

Environmental Law Centre

UNIVERSITY OF VICTORIA



Annual Report 2008



University
of Victoria
Law



Annual Report 2008



ELC Vision Statement

The ELC envisions a British Columbia where local communities, environmental groups, and First Nations have the legal tools and resources to advocate effectively for the restoration, conservation, and protection of this province's unique and diverse environment.

Objectives

The ELC aims to foster the health of British Columbia's environment by working to:

- Inspire and educate students by providing hands-on advocacy experience and direct exposure to the challenges and rewards of public interest environmental law;
- Engage and collaborate with local communities, environmental groups, and First Nations through the provision of timely legal information and effective pro bono legal representation;
- Advocate for reforms to environmental laws through thoughtful, scientifically sound, and pragmatic legislative proposals;
- Strengthen access to justice by producing high-quality legal research, and through participation in administrative and court proceedings.



Contents

Executive Director Report	6
President's Report.....	8
2008 Overview.....	9
Highlights	12
Clinic Cases & Projects.....	18
Green Bylaws for Local Governments: UPDATE	18
Protecting Vancouver Island's South Coast: UPDATE	18
Further Reform of Government Freedom of Information Policies: UPDATE .	20
Highway 37 Project: UPDATE	20
Clean Marine BC.....	20
Car Stops on Pender	21
Enhancing First Nations' Ability to Enforce Environmental Laws.....	21
Testing the Constitutionality of Provincial Fish Farm Laws.....	21
Bill to Ban Cosmetic Use of Pesticides.....	22
New Septic System Regulations—A Clear Need for Reform	22
Liquefied Natural Gas (LNG) Tankers to Texada Island.....	23
Cleaning up a Diesel Spill on the Cowichan River.....	24
Sale of BC Schools	26
Working to Protect Endangered Species.....	27
Protecting Endangered Species on Private Property.....	27
Thank you!.....	28
Financials	29
ELCS Board of Directors 2008-09.....	30
Media & Publications	32

Executive Director Report



Chris Tollefson, Executive Director

Globally, nationally and provincially, the past twelve months have seen extraordinary change and uncertainty. Virtually overnight climate change has become a defining political issue of our time. Meanwhile, reverberations from the global economic recession and volatility in world energy markets are having profound consequences for our political and legal systems. And in British Columbia, pressures to achieve a lasting reconciliation with First Nations have continued to mount, opening the door to previously inconceivable opportunities to rethink and reform provincial land use and resource management practices.

In these challenging yet opportune times, the Environmental Law Centre (the “Centre”) is well poised to play a key role. Thanks to the continuing support of the Tula Foundation, the Centre has and will continue to mount a broad program that builds capacity in the public interest environment law community; offers credible and constructive visions for environmental law and policy reform; and inspires students from across Canada to come to UVic Law—to prepare themselves for careers dedicated to representing worthy public interest clients and finding solutions to the complex, polycentric environmental challenges we collectively face.

Over the past year, in many ways, the Centre has arrived as a public interest environmental law organization. Working closely with the West Coast Environmental Law Association and Ecojustice Canada (formerly Sierra Legal Defence Fund), the Centre has established itself as a key environmental legal service

provider to communities, First Nations and conservation organizations throughout the province. Our innovative Intensive Stream clinical program, launched a year ago, has received glowing reviews including national recognition in the annual Corporate Knights public interest university rankings. The Centre has also been enthusiastically profiled in the *Canadian Lawyer* magazine’s law school rankings. And our new Associates Program, which networks public interest practitioners from around the province together for regular professional development opportunities (including hosting Canada’s first-ever Continuing Legal Education conference devoted to public interest environmental law issues) and provides hands-on mentoring for clinic and articling students, has succeeded beyond our most optimistic expectations.

From the perspective of UVic law students and newly minted law graduates inspired to pursue careers in environmental law, the Centre has also made great strides over the past year. In collaboration with the Faculty of Law, the Centre provides one of the richest clinical experiences in public interest environmental law anywhere in North America. Moreover, thanks to Tula and the Law Foundation of BC, we can now offer law graduates two full-time articling positions in public interest environmental law. These positions, of which there are only a small handful across Canada, are attracting top law grads from across the country.

As our staffing complement has grown (now three full-time lawyers, two articling students, and a Para-legal/Administrator), so too has the need for clinical space. On



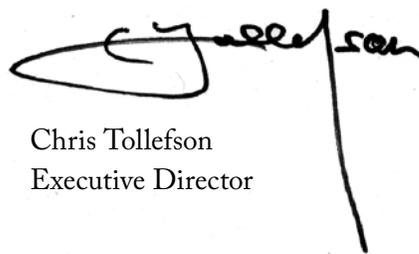
this front, we have also seen a significant breakthrough in recent months. Thanks to the tireless work of the offices of the Dean of Law and the Law Librarian, and a generous financial contribution from the Law Foundation of British Columbia, we will be moving the Centre's operations in late 2009 into a purpose-built suite of offices now under construction in the Law Library.

Moving forward, we anticipate that the year ahead will be one in which we focus, organizationally, on consolidation. We now have in place a program and legal team that is the envy of law schools and public interest environmental law service providers across the country. With this comes a weighty responsibility to reflect on how we can manage and maintain what we have built now and in the future. To this end, over the coming months we look forward to consulting with the Dean of Law, the legal profession, students, clients and funders to develop and implement a governance structure that meets the needs of our organization and the many

interests that it serves. Work on this front is already underway under the auspices of the Centre's Governance Committee chaired by Robert Janes, a partner in the national law firm of Miller Thomson.

We have never been prouder of or more optimistic about the future of the Centre. Without the continuing support of the Tula Foundation and the Law Foundation of British Columbia, none of this would have been possible. We thank them for investing in us and for their advice, trust and personal support.

Yours truly,



Chris Tollefson
Executive Director



President's Report



ELC President Micah Carmody

The year 2008 was a big year for both the Environmental Law Centre and its student-run Environmental Law Club. It makes me proud to be preside over the largest and most active law student club at the University of Victoria. This year nearly one third of all law students were members of the ELC, demonstrating that today's environmental issues resonate strongly with UVic law students.

Outgoing co-presidents Rachel Forbes and Tim Thielmann did an incredible job in the spring, leaving big shoes (but small eco-footprints) to fill. One of the highlights under their reign came in March when they carpooled 12 members of the UVic Law community to the Public Interest Environmental Law Conference in Eugene, Oregon.

When the new club executive coalesced in the summer, it quickly became apparent that with this much talent and enthusiasm, my job would largely be to delegate. The whole executive responded exceedingly well to the increased responsibility. In particular, Elizabeth Farries made my work incredibly easy by handling all club communications.

The club started the fall semester off on the right foot when Eric Regehr led 21 budding naturalists on a hike through East Sooke Park. It was a great introduction for many first year students to the beauty of southern Vancouver Island, and a great reminder for returning students of why they love living here. We invited Donald Lidstone to speak to students about municipal sustainability law. A short time later, Katie Hamilton recruited four top-notch panelists (Lawrence

Alexander, Sean Nixon, Murray Rankin and Peter Trotzky) to discuss "environmental law in practice" in front of a standing room only crowd of eager young students.

Recognizing the importance of work-life balance, we went back outside—this time Lukasz Awlasiewicz teamed us up with CRD Parks to remove scotch broom from Mill Hill Park. And Sarah Sharp once again led the troops to UBC to attend their annual international environmental negotiation competition. For the second year in a row the top negotiating team was from UVic; this time the award went to first year students Tharani Balachandran and Irene Sattarzadeh.

Taking advantage of the mild Victoria autumn, Hart Shouldice used his motivational skills to rally an incredible turnout for our inaugural Bike to School Week, which included morning rides from several Victoria neighbourhoods. Feeding off the energy, Danny Oleksiuk and Brian Eberdt put on bicycle repair and winterizing clinics.

Those are just some of the highlights from 2008, and we are excited for a busy 2009. Our gratitude to the Tula Foundation, the Law Foundation, the UVic Law Students Society, our committed board and our proactive student members

Yours truly,

A handwritten signature in black ink that reads "Micah Carmody". The signature is fluid and cursive.

Micah Carmody

2008 Overview

2008 Overview

Thanks to a third year of core funding from the Tula Foundation and continued project support from the Law Foundation of British Columbia, the ELC experienced another year of growth and opportunity in 2008. From providing educational opportunities to law students; to offering legal tools and advice to clients; and to building capacity in the public interest environmental Bar in BC, the ELC's momentum keeps moving forward.

Both the Regular and Intensive Streams of the ELC Clinic continue to attract top-notch students from UVic Law and across the country. Students consistently remark on the value of working with clients to help communities regarding environmental concerns, and feedback from clients about student work also continues to be positive. Each semester, ELC students produce quality resources and help implement legal tools that benefit clients locally and across the province. This year also provided the opportunity to build on the success of the ELC Associates program, which is helping to grow and link the public interest environmental Bar in BC.

PROGRAM NEWS

Funded by the Law Foundation to deliver client services province-wide, The ELC Clinic's Intensive Stream and ELC Associates Program entered its second year under the direction of Project Director Deborah Curran.

