



**Environmental
Law Centre**
UNIVERSITY OF VICTORIA



Annual Report 2010



University
of Victoria
Law



2010 Annual Report





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.



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For more information about the ELC, please visit www.elc.uvic.ca.



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Executive Director Report



Chris Tollefson, Executive Director

The last 12 months have been a watershed period for the ELC and one that we will long remember.

It was marked by many highlights. Foremost among these was our first visit to the Hakai Beach Institute and the remarkable opportunity that this provided us to blue-sky the ELC's future with the Tula Foundation. The renewed partnership that ultimately flowed from this visit inspires and challenges us to build on the stable foundation that has been created over the last five years.

It was also a year that saw the ELC and environmental law at UVic flourish and grow as never before. Enrolment in the regular-stream Clinic met new all-time highs with waiting lists to get into the course each term. Likewise the intensive-stream Clinic, funded by the Law Foundation of BC, saw all-time high enrolments, and enrolment in the foundational UVic Law course in Environmental Law was over 40 percent higher than normal. All of these are very positive indicators of the health and future of environmental law at UVic Law.

This high level of interest in the ELC and environmental law course offerings at UVic Law presents us with new challenges and opportunities. As our docket of ELC cases and projects grows, so too does the need to manage our operations in a prudent and sustainable fashion.

Part of the answer, of course, is ensuring we have human and other resources in place to

properly supervise the student work that is being done. Thanks to the renewed funding commitment by Tula, we are in the happy situation of being able to keep our existing ELC staff together and, in key respects, to augment this capacity. These new resources will also allow us to strategically grow our operational capacity to provide even richer student learning opportunities and client service. Of equal importance, however, is continuing to find new ways enhance our program. We are gratified that Tula is supportive of our desire to implement new programs that will better support our ability to incorporate science into our work, to train students in litigation-related skills, and to provide place-based learning opportunities at HBI.

The last 12 months were also a period that saw many accolades and kudos come our way. Most notable of these were awards received by our Legal Director in recognition of his citizenship contributions (by the City of Victoria) and lifetime achievements in the world of public interest environmental law (by West Coast Environmental Law). In a similar vein, the stellar work of our Legal Administrator (both in her multitude of roles within the organization, and her volunteer efforts in environmental film-making) and Program Director (including her liaison work with other UVic units, her leadership in conference organizing and outreach, and her advocacy on land use and sustainability issues) have raised our profile and reflected positively on the organization as a whole. We are grateful for their commitment to our shared vision, and their hard work to make it happen.



Moving forward, it is also important to consolidate our relationships with other public interest environmental legal service providers and clients, and forge new ones. Once again, the last 12 months have been an important time. Through jointly planning and hosting Canada's first-ever national public interest environmental law conference (in February 2011) with Ecojustice Legal Defence Fund and West Coast Environmental Law, we have collectively gained a much clearer sense of how the efforts of these three organizations can be aligned and coordinated. Going forward, I am confident that we will see even more successful collaborations with these organizations. We have also developed and will continue to develop client relationships with First Nations on the Central Coast, as well as with key national and provincial First Nation advocacy organizations such as Coastal First Nations, the First Nations Summit and the National Centre for First Nations Governance.

A final dimension of our current and future work that deserves mention is research. Increasingly, the ELC is becoming known for its careful, thorough and credible research into environmental law issues. More than virtually any other organization working in the public interest environmental law arena, we are endowed with the capacity to produce work that significantly contributes to knowledge and awareness of environmental legal issues, is policyrelevant, and can leverage substantial real-world change. Recent publications that fit this bill include our Environmental Tribunals and Environmental Assessment reports and our Stormwater report ("Reinventing Rainwater

Management") as well as our forthcoming report on Mining Practices. We look forward to even more ambitious research initiatives in the months and years ahead, informed and supported by new partnerships with researchers working on issues of common concern, many of whom are now or will be associated with HBI.

Our entire organization – students, Board and staff – feel privileged to be afforded the chance to be part of the team that will chart and steer the course in the years ahead.

Yours truly,

Chris Tollefson
Executive Director
Environmental Law Centre
Faculty of Law
University of Victoria

President's Report



The Environmental Law Club had another productive year in 2010. Led by a talented and energetic Executive, the Club mixed many of the traditional club events with new ideas and opportunities.

The outgoing Executive, lead by Eric Regehr, did a great job in the spring - most notably sending another contingent of UVic Law students to the Public Interest Environmental Law Conference in Eugene Oregon. Irene Sattarzdeh and Connie Nesbitt kept the spirit alive over the summer and organized a trip to Sooke Potholes Provincial Park.

The new Executive came together in the fall with energy and motivation and began by kicking the semester off with Bike to School Week, organized by Sam Rappaport. The event was successful in helping students discover the best bike routes to school from their new homes and wrapped up with a bicycle scavenger hunt. Jenn Cameron organized a group of volunteers to participate in the annual Mill Hill Scotch Broom sweep, and the Club organized a fall hike up Mt. Finlayson.

Complimenting all the outdoor activities the Club sponsored an excellent contingent of lunchtime speakers. We were lucky to host Gary Cazalet, a leading expert from Australia on Strategic Lawsuits Against Public Participation, speaking on his experiences with the Gunns 20 Case. Devon Page of Ecojustice Legal Defence Fund, Sean Nixon from Woodward and Company, and Tim Thielman from Devlin Gailus (and former Environmental Law Club President) hosted a panel discussion on the designation of critical habitat under the Federal Species at Risk Act. Ben Parfitt from the Canadian Centre of Policy Alternatives gave a compelling lecture about the oil and gas industry in the north eastern British Columbia. Finally, Manolo Morales, Executive Director of EcoLEX spoke to UVic students about the incorporation of natural rights for the environment into the Ecuadorian constitution.

The ELC was also proud to co-sponsor two symposiums this semester. The first, organized by Clinic student Jenni Campbell, was on the establishment of a Biosphere Reserve for



the Capital Regional District. The event was complimented by a sustainability fair where groups throughout the region were able to set up tables and advertise many of the environmental initiatives that are ongoing in the area. The event attracted a significant crowd and was covered by local media. The second symposium was organized by Club Vice President Ethan Krindle and focused on Coal Mining in BC.

The Environmental Law Centre co-sponsored the first Public Interest Environmental Law Conference in British Columbia, Renewing Environmental Law. The ELC organized more than 20 student attendees and volunteers for the well-attended and highly successful conference. In conjunction, the ELC was also able to host a lunchtime lecture by the keynote speaker Chief Judge Preston of the New South Wales Land and Environment Court on the Adjudication of Environmental Disputes.

These are just the highlights of a very successful year for the ELC. I'm inspired by the enthusiasm and energy of UVic's law students and proud to be able to work with such a highly motivated and productive group of people. Our gratitude to the Tula Foundation, the Law Foundation, the UVic Law Students, our committed Board, and our proactive student members.

Sincerely,

Naomi Kovak

President
Environmental Law
Centre Society

2010 Overview



Photos: Top L: Articled student Sarah Sharp on Calvert Island; Top: Naomi Kovak and Chris Tollefson give Gillian Calder and (below) Andrew Newcombe; a gift to thank them for all their support. Bottom: Articled students Micah Carmody and Jill Vivian in the new ELC articled student office space.

