

If it matters to BC's environment, we're on it



Annual Report 2018-19

Board Notes

This past year we have reflected on the strength of the ELC “family.” Unlike many organizations, the ELC’s powerful work and reputation are based equally on four quadrants of individuals who create the ELC impact - the students who do most of the foundational legal work, our clients who bring us great projects that make a difference, our board who provide us with expert and supportive governance, and our staff who are continually identifying legal approaches that uncover emerging environmental issues or address existing problems using new tactics. Underpinning all of this human potential are our dedicated funders who continue to invest in the ELC.

Working together in 2018-2019 with many project partners, we put together a comprehensive mining law reform platform for British Columbia that is supported by community and First Nations organizations across the province, as well as continued to provide expertise to all levels of government on getting plastics out of the ocean and the waste stream. We made submissions on what is now the new provincial *Environmental Assessment Act*, and lent our expertise to several clean water/watershed management initiatives. With a new co-op student position in the spring term we were able to offer a team approach on some projects that saw students in the Clinic working with our articulated and co-op students. This strengthened the support that we could provide for various important litigation and law reform cases. Building on the evaluation of the Clinic we undertook in 2018, we developed evaluation metrics for each of the skills-based activities that students complete as part of their Clinic course. Small but mighty, with just three staff we trained 31 law students and delivered over 4,400 hours of legal services this past year. Special thanks to the ELC community – students, funders, clients, our supporters and the Faculty of Law – for having such a big impact on the environment in BC.



Lola Churchman
Student Co-Chair
Board of Directors



Tim Leadem, QC
Community Co-Chair
Board of Directors



Deborah Curran
Executive Director



ELC Club Executive Members celebrate the launch of their 2018 Research-a-thon results and plan for the 2019 event

Training The Next Generation Of Public Interest Environmental Lawyers

Students with a vision of providing legal assistance to British Columbians on environmental issues founded the ELC more than 20 years ago. Today, under the guidance of our legal professionals team, ELC Clinic students still produce high-quality legal products and solutions that highlight, resolve and prevent problems in the public interest.

The ELC provides a rich learning environment for law students and collaborates with Indigenous, non-governmental and community organizations, and with lawyers with an interest in public interest environmental law. Through the passionate work of our students and staff, we increase the capacity of community groups, environmental organizations, First Nations, and the public interest environmental law Bar in their efforts to protect and enhance conservation and sustainability in BC. This year alone we provided over 4,400 hours of legal assistance to 27 client organizations.

Through our Clinic evaluation this year, we heard from former students that the ELC helped them to learn the legal skills they rely on in their professional careers. They also gave us great suggestions on how to improve on our Clinic model that already works well, and their feedback will help us to make the ELC even more effective.

Thank you to the people and foundations who support us, the students who inspire us, the friends who encourage us, and the clients who seek out our help and share their experiences with others. We couldn't do what we do without all of you.

In 2018-19, ELC Clinic staff, students and articulated students provided over 4,000 hours of legal aid services:





ELC students and staff travelled to Kamloops in September 2018 to join with over 40 groups to discuss mining law reform in BC

Law Reform for Sustainable Communities

This year we continued with major law reform initiatives and developed strategies to address new environmental issues. After publishing an [op-ed](#) with Margaret Atwood in May 2018 about our proposed [solutions](#) to marine plastic pollution, we saw the federal government promote a Zero Plastics Waste Charter internationally at the G7 summit. Later in 2018, the House of Commons unanimously passed a resolution calling on all levels of government to establish a national strategy to combat marine plastic pollution. We also worked on legislation to ban single-use plastics across the province and filed a green washing complaint to the Competition Bureau about a major company that claims its products are recyclable.

