



WEST COAST
Environmental Law

IMPACT REPORT

2017-2018



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A MESSAGE FROM THE PRESIDENT

BUILDING LEGAL SOLUTIONS

West Coast Environmental Law builds systemic legal solutions to complex environmental problems. Often this work involves shining the light on the problem, such as weak or ineffective environmental laws or processes, or lax enforcement. It also means communicating priorities for improvement and creating the conditions for reform, including an informed and mobilized public.

There are some moments in time when these conditions come together – when governments set a course for progressive change and to engage the public in the process – and it is here that West Coast’s unique expertise in building collaborative, cutting-edge legal solutions comes to the fore.

By all accounts, we are in the midst of one these moments. In the past year, West Coast has been invited to appear before Parliamentary committees, made submissions or participated in bi-lateral or multi-lateral discussions to inform legislative developments in a wide range of areas, including:

- the development of new federal and provincial environmental assessment laws;
- fulfilling the federal government’s commitment to a legislated north Pacific coast tanker ban;
- *Fisheries Act* reform, including the restoration and strengthening of fish habitat protection;
- strengthening the *Oceans Act* and engaging with the National Advisory Panel on Marine Protected Area (MPA) Standards, to establish minimum standards for MPAs and other important reforms;
- modernization of the *National Energy Board Act* to change the way projects like pipelines are assessed and approved;
- participating in the provincial government’s efforts to strengthen spill response regulations; and
- engaging in the provincial review of professional reliance, to reduce regulatory outsourcing of important environmental decisions to private parties.



A handwritten signature in black ink, appearing to read 'Jessica Clogg'.

Jessica Clogg
Executive Director and Senior Counsel



A handwritten signature in black ink, appearing to read 'Lisa Matthaus'.

Lisa Matthaus
President

MENT & EXECUTIVE DIRECTOR

In this context, one of the most exciting and significant commitments of both the Canadian and British Columbia governments is to implement the *United Nations Declaration on the Rights of Indigenous Peoples*. Crafting legal approaches that recognize the inherent jurisdiction and decision-making authority of Indigenous peoples as part of the legal pluralism of Canada is perhaps the biggest legal challenge – and opportunity – of our time.

West Coast’s RELAW (Revitalizing Indigenous Law for Land, Air and Water) project provides legal support and co-learning opportunities for Indigenous nations who are applying Indigenous law to address environmental issues – including developing their own written laws or policies about ocean stewardship, wildlife and environmental management, water governance, impact assessment and more.

By bridging between Canadian and Indigenous law, we are building legal solutions that help secure a more sustainable future for all of us, and our children.

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West Coast Environmental Law Research Foundation

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This annual report is a joint publication of the West Coast Environmental Law Association, the West Coast Environmental Dispute Resolution Fund Society and the West Coast Environmental Law Research Foundation.

For highlights of Association/EDRF programs see pages 4-16, and for Research Foundation programs see pages 17-26.

**The name “West Coast” refers to one or all of the West Coast Environmental Law societies, depending on where the reference appears in the report (ie. references to “West Coast” on pages dedicated to West Coast Environmental Law Research Foundation refer to the Research Foundation).*

HONORARY BOARD

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Photo: Province of BC

ACCESS TO JUSTICE

West Coast is committed to providing legal resources and assistance for British Columbians seeking to defend land, air, water and communities from environmental harm. Through our access to justice programs, we offer free legal advice and funding support to groups and individuals, and we share helpful information for the public about new developments in environmental law. And each year, we provide hands-on educational opportunities for law students – building connections and experience for the next generation of public interest environmental lawyers.

LEGAL SUPPORT FOR NATURE AND COMMUNITIES

Through our Environmental Legal Aid program, West Coast empowers individuals and communities to safeguard the environment through law. Our staff lawyers provide free legal advice to help British Columbians understand their environmental rights, and we also offer legal aid funding through our Environmental Dispute Resolution Fund (EDRF). Since 1989, the EDRF has funded legal efforts by a diverse range of environmental protectors, and helped connect clients with private environmental lawyers around the province willing to work at a legal aid rate.

YOUR ENVIRONMENTAL LAW WATCHDOG

West Coast continues to offer up-to-date information and legal analysis about the most pressing environmental issues in BC, through our Environmental Law Alert program. Environmental law in Canada is constantly evolving, and new developments can be difficult to follow – but our expert commentary, insightful analysis and accessible resources help readers understand these complex issues and why they matter.

INVESTING IN THE FUTURE OF ENVIRONMENTAL LAW

West Coast's Building the Environmental Law Bar program offers valuable lessons and work experience for law students and legal volunteers – both in the office and in the classroom. In addition to our yearly student and volunteer placements, our lawyers lead a unique environmental law course at the University of British Columbia.

ENVIRONMENTAL LEGAL AID

EMPOWERING A LOCAL COALITION TO CHALLENGE HERBICIDE SPRAYING ALONG THE SKEENA RIVER

The T. Buck Suzuki Environmental Foundation is leading a broad-based coalition effort to hold CN Rail accountable for illegal herbicide spraying along the Skeena River, to ensure that wild salmon are protected from exposure to a harmful toxin called glyphosate.

With support from our Environmental Dispute Resolution Fund and EDRF lawyer Angela McCue, the Foundation encouraged the BC government to investigate the illegal spraying, and provided expert information on the toxins involved. Exposure to glyphosate can interfere with the ability of fish to smell, and can cause other changes to their tissues and mutations to their blood.

Between July and October 2017, CN Rail contracted a company to spray along a 100-kilometre stretch of track that follows the Skeena River from Terrace to Prince Rupert. The Skeena is the second-largest salmon river in Canada and provides rich habitat for many iconic species. Since the herbicide spraying, a ribbon of dead vegetation follows the rail and extends to the water, where a regulated “no-spray” buffer should have been maintained.

To make matters worse, CN did not even have legal authority to spray herbicides at the time. To spray, a company is legally required to have a current Pest Management Plan (PMP). CN’s PMP had expired months before the spraying and was not renewed. As a result of the T. Buck Suzuki Foundation’s complaint, the BC government launched an investigation and found that illegal spraying on CN rail lines had been taking place all around the province.

In response to the provincial investigation, CN claimed that it was above provincial law and did not need to submit a BC Pest Management Plan. EDRF Lawyer Angela McCue is supporting the Foundation to challenge this claim and hold CN accountable.

T. Buck Suzuki Foundation staff member Luanne Roth is committed to making sure that the spraying does not happen again. Fortunately, the EDRF is here to help – connecting Luanne and her colleagues with the funding and legal tools required to ensure that BC’s pest management laws are enforced and wild Skeena River salmon are better protected.