New space

ELC staff settled into the new Law Library clinical space, which is starting to feel like a real law firm with an interview room and offices for the Club, as well as our Legal Director, Program Director, Paralegal Administrator and Articled Students. Many thanks to Neil Campbell for the space and the warm welcome.

Articling Students

The year started with Jill Vivian as the Tula-funded articling student. Jill was followed by Sarah Sharp, who joined us in May. In September, Micah Carmody finished his term as our second articled student funded by the Law Foundation's Public Interest Articling Fellowship program.

ELC Society Board Members

In September, we expressed thanks to resigning Director Andrew Newcombe for his years of assistance. We are grateful to our new UVic Law Faculty representatives Hamar Foster and Maxine Matilpi, filling in for Gillian Calder during Gillian's year's sabbatical.

Strategic renewal

ELCS Board and staff completed a series of consultations in 2010 with students, faculty, the UVic community at large, clients and other external supporters. Participants were asked four questions:

- What would strengthen the ELC's support of the Faculty of Law/UVic/broader community?
- What are signature ELC activities that the community could not/could live without?
- How could the ELC better meet the environmental law needs in BC that are not being met?
- How can the ELC position itself for organizational resilience and relevance?

Participants stressed the need to continue with our current programs and remarked that the quality, depth and range of assistance the ELC provides is unique in Canada. There were particular expressions of appreciation for the ELC's informal advocacy and public legal education, and students



told us they consider it a high priority to keep direct contact between students and their clients in the community. Some of the suggestions put forward included:

- establishing a certificate program to recognize ELC student qualifications;
- recruiting grad students;
- providing more communication about ELC cases; and
- providing volunteer opportunities for students and community members.

With renewed and enhanced funding from the Tula Foundation announced in early 2011, many of the suggestions will be implemented. We look forward to reporting details of these exciting new developments.

Associates Program

In its fourth year, the Associates Program, which is funded by the Law Foundation of BC, continued to engage lawyers across the province in continuing legal education-type activities and regular teleconferences. Topics in 2010 for Cohort 2 teleconferences included current approaches to judicial review of government decisions; deregulation of environmental laws and delegation to registered professionals; the use of the precautionary principle in Canadian law; consultation and accommodation, a charter challenge for environmental health and new developments in species at risk protection. See <http://www.elc.uvic.ca/associates/index.htm> to read the backgrounders.

In addition to the regular teleconferences, the ELC hosted an in-person meeting in Vancouver for Cohort 2 Associates in Feb 2011. On the heels of that meeting, Associates attended Canada's first national public interest environmental law conference, which the ELC developed and organized in partnership with West Coast Environmental Law Association and Ecojustice. The conference focussed on future directions for environmental law in BC. For more details, see: <http://envlawforum.ca/index.php>.

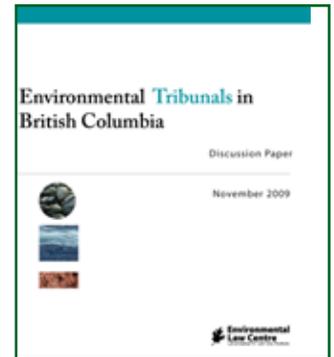


Photos: Public Interest Environmental Law Conference at the University of Oregon. Check the sign to see what other conference was in town and at the same hotel! L to R: ELC Articled Student Jill Vivian, Ethan Krindle, Connie Nisbet, Jared Geisbrecht, Anna Johnston (ELC Alumna) and Danny Oleksiuk.

2010 Clinic Work



Photo: Intensive class field trip (L-R: Morgan Blakley, Deborah Curran (Program Director), Steve Catania, Sunni Zhai, Ethan Krindle.)



Intensive Stream

This year marked the third full round of the ELC Clinic Intensive course. The fourth crew of Intensive students started in September. The Intensive Stream differs from the Regular ELC Clinic in that each Intensive student manages at least two files per term, and they take the course in two consecutive terms, providing continuity for clients and the opportunity for students to hone their knowledge in particular areas of public interest environmental law.

In their evaluations, Intensive Stream students noted the value of working on practical projects that apply law to real facts and issues to ultimately make a difference in the world. They also appreciate gaining experience in public advocacy and working with the professors in the ELC and Law Faculty to solve problems. They finished the course having a better sense of how environmental law might fit into their future legal practice, and commented that they are more optimistic that environmental law will fit into their legal careers in some way. This is due to a more expansive view of what environmental law is and the opportunities available for practicing it.

Reform Proposals for Environmental Assessment and Administrative Tribunals

The ELC completed two major reports in 2010 and early 2011: *Environmental Assessment in British Columbia* and the *Environmental Tribunals in British Columbia*. Funded by the Law Foundation of BC, the reports were written by contract lawyer Mark Haddock with the assistance of ELC students, articulated students and lawyers.

Environmental Tribunals in British Columbia examines BC's tribunals and provides 12 recommendations on how they might be improved to better serve the public and protect the environment. In addition to considering the role, rationale and mandate of tribunals, the report looks at participant costs and funding, powers and procedures, and analogous courts and tribunals in other jurisdictions. For more information and for a link to the report, see <http://www.elc.uvic.ca/press/ET-Report.html>.

Environmental Assessment in British Columbia documents how the provincial environmental assessment law is weak and discretionary when compared to other jurisdictions, and it makes 27 recommendations for reform. For more information and for a link to the report, see <http://www.elc.uvic.ca/press/EA-Report.html>.



Who Will Pay for Major Oil Spills on the North Coast?

The Living Oceans Society asked ELC student Matt Boulton to determine specific corporate financial liabilities for oil spills from ocean-going tankers on the BC Coast. Matt produced a report (http://www.elc.uvic.ca/press/documents/2010-02-06-Tanker-Spill-Financial-Vulnerability-Assessment_Jan15%2011.pdf) identifying the parties liable for such oil spills (i.e. provincial or federal government, tanker owner, oil company, etc.) and the extent of their financial risk. In particular, his report examined why Enbridge Inc. may - or may not - be financially liable for an oil spill. Matt noted that as Enbridge does not plan to own or charter the tankers, the corporation may not be liable for a marine spill at all.

Proposed Coal Mine in the Comox Valley

The ELC is helping CoalWatch Comox Valley, a citizen's group that formed in response to concerns about a proposed underground coal mine six kilometres west of Buckley Bay on Vancouver Island. CoalWatch is researching the issues and educating the public about the mine, which would yield 2.2 million tons of coal annually for 20 years. After screening and washing, two-thirds of this is to be trucked to Port Alberni and then shipped to Asian steelmakers. Over a 20-year period the mine could generate seven million tons of waste rock, sufficient to cover 200 hectares to a depth of 23 metres. Some of this waste could be put back into the mine workings, and much of the rest would be stored in tailings piles or ponds.