The Intensive Stream builds on the ELC's existing program by allowing students to take the Clinic over two semesters instead of one, which provides both continuity for clients and the opportunity for students to broaden and deepen the clinical experience. Intensive students work with client lawyers and community groups on issues ranging from urban development to supporting environmental monitoring by First Nations.

The ELC Associates Program is increasing the capacity of the public interest environmental Bar in BC by engaging cohorts of lawyers in continuing legal education-type



Summer 2008 Environmental Appeal Board Moot

L-R: ELC Clinic students Jonathan Aiyadurai, Colin Edstrom, Frederic Perron-Welch, Tim Thielmann, Keyvan Monsef and ELC Legal Director Calvin Sandborn.

activities over a two-year period. The first group of ELC Associates is comprised of 11 lawyers who have demonstrated interest and experience in public interest environmental law. Through bi-monthly teleconferences, ELC Associates share knowledge and collaborate on key environmental and resource development issues throughout the province. Teleconference topics to date include the potential for climate change litigation; the *Tsilhqot'in* Nation decision on aboriginal rights and title; run-of-the-river hydro projects and independent power production; and the use of class action litigation for environmental issues. Some Associates also work with ELC Clinic students on cases and have reported that they find it to be a highly rewarding and beneficial collaboration.

The Associates met in person for the first time September 18-19 2008, when the ELC organized and hosted a variety of meetings and events in Vancouver. The first event was a multi-firm meeting to explore the possibility of using class action lawsuits for environmental protection. The second event was a dinner for the ELC Associates, hosted at the law firm of Miller Thomson by ELC board member Robert Janes. The final event was the first ever Continuing Legal Education (CLE) Society full-day course on public interest environmental

law—the first of its kind in BC. The event also marked the launch of the Enviro Law Network listserv, which aims to connect lawyers and those interested in environmental law to share information, ask and receive advice, and keep up-to-date on developments in environmental law. The listserv also supports the development of a network of lawyers engaged in public interest environmental law across the province. (See: <https://lists.uvic.ca/mailman/listinfo/enviro-law-network>)

PEOPLE

The ELC's continued success is due in large part to the direction and dedication of UVic Law Professor and ELC Executive Director Chris Tollefson, who was nominated in early 2008 for a University of Victoria Community Leadership Award. Also, the experience and enthusiasm of the ELC Clinic's Legal Director Calvin Sandborn continues to inspire both staff and students. And congratulations to ELC Intensive Stream and Associate's Program Director Deborah Curran who won a Smarty Award from Smart Growth BC in recognition of her work on land use and sustainability issues (see <http://www.elc.uvic.ca/press/smarty2008.html>). Thanks also to ELC Executive and Club member Michaelin Scott, who served a semester as the ELC's first Co-op Student in 2008, and to Program Administrator Holly Pattison, who continues to keep the ELC organized.

The ELC's articling positions provide an incentive for law students to pursue public interest law and provide a critical "bridge" from law school to public interest legal careers. Drawing on the knowledge and expertise of the ELC's staff and board members, ELC Articled Students mentor ELC Clinic students as they continue their own experiential learning process. Former ELC Intensive student and ELC Society President Rachel Forbes joined the ELC as an Articled Student in May 2008, followed by former ELC Society President Tim Thielmann in September. Rachel and Tim have been an integral part of the ELC's evolution over the past few years and it was rewarding to have them start their post-law careers with the ELC's Shared Articles program, which is growing in its reputation and popularity nationally. Next year's articled students will see two students from outside of the Faculty of Law: Marianne Hopp from University of Ottawa, who will be followed by Scott Bernstein of the University of British Columbia.

In addition to the Shared Articled positions, the ELC secured another articling position in 2008. Funded by the Law

ELC Shared Articles
Information for Law Firms and Organizations

Students traditionally article for nine months with one firm and one principal. Shared Articles offer a non-traditional style of articling, which may take on one of four different forms, as defined by the Law Society of BC (LSBC) (see <http://www.lsb.org/BC/initiatives/articles/faq.aspx>).

The UVic Environmental Law Centre's shared articling program uses assigned articles where the student transfers articles to a new principal roughly half way (21 weeks) through their articling term. This program has been operating successfully since January 2007.

Benefits

FOR THE FIRM OR ORGANIZATION

- Obtain an articled student who has had the unique background experience of articling with the ELC.
- Split salaries, benefits, and Law Society fees.
- Share an articled student when there is insufficient work to employ one for the full nine-month term.
- Ensure articling students are exposed to those areas of practice as required by the Law Society even though your firm is small or specialized.
- Attract more students to firms outside the Lower Mainland and Victoria with the offer of partial articles based in Victoria.
- Fill gaps in the year created by articling students with a shortened term due to clashing.

FOR THE STUDENT

- Obtain the benefits of working with more than one principal.
- Enjoy the unique experience of working in public interest law and with a different firm to round out the articling experience.
- Receive a broad range of training while experiencing firms that are varied in size and practice areas.
- Discover another opportunity by working articles with a firm outside the Lower Mainland or Victoria.
- Choose from more articling opportunities as firms that may not have previously hired an articled student for a full nine-month term are offering partial articles.

Logistics

- To assign articles to a second principal, the student applies to the LSBC (Rule 2.35).
- All other LSBC requirements remain the same, including the Articling Agreement and the Practice Skills Checklist.
- Mid-term and final reports and documentation are generally divided between the two principals.
- The student co-ordinates with their principals about when to take the Professional Legal Training Course (PLTC).
- The parties negotiate start dates that work for each firm.
- Payment of salary and benefits are determined by the parties involved. The ELC pays half of the student's LSAP and PLTC fees and half of the student's regular ELC salary during PLTC.
- The parties involved ensure that potential conflicts of interest and issues of confidentiality are addressed.

Resources

Member Services Department, Law Society of BC
845 Canton St, Vancouver, BC V6B 4Z9, 604-683-0211;
member@lsbc.org

Additional information regarding LSBC requirements:
http://www.lsb.org/BC/initiatives/articles/faq_program.aspx

Canadian Bar Association BC Branch Shared Articles
database:
<http://www.lsb.org/BC/initiatives/articles/default.aspx>

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250.721.8158 elc@uvic.ca www.elc.uvic.ca

Inspire, mentor and train Canada's next generation of lawyers

The ELC Shared Articles flyer provides information to students and law firms interested in the program. It is available online at: <http://www.elc.uvic.ca/media/oct2008/shared-articles-flyer-FINAL.pdf>

Foundation of BC's Public Interest Advocacy Fellowship, the first student in this new articling position is ELC alumnus and Intensive Stream student Jennifer Smith. This two-year fellowship, which commenced in September 2008, is a full articling position that is being used in large part to support the work of lawyers engaged in public interest environmental law who do not have the ability to have their own articling student because they are in small firms or are sole practitioners. Supervised by Deborah Curran, Jennifer will work on Clinic cases that involve a more substantial time commitment than could be accommodated in the four- or eight-month Clinic courses.

With new and existing programs and people in full swing, the ELC looks forward to another year of working on its mission to restore, protect and conserve BC's unique and diverse environment.

The Environmental Law Centre



Current Articled Student Tim Thielmann giving submissions during a practice moot at the Environmental Appeal Board. (July 2008)



ELC Articled Student Rachel Forbes receiving award (June 2008)
(L to R: Lina Rahman, Rachel Forbes, Dean Andrew Petter)

The three years I spent involved with the Environmental Law Centre enriched my academic and social life, and continues to enrich my professional life. The more I learn about the public interest law community in BC, the more I realize how instrumental the ELC's role is as a catalyst and capacity-builder. As a student, it has been nothing short of a privilege to work with the staff, Board and Associates of the ELC, all of whom bring passion, creativity and amazing skill to their jobs. What could be more inspiring for someone like me who is just beginning to chart my own professional course!

My experience in the ELC Intensive Stream clinical program and as an articling student constituted the best training I had at UVic in fundamental legal skills—oral advocacy, legal research and technical writing, plain language communication, client interviewing, case development, file management. The list could go on.

The ELC helped to expose me to real ways that I can leverage my knowledge in order to help worthy causes, organizations, communities and First Nations. The victories—big and small—that I witnessed and was involved in during my time at the ELC remain the brightest beacons of hope in my legal training and career.

Articling Student Rachel Forbes on her ELC experience.