“West Creek Awareness has been extremely pleased with the service provided by West Coast Environmental Law – it has been ‘First Class.’ Both Erica Stahl and Andrew Gage have been amazing, reliable contacts with a deep knowledge base, which has been a great deal of help to a group of citizens trying to preserve a wetland habitat. This year, a large school of two-year-old Coho salmon smolts were observed preparing for their migration out to sea. The success of these salmon is a result of West Coast Environmental Law intervention. We owe a lot of gratitude to their service!”

- Ted Lightfoot, West Creek Awareness, Summary Advice Client

MILESTONES

December 2017: BC rejects Ajax Mine

With support from the EDRF, the Kamloops Area Preservation Association (KAPA) fought long and hard against the proposed KGHM Ajax open-pit gold and copper mine. KAPA worked in solidarity with the Stk'emlúpsmc te Secwepemc Nation (SSN), who had conducted their own assessment and rejected the project in March 2017. In December 2017, the BC government announced its refusal to grant an environmental assessment certificate for the poorly situated project. In June 2018, the federal government likewise rejected the project.

May 2018: New Anti-SLAPP bill promises greater protection for environmental defenders

SLAPP suits (Strategic Lawsuits Against Public Participation) are abusive lawsuits that are intended to stifle public debate and intimidate opponents. Over the years, the EDRF has supported the defence of several citizens hit with SLAPP suits, which is why we were thrilled when the BC government tabled Bill 32, the *Protection of Public Participation Act*. Similar to existing anti-SLAPP laws in Ontario and Quebec, BC's proposed legislation will establish an expedited process for defendants to ask the court to dismiss a lawsuit if it interferes with their freedom of expression on a matter of public interest. The law would also allow the court to fully compensate defendants for costs and award additional punitive costs against the plaintiff, if the court determines that the lawsuit should be dismissed.

May 2018: Court victory for endangered BC caribou

With support from the EDRF, the Wells Gray Gateway Protection Society sought a judicial review after federal Environment Minister Catherine McKenna failed to respond to their application for an “emergency order” to protect at-risk caribou under the *Species at Risk Act*. In a strongly worded judgement, Federal Court of Canada Justice Phelan slammed the Minister for “egregious lack of action” to protect at-risk caribou herds in British Columbia.

May 2018: Tsilhqot'in Nation continues the fight to save Teztan Biny

The Tsilhqot'in National Government (TNG) was back in court this year, fighting to protect Teztan Biny (Fish Lake) and the surrounding area from Taseko Mines' New Prosperity mine proposal. The EDRF has been supporting legal efforts against the mine since 2011. In 2017, the BC government issued a permit to allow for “exploratory” drilling and tree-clearing in the area. In August 2018, the TNG lost its judicial review of this permit. TNG then appealed this decision and obtained an injunction to prevent drilling until the appeal is resolved.



Photo: (L-R) Matthew Boulton, lawyer for TNG at Woodward & Co.; Erica Stahl, WCEL; J.P. Laplante, Mining, Oil & Gas Manager, TNG; Chief Jimmy Lulua, Xení Gwet'in; Councillor Loretta Williams, Xení Gwet'in.

ENVIRONMENTAL LAW ALERT

Sometimes strong legal analysis on emerging legal issues can help protect the environment without needing to hire a lawyer or go to court. Through the combination of our Environmental Law Alert blog, online action alerts and engagement with government and other stakeholders, West Coast responds to key new initiatives and law reform proposals, to help ensure that our environmental laws are as strong as possible.

In 2017-18, BC's new provincial government has kept our Environmental Law Alert program busy commenting on a wide range of issues, from professional reliance to fish farms to Strategic Lawsuits Against Public Participation (SLAPPs).

MILESTONES

November 2017: An Environmental Law Alert blog post by Stephanie Hewson and Maryann Watson examining the legality of “bloodwater” discharged from fish processing facilities into salmon habitat was picked up in BC media. The post played a role in convincing the provincial government to conduct an audit of fish processing facilities in BC.

January 2018: Working with allies, Staff Lawyer Andrew Gage provided expert input and encouraged public comment as part of the BC government's review of “professional reliance” – a concept that has been used to reduce government oversight under BC's forestry, mining and other laws. The review's recommendations, if implemented, will strengthen a wide range of environmental laws.

February 2018: West Coast co-organized a webinar (with Ng Ariss Fong, Lawyers, and the Heiltsuk Nation) on marine oil spill response for Indigenous and environmental organizations. Staff Lawyers Stephanie Hewson and Erica Stahl joined co-presenters to share practical and legal knowledge on responding to marine oil spills, drawing on the Heiltsuk Nation's experience in the disastrous sinking of the Nathan E. Stewart in 2016.

February 2018: West Coast joined other organizations across the country to call on the federal government to deliver on its promises to restore legal protection for navigable waters in Canada. Andrew Gage's analysis and submissions demonstrated that the government's amendments, tabled in February, fall short of this commitment.

March 2018: Erica Stahl worked closely with the BC Civil Liberties Association and other allies to press the BC government to enact a law preventing Strategic Lawsuits Against Public Participation (SLAPPs). In May the government introduced an anti-SLAPP bill, which is expected to become law in the fall.

April 2018: Lawyers Stephanie Hewson, Eugene Kung and Jessica Clogg provided both the public and decision-makers with legal analysis in response to the BC government's proposed Spill Management plan. West Coast's resources and submissions highlighted the need for science-based regulatory restrictions on the transport of diluted bitumen, the province's jurisdiction on the issue, and the need for effective provincial oversight and approval of spill response plans.

BUILDING THE ENVIRONMENTAL LAW BAR

At West Coast, we spend a lot of time and energy working to address the environmental issues of the day. But we also think it's important to support the next generation of lawyers so they can continue this work in the future.

In 2017-18, twenty students and visiting lawyers spent time assisting West Coast lawyers and deepening their own engagement with public interest environmental law. This included participants in programs such as Pro Bono Students Canada (University of British Columbia and University of Victoria), academic internships (Osgoode Hall, University of Ottawa, Macquarie University) and our own summer law student program. We are proud to have good relationships with a number of different law faculties, and that students and academics view internships and work experience at West Coast as a valuable part of a legal education.

In addition, in fall 2017 Staff Lawyers Linda Nowlan and Deborah Carlson again led a course at UBC's Allard School of Law. The course featured a weekly workshop with a revolving cast of West Coast staff lawyers, and resulted in individual research projects that supported our ongoing program objectives.

Hats off to all of our 2017-18 students – your passion, commitment and developing legal expertise were deeply appreciated.