On the ecosystem front, we finalized our [mining law reform initiative](#), which creates the platform for a large network of diverse groups seeking legal change to BC's Gold Rush-era mining laws. We also developed proposed regulations for BC's new *Environmental Assessment Act* governing what kinds of projects should be assessed, investigated how the federal government could ban dangerous flame retardant chemicals in furniture and children's toys to the benefit of both firefighters and orcas, reviewed legislation that manages BC's private forest land regime, asked BC's Auditor General to [conduct an audit and examination of grazing leases on Crown land](#), and provided recommendations for the upcoming *Forest and Range Practices Act* revision process. We started to review Riparian Areas Regulations and continued exploring how local governments can achieve goals for cities to operate on 100% renewable energy by 2050.

STUDENT FEEDBACK:

The ELC clinic was truly a valuable learning experience. As someone interested in working in the field of public interest environmental law, I could not ask for a more relevant and useful course offering. As a student, it's very empowering to be accorded the autonomy to do research for a "real" client that will hopefully have a big positive impact.



Drinking Water and Watershed Health

Water and watershed health remain top priorities for the ELC. With your assistance, this year we were able to help five communities in their efforts to protect drinking water through applications for protection orders and submissions to tribunals and courts. We assisted with an Environmental Appeal Board hearing for a permit to discharge contaminated effluent from a mine into a lake, provided support for a judicial review of a drinking water officer's decision, and helped with an injunction to stop logging in a community watershed.

We developed proactive tools for watershed planning, including a report on how governments can use community-based water monitoring programs as a valid way to collect and provide data; and we developed recommendations for municipal bylaws to [support development standards](#) that are ecologically sustainable and reinforce healthy watersheds.

We researched the impacts of logging in a provincial park, provided a legal opinion on the jurisdiction for regulating herbicide spraying adjacent to railways, evaluated the new provincial groundwater licensing regime in light of Aboriginal rights, and explored marine jurisdiction and governance models. Working in partnership with an Indigenous community, we developed a policy that expresses Indigenous water laws that establishes a framework for directing industry and government activities. We started to examine ways to reduce the amount of pharmaceuticals that escape into water ways; and we are following up on our 2010 report on managing stormwater.

STUDENT FEEDBACK:

I just can't stress enough how nice it is to be able to work on something that actually matters in some way. Knowing that you're not just writing some paper that will never be viewed by anyone ever again after receiving a mark definitely increases morale.



Protecting Species, Habitat and Public Access (Freedom of Information)

This past year we helped to achieve the protection of biodiversity, ecological values, and public access to information by providing advocacy support and proactive solutions. We developed recommendations for governments to better protect wetlands, helped a community explore options to protect land in a Biosphere Reserve designation, summarized all federal government subsidies for the fossil fuel industry and the laws that encourage and allow GHG production in support of climate change litigation, and developed a checklist of new federal and provincial legislative provisions that Indigenous nations could use to respond to development requests in their territories. We assisted with a challenge to a National Energy Board approval for a proposed pipeline project and provided assistance in a civil claim associated with a diesel spill and pollutants in the ocean. We also obtained the release of an environmental assessment report that should have been a public document but was withheld by a local government.

We requested that the federal Commissioner of the Environment and Sustainable Development and the Auditor General [examine Canada's failure to protect endangered Pacific salmon and anadromous trout species](#) under the *Species at Risk Act*, provided recommendations to the provincial Ministry of Transportation and Infrastructure to [change their road maintenance policy in order to save bird populations](#), and we are developing recommendations to protect species and habitat through improving the policy and management of nearshore forage fish spawning habitat.

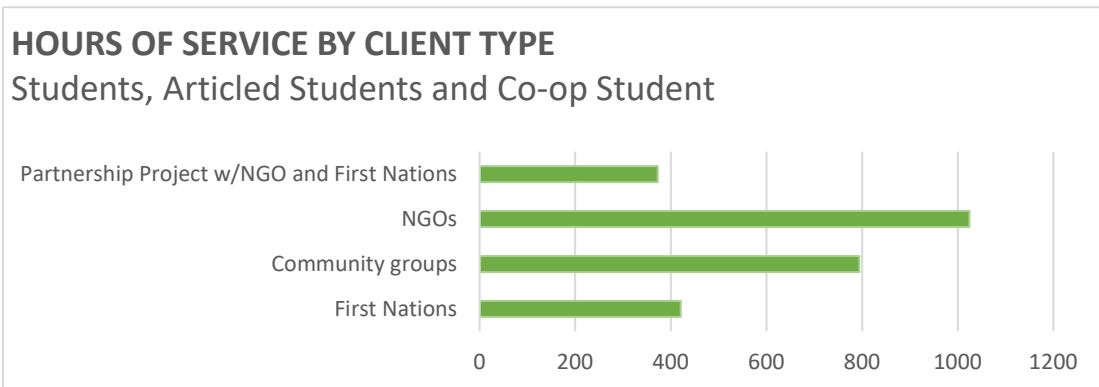
STUDENT FEEDBACK:

Working on this project has allowed me to learn a lot about the way such an issue impacts the world around me and also encouraged me to change certain habits to work towards rectifying the problem. I hope that my project will do the same for other British Columbians.



Other Highlights:

- A number of recommendations in our 2015 report [Professional Reliance and Environmental Regulation in BC](#) were noted in the provincial government's 2018 independent [review on Professional Reliance](#) and in the [new legislation](#).
- The federal government made changes to remove limits on non-partisan political activities of charities, which was one of the recommendations in our 2015 report [Tax Audits of Environmental Groups: The Pressing Need for Law Reform](#).
- Our input into a provincial government review process of an [aquifer drinking water issue](#) led to better drinking water protections in 2018 for the entire province and improvements to [regulations](#) for agricultural waste control.
- A [UNESCO World Heritage Committee submission](#) we assisted the Mikisew Cree prepare that outlined how Canada's largest National Park was under threat resulted in a [Strategic Environmental Assessment Report](#) confirming that Wood Buffalo Park is in danger.
- The Lower Mainland Local Government Association [passed a motion](#) to have the province fund fish-friendly infrastructure as recommended in [our October 2017 report](#).

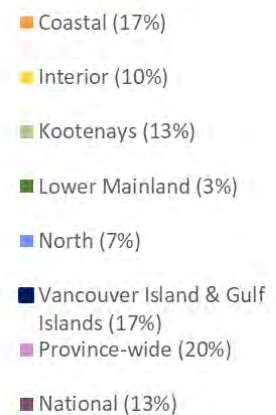


2018-19 CASE LIST

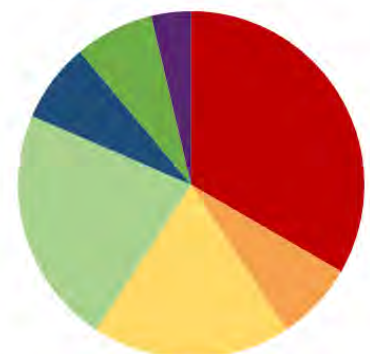
2018-19 Selected Case List (edited for client confidentiality)

1. Protecting a provincial park from lead contamination
2. Ensuring watershed protection in Forest Stewardship Plans
3. Exploring potential climate change litigation
4. Properly regulating mine tailings storage facilities
5. Cleaning up water pollution in Victoria Harbour and the Gorge Waterway
6. Pursuing a National Plastics Strategy
7. Protecting national parks
8. Protecting the right to clean drinking water
9. Drafting a water policy for an Indigenous Nation
10. Reviewing options to protect land in a Biosphere Reserve
11. Getting pharmaceuticals and other chemicals out of the Salish Sea
12. Banning single-use plastics
13. Maintaining public disclosure of public documents
14. Cleaning up a mine in receivership
15. Defining compensation for oil spill damage litigation
16. Protecting consumers, orcas, and firefighters from fire retardant chemicals
17. Regulating pesticide spraying along a major salmon river
18. Protecting groundwater, fish, and Indigenous Rights
19. Reducing water extraction from the Coquitlam River
20. Properly closing and dealing with orphaned and abandoned mines
21. Reforming the regulation of aggregate mines
22. Reforming private land forest management
23. Appealing a mine discharger permit
24. Drafting a Drinking Water Protection Order to protect a community watershed
25. Examining jurisdiction and governance in marine areas
26. Considering potential litigation regarding a proposed pipeline project
27. Developing regulations for the new *Environmental Assessment Act*
28. Protecting streams in Powell River and across the province
29. Enhancing forest protection on Vancouver Island and the South Coast
30. Protecting Orcas by regulating forage fish beach spawning habitat
31. Finalizing proposals for a province-wide campaign on Mining Law Reform

