵ CCQ s. 1177.

⁶ *Act respecting land use planning and development* (ALPD), s. 5(10).

⁷ ALPD s. 3.

⁸ ALPD ss. 117.1–117.7

⁹ *Regulation respecting safety in public baths*.

¹⁰ Thomas Deshaies, "98% des berges inaccessibles: la Fondation Rivières réclame une loi pour l'accès à l'eau."

Online: <https://ici.radio-canada.ca/nouvelle/2173086/berges-rives-accès-eau-fondation-rivieres-loi-reglementation>.

¹¹ Fondation Rivières, "L'accès aux rivières et aux lacs au Québec: tour d'horizon réglementaire et pistes de solution", PDF (June 2025), p. 36.