Photo (left to right): 2018 Summer Law Students Christie McLeod, David Schechter, Christina Clemente, Aakash Taneja.

“It has been an unbelievably invaluable experience, not only getting to dream big about the future of environmental law, but also to work with the team here to put that dream into practice. My experience at West Coast has left me with renewed hope that anyone can push the boundaries of Canadian environmental law in a positive direction, as humanity rethinks our relationship with the natural world.”

- Dan Cheater, UBC, 2018 Summer Law Student



Photo: Graham Hobster

LAW REFORM & ADVOCACY

West Coast Environmental Law Association is working to transform the legal landscape, advocating for stronger environmental laws, better enforcement and more democratic decision-making in BC and across Canada. In 2017-18, our lawyers were busy engaging in ongoing law reform processes at both the federal and provincial level, making the most of new opportunities to improve the laws that safeguard our land, air, water and communities.

STANDING UP FOR STRONG ENVIRONMENTAL LAWS

This past year, West Coast continued to play a leadership role in efforts to strengthen Canada's environmental laws. Our innovative solutions and expert input have been front and centre throughout the federal government's sweeping overhaul of key legislation weakened in 2012, as well as new amendments to the *Oceans Act*.

At the same time, we have been deeply involved in ongoing work to re-shape BC's provincial environmental assessment (EA) regime, working with a wide variety of groups to develop a vision for next-generation EA in British Columbia.

Our lawyers have made substantial contributions, both federally and provincially – submitting detailed briefs, testifying before committees, meeting with government officials and creating space for collaboration on solutions. We also continue to provide educational resources and share opportunities for individuals to take action and demand stronger, fairer environmental laws.

KEEPING BC OIL SPILL-FREE

After decades of advocacy to secure a comprehensive oil tanker ban on the north Pacific coast, we celebrated a breakthrough this year when Bill C-48, the *Oil Tanker Moratorium Act*, passed in the House of Commons. West Coast has been at the table throughout the development of the Bill, and we are committed to seeing it through its final stage in the Senate. Meanwhile, West Coast continues to provide legal and strategic support for First Nations and communities working to protect lands, waters and the climate from the risks posed by tar sands pipelines and oil tankers.

FEDERAL ENVIRONMENTAL LAW REFORM

This year was another busy one for strengthening Canada's environmental laws. In June 2017, the federal government released an Environmental and Regulatory Reviews Discussion Paper outlining its proposed approach to strengthening environmental legal protection and regulatory oversight of projects like pipelines, mines and dams. We worked closely with allies, Indigenous groups and experts to craft our response, showing how the government's proposals needed to be strengthened in order to safeguard the environment, give communities a meaningful say in decisions that affect them, and uphold Indigenous rights and authority.

Then in February 2018, the government tabled two bills, C-68 and C-69, which propose a new *Impact Assessment Act* and *Canadian Energy Regulator Act*, and amendments to strengthen the *Fisheries Act* and *Navigation Protection Act*. We have won many gains in those two bills, including restoration of lost protections under the *Fisheries Act* and the introduction of new safeguards like ecological flows, the removal of barriers to public participation in environmental assessments, and better assurance that decisions about major projects will foster sustainability and help Canada reach its international climate obligations.

But the new laws aren't perfect, and we have worked tirelessly this year to achieve important amendments to the bills, gain support for the changes, and ensure that they have strong supporting regulations and policies. We presented before the two Parliamentary Committees reviewing the bills and have met with federal officials dozens of times to advocate for improvements. We continue to sit on the Multi-Interest Advisory Committee that is advising government on the new *Impact Assessment Act*, and are taking leading roles in numerous formal and informal collaborations. Through these efforts, we have helped guard against rollbacks that industries like oil and gas are lobbying hard for, and keep strong environmental laws a top government priority.

In addition to our work on these two important bills, our marine team has been busy advocating for stronger protections under Canada's ocean laws – including advocating for amendments to the *Oceans Act*. Through new partnerships and collaboration with environmental allies across the country, we continue to press for better legal safeguards for the oceans and marine species.



MILESTONES

June 2017: West Coast co-hosted Oceans20: Canada's Oceans Act Workshop in Ottawa, to mark the 20th anniversary of the *Oceans Act* and celebrate federal commitments to protect 10% of the ocean space by 2020. Bringing together over 60 thought leaders from across the country, the interdisciplinary workshop provided a platform to exchange ideas and co-develop solutions to strengthen ocean protection in Canada, and to accelerate the creation of a network of effective marine protected areas (MPAs).

Fall 2017: We met with dozens of government officials, members of parliament, and Cabinet Ministers and their staff to advocate for new environmental laws that align with our research and analysis, including co-hosting a reception on Parliament Hill with allies.

February 2018: West Coast joined coalition partners to launch SeaBlue Canada, a new collaboration aimed at holding government accountable for protecting our oceans. Together with the Canadian Parks and Wilderness Society, David Suzuki Foundation, Ecology Action Centre, Oceans North and WWF Canada, we are working to ensure that Canada protects its oceans, both for our grandchildren and for the sea life we depend on.

April 2018: Federal *Oceans Act* reforms passed in the House of Commons. The amendments will create a quicker form of protection for ocean ecosystems through Interim MPAs, and will establish new procedures that make it easier for oil and gas companies to voluntarily relinquish interest in areas slated for protection. West Coast's extensive advocacy and detailed brief were cited in Parliament.

April 2018: West Coast lawyers appeared before two Parliamentary Committees reviewing Bills C-68 and C-69 to provide our expert evidence on how to further strengthen the *Fisheries Act* and *Impact Assessment Act* to ensure decisions affecting communities and the environment are sustainable and fair, and respect Indigenous authority.

May 2018: We traveled to Durban, South Africa along with environmental assessment experts and the Canadian Environmental Assessment Agency, to showcase aspects of the new *Impact Assessment Act* for the international community, and encourage strong supporting regulations and policies to fill in the gaps.

July 2018: With allies, we organized and hosted a workshop on what is needed in regulations to support and enhance sustainable decision-making under the *Impact Assessment Act*. Bringing together thought leaders from across Canada, the workshop was an important step towards ensuring that our new laws are implemented according to next-generation standards.

PROVINCIAL ENVIRONMENTAL LAW REFORM

Reforming the province's outdated environmental assessment regime was among the key environmental commitments of the British Columbia government elected in 2017. West Coast has been hard at work to ensure that these sorely-needed reforms comply with the *United Nations Declaration on the Rights of Indigenous Peoples*, and that they empower communities, restore public confidence, address the cumulative effects of development and enhance sustainability.