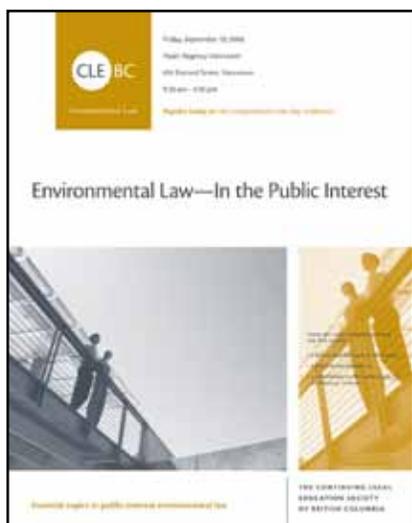
Articled Student Jennifer Smith on the porch of a yurt during her time as an ELC Intensive student on a field trip. (September 2007)



Highlights

CONTINUING LEGAL EDUCATION: ENVIRONMENTAL LAW—IN THE PUBLIC INTEREST

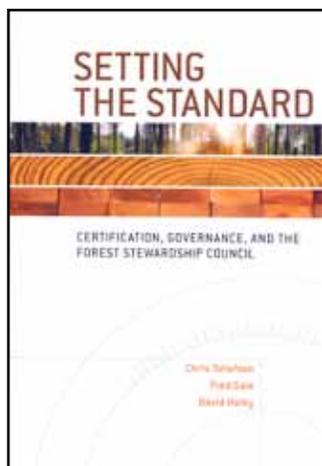
The ELC initiated and played a key role in organizing the first-ever Continuing Legal Education seminar for the BC legal profession on the topic of Public Interest Environmental Law in September 2008 in Vancouver. Both Chris Tollefson and Deborah Curran sat on the planning committee and were presenters for the one-day conference. Chris spoke about access to justice and Deborah, who was also conference chair, focussed on urban sustainability and Smart Growth. Remarkably, seven out of 14 presenting lawyers were either ELC staff or ELC Associates.



CLE Brochure
(<http://www.elc.uvic.ca/media/oct2008/CLE-brochure.pdf>)



ELC Associates at the Vancouver CLE (September 19, 2008)
L-R: Chris Tollefson, Jennifer Millbank, John Rich, Krista Robertson, Stacey Edzerza Fox, Jo-anna Cowen, Stuart Rush QC, Deborah Curran, Mark Haddock and Calvin Sandborn.



SETTING THE STANDARD: CERTIFICATION, GOVERNANCE AND THE FOREST STEWARDSHIP COUNCIL

In the fall of 2008, Executive Director, Professor Chris Tollefson attended the Forest Stewardship Council General Assembly in Cape Town, where he was invited to give a lecture to coincide with the publication of his new book *Setting the Standard: Certification, Governance and the Forest Stewardship Council*. He also visited several law schools in the Western Cape area, meeting with faculty and students interested in learning more about establishing public interest environmental law clinics. The fall also saw publication of an article Chris co-authored with Jamie Thornback (ELC's first articling student) entitled "Litigating the Precautionary Principle" in (2008) 19 *Journal of Environmental Law and Practice*.



CONTINUING LEGAL EDUCATION – GREEN REAL ESTATE

The ELC’s Smarty Award 2008 winner Deborah Curran helped organize and chaired the first Continuing Legal Education Society workshop on green real estate. The multi-sectoral event showcased examples of green development and the legal issues that arise when environmental sustainability is at the forefront of construction.

WORKSHOP ON ENVIRONMENTAL LAW EDUCATION: A CLINICAL APPROACH

In November 2008, ELC Legal Director Calvin Sandborn was a speaker at an event designed to promote the establishment of the first Environmental Law Clinic in Mexico. The NAFTA-related Commission on Environmental Cooperation event was held at a university in Mexico City. Calvin was one of four main speakers discussing the experience of North American clinics.

CLIMATE CHANGE CONFERENCE: SOLUTIONS FOR THE PACIFIC NORTHWEST WASHINGTON - UNIVERSITY OF WASHINGTON SCHOOL OF LAW

Also in the fall, Calvin travelled to the University of Washington for a climate change conference at ELC’s sister clinic the Berman Environmental Law Clinic. The second annual conference focused on legislative issues at state and federal levels, climate change litigation, designing a cap and trade program for the Pacific Northwest as well as ways communities can address climate change.

COMMUNITY-BASED RESEARCH WITH ABORIGINAL COMMUNITIES LUNCHEON SERIES

In March 2008, Calvin Sandborn, along with ELC Intensive Stream student Earl Stevenson and ELC alumna Karla Point, spoke at the lunchtime session *Hii shuck iis tsa walk (Everything is One) Indigenous Rights and Environmental Law: Struggles and Successes from British Columbia.*



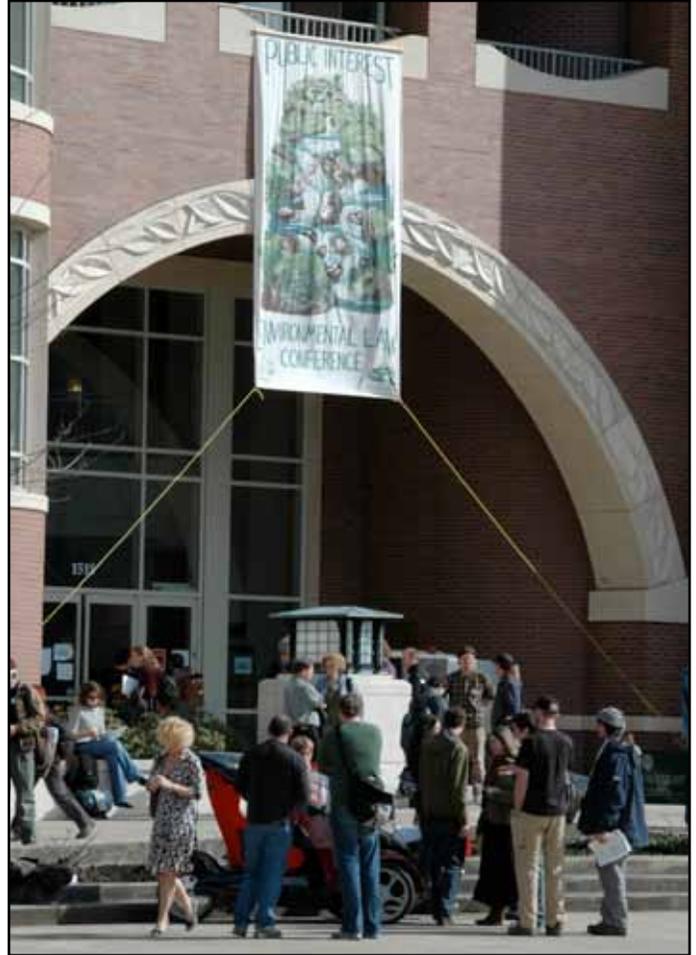
Deborah Curran receiving 2008 Smarty Award
(L to R): Deborah Curran, fellow award-winner Tim Wake and Charlotte Ciok, President of Smart Growth BC
See ELC article at: <http://www.elc.uvic.ca/press/smarty2008.html> (photo provided)



Calvin Sandborn in Mexico City.
Top to bottom: Calvin Sandborn, Linda Nowlan, Juan Herrera, Rock Pring, Hugh Benevides, Paolo Solano, Gu Dejin, Luis Rodolfo Rodríguez, Lee Paddock, Michael Harris, Erick Dannenmier, Deborah Sivas, Ana Cristina Meza, Elmer Silva, Carla Aceves, John Bonine, Evan Lloyd, William Amos, Svitlana Kravchenko (photo provided)



Above (L to R): Michaelin Scott, Simon Cott and Marisa Cruickshank. Below (L to R): Michaelin Scott, Simon Cott, Marisa Cruickshank, and Eric Regehr.



2008 PUBLIC INTEREST ENVIRONMENTAL LAW CONFERENCE IN EUGENE, OREGON, USA

A group of ELC staff and students travelled once again to the Public Interest Environmental Law Centre in Eugene, Oregon. ELC Legal Director Calvin Sandborn (below, far left) was on one of the over 100 panels. The trip provided the opportunity for networking with other legal clinic staff and students from Washington (University of Washington's Clinic Director Micahel Robinson-Dorn is seated in photo below next to Calvin Sandborn) and from around the world.



CLIMATE ACTION TOOLKIT

The ELC is credited with providing assistance and direction in the development of the Climate Action Toolkit (www.toolkit.bc.ca) as part of the provincial government/Union of BC Municipalities Green Communities Committee Working Group on Urban Strategies and Actions. The Toolkit is designed to be the comprehensive tool local governments in BC need to develop targets and actions in their Official Community Plans as required by legislative amendments in 2008.

CUExPO 2008: COMMUNITY-UNIVERSITY PARTNERSHIPS: CONNECTING FOR CHANGE

In May, several ELC staff members participated in an international conference held at UVic on the topic of University-Community engagement. Program Administrator Holly Pattison volunteered and Deborah Curran and Calvin Sandborn presented. The three-day exposition was the largest gathering in Canadian history of community and university groups working together for community well-being, locally and globally.

In the session, “University-First Nations Partnerships: Stewarding Our Common Environment,” Deborah provided an overview of the ELC's approach to student education and partnering with First Nations. Joined in discussion by First Nation partners and students, she examined how the partnerships foster community-university collaboration and improved environmental quality.

Calvin Sandborn spoke about the “New Era of Clinical Education: Student-Community Engagement for Change.” He gave an overview of the Clinic's approach to student education, work with community organizations, and the impact that it makes. Calvin was joined by community clients and students who discussed how the clinic fosters legal education, community-university partnerships, and environmental protection.

(For more information about the CUExpo 2008 conference, see: <http://www.cuexpo08.ca/index.php>.)