Concerns include potential impacts on the watershed, salmon habitat, human health, and air quality. Citizens are particularly concerned that contamination from the extensive coal washing operations and from the tailings piles could taint aquifers, watersheds and the ocean. The mine is only seven kilometres—and the tailings pond only two kilometres—from Baynes Sound and its renowned shellfish beds. In a worrisome development, Campbell River's Quinsam Coal Mine was recently linked to very high levels of arsenic in Long Lake, including in fresh water mussels. Local citizens and the K'omoks First Nation worry about impacts on hundreds

Like Matt Boulton's Enbridge report, Maya's work, *Undermining the Value of Clean Land and Water: Inadequate Securities for Mines in BC*, highlighted hidden subsidies for industry and the systemic failure to implement the critically important Polluter Pay Principle. Presenting her report at a public forum at the law school, Maya showed how the Polluter Pay Principle is being ignored, leading to unnecessary negative environmental impacts and creating risk for provincial taxpayers.



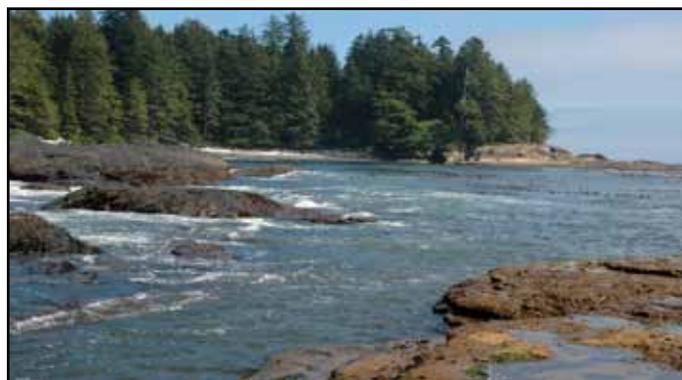
A Success Story: Reforming the Rules on Reporting Sea Lice Information

The ELC worked on submissions to the federal government regarding the need for data on fish farm sea lice outbreaks to be made available to scientists and the public. The current secrecy about lice outbreaks makes it difficult for independent scientists to analyze specific outbreaks in order to identify potential links – and potential solutions – to wild salmon lice problems. ELC student Steve Catania finished a submission to government citing jurisdictions that provide much more transparent reporting of sea lice outbreaks.

On July 9, 2010 the federal government released draft Pacific Aquaculture Regulations that provide for public release of sea lice data. The client, David Lane of the T. Buck Suzuki Foundation, reported that the new federal regulatory regime vastly improves the system of public transparency and reporting. The new Marine Finfish Aquaculture Licence Conditions for fish farms will require that most of the information of concern be publicly available. The new regime includes enforceable provisions for salmon farmers to report to DFO:

- The results of on-site (site specific) sea lice monitoring;
- The details of the farm management response to high sea lice levels;
- Quarterly reports on fish health and mortalities;
- Suspected or diagnosed outbreaks of significant diseases;
- Any farm fish escape or suspected escape within seven days;
- Details of any measures to recapture escaped farm fish including the estimated number of escaped fish, the number recaptured, and any incidental catch of wild fish during the recapture;
- Quarterly reports on incidental wild fish harvested from the farmed fish net pens; and
- Quarterly reports on marine mammals killed including the date, species and number killed or drowned.

All these measures are either new to BC aquaculture regulations or are more stringent and detailed than the previous provincial requirements.



New Parks Established

In March 2010, ELC advocacy for protection of the Western Forest Products lands removed from the Tree Farm Licence west of Sooke paid off. The Capital Regional District announced plans to purchase land for parks in the Jordan River, Sooke Potholes and Weeks Lake areas. Partnering with The Land Conservancy, the CRD reached an agreement in principle to purchase 2,350 hectares of land from WFP for \$18.8 million. The lands will be protected for recreation, conservation and watershed protection for generations to come and include over 3.5 km of shoreline at the world-famous surfing beach at Jordan River and at Sandcut Beach.

One of the actions that contributed to this decision was the ELC's 2007 submission on behalf of the Sea-to-Sea Greenbelt Society to the Auditor General, which argued that

the provincial government had improperly released the forest lands in question for development (<http://www.elc.uvic.ca/press/TFL-deletions.html>).

While the new agreement doesn't cover all forest lands released by the provincial government, tens of thousands of hectares of land in the area have previously been protected from development by rezoning of 300-acre minimum lots in an ELC-advocated initiative legislated last fall. The ELC has taken a number of other legal actions to advance this cause.

Applying to Make the CRD a UN Biosphere Reserve

In summer 2010, the Sea-to-Sea Greenbelt Society asked the ELC to investigate the concept of designating the Capital Regional District as a United Nations Biosphere Reserve as a possible way to enhance protection for the former Western Forest Products TFL lands. A Biosphere Reserve is a demonstration site designated under the UNESCO Man and the Biosphere Programme in which conservation and sustainable development are reconciled.

A Biosphere Reserve consists of three areas or "zones":

- a core legally protected area (e.g., park or conservation areas);
- a buffer zone for sustainable uses (including sustainable resource development); and
- a transition zone, in which a full range of sustainable and unsustainable human activities can take place.

A Biosphere Reserve must fulfill three key functions:

- conservation;
- development, fostering development which is socio-culturally and ecologically sustainable; and
- logistics, providing support for research, monitoring, education and information exchange related to conservation and sustainable development issues.

Biosphere Reserves provide a useful framework for engaging citizens, collaborating with different interest groups and First Nations, developing ecological governance, promoting important conservation-related research and education, and for conserving natural areas, and fostering sustainable development.

In summer 2010 ELC student Amelia Walsh consulted with Biosphere Reserve experts and First Nations, and worked with the UVic Geography Department to:

CRD Biosphere Reserve
Can we become the world's most liveable community?

Please join us to discuss a UN Biosphere Reserve designation for the Capital Regional District

TUES, NOV 23
7pm UVic Faculty of Law
Fraser Building
Room 159

THE EVENING WILL FEATURE:

- A short documentary about Biosphere Reserves
- Speakers from First Nations, business, NGOs and local governments
- Sustainability fair where local groups can showcase their work (event starts at 7pm, doors open and set up begin 6pm)
- Display of local art
- Opportunity to discuss making an application for a UNESCO Biosphere Reserve
- Chance for groups and individuals to get involved
- Refreshments

NOTE: Bus tickets and childcare available.
Please contact: CRD.Biosphere.Reserve@gmail.com.

Sea to Sea Greenbelt Society **DOGWOOD** Initiative **Environmental Law Centre**
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- document the experiences of other Biosphere Reserves – how they were established, their utility for conservation, and international best practices;
- identify the evidence necessary for a Biosphere Reserve application that meets United Nations criteria;
- create a persuasive argument as to why a Biosphere Reserve should be established in the CRD; and
- to initiate discussions with potential Reserve collaborators (e.g., First Nations, local governments, conservation groups, scientists and academics, parties involved in the UBC research forest proposal).