REGIONS SERVED



CLIENTS SERVED



MEDIA SNAPSHOT

A snapshot looking at some of the ELC earned media from the past year:

Freedom of Information

- [Parksville environmental group wins fight to get information](#) (2019 Feb 16) *Times Colonist*
- [New legislation aimed at SLAPP lawsuits met with wide support in BC](#) (2018 May 22) *Lawyer's Daily*
- [British Columbia introduces 'long needed' public sector whistleblower protection](#) (2018 May 4) *Lawyer's Daily*

Mining and Energy

- [BC government withheld information on dangers of unregulated fracking dams](#) (2018 Apr 2) Tyee

Professional Reliance and Environmental Assessment

- [Cooling the rhetoric on Canada's environmental assessment efforts](#) (2019 Mar 18) *National Post*
- [Opinion: Cooling the rhetoric on Canada's environmental assessment efforts](#) (2019 Mar 30) *Calgary Herald*
- [Industry-hired experts downplay impacts of major projects: UBC study](#) (2018 Dec 21) Narwhal
- [How post-truth politics is sinking debate on environmental assessment reform](#) (2018 Oct 12) *National Post*
- [BC's big opportunity to fix under-regulated industry is here \(and you've probably never heard of it\)](#) (2018 Jun 23) Narwhal
- [BC looking to reform environmental assessments for major projects](#) (2018 Jun 21) CBC News

Public Access

- ['Landmark' victory for public access, but impact for Island is murky](#) (2018 Dec 11) *Times Colonist*
- [Encroaching on public land near Gorge 'not acceptable', Esquimalt warns property owners](#) (2018 May 3) *Times Colonist*

Species and Habitat

- [Ottawa introduces sweeping measures to protect remaining 74 southern resident killer whales](#) (2018 Oct 31) CHEK News
- [Province gives fish farm four years to get First Nations and DFO consent to operate](#) (2018 June 20) CHEK News
- [Federal government takes a crucial step towards enforcing the Species at Risk Act to save BC's Mountain Caribou](#) (2018 May 7) Pacific Wild
- [BC's Selkirk Mountains' Gray Ghost caribou herd 'functionally extinct'](#) (2018 Apr 17) *Vancouver Sun*

Water and Watershed Management

- [Canadian company applies for permit for exploratory mining in headwaters of Skagit River](#) (2019 Mar 21) *Seattle Times*
- [BC needs to act quickly to prevent future mine-tailings disasters](#) (2019 Mar 4) *Province*
- [BC needs a 'polluter pays' policy for mines](#) (2019 Jan 9) *Province*
- [MPs' motion important step toward eliminating plastic pollution](#) (2018 Dec 22) *Times Colonist*
- [MP Gord Johns sees 'tremendous victory' in battle over marine plastics](#) (2018 Dec 8) *Times Colonist*
- [NDP MP Gord Johns gains approval for motion to eventually eliminate plastic pollution in marine environments](#) (2018 Dec 6) *Georgia Straight*
- [BC MP celebrates 'tremendous' victory as plastics pollution motion passes House](#) (2018 Dec 6) CBC News
- [Parliament voting this week on Island MP's private members bill on plastics](#) (2018 Dec 1) CHEK News
- [Tailings dam spills at Mount Polley and Mariana](#) (2018 Nov 13) *Bullet*
- [First Nations in Okanagan seek to protect environment heritage](#) (2018 Oct 30) *Vernon Morning Star*
- [Experts gather to discuss Okanagan water needs](#) (2018 Oct 16) *Salmon Arm Observer*
- [Gold seekers are flooding into the Yukon and wreaking havoc on its rivers](#) (2018 Sep 11) Narwhal
- [BC needs 'cops that are not also travelling salesmen' to regulate mining industry, lawyer says](#) (2018 Aug 28) *Star Vancouver*
- [Teck Coal Ltd fined \\$78 000 for repeated water pollution](#) (2018 Jun 29) *Star Vancouver*
- [G7 summit preview- environment](#) (2018 Jun 6) CPAC interview with Calvin Sandborn
- [How a BC community's water shortage threatens a provincial park](#) (2018 May 31) Narwhal
- [Island NDP MP Gord Johns declares war on plastic pollution](#) (2018 May 5) *Times Colonist*
- [Can Canada reinvent the plastic economy?](#) (2018 May 3) *Globe and Mail*
- ['It's an environmental law-free zone': BC Auditor General asked to investigate unregulated placer mining](#) (2018 Apr 16) Narwhal
- [Plastic pollution pileup on Canada's beaches exposes environmental policy gaps](#) (2018 Apr 3) *Discourse*