ENVIRONMENTAL TRIBUNALS AND ENVIRONMENTAL ASSESSMENTS

Senior environmental lawyer Mark Haddock has been hired with Law Foundation funds to work with ELC students to develop comprehensive law reform proposals for BC environmental tribunals and environmental assessment processes. The goals are to provide a comprehensive set of informed recommendations for restructuring BC environmental tribunals to better protect the environment; and to improve environmental assessment legislation and processes by identifying options for law and policy reform. The projects expect to draw on best practices in other Canadian jurisdictions and internationally as well as call on input from the public and all affected stakeholders.



To learn more or participate in the ELC's Environmental Assessment and Tribunals Projects, see the weblog at <http://elcproject.wordpress.com/>



Mark Haddock, ELC Project Director (photo provided)

CORPORATE KNIGHTS RECOGNIZE ELC'S INTENSIVE PROGRAM

We were pleased with the Clinic's mention at the top of the *Corporate Knights Best 50 Issue 2008* list of "Best Practices." In its "fifth annual guide to schools for students who want to change the world," the magazine noted, "The University of Victoria's ranking has jumped significantly higher in the last year (from sixth to second in Canada). One of the reasons for their improved score is the introduction of a new intensive stream in Environmental Law, newly minted in the 2007-2008 school year." The entire report can be found at: <http://www.corporateknights.ca/magazine-issues/74-2008-best-50education-issue.html>.



LAW 2008 HIGHLIGHTS

A similar sentiment was shared by the law students. From Refugee Law to Civil Liberties, to Green Legal Theory and Sexual Health Law, law schools offered a wide variety of possible electives. But is sustainability just a niche interest when it comes to studying law?

At the University of Ottawa, one of the Environmental Law Students Association's incoming presidents, Ali Clarkson, believes sustainability pervades the law program in less discernable ways.

"At Ottawa, we have professors who teach Tort Law, Property Law, and Public Law whose backgrounds are Environmental Law. This infuses sustainability perspectives into all aspects of study," he says.

Tim Theilmann, co-chair of the Environmental Law Club at the University of Victoria, explains why dubbing sustainability a separate interest is short-sighted.

"It'd be difficult to deny there's still a distinction between things like black letter law classes and sustainability classes that are more special interest," he says.

"But I really don't think that tells the whole story. Victoria really does quite a good job in integrating issues of social justice, environmental protection, conservation, First Nations issues, and a gamut of broadly sustainable issues into the curriculum at all the levels."

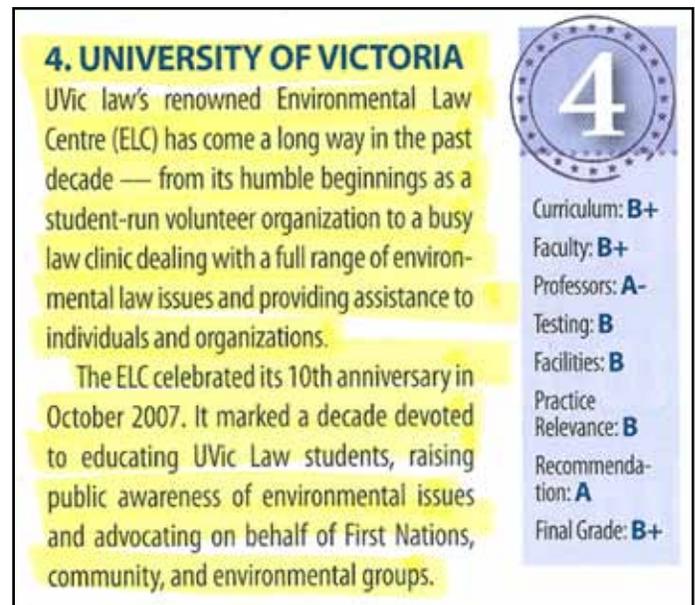
The University of Victoria's ranking has jumped significantly higher in the last year. One of the reasons for their improved score is the introduction of a new intensive stream in Environmental Law, newly minted in the 2007-2008 school year.

The creation of such programs suggests that there is increasing interest in the sustainable side of law.

Corporate Knight's Magazine Best 50 Issue 2008 excerpt

CANADIAN LAWYER MAGAZINE GIVES THE ELC THUMBS UP

In January 2008, the ELC received thumbs-up from *Canadian Lawyer* magazine, which ranked UVic Law fourth in the magazine's annual ranking of Canadian law schools. We were pleasantly surprised to see that the short write-up on UVic focused entirely on what the publication described as the "renowned" Environmental Law Centre.



4. UNIVERSITY OF VICTORIA

UVic law's renowned Environmental Law Centre (ELC) has come a long way in the past decade — from its humble beginnings as a student-run volunteer organization to a busy law clinic dealing with a full range of environmental law issues and providing assistance to individuals and organizations.

The ELC celebrated its 10th anniversary in October 2007. It marked a decade devoted to educating UVic Law students, raising public awareness of environmental issues and advocating on behalf of First Nations, community, and environmental groups.

Curriculum: **B+**
 Faculty: **B+**
 Professors: **A-**
 Testing: **B**
 Facilities: **B**
 Practice Relevance: **B**
 Recommendation: **A**
 Final Grade: **B+**

Canadian Lawyer Magazine excerpt (Jan 2008)

FORUM - FOCUS ON FARMLANDS: OUR FOODLANDS, OUR FUTURE

ELC student Derek Noyes made a presentation at "Food Forum - Focus on Farmlands: Our Foodlands, Our Future" in November at the Mary Winspear Centre in Sidney, BC.



ELC Student Derek Noyes

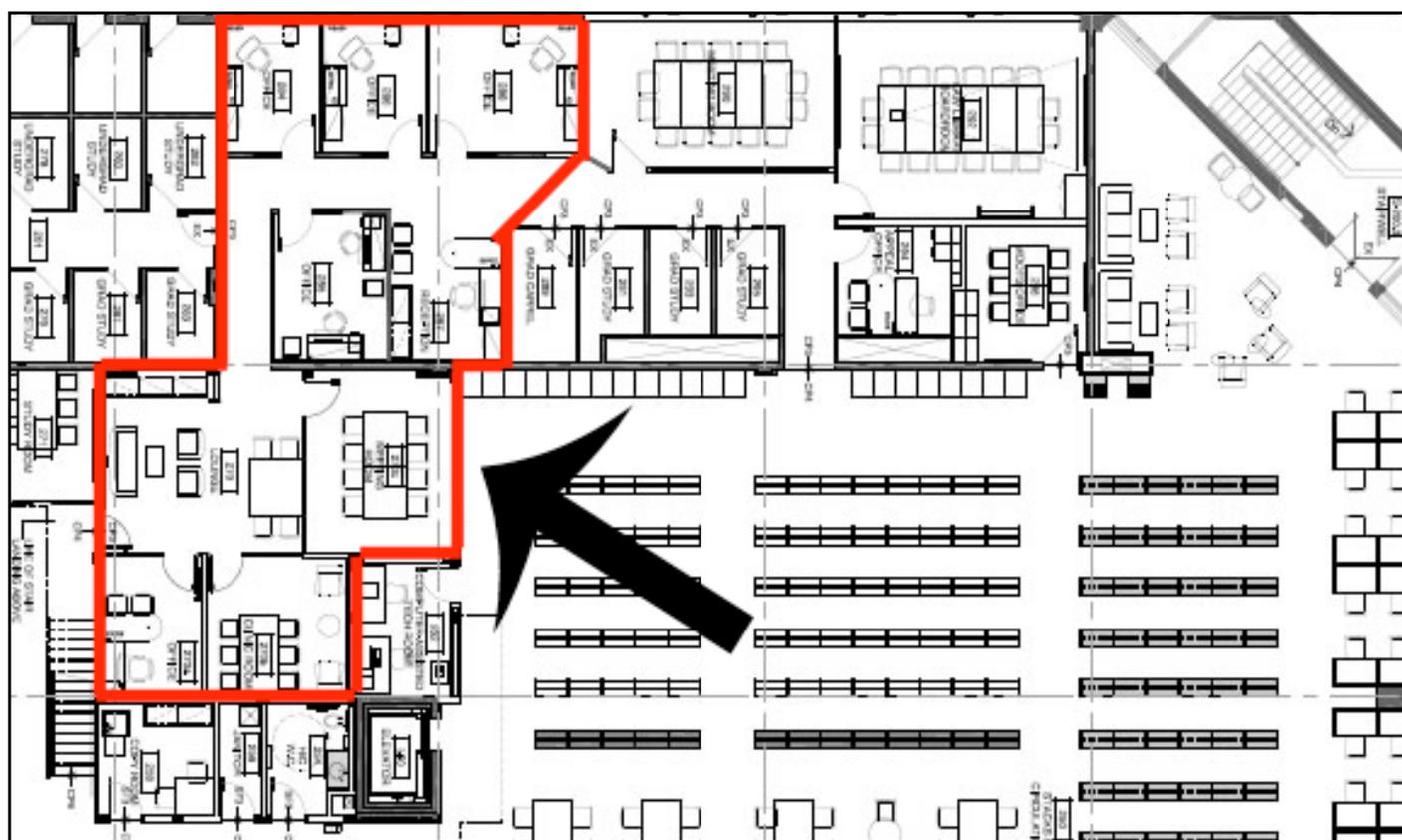
NEW SPACE IN THE LIBRARY FOR THE ELC!