Amelia completed a memo on the structure and potential for a Biosphere Reserve for the Capital Regional District. In the fall, ELC student Jennifer Campbell continued to research the issue, and to meet with experts and potential stakeholders. She went on to organize a public forum on the issue (<http://>



www.elc.uvic.ca/press/crd-biosphere-reserve.html). Jenny acted as master of ceremonies for the forum, which included an introductory film by ELC Paralegal Administrator, Holly Pattison, and notable speakers Chief Gordon Planes of the T'Sou-ke First Nation, Chairman Geoff Young of the Capital Regional District, Biosphere Reserve Expert Professor Rod Dobell and Glenn Jamieson, co-founder of the Mount Arrowsmith Biosphere Reserve.

Having seeded the idea in the community, the ELC and Sea-to-Sea Greenbelt Society have now handed it over to a community committee, which will hopefully proceed with it.



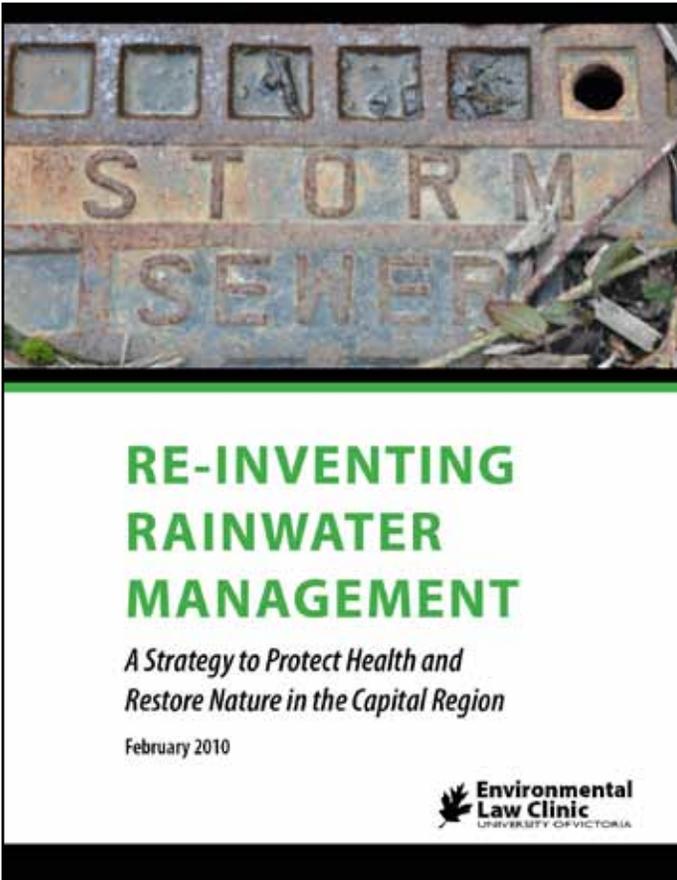
Victoria Harbour Mega-Yacht Marina—Cut Back to Size

The ELC continued to challenge the proposal for a massive Mega-Yacht Marina along the Songhees Walkway in Victoria Harbour. In June 2010, articulated student Sarah Sharp worked with lawyer Irene Faulkner to file a judicial review in Federal Court, which challenged the federal navigable waters permit and environmental assessment of the project. Sarah researched the argument that the Marina would illegally extinguish the ancient right of the public to paddle through the Inner Harbour. She also prepared extensive affidavits that allowed members of the public to express their concerns to the court.

In September 2010, Victoria City Council committee rezoned the harbour to reduce the footprint of the proposed Marina by 40 per cent. This decision goes a long way toward the protection of heritage views of the harbour, public access to the water, and other public values.

Even after the fall rezoning, the court case continued. ELC student Jonathan Laphorne developed an argument for the court, submitting that Government had violated the Public Trust doctrine by eliminating the right of certain paddlers to navigate in Victoria Harbour. The Public Trust doctrine has been enormously effective at protecting environmental interests in the US, but is undeveloped in Canadian law. We saw this case as an ideal set of facts for advancing the doctrine.

The judicial review was adjourned just after Jonathan completed his written argument because the developer submitted new (much smaller) plans based on the new zoning. This rendered the judicial review of the old plan approvals moot.



Designing the Green City: Re-inventing Rainwater Management in the Capital Region

In February 2010, the ELC unveiled the ELC strategy for reforming stormwater management throughout the Capital Regional District: *Re-Inventing Rainwater Management: A Strategy to Protect Health and Restore Nature in the Capital Region* (<http://www.elc.uvic.ca/press/stormwater.html>). Since then, ELC students and staff have repeatedly advocated adoption of the strategy to governments, professionals, the Cohen Commission, various public forums and the media.

On March 4, 2010, the ELC organized a Stormwater Conference at UVic, involving politicians, health officials, engineers and other experts. Civil servants in charge of the stormwater system, a major “green” engineers organization, and key CRD officials all voiced support for the ELC initiative.

On July 28, 2010, ELC student Paddy O’Reilly presented the report to a specially convened joint meeting of the CRD’s Environment and Liquid Waste Management Committees,

including a number of Councillors and Mayors. As part of her formal submission, Paddy showed the officials a short documentary film on the issue created by Holly Pattison and ELC students. (See <http://www.elc.uvic.ca/press/videos.html>) for the video. Afterward, the Committees voted unanimously to authorize staff to prepare a plan for a long-range Integrated Watershed Management Plan—one of our

main recommendations.

In September, Paddy made submissions to the Cohen Commission Inquiry and appeared on local radio, advocating for *Re-inventing Rainwater Management*. The Commission will post the Report on its website and has stated it may call the ELC to provide expert testimony on the issue.

Subsequent ELC staff and students made submissions and presented the report to numerous city councils and at conferences.



Orca Protection – Combining Litigation and Law Reform

Last December, the Federal Court issued the decision on the David Suzuki Foundation case – a decision which requires Ottawa to protect orcas from toxic contamination, loss of salmon and whale watching. The ELC was delighted with this decision, because ELC student Sarah Orr had worked on the case for Ecojustice. In addition, the court decision created an ideal opportunity to launch the proposed whale watching regulations that the ELC developed in the summer of 2010.

Boat traffic has been documented as one of the three main threats to the endangered southern resident orcas, along with lack of salmon and pollution contamination (PCBs). For six months of the year, from sunrise to sunset, endangered orcas are pursued everywhere by whale watching scouts on the water, in the air, and on land.

There is a dearth of legislation to protect orcas and other marine wildlife—and inadequate enforcement of the little legislation that exists. However, the Canadian government is in the process of developing draft amendments to the *Marine Mammal Regulations*. The Liferforce society wanted

to propose a set of model regulations before Government released their proposal—and build support for an optimum set of regulations.

Liferforce asked ELC student Rose Keates to create annotated model legislation to govern whale watching activities.

Rose reviewed standards and guidelines from over 30 countries around the world. She went on to collaborate with experts, lawyers and government officials to develop model regulations—based on local practicality as well as international best practices. The model regulations are annotated with both scientific and legal arguments in support of the legislation (<http://www.elc.uvic.ca/press/documents/2010-02-02-ELC-Report-KEATES-ProtectingOrca-Jan2011.pdf>).