Photo: Guilice via Flickr

MILESTONES

July 2017: BC Environment Minister George Heyman's mandate letter committed him to reform BC's environmental assessment process in order to "ensure the legal rights of First Nations are respected, and the public's expectation of a strong, transparent process is met."

January 2018: West Coast released *Why It's Time to Reform Environmental Assessment in British Columbia*, a publication that includes analysis and case study interviews regarding key flaws with BC's current assessment legislation.

February 2018: West Coast convened a workshop of approximately 50 individuals with expertise in environmental assessment from First Nations, academia, non-governmental organizations and labour groups. Together, participants mapped out a progressive vision for what a new, revitalized provincial environmental assessment regime should look like.

March-April 2018: West Coast lawyers participated in provincial stakeholder engagement meetings on reforming the environmental assessment regime. Then, together with three other environmental law organizations, we submitted a detailed *Blueprint for Revitalizing Environmental Assessment in British Columbia* to the province.

May 2018: West Coast led a collaboration of 24 environmental, social justice and community groups to release a high-level *Vision for Next-Generation Environmental Assessment in British Columbia*.

July 2018: West Coast provided materials to assist other organizations and the public in making comments during the province's public engagement period on environmental assessment reform, including an analysis comparing reform proposals in BC's discussion paper to our *Vision for Next-Generation Environmental Assessment in British Columbia*. We made multiple submissions of our own, and encouraged our supporters to provide input during the engagement period.

KEEPING BC OIL SPILL-FREE

West Coast continues to provide legal and strategic support to First Nations and communities that are using Canadian and Indigenous law to defend the lands and waters they call home from the risk of oil spills.

Our longstanding work to advance a legislated oil tanker ban on the north coast of BC took a major step forward this year when Bill C-48, the *Oil Tanker Moratorium Act*, passed in the House of Commons. The Bill – which results from almost half a century of advocacy by First Nations, community members, environmental organizations and politicians – will protect the region from future crude oil supertanker proposals similar to the now-defunct Enbridge Northern Gateway project. At the time of writing, Bill C-48 is at second reading in the Senate, and West Coast hopes to see it become law in the near future.

Meanwhile, the Kinder Morgan Trans Mountain pipeline saga continued this year and became a significant national issue, embodying many of the most pressing topics of the day – including climate change, Indigenous rights and reconciliation, and the nature of Canadian federalism, to name a few.

Our strategies and analysis were central to the major events around Trans Mountain in the last year: from the Federal Court of Appeal and other court hearings, to the BC government stepping up to protect the coast from spills, to Kinder Morgan's abandonment and Canada's subsequent nationalization of the project. We are now in a new chapter, and we won't stop working to protect the environment, communities and the climate from this risky project.



Photos (clockwise from top left): FCA hearing press conference (Alexis Stoymenoff); Kinder Morgan AGM (Eugene Kung); WCEL's Eugene Kung speaking at #NoKMBuyout rally (Clayton Thomas-Muller); Staff Lawyer Gavin Smith (centre) with allies testifying before the Transport Committee on Bill C-48.

MILESTONES

October 2017: During two weeks of hearings, the Federal Court of Appeal heard arguments on the 15 consolidated legal challenges to the federal approvals of the Trans Mountain project. West Coast attended and documented the hearings on our Environmental Law Alert blog. We continue to provide legal and strategic support for the Tsleil-Waututh Nation, one of the parties challenging the approval in court.

October 2017: West Coast spearheaded a joint letter to Transport Minister Marc Garneau supporting the passage of a strong *Oil Tanker Moratorium Act*, with sign-on from almost 40 non-governmental organizations, Indigenous organizations, labour groups and local governments.

October 2017: Bill C-48 passed second reading in the House of Commons and was sent for review by the Parliamentary Transport Committee. MPs from almost every party referred to West Coast Environmental Law and our analysis during debate of Bill C-48 in the House of Commons and before the Transport Committee.

October 2017: Staff Lawyer Gavin Smith was invited to appear as a witness before the Transport Committee regarding Bill C-48, providing both written and oral submissions and responding to questions from Committee MPs.

January 2018: Informed by West Coast analysis, BC announced a study and proposed restrictions on the transportation of diluted bitumen (dilbit) in BC unless and until the science demonstrates that a spill can be safely cleaned up.

March 2018: West Coast supported a Parliamentary e-petition, launched by Coastal First Nations president Marilyn Slett, to urge swift passage of Bill C-48. The petition received over 12,000 signatures.

May 2018: Bill C-48 passed in the House of Commons and moved on to the Senate.

May 2018: West Coast travelled to Houston, Texas for the third time to attend Kinder Morgan's Annual Shareholders Meeting, to tell the directors, management and shareholders directly about legal risks associated with the Trans Mountain project.

May 2018: Kinder Morgan decided to abandon the Trans Mountain project and Canada announced its intention to purchase it. West Coast continues to follow the situation, providing legal analysis for the public about the sale and its implications.

August 2018: The Federal Court of Appeal quashed the federal approval of Trans Mountain, confirming that Canada failed to meaningfully consult First Nations, and made a "critical error" in basing its decision on a flawed National Energy Board review that excluded marine shipping. This major court victory for Indigenous nations and the environment has halted construction on the project while the government complies with the ruling.



TRANSFORMING ENVIRONMENTAL DECISION-MAKING

At West Coast Environmental Law Research Foundation, we leverage legal research, analysis and dialogue to secure lasting gains for ecosystems, communities and the climate. We believe that environmental decision-making must be science-based, democratic and must uphold Indigenous rights and authority. Our legal team has the knowledge, skills and connections needed to build cutting-edge legal solutions and provide the analysis that individuals and communities need to become involved in making this vision a reality.

PROTECTING THE MARINE ENVIRONMENT

West Coast's marine team works collaboratively to strengthen the legal safety net for oceans and marine ecosystems – researching, designing and implementing innovative legal strategies grounded in federal, provincial and Indigenous law.

REVITALIZING INDIGENOUS LAW

Through our RELAW (Revitalizing Indigenous Law for Land, Air and Water) project, we work with Indigenous nations engaged in the process of revitalizing their own laws and legal traditions, drawing out legal principles and applying them to current environmental challenges.

TAKING CLIMATE LAW INTO OUR HANDS

Around the world, momentum is growing for efforts to hold fossil fuel polluters accountable for their role in the climate crisis. West Coast's Climate Law in our Hands program is putting climate accountability on the agenda in BC communities, and facilitating important discussions about who should pay for local climate costs.