The ELC is pleased to be part of the Diana Priestly Law Library's Renovation Project. Thanks to the Law Foundation of BC and to the UVic Faculty of Law, the ELC will have offices in one location (see draft floor plan). While we will miss the bustle of Rooms 158 and 159, especially around lunchtime, we're excited to work in a space designed to facilitate the group learning atmosphere of the Clinic.

Construction on the renovation started in September 2008. We hope to be in our new offices by the end of 2009. Once we get settled, we look forward to having an office-warming event!



Law Library (west)



Clinic Cases & Projects

Law Reform

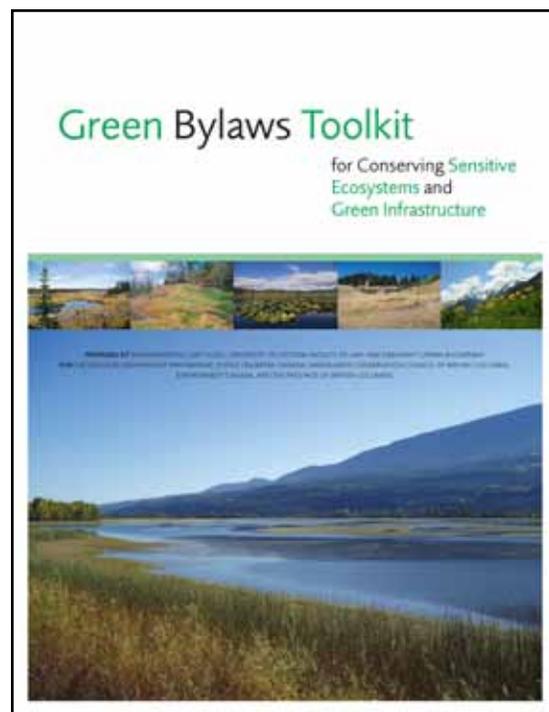
New Developments on Former Cases and Projects

Green Bylaws for Local Governments: UPDATE

In November 2007, Deborah Curran and the ELC worked with the multi-agency Wetland Stewardship Partnership to release the *Green Bylaws Toolkit*, a comprehensive guide to local government protection of the natural environment. The *Toolkit* includes sample bylaws, a comprehensive definition of jurisdiction, and a discussion of the issues relating to Regional Growth Strategies, Official Community Plans, zoning, development permit areas, tax exemptions, environmental assessment, storm water management, sensitive ecosystems and regulatory bylaws.

Over the past year, Ducks Unlimited has hired four planning contractors to work directly with local governments to implement the *Toolkit*. Presentations have been made to staff and council members of over 50 local governments, and bylaw review or input has been provided to eight local governments.

As local governments around the Province are keenly interested in the *Green Bylaws Toolkit*, Ducks Unlimited asked the ELC to continue advancing this important initiative. ELC Intensive Clinic stream student Anna Johnston worked with ELC Program Director Deborah Curran in September 2008 to provide bylaw reform advice to community organizations and local governments around the province through Ducks Unlimited. This was an excellent opportunity for an environmental law student to work on local issues across the province and to better understand the complex local government jurisdiction for environmental protection. This project is also a remarkable opportunity for the ELC to get its model green bylaws implemented by local governments.



WWW.GREENBYLAWS.CA

Protecting Vancouver Island's South Coast: UPDATE

Since our 2007 Annual Report, the ELC has continued to work for the Sea-to-Sea Greenbelt Society in its efforts to protect lands deleted from the Tree Farm Licence (TFL) west of Victoria. The affected areas include some of the most beautiful coastal lands between Sooke and Jordan River and beyond.

In response to the ELC's request for an audit (<http://www.elc>).



uvic.ca/press/auditor_general_request.html), BC's Auditor General John Doyle released a report in July 2008 criticizing the provincial government. The 73-page report assessed whether the government's January 2007 decision to remove over 28,000 hectares of private lands from three Vancouver Island TFLs held by Western Forest Products (WFP) adequately considered the public interest. The conclusion was a resounding no. According to the report, the government's decision was made without proper analysis. Not only was there not enough consultation, the Ministry of Forest and Range didn't identify and communicate with all the appropriate stakeholders, including those within government. They neglected to take into account the negative impacts of this decision, or of past land deletion decisions, and ultimately put corporate interests before public interests.

Following the report, the ELC assisted citizens in making submissions to the Approving Officer against a subdivision application that WFP filed. The ELC developed legal arguments that the subdivision would contravene the public interest. (See http://www.elc.uvic.ca/press/auditor_general_report.html)

In another development, the developer won a court decision in December 2008 that struck down the CRD downzoning of the lands that the ELC had advocated. That court decision was based on procedural grounds and is now under appeal. The court decision makes it more important than ever that the province protect the land from sprawling suburban development.

In the fall of 2008, ELC student Elizabeth Anderson reviewed a number of Canadian and US regulatory regimes for regional conservation-oriented land-use planning. Looking at such regimes as the California Coastal Commission and the Niagara Escarpment regime, she sought to identify and evaluate legislative provisions which could be incorporated into a *Wild Coast Protection Act*—a comprehensive regime to prevent urban sprawl and protect important ecosystems.



Example of newspaper headlines upon release of the Auditor General's report regarding TFL deletions.

“Thank you to all the wonderful people at the Environmental Law Clinic who in the last 14 months created the legal magic that today caused the very fine Auditor General to state “the removal of private land from TFL 6 19 & 25 was approved without sufficient regard for the public interest.””

-ELC client Sea-to-Sea Greenbelt Society

This research became essential background information for the residents in developing their proposals for the land. Our clients have since met with the Minister of Lands and Agriculture and key provincial officials, putting forward a proposal for land use in the area, and proposing the *Wild Coast Protection Act*.

Further Reform of Government Freedom of Information Policies: UPDATE

The ELC case that reformed the way that the Ministry of Environment deals with Freedom of Information requests continues to be felt across government. As previously noted in our 2007 Annual Report, the Environment Ministry settled an appeal launched by eight environmental groups by agreeing to make wide-ranging changes to the way that the Ministry deals with information requests. Included in the settlement agreement was the Ministry's commitment to issue a regular report card on the Ministry's record of meeting statutory time deadlines; fees charged to groups; and appeals/complaints.

In July 2008, the Commissioner of Information and Privacy announced that the report card approach pioneered in the Ministry of Environment will now be applied across government. The Commissioner's office will regularly issue a performance and compliance report card on all ministries—quantifying and grading their performance in responding to citizen requests for records. We are gratified to see this provision that the ELC negotiated with the Ministry of Environment extended across all ministries. (See: <http://www.elc.uvic.ca/press/foi-reform.html>)

Highway 37 Project: UPDATE

The Dogwood Initiative, which is concerned about the proposed Highway 37 transmission line in north-western BC, recently used the legal information that the ELC provided to produce *A Citizen's Guide to Effective Engagement on the Proposed Northwest Transmission Line*. In September 2008, Dogwood began distributing the *Guide* to First Nations, communities, and community groups to educate them on possible legal processes that they could engage in order to bring their concerns forward. The *Guide* identifies a number of processes where citizens can intervene to ensure their interests are considered. (See: <http://www.dogwoodinitiative.org/publications/reports/>)



French Beach

2008 Select Cases & Projects

Clean Marine BC

BC has hundreds of marinas, yacht clubs, small craft harbours and boat yards servicing almost 500,000 boats. Boating-related pollutants include lead, copper, zinc, sewage and various hydrocarbons.

The Georgia Strait Alliance and the Seachange Society are implementing a Clean Marine Program to deal with such pollution problems. The proposed Clean Marine Program would be based on a successful program in Ontario that created an Ontario Clean Marine Practices Handbook and an associated environmental audit and recognition system for marinas.

Ontario's program has raised awareness of legal requirements, created an economic incentive for marinas to "go green," and changed management practices at marinas. ELC student Jill Vivian worked on developing a *BC Clean Marine Practices Handbook*. Jill first identified the multiplicity of federal, provincial and local laws that apply to each area of concern. She went on to summarize the relevant legal issues/laws for each area of concern.

In July 2008, the Clean Marine Program formally made Eco-rating certification available to all British Columbia marinas, yacht clubs, boatyards and harbour authorities. Westport Marina in Sidney, BC became the first marina to actually become certified. It is expected that many other marinas will likely follow suit, as occurred with the Ontario program.

Certification provides a powerful incentive for marinas to clean up—86 per cent of boaters surveyed say they prefer to do business with marinas that use optimum environmental practices. In addition, a major marine insurance company is now offering a 10 per cent discount to any BC marina that meets the audit and certification standards.

The ELC is pleased to see that the *Clean Marine Handbook* is beginning to have a tangible impact on the operations of BC boating facilities. And we are equally pleased that ELC student Jill Vivian, who worked on the *Handbook* (available at http://www.elc.uvic.ca/media/clean-marine_brochure.pdf), is pursuing a career in environmental law. The ELC has hired Jill to work as an articling student after she graduates from law school.