Documenting the Inadequate Regulation of Run-of-River Projects

The BC Creek Protection Society asked the ELC to document the inadequacies of the regulatory regime for run-of-river projects. This legal analysis was needed because the Province was claiming that the BC regulatory regime was one of the toughest in the world in an attempt to convince the State of California to relax standards and allow BC run-of-river power to qualify for premium “green” rates. The Society was concerned that a large new demand for additional run-of-river power could be premised on faulty information about the BC regulatory system.

In April 2010, ELC student Sunny Zhai and articulated students Jill Vivian and Micah Carmody—working with ELC graduate Tim Thielmann—finalized a comprehensive review of the environmental laws that govern run-of-river hydro projects in BC. Completed for the BC Creek Protection Society and the Wilderness Committee, the final legal opinion is found at: <http://wildernesscommittee.org/sites/all/files/Testing%20the%20Waters.pdf>.

The legal opinion clearly demonstrates that Government has seriously exaggerated the level of environmental protection provided by Canadian laws. The memo shows how BC laws offer weak protection and environmental standards, which fall far below acceptable “green premium” standards under California law.

The clients have shared this opinion with state officials and legislators in Sacramento in order to prevent a relaxation of California laws (and the resulting proliferation of BC run-of-

river projects) based on a misunderstanding of what Canadian law actually provides for. Among other things, it is hoped that the project could eventually motivate the provincial government to strengthen environmental laws.



Controlling Cruise Ship Waste Water on the BC Coast

Every summer one million cruise ship passengers travel up the BC Coast, through the Inside Passage and on to Alaska. These boats dump large quantities of wastewater into coastal waters, leaving partially treated sewage, heavy metals and chemical pollutants in their wakes. Most ships are using older, dirtier water treatment systems. The resulting pollution threatens whales, porpoise and salmon and other marine life on the BC Coast. The pollution also creates a threat to First Nations' fisheries, commercial shellfisheries and tourism.

Natasha Gooch researched and documented the problem, and then wrote a law reform report. The report considered and analyzed the state of the legislation in Canada and compared it to neighbouring US jurisdictions at both the state and federal levels.

In the end, the report came to the conclusion that it would be of benefit for the Canadian legislation regime to be updated to at least mirror the stricter regulations in the neighbouring states. Alaska has the most aggressive statutory regime with respect to cruise ship pollution and it would be in the best interest of the client if the Canadian legislation met or exceeded Alaskan standards. Currently Natasha's report is being reviewed by experts in the field before being finalized.

Reducing Cruise Ship Air Pollution in Victoria

Victoria's James Bay Neighbourhood Association is concerned about air pollution from the rapidly expanding cruise ship industry. A recent study showed that sulphur dioxide levels in James Bay exceeded World Health Organization standards on 24 per cent of the monitored days during the summer when cruise ships were in port. The local Medical Health Officer has acknowledged that this is creating a health risk for vulnerable individuals in the James Bay area. The Association wants laws enacted to address this pollution problem.

The Association asked ELC student Natalie Payne to consider the laws and legal remedies available to address the issues of cruise ship air pollution in Victoria, and recommend a legal strategy.

Natalie produced a memo that recommended a variety of potential actions that the Neighbourhood Association could promote, including:

- measures aimed at federal, provincial and local governments;
- measures aimed at the Greater Victoria Harbour Authority; and
- actions aimed at instigating a collaboration with other cruise ship ports.

Monitoring the Catch of Recreational Fisheries

With the current decline of fish stocks, it is imperative that scientists know how many fish are being caught. First Nations want to propose better rules for monitoring the catch of recreational fishers to address this problem.

In other jurisdictions on the Pacific Coast, there are significant restrictions on the ability of public recreational fishers to harvest various stocks and species. Specific recreational fisheries in crab, prawn, halibut, shellfish, herring, sardines and other marine species are licensed, and the harvest reported to Fish and Wildlife Agencies.

In contrast, in British Columbia the recreational fishery is licensed, but the harvest is not adequately reported or monitored and is restricted simply by openings and closings of areas to specific fisheries. As a result, there is no accurate way of establishing the harvest levels of any stock or species taken in the recreational fishery.

The current system does not require a recreational fisher to report catch. First Nations – as well as progressive members of the sports fishing community – recognize that reform is needed. A possible reform proposal could involve a reporting/monitoring system with a mandatory tariff dedicated for fisheries management.

The Island and Marine First Nations' Atlegay Fisheries Society asked ELC student Laura Sworn to undertake a review of the sport fishing reporting requirements for salmon, invertebrates and shellfish in other jurisdictions along the Pacific Coast.

The final report (<http://www.elc.uvic.ca/press/documents/Fish-Resource-Slipping-Through-Cracks-Aug2010.pdf>) outlined different monitoring practices that could be used in BC to ensure that recreational fishermen are accountable for their harvest—and to ensure that rehabilitation funds are directed to specific areas that have been depleted.



Legislative Committee Acknowledges ELC Submissions on FOI

The provincial *Freedom of Information and Protection of Privacy Act* (FOIPPA Act) is meant to make public bodies more accountable to the public and to protect personal privacy. Yet the Act fails to consistently ensure government transparency and accountability. This was exemplified in the 2005 ELC FOI appeal that successfully argued that government had made it especially difficult for environmental groups to obtain public information by creating delays, refusing to disclose relevant documents and charging excessive fees. Delays, unnecessary exemption of materials, and excessive fees continue to be a problem for environmental and social justice groups.

In 2009, the provincial government appointed a Special Committee of the Legislature to review the *Freedom of Information and Protection of Privacy Act* under section 80 of the Act. The Legislative Committee is required to report back to the House by May 31, 2010. As part of its deliberations, the Committee held hearings at the Legislature, accepting submissions from the public in early February 2010.

Dogwood Initiative asked ELC student Morgan Blakley to prepare submissions to the Legislative Committee for them. Morgan created a compact, 36-page, fact-filled report that featured his own independent analysis of statistics found on government websites as well as a great deal of other research (<http://www.elc.uvic.ca/press/FOI-submissions.html>). On February 3, he presented his findings at the Legislature arguing that although access to government records is essential for a healthy democracy, the Act is currently failing those who need it most. “If only rich and powerful groups in society can access government information, then how are nonprofit organizations and the majority of people to participate meaningfully in our democratic governance?” he argued. While one of the Act’s key purposes is to make public bodies more accountable to the public, Blakley provided data to indicate how governments have been reluctant to release information. When they do hand over material, it is often after great delay or with much of the content blocked out. In a series of examples ranging from fees of \$14,000 to almost \$174,000, Morgan noted it also can come with an impossible price tag even in cases where it is clear that the public interest would call for release of the information. Almost half of the FOI requests made by public interest group, the media and political parties – groups most critical for holding government accountable – were illegally slow.

Morgan showed that the public seems to have been so frustrated that most people don’t bother to even ask for records anymore: there’s been a decline in requests of almost 57 per cent from 1995-2007. Morgan went on to make a number of recommendations on how to fix the system. In May 2010, the legislative committee released its report (<http://www.leg.bc.ca/cmt/39thparl/session-2/foi/reports/PDF/Rpt-FOI-39-2-Rpt-2010-MAY-31.pdf>). The Committee expressly cited and used both information and recommendations that Morgan had provided in his submission.