PREPARING COMMUNITIES FOR THE REALITY OF CLIMATE CHANGE

Our Green Communities program brings a variety of experts and jurisdictions together to find solutions that will protect both ecosystems and communities for the long term. Combining law and policy with science, Indigenous knowledge and urban planning, we're providing valuable guidance for communities as they prepare for the reality of climate change.

MARINE PROTECTION

Keeping the oceans healthy is a tough job in this era of busier oceans, burgeoning coastal development, escalating pollution and climate change. One surefire solution lies in the creation of more marine protected areas (MPAs) – special places in the ocean that we choose to keep free from human activities. To be effective, MPAs must have a strong legal foundation and keep the most damaging activities outside their boundaries. These activities include oil and gas development, undersea mining, ocean waste dumping, and large industrial-scale fishing that can harm sensitive habitat.

Keeping harmful activities out of MPAs is one area of focus of West Coast’s marine program. We work with a variety of partners to increase the number, size and effectiveness of MPAs in the Pacific. This includes direct client work, public outreach and education with community groups, ENGO coalitions, and collaboration with provincial, federal, and Indigenous governments.

This year we were pleased to be part of the federal government’s National Advisory Panel on MPA Standards, working to establish a basic floor of legal protections for MPAs. Through two oral presentations to the Panel in Vancouver and Ottawa, submission of a detailed written brief with maps and infographics, publication of a peer-reviewed scientific article by Staff Scientist Maryann Watson and Staff Lawyer Stephanie Hewson in the journal *Marine Policy*, and participation in a coalition of groups working to improve MPAs, we played a significant role in the Panel’s work.



Photo: Staff Lawyer Linda Nowlan speaks at Canada’s Oceans - Towards 2020 event at the Royal Ontario Museum (Heather Grant).



Photo: Staff Scientist Maryann Watson and Staff Lawyer Stephanie Hewson cruise the waters around Hornby Island during the annual herring festival (Georgia Lloyd-Smith).

MILESTONES

December 2017: Staff Lawyer Linda Nowlan spoke about marine protection law at a two-day symposium at the Royal Ontario Museum in Toronto. The overflowing crowd was excited to learn more about the state of the seas at “Canada’s Oceans - Towards 2020,” a public event headlined by ocean explorer Alexandra Cousteau and champion freediver Mandy Rae Krack. The symposium led to an open letter to the federal government with five priorities to be completed by 2020, an action plan and a vision for the future of our oceans.

January 2018: Our marine team spoke at a special Vancouver screening of the documentary film “Blue,” a marine conservation film about the hidden crisis lapping on our shores, with fellow panelists from UBC and CPAWS, the film’s sponsor.

February 2018: Staff Lawyer Linda Nowlan’s op-ed, “An international plastics treaty could avert a ‘Silent Spring’ for our seas,” was published in *The Conversation Canada* with over 50,000 reads. As part of our work to strengthen the legal regime for reducing marine plastic waste, we are analyzing the elements of a treaty, thanks to the amazing work of our visiting legal volunteer, Rachel Godfrey.

March 2018: The Indigenous Circle of Experts (ICE) – a group convened to advise the Minister of Environment on Indigenous Protected and Conserved Areas – released its report, “We Rise Together.” Staff Lawyer Georgia Lloyd-Smith was an informal advisor to this expert body, whose report included suggestions from West Coast. “We Rise Together” highlights the dark history of Canada’s protected areas and charts a pathway forward that meaningfully recognizes the unique and powerful role of Indigenous peoples in conservation initiatives in Canada, both on land and in the ocean.

May 2018: Staff Lawyer Linda Nowlan co-published an article describing gaps in protected area coverage in Canada and how to fill them. The article, “Informing Canada’s commitment to biodiversity conservation: A science-based framework to help guide protected areas designation through Target 1 and beyond,” was published in FACETS, the online journal of the Royal Society of Canada.

June 2018: The draft Gwaii Haanas Gina ‘Waadluxan KilGuhlGa (Talking About Everything) Land-Sea-People Management Plan was released in Haida Gwaii and opened for public consultation. With our ENGO colleagues, West Coast participated in the development of this management plan for one of BC’s biggest MPAs. Gwaii Haanas is also unique as a model of co-governance of marine space in Canada, due to the equal decision-making powers of the Council of the Haida Nation and the federal government in governing this MPA.

Ongoing: We continue to work on implementation of marine spatial plans in the north and central coast area. During 2017-18, we provided expert advice on assessing the effectiveness of protection, considering cumulative effects and making the best use of technical mapping and GIS tools. These tools can help achieve high levels of marine protection where it’s most needed: where species and habitats face the greatest threats, and where biodiversity is more important to conserve. Staff Scientist Maryann Watson works on the Marine Planning Partnership (MaPP) plan implementation with other members of the marine team.

RELAW: REVITALIZING INDIGENOUS LAW FOR LAND, AIR & WATER

For thousands of years, Indigenous peoples have governed their territories according to their own laws – safeguarding land, air and water to sustain their communities, cultures and economies. In 2016, West Coast launched RELAW (Revitalizing Indigenous Law for Land, Air and Water), a unique co-learning and legal support program aimed at articulating and applying these laws to address today’s environmental challenges.

We began the project working with six Indigenous partners – the Secwepemc (Shuswap Nation Tribal Council), St’át’imc, Fort Nelson, Tsilhqot’in, Tsawout and Gitga’at peoples. Some of the work begun in 2016 continues to the present, as we complete documents and take on new aspects of the work.

In 2017 we began concurrent work with five new partners in our second cohort (Ktunaxa, Taku River Tlingit, Heiltsuk, Kitasoo-Xai’xais and Toquaht) bringing us up to a total of 11 First Nations partners around the province.

We continue to use the methodology developed by the Indigenous Law Research Unit at the University of Victoria to research the legal principles of each individual nation. Along with our First Nations partners, we research stories to distill legal principles and facilitate community dialogue about how these principles should be applied to solve environmental challenges and guide decision-making. Together, we draw on these legal principles (responsibilities, rights, standards and relationships) to develop written codes, policies or plans that can be implemented or enforced on the ground.



Photo: RELAW team members gathered at Kvai River Lodge in Heiltsuk Territory (Georgia Lloyd-Smith).



Photo: Jessica Clogg (L) with St’át’imc RELAW team member Helen Copeland (R) and her daughter, celebrating the completion of the St’át’imc RELAW project.



MILESTONES

September 2017: West Coast released a short film, “Living Indigenous Laws,” which introduces the vision behind the RELAW project and shares reflections from participants in our first cohort.