Car Stops on Pender

In the spring of 2008, the ELC worked on legal issues faced by a green alternative transportation system on Pender Island. Working for Paths on Pender, the student researched legal issues faced by the group's proposed Car Stop program. In August 2008, the Pender Island Car Stop program successfully began operations, establishing 16 marked "car stops" where people seeking a ride can wait for a lift. The program has been widely hailed as a success, and is seen as an innovative way to reduce auto traffic on an island that is not large enough to support buses. (See <http://www.elc.uvic.ca/press/car-stops.html>)

Enhancing First Nations' Ability to Enforce Environmental Laws

The Coastal Guardian Watchmen Network is a network of First Nations Guardian and Watchmen programs from the Central and North Coast of BC working together to protect and restore natural and cultural resources.

The Watchmen asked ELC Intensive student Tim Watson to research potential strategies to enhance First Nations' ability to enforce environmental laws and to better engage in resource management and land use planning. The hope is to establish community-led monitoring and enforcement of provincial and federal laws as well as community regulations.

Tim discovered a number of examples of indigenous people enforcing environmental laws—including both state and traditional laws—in North America and around the world. He will be reporting his findings to the Network.

Testing the Constitutionality of Provincial Fish Farm Laws

ELC student Sharon Fox assisted senior counsel in bringing a court case to challenge the constitutionality of provincial fish farm legislation. The conservation group client is concerned about the current dysfunctional regulatory split between federal and provincial governments—where the province regulates inside the fish farm net cages and Fisheries and Oceans Canada regulates outside the cages.

This makes it difficult to regulate things like sea lice. Lice incubate in provincially regulated fish farms and then cross jurisdictional boundaries to migrate outside the cages to kill wild "federal" fish. Currently, the province claims jurisdiction over the fish farms, yet doesn't have much incentive to protect the wild salmon outside the nets. Conversely, the federal authorities regulate the wild salmon outside the nets, but don't regulate inside the farms, where the threat to wild stocks originates.

The conservation group feels that an integrated regulatory system would be more effective in dealing with fish farm problems. The legal challenge is based on an argument that the provincial laws are *ultra vires*, and involves constitutional law on regulation of fish, sub-delegation issues, and public right to ocean spaces and fishing. Watch future reports and the ELC website for updates on this case which was heard in fall by the BC Supreme Court.



(L-R) ELC Students Hart Shouldice, Sharon Fox, Jonathan Aiyadurai

Bill to Ban Cosmetic Use of Pesticides

The Canadian Cancer Society and Toxic Free Canada asked ELC student Jonathan Aiyadurai to draft a model statute that would ban the cosmetic use of pesticides. Over 130 municipalities across Canada have bylaws restricting the use of cosmetic pesticides. Quebec has a provincial *Pesticide Code* that bans the use and sale of certain pesticides. A Legislative Standing Committee in Prince Edward Island has recommended that the PEI government also ban the cosmetic use of pesticides. Ontario recently enacted a provincial *Cosmetic Pesticides Ban Act*. Many BC environmental groups believe it is time that British Columbia take similar action.

The Canadian Cancer Society and Toxic Free Canada have worked with local groups throughout BC for the last two years to win municipal bans on the cosmetic use of pesticides. In the spring, Burnaby Council called upon the provincial government to enact a province-wide law to ban the cosmetic use of pesticides. Jonathan worked with the client to compile both scientific and legal/jurisdictional research to support provincial legislation. Jonathan then proceeded with the painstaking work of preparing draft legislation; consulting extensively with numerous stakeholders; and integrating their comments into a final model law, the draft *Cosmetic Pesticides Act*.

The provincial government has indicated it is willing to consider the *Cosmetic Pesticides Act*. The clients and Jonathan will now present the draft *Act* to government and elsewhere.

“My ELC term attracted me to environmental law and public interest advocacy. Thanks to the ELC, I became so engaged with my file that I continue to volunteer for my clients one year later.

-ELC student Jonathan Aiyadurai

New Septic System Regulations—A Clear Need for Reform

A case in the Cowichan Valley is a good example of what has gone wrong with the privatization of government oversight of septic systems under new regulations (*Sewerage System Regulation* under the *Health Act*.) This case involves government approving a septic installation in a clearly inappropriate location—based solely on inaccurate certification by the property owner’s consultant that the lot met the requirements of a septic installation.

Although the consultant’s certified statement was demonstrably inaccurate and the land was clearly inappropriate for a septic field, government claims that they cannot remedy the matter because the new regulation requires them to accept certificates at face value. The septic system is proceeding.

The problem is that the new *Sewerage System Regulation* replaced government inspections with a system where statements certified by authorized private consultants (called “Registered Onsite Wastewater Practitioners”) are accepted as fact by government. Government does not look behind the certified statements to see if the statements are actually accurate in the real world.

In this case, the first filing for a sewerage system approval (Sewerage Filing) was filed by a Registered Onsite Wastewater Practitioner (ROWP) who claimed that the soil was a “sandy loam” soil to a depth of 48cm. Sandy loam is good soil for a septic field. Subsequently, a neighbour complained to the Vancouver Island Health Authority (VIHA), which tested the soil and concluded that the site was clay—not sandy loam—and was not appropriate. A Health Authority document states “VIHA’s concern is that these conditions may result in sewage effluent breaking out of the disposal area and present... a potential health hazard.”

However, under current law, neighbours can no longer appeal approvals. In addition, the Health Authority cannot revoke the sewerage approval until sewage actually begins to flow—until there is an actual health hazard caused by a system breakout or contamination of the aquifer. In other words, they cannot prevent the installation of an inappropriately sited system before a problem is created. The Health Authority is deeply concerned, but says its hands are tied. Experts in the field now recognize the problems with the regulations. The

Access to Justice

Sewerage System Regulation Improvement Coalition, which includes the BC Public Health Association, the Canadian Institute of Public Health Inspectors, and the BC Shellfish Growers Association, has asked the ELC to research the problems with this legislation, and develop law reform proposals. The Environmental Health Committee of the BC Medical Association has also expressed concerns about this issue. The student will work with former health inspector and current senior lawyer, George Bryce.

ELC Student Lia Preyde



Liquified Natural Gas (LNG) Tankers to Texada Island

In 2008, the ELC worked on issues surrounding the proposed LNG terminal, plant and power generating facility on Texada Island. ELC student Lia Preyde wrote a legal memo regarding the potential for enacting provincial legislation to bar or regulate LNG facilities. She also completed a draft of a *Citizen's Guide to LNG* – a publication designed to inform affected residents about the WestPac LNG proposal, and the various ways citizens could get involved in the decision-making process about the LNG proposal. The Dogwood Initiative relied on Lia's research to publish the final product, which is available at <http://www.dogwoodinitiative.org/publications/reports/>.

“*Thanks again for your support of the LNG research project. The work done by Lia Preyde really set a solid foundation for the finished product.*

We're really happy with the end product and with our collaboration with the ELC on these research/publication projects.

-Matt Takach, Dogwood Initiative.

Cleaning up a Diesel Spill on the Cowichan River

A recent diesel spill near the Cowichan River highlights what is wrong with current regulation of pollution spills. In February 2008, diesel began to leak out of a service station's underground diesel tank. Government discovered the source of the leak in a few days, but left it up to the service station owner to fix the problem. Cleanup was delayed for six months, resulting in catastrophic pollution damage to the neighbour's home property—and ongoing pollution of Oliver Creek and the Cowichan River, which is one of BC's two designated Heritage Rivers and is Vancouver Island's most important fishing river.

Even after more than five months, the leaking tank had not been removed, and the source of the leak had not been stopped. Although the neighbour's yard had been massively excavated to dig up contaminated soil, the contaminated soil remained on-site. Worried federal Fisheries officials noted that the cleanup work was inadequate and shoddy. Diesel continued to leach into the water, even though salmon runs were expected shortly in the river and creek.

In early August 2008, the ELC wrote a letter to the Minister of Environment on behalf of the Haig-Brown Fly Fishing Association and Watershed Watch Salmon Society. This letter urged the Minister to declare an environmental emergency under the *Environmental Management Act*, and to order an immediate cleanup. The letter also asked for a public inquiry to investigate:

- why the pollution had not been cleaned up more than five months following the spill; and
- how the law could be changed to better deal promptly with such pollution spills.

On September 5, 2008, the Minister issued an order for government to remove all the service station tanks, remove the large mound of contaminated soil, clean up the site, and remediate the neighbours' properties. He also authorized up to \$1 million to pay for the cleanup.

Since this success, the ELC has continued to represent the Haig Brown Fly Fishing Association and the Watershed Watch Salmon Society on this matter. In December 2008, we filed further submissions with government, again requesting that a public inquiry be established to investigate how deregulation initiatives contributed to the delay in cleanup.



Top: ELC students Fred Perron-Welsh, Legal Director Calvin Sandborn, Articled Students Rachel Forbes and Tim Thielmann meet with neighbours (far left) of the affected property. Middle: Paper in the stream leading to the Cowichan River is intended to absorb some of the spilled diesel. Bottom: View of the excavation of the landowner's property.

Globe British Columbia

LAKE COWICHAN

Gas station cleanup may top \$1 million

Contamination threatens nearby creek; Province will complete remediation

SANDRA McCULLOCH
Times Colonist

The province is stepping in to clean up leaking diesel fuel at a closed Lake Cowichan gas station and is expecting the bill to be \$1 million.