Modernizing the Water Act

The provincial government has committed to modernizing the *Water Act* in a process called the *Water Act* Modernization (WAM) process. This will be the first new *Water Act* in over 100 years, and there is an opportunity to create a *Water Act* that is ecologically progressive and addresses the over-allocation of water entitlements in some watersheds. Government has committed to addressing the following issues:

1. Protect stream health and aquatic environments.
2. Improve water governance arrangements.
3. Improve the water allocation system.
4. Regulate groundwater use.

ELC STRATEGIC ENGAGEMENT

A group of environmental non-governmental organizations are working together to achieve an ecologically sound modernization of the *BC Water Act*. The ELC has provided legal research and assistance to several of these organizations, and Deborah Curran is a member of an ad hoc steering committee for strategizing on further WAM activities. The *ad hoc* group has held two meetings in the past year with funders from the Vancouver Foundation, Bullit Foundation, Moore Foundation, and Gordon Foundation to develop an ongoing program for *Water Act* modernization interventions. In addition to a joint statement of principles submitted to the provincial government, last fall the World Wildlife Fund and Vancouver Foundation undertook, on behalf of the group, a water poll in BC. The independent poll conducted by Angus

McAllister found the following:

- 85 percent of British Columbians said freshwater is extremely important to prosperity and quality of life in BC;
- 91 percent said freshwater is BC's most precious resource (65 percent strongly agree, 26 percent somewhat agree);
- 62 percent said that current rules governing water use in BC are not enough to ensure the future sustainability of BC's fresh water resources;
- 69 percent said that they favour ensuring that the protection of nature, wildlife and species like salmon are always a top priority in provincial water rules.

The poll garnered over a dozen media stories (print and radio) and is serving as a foundation for further discussions with the provincial government. Full reporting of the poll can be found at http://assets.wwf.ca/downloads/bc_water_polling_summary___nov_2010_2.pdf.

WATER ACT MODERNIZATION SUBMISSIONS

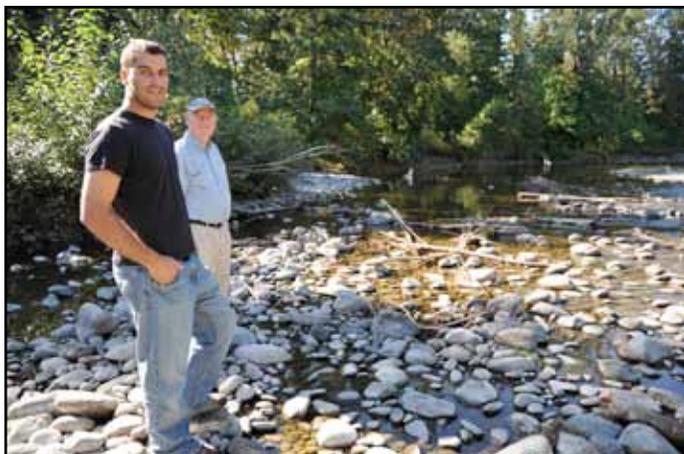
ELC articling students Micah Carmody and Jill Vivian crafted a submission on ecological values under a new *Water Act* on behalf of The Land Trust Alliance of BC in the spring of 2010. The submission outlined the importance of baseline instream flows for all watercourses in BC, the need for groundwater regulation, and the promise of local watershed governance structures that can better plan for and adapt to local conditions.

Deborah Curran will shortly be making a submission on behalf of Ducks Unlimited in response to another Ministry of Environment discussion paper on the WAM process.

Protecting a First Nation's Interests in the Chemainus River Watershed

The ELC has worked on a case to protect the Halalt First Nation's groundwater supplies – and Chemainus River salmon – from municipal plans to install groundwater extraction wells adjacent to the Chemainus River and the Reserve.

Water flows in the Chemainus River are already critically low for sustaining salmon. The Halalt are concerned that extraction of ground water from the wells, which are adjacent



to the river, will reduce those flows substantially. They have evidence that the groundwater to be extracted plays an important role in moderating the flow and temperature of the river.

They are also concerned that the wells, which are only 10 metres from the Reserve boundary, will extract groundwater under the Reserve, which may impact the Reserve's wells.

With ELC help, the Halalt filed a Petition to quash the Minister of Environment's Environmental Assessment Certificate that approved the wells on the basis that the wells would infringe their rights and title, and that government has failed to adequately consult and accommodate them. They allege that government should have developed a comprehensive watershed management plan before approving the groundwater withdrawal of water that feeds the Chemainus River.

The court hearing, involving arguments developed by ELC student Steve Catania, was held for several days in summer 2010 and finished in the fall. During the fall, ELC student Samantha Rapoport researched the issue of retroactivity of legislation, case law on ownership of minerals under Indian Reserves, and how such materials could be applied to a groundwater case.

Developing a Regional Food System Strategy

The Food Policy Working Group of the Capital Regional District Food and Agricultural Initiatives Roundtable is working with the Capital Regional District on regional food policies. The Group is preparing a series of policy briefs to decision makers and is aiming to have its policy proposals

incorporated into the CRD Regional Sustainability Strategy. They are also working with key municipalities on policy development. To that end, several student projects in 2010 and 2011 have supported policy work on a regional food system.



Regional Levy to Protect Farmland

Sustainable agriculture in the Capital Region is threatened by the fact that young farmers often cannot afford to buy land. Currently, the capital cost of local farmland is \$50,000 -150,000 per acre, an urban land value that cannot be capitalized by young farmers solely based on an agricultural business plan. Similar to the crisis in the affordability of housing, there is now market failure regarding the price of farmland and its value for growing food commodities.

The Capital Region Food and Agriculture Initiatives Roundtable asked ELC student Patricia Blair to address the feasibility of establishing a Capital Regional District Levy for Farmland. A levy on property taxes could provide a means for the broad community to capitalize its interest in retaining local food lands – and take that burden off beginning farmers. There are useful models to consider. The CRD Parkland acquisition fund has been very well received by residents and has allowed the Region to secure significant natural areas/sensitive eco-systems. In fact the parkland levy was recently renewed at a higher amount (from \$10 to \$20 per parcel per year).

Under a regional farmland levy system, land would be purchased with levy funds but would be held and managed by a farmland trust. The land trust would administer farmland leases to ensure appropriate stewardship is practiced. The Capital Region Roundtable believes that securing a few

strategic parcels of farmland through a local farmland levy might cool the speculative pressure on other farmland in the region and thus assist overall agricultural viability.

Challenging the Shutdown of School Buses

School districts all over BC are contemplating the full or partial shutdown of bus transportation of students to and from schools. For example, in the Cowichan District District #79 the Board is reviewing busing to save \$1.7 million, which would affect the bus transportation of almost 5000 students a day. This will result in an increase in auto traffic as students make their way to school without efficient bus transport. The decrease in school busing across the province will have a monumental impact on community environments, both in terms of general pollution and increased traffic and emissions around schools. It also may create safety issues for students who must now walk in unsafe circumstance.