January 2018: We produced short summaries for public distribution, describing the objectives, process and outcomes of our work with two of our initial RELAW partners: *Revitalizing St’át’imc Law for Land, Air and Water: Telling the RELAW Story* and *Shuswap Nation Tribal Council: Telling the RELAW Story*.

June 2018: The St’át’imc RELAW team released three written reports, produced for educational purposes and to deepen understanding of St’át’imc law amongst all peoples. The reports provide insight into the St’át’imc RELAW project, which resulted in a written summary of St’át’imc legal principles related to land and resources, and facilitated dialogue among St’át’imc citizens about applying these legal principles to water stewardship in the territory.

June 2018: We hosted a gathering for RELAW partners in Cohort 2, focusing on implementation and enforcement. The gathering was held at the Kvai River Lodge in the Great Bear Rainforest, deep in the heart of Haítzaqv (Heiltsuk) Territory.

August 2018: We launched a Community Call-out for the next phase of our work with Cohort 3, while finishing up our work with existing RELAW partners.

CLIMATE LAW IN OUR HANDS

Each year the blanket of fossil fuel pollution enveloping our planet grows thicker, and we experience more flooding, extreme weather, and hot, dry summers filled with smoke.

BC communities, like communities around the world, are increasingly suffering the impacts of climate change and paying to prepare for future impacts – and it's going to get increasingly expensive. But the fossil fuel industry is still considered profitable, because it is not expected to pay for the impacts of the pollution that its products cause.

West Coast Environmental Law's Climate Law in our Hands program helps British Columbians connect the impacts and costs of climate change to the fossil fuel economy, challenging Chevron, Exxon and other fossil fuel giants to take cradle-to-grave responsibility for their products.

Since mid-2017, 15 local governments across BC, as well as the Association of Vancouver Island and Coastal Communities which represents 53 local governments, have sent Climate Accountability Letters to 20 of the world's largest fossil fuel companies demanding that they pay for local climate costs. We are grateful to our community partners, who played a lead role in local campaigns using information and resources provided by West Coast. These partners include the West Kootenay EcoSociety, Georgia Strait Alliance, Climate Action Powell River, My Sea to Sky and several local chapters of Dogwood BC.

In addition to our work with local governments, West Coast is proposing provincial laws that could help hold fossil fuel companies accountable.

In April 2018, Ontario MPP Peter Tabuns cited West Coast's work when he introduced a *Liability for Climate-related Harms Act* in the Ontario Parliament, to clarify the liability of oil and gas producers for climate-related harm incurred in the province. And in July, West Coast Environmental Law and over 50 other community groups challenged the BC government to introduce a similar bill in BC, modelled on legislation that defined the liability of the tobacco industry in the 1990s.



Photo: Staff Lawyer Andrew Gage speaks to members of Burnaby City Council about fossil fuel industry accountability.

MILESTONES

July 2017: The District of Highlands on Vancouver Island sent the world's first Climate Accountability Letter to Chevron and 19 other fossil fuel companies.

November 2017: Victoria, Saanich and Colwood all sent Climate Accountability Letters.

April 2018: The Regional District of Powell River became the first Regional District to send a Climate Accountability Letter.

April 2018: The Association of Vancouver Island and Coastal Communities voted to send Climate Accountability Letters on behalf of its 53 members.

April 2018: The Ontario Parliament debated Bill 12, the *Liability for Climate-related Harms Act*, voting to refer it to committee. The Bill subsequently died when Ontario's election was called.

July 2018: More than 50 BC organizations wrote to BC Premier John Horgan asking him to enact a *Liability for Climate-related Harms Act* to clarify the legal basis for climate litigation against fossil fuel companies.

CLIMATE LAW IN OUR HANDS: BY THE NUMBERS

\$9.5 billion Estimated cost between now and 2100 for Metro Vancouver municipalities to prepare for sea level rise from climate change

\$568 million Total cost of fire suppression during BC's record-breaking 2017 wildfire season

29.4% Amount of human-caused greenhouse gases in the global atmosphere caused by just 20 companies (3.24% from Chevron alone)

GREEN COMMUNITIES

At West Coast we work with Canadian laws, but in re-thinking our existing legal framework we also learn from legal examples in other jurisdictions, and increasingly, from Indigenous laws in Canada. We also work with experts in other fields, often scientists. For our Green Communities program, this past year was rich with opportunities to learn and collaborate in the context of making our communities more resilient to the impacts of climate change.

In April, West Coast Lawyer Deborah Carlson was a panelist at the 2018 Salish Sea Conference, a bi-annual gathering of scientists, Indigenous leaders and community members, state, provincial and federal representatives and environmental organizations. Our panel discussed approaches to managing threats to species, like salmon, in the lower Fraser River. Other panelists included Chief Dalton Silver and Janson Wong from the Lower Fraser Fisheries Alliance; Laura Kehoe, a scientist at the Baum Lab at the University of Victoria; Brent Gurd from the Ministry of Forests, Lands, Natural Resource Operations and Rural Development; and Dave Scott from Raincoast Conservation Foundation. In some ways this panel was like a microcosm of our work this year.

Our job on the panel – and our goal in this work – is to find ways to have this collective knowledge and wisdom translated into a legal framework that will protect salmon, communities and respect Indigenous rights and priorities for the long term. A number of Coast Salish leaders at the conference talked about the need to manage the environment and resources for seven generations. What would our laws for land, air and water look like if we applied this thinking? If we used the best available science (including Indigenous science) and local knowledge? At West Coast we're going to keep working collaboratively to find solutions to bring this vision to life.



Photo: Vancouver's seawall (Christopher Porter).



Photo: 2018 Salish Sea Ecosystem Conference (SSEC).

MILESTONES

June 2017: We released a concept brief exploring the implementation of a “Living Dike,” a coastal flood protection system that also protects and enhances coastal and aquatic ecosystems.

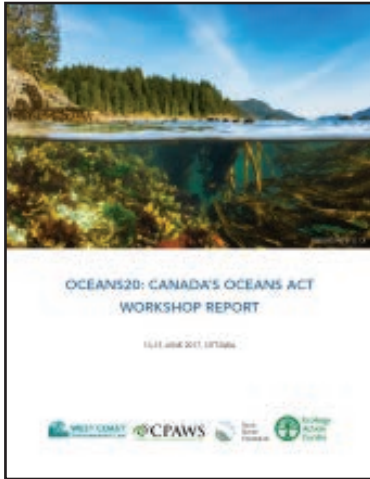
November 2017: We produced an infographic illustrating the complex web of legal jurisdiction over coastal floodplains in BC. The infographic has been a valuable resource for guiding discussion about green infrastructure in these areas, where planning and implementation often requires inter-jurisdictional collaboration.