Cleanup efforts so far have been inadequate, and the fuel is threatening fish in Oliver Creek and the Cowichan River, the B.C. Environment Ministry says.

The ministry has issued a cleanup order for the fenced-off station, has hired a contractor to do the work, and will go after the station owner to pay the costs.

In March, a ruptured diesel tank saturated a large expanse of soil around Oliver Creek, which drains into the Cowichan River. Both the Department of Fisheries and Oceans and the town of Lake Cowichan ordered the station owner to carry out a cleanup but whatever work was done has been deemed insufficient to stop the



ADRIAN LAM, TIMES COLONIST

The province is taking over remediation work at a Lake Cowichan gas station where a fuel storage tank ruptured.

Major fuel companies have remediation programs to upgrade aging facilities but with many independent gas stations, the conditions of underground tanks are not known.

Newer underground gas tanks have leak-detection systems to alert operators to seepage. But older tanks, which are more likely to leak, have no such systems, Macfarlane said.

ENVIRONMENT

Government seizes polluted site to begin cleanup

BY MARK HUME VANCOUVER

The provincial government has taken control of a polluted site on the banks of the Cowichan River on Vancouver Island and will now clean it up for an estimated \$1-million.

Mike MacFarlane, manager of land remediation for the government, said the Attorney-General's office is looking at ways to recover the cost of cleaning up the land polluted when fuel tanks at a gas station began to leak.

Petroleum from the tanks seeped through neighbouring properties and went into Oliver Creek, a salmon and trout spawning tributary of the Cowichan, which is one of Vancouver Island's most important fishing rivers.

The leak was discovered about six months ago, but initial efforts by the owner of the gas station failed to stop the seepage. Two weeks ago, the gas station, which is located in the village of Lake Cowichan, was closed.

Mr. MacFarlane said a declaration of inadequate remediation was issued after the gas-station owner, Phil Keshwani, advised the Ministry of Environment that he couldn't afford to continue with cleanup efforts, which had then cost an estimated \$350,000.

Mr. MacFarlane said it is possible the property, which is registered in the name of Lake Cowichan Service Station Ltd., could be sold by the government in an effort to recover the costs of the cleanup.

He said Keystone Environmental Ltd., has been hired to do remediation and is lining up subcontractors, with the hope of making substantial progress before fall rains bring runs of spawning salmon up the river.

The Environmental Law Centre at the University of Victoria recently asked the government to declare the site "an environment emergency," so the Ministry of Environment could take charge of the cleanup.

Calvin Sandborn, a law professor at UVic and legal director of the Environmental Law Centre, said he's happy with the government's decision to seize the property and begin work on a cleanup.

But Prof. Sandborn said there is still a bigger question to be addressed.

"The good news is they are acting, the bad news is that it took six months. So while this addresses our immediate concerns, it doesn't deal with the broader question of why did it take so long?" he said.

The Environmental Law Centre is still awaiting a reply from the government to a request that a public hearing be held into the incident, he said, to determine why the government was unable to react more quickly to a serious pollution problem on private land.

Prof. Sandborn said he believes B.C.'s environmental laws need to be reformed so the government's hands are not tied in similar circumstances.

See <http://www.elc.uvic.ca/media/oct2008/diesel-spill/Sept-25-08-TC-Gas-Station-cleanup-may-top-1-million.pdf>

See: <http://www.elc.uvic.ca/media/oct2008/diesel-spill/Sept%2012%2008-Globe-Govt%20seizes%20polluted%20site.pdf>

Sale of BC Schools

Two community groups asked the ELC to help respond to the problem of public school lands being sold for private development. The clients were concerned that irreplaceable green spaces in our communities are being lost as schools are closed and then sold. Schoolyards and fields can be important urban green space, provide critical links in greenways systems, and provide important inherent ecological values.

ELC student Kristen Holten completed her research into the history of schools dispositions in the last seven years. She documented how school yards have been erroneously characterized as “surplus” and sold to the highest bidder, to the detriment of public green space.

Kristen reviewed the current legal tools available for protecting schools from development, including both common law tools and statutory ones, such as the power of local government to pass protective bylaws to preserve school lands. In addition, she addressed options for reform, including California’s Education Code, which requires surplus school property to first be made available for park and recreation purposes.

The report argues that the law should recognize that the public green space created by school lands is an important public asset to be conserved—and that it needs to be treated differently than other possible sources of school board revenue. The report emphasized the need to create partnerships between school boards, the Ministry of Education and local governments to effectively plan for school lands. Kristen’s report has been widely distributed around the province to those concerned about the sales of public school lands.



Left: ELC student Kristen Holten; Top Right: School with green space; Bottom Right: Closed school with green space blocked off and under development.

The report “Preserving Closed-School Lands as Public Green Spaces” at <http://www.elc.uvic.ca/press/documents/School-Lands-Memo-2008-03-11-Fall2008.pdf>.

Working to Protect Endangered Species

Acting on behalf of the Wilderness Committee, the ELC asked the BC Auditor General to investigate the provincial government's failure to identify and protect the critical habitat of endangered species as required by the *Species at Risk Act (SARA)*.

Citing documents obtained through Freedom of Information requests, the ELC and Ecojustice argued that the provincial government is refusing to identify critical habitat—even when the exact location of such habitat is known down to the square centimetre. This deliberate failure to identify habitat appears to breach both federal law and federal-provincial agreements.

British Columbia has over 1600 species at risk and is one of only two provinces in Canada with no endangered species legislation. Over 85 per cent of endangered species in BC are at risk because of the loss and degradation of their habitat.

An agreement between BC and Canada obligates both levels of government to jointly implement key provisions of Canada's *SARA*—and to prepare recovery strategies for at-risk species within the province. *SARA* requires that recovery strategies identify critical habitat “to the extent possible, based on the best available information.”

But internal government documents show that BC officials have actually gone in and removed the mapping data that pinpoints critical habitat in recovery strategies. There appears to be a general policy to not identify critical habitat, which is a problem since most *SARA* protective measures only apply after critical habitat is designated.

The province's refusal to identify habitat jeopardizes some of BC's most endangered species, including the Vancouver Island marmot. There are fewer than 70 Vancouver Island marmots alive in the wild and scientists know precisely where their burrows and habitat are, but the BC government refused to identify the marmot's habitat. The request to the Auditor General documents the invaluable services endangered species and habitat provide—including their economic contribution to tourism, recreation, economic development, water purification, carbon sequestration, natural pollination, medicine, and ecological stabilization.

Letters of support drafted by several of BC's most prominent environmental organizations accompanied the Auditor General request, including: David Suzuki Foundation, West Coast Environmental Law Association, Sierra Club, BC, Dogwood Initiative and Georgia Strait Alliance.

Read the Submission to the Auditor General at: http://www.elc.uvic.ca/press/documents/Endangered%20Species%20Submission-Nov25.08_E-FINAL.pdf.

Protecting Endangered Species on Private Property

The Salt Spring Island Conservancy asked ELC student Colin Edstrom to research ways to protect the endangered Sharp-tailed Snake on Salt Spring Island. Colin produced a report that may help other groups faced with the challenge of protecting endangered species that range across numerous small adjacent private lots.

Although there are 19 known Sharp-tailed Snake locations on Saltspring Island, 18 of them occur on small private properties, which makes it difficult to use a traditional conservation covenant.

Placing a conservation covenant on a single property can be costly to both landowner and land conservancy. This economic problem is compounded by the lack of information about the movements and exact range of Sharp-tailed Snakes. Covenanting a single lot may not be useful if the snakes move to the immediately adjacent property.

In his report, Colin canvasses potential methods for reducing costs of placing covenants on land in such situations, and circumstances where placing covenants might be practical. He also describes local government laws that could increase protection for endangered species. Finally, he discusses private stewardship approaches that could be useful.

See the report Conservation Options for Species at Risk on Small Private Lots: http://www.elc.uvic.ca/press/documents/ELCSummer2008_SAR-Conservation-Options.pdf.

Legal Education & Research

Thank you!

The ELC relies on Board volunteers, guest speakers, lawyers and others who generously donate their time and expertise to our students. Special thanks to all those who helped the ELC over the year!