The client, Community Alliance for Public Education, approached the ELC to research potential legal and policy arguments (climate legislation and policy, transit policy, air quality standards, health provisions, etc.) to support the maintenance of the infrastructure for school buses. Natasha Gooch, an ELC Intensive student, drafted a memo in the fall of 2010 examining the jurisdiction of school districts to provide the service of transportation of students by school bus, the greenhouse gas (GHG) reduction regime in BC, and whether the GHG reduction legislation has an impact on school bus transportation.

School districts are required under provincial legislation to become carbon neutral by decreasing their GHG emissions and through the purchase of carbon offsets. The districts are generally funded by the provinces according to a per student calculation and have discretion to spend the funds as they see fit. Districts are not required by law to provide busing, but Cowichan has made it a policy to do so.

The report (<http://www.elc.uvic.ca/publications/documents/Mar2011-Challenging-the-Shutdown-of-School-Buses.pdf>) was based on the premise that busing students is preferable to having them drive or being driven in private vehicles as the total emissions from buses on a per student basis has been found to be less than half of that from private midsize vehicles.

The School District refused to hear Natasha's submission in open session, prompting a lengthy article about the

report in the local Cowichan Citizen newspaper. The client and Natasha are proceeding to distribute the memo to the Ministry of Education and Climate Action Secretariat.

Ensuring Adequate Funding for Environmental Agencies

The Land Conservancy is now considering how to work with other groups to implement the legal strategy devised by spring 2010 ELC student Kara Duncan. Kara's strategy document outlined how to draft and launch a Citizen's Initiative to mandate increased funding to the Ministry of Environment. Such an Initiative would seek to reverse the years of budget cuts suffered by the Ministry of Environment.

If environmental groups decide to unite on this issue, Kara's project could become the focus of a large-scale public campaign.

Protecting Grizzly Bears

Elizabeth Farries provided assistance to Raincoast Conservation Foundation regarding the high number of grizzly bears being shot as "control kills" in the Bella Coola valley on the central coast.

The majority of these grizzlies are being destroyed as a result of human behaviour—primarily failures to secure bear attractants. Current laws are ineffective in controlling such behaviour.

Elizabeth researched how the *BC Wildlife Act* could be amended to make enforcement more effective by canvassing a variety of legislative models in the US and Canada. In addition, she wrote a memo to the local MLA about the problems with the law and with the reduced funding for Bear Aware programs. MLA Gary Coons shared her concerns about reduced funding with the Legislature. Shortly afterward, an increased budget for Bear Aware programs was announced.

Civil servants have told the client that an op-ed that Elizabeth co-authored has had an effect and that "there is hope on the distant horizon for the revision of Section 88.1 of the *Wildlife Act*."

Protecting Poirier Lake Park

Sunny Zhai completed her work on protecting William Simmons Memorial (Poirier Lake) Park near Sooke, addressing



residents' concerns that the Park is being mismanaged and suffering from environmental degradation. Sunny researched the pertinent issues and then made submissions to the Juan de Fuca Park & Recreation Commission.

She also advocated more effective regulatory tools to monitor environmental values and ensure that park use doesn't damage sensitive ecosystems. Finally, she called for a more collaborative and open process in planning park uses and stewardship.

Low Income Energy Efficiency Programs

ELC student Maine McEachern worked on the Energy Poverty Initiative of the Climate Justice Project, a project that seeks to advance both environmental and social justice goals. The project – a collaboration involving the BC Public Interest Advocacy Centre, the Canadian Centre for Policy Alternatives and the UBC School of Community and Regional

Planning – is trying to develop innovative green policies that are equitable. The Initiative is specifically investigating how household energy efficiency programs can be implemented in a way that is fair to the poor.

A number of inequities currently exist in current household energy efficiency programs. For example, current programs raise energy rates to all energy consumers (including the poor), but the benefits of many programs are only accessible to consumers who are able to pay for energy efficiency upgrades. In effect, low income residents are subsidizing the energy efficiency upgrades of their higher income counterparts. Additional equity issues include those relating to landlord/tenant relationships, time-of-use rates, and two-tiered pricing programs.

Maine and article student Jill Vivian researched international best practices for encouraging energy efficiency without harming the poor. Their 88-page report (<http://www.elc.uvic.ca/press/energy-poverty-report-May2010.html>) examines the best low income energy efficiency policies and programs in Canada, the US and Europe and makes recommendations for changes in law and policy to reform BC programs.

This ELC work will become the foundation for the rest of the work of the Energy Poverty Initiative, which will go on to advocate the reforms that the ELC has developed.

SUMMARY ADVICE

In addition to clinic cases, ELC articles students and lawyers provided brief pro bono summary advice or information to local citizen, First Nations and environmental groups on a number of issues ranging from land use to law reform to judicial review.

ALUMNI UPDATES



Since graduating from the LL.B. program in 2008, **DALEEN ADELE THOMAS** (ELC summer 2008 Clinic student) has added another child to her family and returned to Uvic for the LLM program in 2010-11. Her current area of study is child rights advocacy and she is seeking articles in the Victoria, BC area commencing fall 2011.

TIM THIELMANN (ELC summer 2008 Clinic student, ELCS Executive 2005-2008, ELC articulated student Sept 2008-Feb 2009) is now in his second year of practice at Devlin Gailus. He was co-counsel in the West Moberly First Nations case, which sought to protect an endangered caribou herd from a nearby coal mine. Having remained in Victoria, he continues to draw heavily from the wisdom, networking capacity, and overall awesomeness of the ELC team. Connect with him at timt@devlingailus.com or [facebook.com/Tim.Thielmann](https://www.facebook.com/Tim.Thielmann).

MICAH CARMODY (ELC spring 2009 Clinic student, ELCS Executive 2007-2009, ELC articulated student Sept 2009-Sept 2010) is a practicing lawyer working for the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River.



After three years in private practice, **RACHEL FORBES**, (ELC Intensive stream Clinic student 2007-2008, ELCS Executive 2005-2008, ELC articulated student May-Sept 2008) a former ELC co-President and Articling Student, has joined West Coast Environmental Law as staff counsel. She hopes to be working with the UVic ELC and other ENGOs on many public interest projects in the future.

STAFF ACTIVITIES

Before law school, they have not seen legal proceedings, a fact that is an asset. They've acquired very important knowledge and thereby now they need its practical application."

A CLINICAL APPROACH
Before they should they get the practice they need? "Good question," says Moroney, whose firm provides its own internal training to beginning lawyers. "Universities probably see themselves as having the mandate — and I agree with it — for providing basic principles. And we may be better equipped to provide the practical skills."

As Moroney's comments suggest, one of the difficulties in teaching so many of these practical skills of lawyering is that they are, almost by definition, skills best acquired in one, one in the classroom. For this reason, in recent years, legal clinics have taken on an ever more visible role in the education of aspiring lawyers.

"Some of the skills we teach include interviewing, counseling, negotiation, media relations, and applied professional responsibility," says Chris Tollefson, director of the University of Victoria Faculty of Law's 13-year-old Environmental Law Clinic. Since its inception, the ELC has grown to encompass two full-time lawyers, two visiting students, and an associate program. It handles about 50 cases a year, and clients include community groups, conservation organizations, and first nations.