April 2018: Staff Lawyer Deborah Carlson spoke about Fraser River governance on a panel at the 2018 Salish Sea Conference.



SELECT PUBLICATIONS

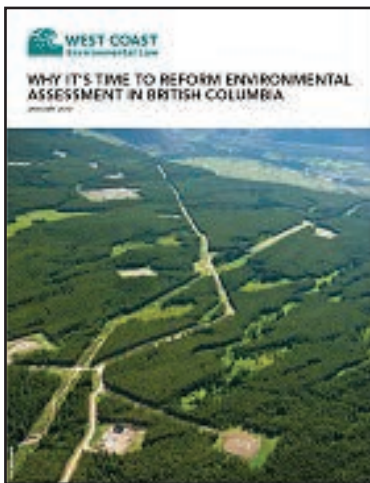
WEST COAST ENVIRONMENTAL LAW ASSOCIATION



Oceans 20: Canada's Oceans Act Workshop Report

October 2017

In June 2017, over 80 thought leaders from across the country working in government, academia, industry, and the non-profit sector came together in Ottawa for the Oceans20: Canada's Oceans Act Workshop. The interdisciplinary workshop allowed participants from multiple sectors to share their knowledge, experience and expertise on Canada's *Oceans Act*, marking the 20th anniversary of this flagship ocean law. This report summarizes key messages that emerged from these discussions. The Oceans20 workshop was hosted in partnership with the Canadian Parks and Wilderness Society, the David Suzuki Foundation and the Ecology Action Centre, with support from Oceans 5 and the Gordon and Betty Moore Foundation.



Why it's time to reform Environmental Assessment in British Columbia

January 2018

In the summer of 2017, BC's new provincial government promised to reform environmental assessment and planning in British Columbia. This commitment gives BC a major opportunity to transform the way we assess and plan for development activities in the province, in order to better align provincial decisions with the needs of ecosystems, the vision of BC communities, and Indigenous jurisdiction and decision-making. This background paper considers some key problems with BC's current environmental assessment and planning regime that must be addressed in the government's revitalization process.



Questions and Answers about Canada's Proposed New Impact Assessment Act

March 2018

On February 8, 2018, the federal government tabled Bill C-69, which included a proposal to replace the *Canadian Environmental Assessment Act, 2012* with the new *Impact Assessment Act* (IAA). The new legislation was introduced following the government's commitment to review Canada's environmental assessment framework and introduce new, fairer processes to regain public trust. Based on a detailed analysis of the bill by West Coast's legal experts, this Q&A provides answers to many common questions that have arisen about the proposed new *Impact Assessment Act*, and how it would change the way federal decisions are made on matters that affect the environment.

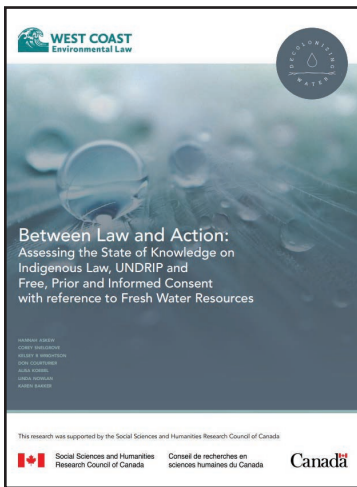
WEST COAST ENVIRONMENTAL LAW RESEARCH FOUNDATION



An Ocean of Opportunity: Co-governance in Marine Protected Areas in Canada

June 2017

Since time immemorial, Indigenous peoples have used their legal traditions to govern marine territories, however their legal orders have typically not been recognized or upheld in the governance of marine protected areas (MPAs) in Canada. With the Government of Canada's renewed commitment to protect at least 10% of Canada's oceans by 2020, there is a unique opportunity to implement co-governance arrangements between nation-to-nation and Inuit-to-Crown in both new and established MPAs. This background report explores opportunities for co-governance of MPAs between Indigenous nations and the Crown in Canada, sharing existing examples of co-governance in marine spaces.



Between Law and Action: Assessing the State of Knowledge on Indigenous Law, UNDRIP and Free, Prior and Informed Consent with Reference to Fresh Water Resources

September 2017

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was endorsed by the Government of Canada in 2016. This report, produced as part of the Decolonizing Water initiative and with funding from the Social Sciences and Humanities Research Council, examines existing research and knowledge from leading Indigenous and non-Indigenous thinkers on the issue, to support dialogue on implementing UNDRIP with respect to fresh water issues in Canada. It found that more collaborative and proactive processes are needed to uphold Indigenous decision-making authority to meet the requirements laid out in UNDRIP. This report was co-authored with the University of British Columbia.



St'at'imc Legal Traditions Summary Report: What We Learned from the Stories and our Elders

June 2018

This report draws on images from St'at'imc territory and quotes from knowledge holders to illustrate a summary of St'at'imc legal principles related to land and resources, with a particular emphasis on water. It was produced through a learning partnership with the St'at'imc Chiefs Council as part of West Coast's Revitalizing Indigenous Law for Land, Air and Water (RELAW) project. Over the course of a year, the St'at'imc RELAW team read approximately a hundred publicly available St'at'imc stories, travelled throughout the territory to learn from the wisdom of Elders about the legal principles embedded in these stories, and met with members of all eleven St'at'imc communities.

PEOPLE OF WEST COAST



WEST COAST STAFF

Back row, left to right:

Eileen Stephens, Omar Abril, Maxine Hayman Matilpi, Lucy Hough, Deborah Carlson, Erica Stahl, Stephanie Hewson, Rayanna Seymour-Hourie, Mindy Cleave, Andrew Gage, Jessica Clogg, Rumnique Nannar.