Alan Andison

Bill Andrews

Alyssa Bradley

Oliver Brandes

Wally Braul

John Borrowes

Murray Browne

karima budhwani

Gillian Calder

Chief Bob Chamberlain

Jo-anna Cowen

Guy Dauncey

Stacey M Edzerza Fox

Chris Genovali

Laurie Gourlay

Russ Francis

Mark Haddock

Sean Holman

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Eric Peterson

Karla Point

Dave Porcher

Fred Porcher

Maurita Prato

Sandi Richardson

Murray Rankin, QC

John Rich

Krista Robertson

Wayne Robertson, QC

Stuart A. Rush, QC

John Swaigen

Tula Foundation

UVic Faculty of Law

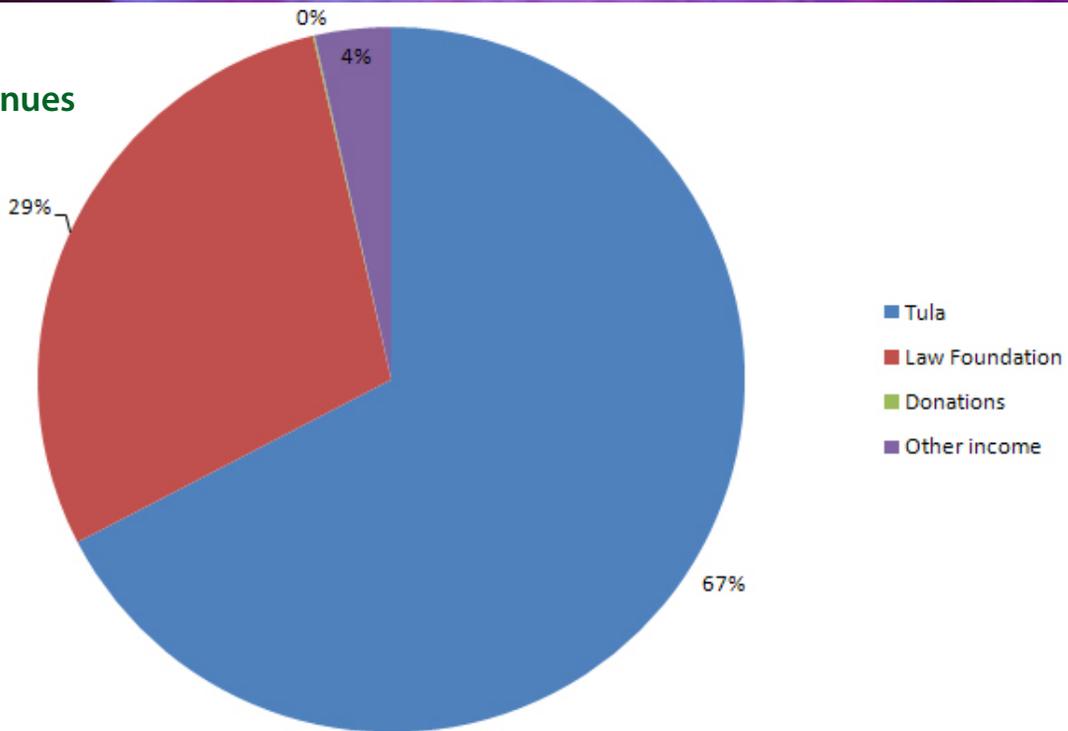
Ken Wu

Jason Youmans

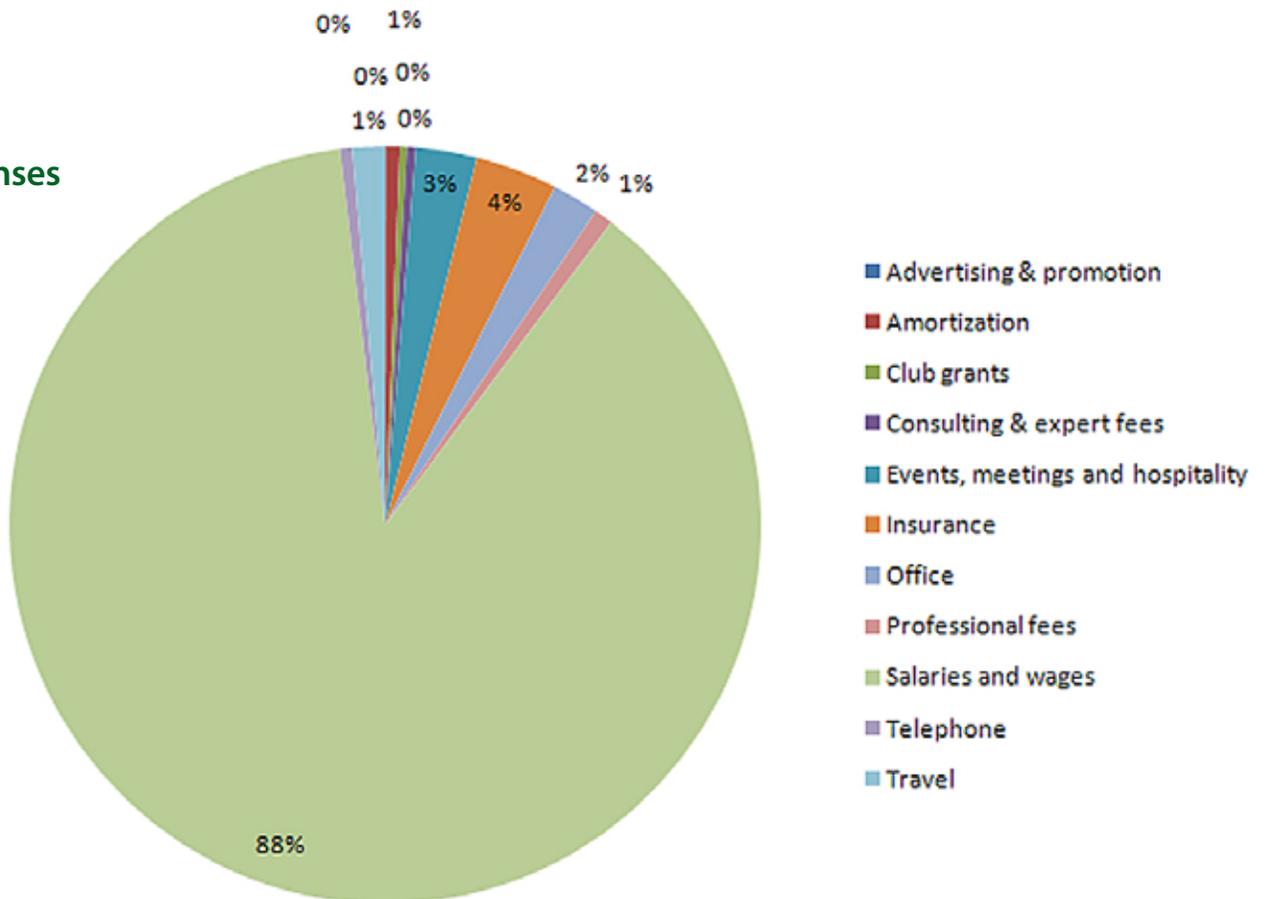
Ray Zimmerman

Financials

2008 Revenues



2008 Expenses



ELCS Board of Directors 2008-09

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	<i>Gillian Calder, Law Professor</i>
	<i>Claire Hutton, Sierra Club BC Chapter</i>
	<i>Robert Janes, Lawyer</i>

	<i>Maeve Lydon, Office of Community- Based Research at UVic</i>
	<i>Dan MacIsaac, Lawyer</i>
	<i>Alyne Mochan, ELC Alumnus</i>

	<i>Andrew Newcombe, Law Professor</i>
	<i>Karla Point, ELC Alumnus</i>
	<i>Murray Rankin, QC, Lawyer</i>

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	<i>Ryan Drury, member at-large</i>
	<i>Elizabeth Farries, Communications Coordinator</i>

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<i>Photos not available:</i>	
<i>Sarah Cunningham, Member Dea Lloyd, Member Matt Schissel, Treasurer</i>	

ELC 2008 Articed Students

	<i>Rachel Forbes</i>
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	<i>Tim Theilmann</i>
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	<i>Jennifer Smith</i>
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Media & Publications

General:

ELC Shared Articles flyer (<http://www.elc.ubic.ca/media/oct2008/shared-articles-flyer-FINAL.pdf>)
Times Colonist Green Guide (<http://www.elc.ubic.ca/media/oct2008/TC%20green%20pullout%20April%2013%202008%20pg21.PDF>)
Corporate Knights Best 50 Issue 2008 (<http://www.elc.ubic.ca/media/oct2008/KnightSchools2008%205.pdf>)
Universities keep pace with green studies (<http://www.elc.ubic.ca/media/oct2008/Post-Universities%20keep%20pace%20with%20green%20studies.pdf>)
Public Interest Environmental Law CLE Brochure (Sept 2008) (<http://www.elc.ubic.ca/media/oct2008/CLE-brochure.pdf>)
Chris Tollefson - UVic Leadership Award nomination (Jan 2008) (<http://www.elc.ubic.ca/media/leadership-award-CT.jpg>)
Jan 2008 Lawyers Weekly (<http://www.elc.ubic.ca/media/2008-jan-lawyers-weekly-300px.jpg>)

Car Stops:

Aug 13 08 -TC-2008-01-06 Pender car stops are on a roll (<http://www.elc.ubic.ca/media/oct2008/Aug%2013%2008%20-TC-2008-01-06%20Pender%20car%20stops%20are%20on%20a%20roll.pdf>)

Clean Marine:

Marina - Best Practices Handbook brochure (http://www.elc.ubic.ca/media/clean-marine_brochure.pdf)
Summer 2008 -Strait Talk-BC first eco-rated marina (<http://www.elc.ubic.ca/media/oct2008/Summer%202008-Strait%20Talk-BC%20first%20eco-rated%20marina.pdf>)

Cowichan Lake Diesel Spill:

Aug-27-08-TC ED-Too slow on diesel cleanup (<http://www.elc.ubic.ca/media/oct2008/diesel-spill/Aug-27-08-TC%20ED-Too%20slow%20on%20diesel%20cleanup.pdf>)
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