Other

- [Gun club in Vancouver Island provincial park sparks anger from nearby residents](#) (2018 May 27) CBC News

PEOPLE



ELC staff on their rainy day campus walk to Bowker Creek headwaters (L to R) Holly Pattison, Megan Webber, Andrea Lesperance (ELC Articled Student), Emilie Benoit (ELC Co-op Student), Calvin Sandborn, Deborah Curran

Many hands support the ELC. In addition to our three full-time paid staff, we receive support from the Law Faculty, Board members, students, clients, foundations and our individual donors. The ELC Associates Program also enhances our work. As a network of aspiring and practicing public interest environmental law practitioners, ELC Associates share their knowledge of environmental and natural resources law and collaborate on issues of mutual concern with ELC staff and students.

2018-19 Board of Directors

Community Board Members

- Oliver Brandes, POLIS
- Gillian Calder, UVic Law Professor
- Kathy Chan, UVic Law Professor
- Clare Frater, Director of Trust Area Services, Islands Trust
- Tim Leadem, QC, retired Lawyer
- Alyne Mochan, Legal Officer, Office of the Conflict of Interest Commissioner of BC
- Stuart Rush, QC, retired Lawyer
- David Thomas, Business Owner

Student Board Members 2018-19

- Diana Borges
- Lola Churchman
- Will Kendon
- Maeve O'Neill Sanger
- Shawna Smith
- Holly Stewart
- Conner Wear

Staff

Deborah Curran, Executive Director

As an Associate Professor in the Faculty of Law and School of Environmental Studies, Deborah's work with the ELC involves ELC governance, fundraising, liaising with UVic, and program development. In her role as a lawyer in the Clinic, Deborah focuses primarily on land and water law. She has significant experience in analyzing and making recommendations on how local government bylaws can be used for environmental protection, particularly in the context of smart growth and ecosystem integrity, and using legal tools for healthy water and watersheds.

Calvin Sandborn, Q.C., Legal Director

Calvin is one of BC's most experienced and honoured public interest environmental lawyers, with wide knowledge of many fields of environmental law. Calvin spends much of his time developing projects with environmental, Indigenous and community groups and supervising law students who then work on those projects. Calvin teaches the ELC Clinic class two terms a year, and plays a major role in finalizing ELC projects and giving those projects life in the public realm, including the media.

Holly Pattison, Paralegal Administrator

Holly directs ELC operations and communications. She teaches file management in the Clinic and is responsible for financial oversight and communications. As a writer, photographer and filmmaker, she uses her creative skills to illustrate the ELC's work and environmental issues whenever possible.

Megan Webber, Administrative Assistant

Megan joined the ELC in April 2018 and assists with the administrative operations of the Clinic and the ELC Society.

We aim to improve environmental quality and increase access to environmental justice in BC

Thank you to our donors

Special thanks to the Law Foundation of British Columbia, the North Growth Foundation, the Oasis Foundation and to all of our individual donors for overall program support. Thanks to the Sitka Foundation, the Vancouver Foundation, and Tides Canada for project support, all of which enables the ELC to continues to improve environmental protection and access to environmental justice in BC.