Front row, left to right:

Anjali Appadurai, Georgia Lloyd-Smith, Ceciline Goh, Alexis Stoymenoff

(Absent: Barbara Everdene, Anna Johnston, Eugene Kung, Linda Nowlan, Gavin Smith, Maryann Watson)

2017-2018 LAW STUDENTS AND LEGAL VOLUNTEERS

Catherine Bellet
Jefferson Boyd
Dan Cheater
Christina Clemente
Rachel Godfrey

Kathleen Gotziaman
Catherine Higham
Claire Macleod
Christie McLeod
Andrew Mendelson

Olayinka Owoeye
Alexander Pedlow
Shannon Peters
Jonathan Salamati
Daniel Sinclair

David Schecter
Amanda Spitzig
Aakash Taneja
Eric Tweel
Jennifer Wong

2017-2018 RESEARCH & COMMUNICATIONS INTERNS

Gabriel Castillo Devoto Courtenay Catlin

2017-2018 EDRF LAWYERS

Each year, West Coast works with a network of talented lawyers who represent clients across BC through the Environmental Dispute Resolution Fund (EDRF), working at partial pro-bono rates. We would like to acknowledge the following lawyers who worked on EDRF cases that were active in 2017-2018, with special thanks to the 'starred' lawyers below for their extensive contributions to the EDRF:

Bill Andrews*
Angela McCue*
Patrick Canning*
Lisa Fong*
Jason Gratl*
Erin Gray*
Lilina Lysenko*
Matthew Nefstead*

Larry Reynolds*
Robert Anderson QC
Arden Beddoes
Morgan Blakley
Matt Boulton
Neil Chantler
Robin Gage
Alan Hanna

Chris Harvey QC
Sean Hern
Emma Hume
Nathan Hume
Bertha Joseph
Ethan Krindle
Robert Lesperance
Greg McDade QC

Bruce Mclvor
Michael Ng
Dominique Nouvet
Daniel Reid
James Tate
Michael Welsh QC

OUR SUPPORTERS

SUSTAINING PARTNER: THE LAW FOUNDATION OF BRITISH COLUMBIA

The Law Foundation of BC has been West Coast Environmental Law Association's Sustaining Partner since 1974. The Law Foundation's funding enables us to work on our priority environmental law objectives, helps us to achieve success in all program areas, and importantly, allows us to leverage additional funds from other granting agencies, organizations and individuals.

FOUNDATIONS

Program support from private, community and family foundations remains a crucial component of our overall funding. West Coast is honoured by the longstanding and diverse partnerships of our foundation funders.

This past year, we were supported by the following foundations from across Canada and beyond:

RESEARCH FOUNDATION:

- 444S Foundation
- Bullitt Foundation
- Gencon Foundation
- glasswaters foundation
- Gordon and Betty Moore Foundation
- North Growth Foundation
- Sitka Foundation
- Global Greengrants Fund (Swift Foundation)
- Tides Canada Foundation
- Tides Foundation
- Vancouver Foundation

ASSOCIATION:

- Oak Foundation
- Real Estate Foundation of BC
- Tides Foundation
- WestWind Foundation

FINANCIAL STATEMENTS

REVENUES

	For year ended April 30, 2018				For year ended
	Association	Foundation	EDRF	Total	April 30, 2017
Law Foundation Grants	425,000	-	-	425,000	425,000
Allocation to EDRF	(100,000)	-	100,000	-	-
Donations	5,603	283,817	-	289,420	333,784
Grants & Contracts Earned	553,679	1,472,648	-	2,026,327	1,749,542
Other Income	226,820	255,010	72	481,902	292,483
Total Revenue	1,111,102	2,011,475	100,072	3,222,649	2,800,809

GRANTS AND EXPENSES

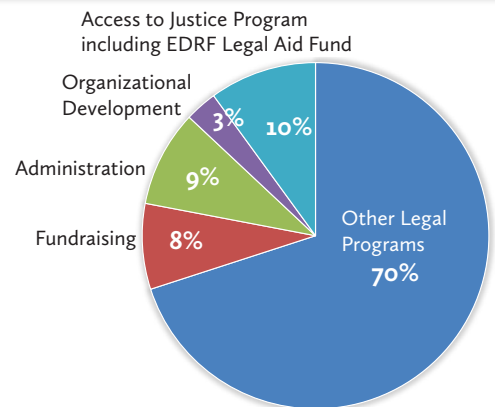
Personnel Related	663,102	989,996	-	1,653,098	1,445,402
Professional Services	10,899	10,370	-	21,269	30,120
Rent & Office Expenses	167,991	103,220	-	271,211	245,946
Amortization	14,808	897	-	15,705	20,389
EDRF Grants	-	-	100,000	100,000	100,000
Program Expenses	202,720	595,425	72	798,217	636,810
Fundraising	-	94,247	-	94,247	23,801
Administration Fee	-	211,632	-	211,632	199,689
Total Grants and Expenses	1,059,520	2,005,787	100,072	3,165,379	2,702,157
Excess of revenue for the year	51,582	5,688	-	57,270	98,652

Excerpt from the audited financial statements of West Coast Environmental Law Association, West Coast Environmental Law Research Foundation, and West Coast Environmental Dispute Resolution Fund Society. Full audited financial statements available upon request.

YOUR SUPPORT MAKES A DIFFERENCE

WHERE YOUR DONATION GOES:

- 83% to programs
- 9% to administration
- 8% to fundraising



SUPPORT NATURE AND DEMOCRACY

Every single individual donation to West Coast Environmental Law makes a world of difference. We achieve victories for British Columbians and Canadians because of our strong community of support – because one donor at a time has made a commitment to be part of the solution.

We are not funded by government, which means your individual donation really does make a fundamental difference in allowing West Coast to provide people with environmental legal aid, environmental law research, representation and education services to promote protection of the environment and public participation in environmental decision-making.

At West Coast Environmental Law, your gift today, or in the future, is a significant source of support for our critical work, and is fundamental to preserving the environment now and in years to come. There are a number of ways you can support West Coast, and in so doing, make a lasting commitment to the environment and your community:

- **Become a West Coast Protector:** Monthly donors are the backbone of our organizations. This way of giving provides consistent, reliable support to West Coast’s programs with minimal effort. Even \$10 a month makes a big impact.
- **An Environmental Legacy – Yours to Give:** Protect the environment through the law ... for generations. By leaving a gift to West Coast Environmental Law Research Foundation in your will, you are making a significant contribution to the future sustainability of an organization working to protect what you value most.

Legal Name: West Coast Environmental Law Research Foundation.
Address: 200 – 2006 West 10th Avenue, Vancouver, BC V6J 2B3.
Registered Charity #11929 2415 RR0001.

- **Tribute or Memorial Gifts:** Make a gift on behalf of someone special, or in celebration of a special occasion, or in memory of a family member, friend or colleague.
- **Gifts of Stocks or Securities:** Gifts of securities (stocks, bonds, mutual funds) enable you to make a big difference to ensuring that environmental protection is enshrined in law; at the same time, you will realize great tax savings.

Donations can be made online at <https://wcel.org/donate>.

Call 604-601-2509 for more information and other giving options.



WEST COAST Environmental Law

West Coast Environmental Law harnesses the power of law to solve complex environmental challenges. We are transforming environmental decision-making and strengthening legal protection for the environment through collaborative legal strategies that bridge Indigenous and Canadian law. By putting the law in the hands of communities and creating legal risk for those who would harm our land, air and water, we are building the collective power to achieve a more just and sustainable future for all.

West Coast Environmental Law
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