"We operate it like a small law firm — that's part of the pedagogy," says Tollefson. "We have a firm/class meeting each week to make the files and to identify actual and potential professional responsibility issues. Our students get opportunities to make oral submissions to legislative committees, town hall meetings, municipal councils."

"They learn the broad skill of managing files and all that goes into that, including client communications, tracking time, and ensuring that each file is always in a state that another lawyer can step in and take over if necessary," he says. "It's a way to learn about how black-letter law actually works."

The school offers two other clinical programs: a legal aid clinic that provides poverty- and family-law services, and a business law clinic that has worked with small businesses for the past six years. They're joined by law school clinics across the country where students provide pro bono services to their communities in areas that include criminal defense, human rights, business law, wrongful convictions, corrections, and the like.

In addition to its Downtown Legal Services clinic, the University of Toronto offers, among others, a human rights and a tax litigation clinic, designed more to show the law that provide services. A recent donation by David Asper has helped

to establish Canada's first constitutional rights clinic.

Additionally, law schools are bridging the historical divide between the academy and the practicing profession in order to bring practitioners into the classroom as law-teachers or guest lecturers. Moroney points to U of T's "capstone" courses for third-year students, in which students explore the legal aspects of topical issues with leading scholars and practitioners in the field.

Stephen Lewis, for example, helped teach a capstone on HIV/AIDS, while Toronto mayor David Miller led a task force on rebuilding cities. The school also offers a "diplomacy term away" that allows students to go on exchange and experience practice in the legal milieus of Brussels, Hong Kong, Shanghai, or London.



Chris Tollefson
Environmental Law Clinic, University of Victoria

"We operate it like a small law firm — that's part of the pedagogy."

- "Access to Justice in Environmental Litigation" presenter and moderator (Vancouver: Feb 3 and 4, 2011)
- Moderator, "Judicial Perspectives on Environmental Law and Litigation" (Vancouver: Feb 3 and 4, 2011)
- Moderator, "H2Oil" Victoria cinematic premiere and discussion (Feb 24, 2010)
- "New Governance Arrangements for Sustainable Resource Management II" Research Team Workshop Leader (University of Victoria: March 4-6 2010)

CALVIN SANDBORN

Community Action Award

In December 2010, the Comox Valley Council of Canadians presented a Community Action Award to Coal Watch and recognized the contribution from the ELC in its citation.

Honorary Citizen Award

In January 2011, the Mayor and Council of the City of Victoria designated Calvin Sandborn an Honorary Citizen of the City for his work done as Legal Director of the Environmental Law Centre. The Citation with the Award stated: Category: Environment / Education

Environmental lawyer Calvin Sandborn has been a leader in expanding the Environmental Law Clinic, (ELC) Clinic at University of Victoria Faculty of Law. Beginning as a volunteer lawyer, he became the first staff lawyer at the ELC. The ELC was Canada's first Environmental Law Clinic, and is now widely recognized as one of the finest in North America. The Clinic serves scores of community groups, environmental groups and First Nations, while training Canada's next generation of public interest environmental lawyers. Calvin, as Legal Director of ELC, teaches and supervises the cases and projects of ELC students.

As former counsel to West Coast Environmental Law Association and the Forest Practices Board, Calvin is one of BC's most experienced public interest environmental lawyers. He has successfully litigated many high-profile cases (particularly in the areas of forestry and endangered species) as well as instigated broad law reform.

Calvin has shown himself to be an inspiring leader and role model in his lengthy career and especially as an outstanding environmental law professor and advocate for the ELC students. Calvin's and his students' work has impacted the residents of the Capital Region through various issues that they have undertaken.

CHRIS TOLLEFSON

2010 activities included:

- Publications:
 - Principal Investigator, Environmental Tribunals Report (2010: submitted to Law Foundation of BC) responsible for funder liaison and reporting; stakeholder consultations; and oversight of work done by Mark Haddock
 - Principal Investigator, Environmental Assessment Report (2010: submitted to Law Foundation of BC)
 - "Environmental Assessment Act needs Revamping" Vancouver Sun op-ed (Nov 15, 2010) with Mark Haddock
 - "Strategic Lawsuits Against Public Participation: the British Columbia Experience" (2010), 19 Review of European Community & International Law 45 (with Michaelin Scott)
 - "Tears from an Onion: Layering, Exhaustion and Transformation in BC Land Use Planning Policy" (2010) 28 Policy and Society 111-124 with Tim Thielmann
- Selected Presentations and Conference Organizing:
 - Co-lead organizer, "Renewing Environmental Law Conference" (Vancouver: Feb 3 and 4, 2011)

Notably, Calvin was responsible for the submission to the Auditor General over the removal of the Western Forest Products lands, by Sooke and Jordan River, without due consideration of the public interest. The ELC submission prompted the Auditor General to issue a critical report that led the Capital Regional District Board to make a decision to permanently set aside 2350 hectares of these lands for recreation, conservation and watershed protection. As another example, an ELC report on transforming storm water management has been widely praised by local government officials, and is leading to significant reform of rainwater management in the Capital Region.

Calvin's leadership through ELC has helped build a public community of interest and involvement, which focuses on making our region a better place to live with better environmental protection. Victoria and the Capital Region are indeed fortunate to have someone of Calvin Sandborn's leadership, vision, skill and dedication in our community.

Andrew Thompson Award

In February 2011, Sandborn was only the second lawyer – after former Federal Environment Minister David Anderson – to be given the prestigious Dr. Andrew Thompson Award for environmental advocacy and protection. The award was accompanied by a \$2000 stipend that will be donated to an environmental group working with indigenous people in the Third World. Sandborn was nominated by Vicky Husband, CoalWatch Comox Valley, ELC students, and a citizen concerned about development on the Saanich Peninsula.

Calvin's speech: <http://www.elc.uvic.ca/documents/Andrew-Thompson-Award-Acceptance-Speech.pdf>.

DEBORAH CURRAN

Deborah Curran continued to coordinate the ELC Associates program, working with lawyers across the province, and providing continuing professional development sessions to upgrade their knowledge of environmental law.

Deborah Curran continued to coordinate the ELC Associates program, working with lawyers across the province, and providing continuing professional development sessions to upgrade their knowledge of environmental law.

Deborah's other activities included:

- Representing the Faculty of Law on the University of





Victoria Sustainability Advisory Committee that focuses on implementation of the Campus Sustainability Plan (ongoing);

- Serving as Treasurer for the Canadian Association of Law Teachers (ongoing);
- Serving as a member of the City of Victoria Sustainability Framework Technical Advisory Committee (ongoing);
- Serving as a member of the Capital Region Food and Agricultural Initiatives Roundtable – Policy Advisory Committee (ongoing);
- Presenting on “Green Development in Victoria and Burnaby: Sustainability Reinventing Property Law” at the conference Private Property, Planning and the Public Interest (Faculty of Law, University of Windsor, Windsor Ontario March 12 2010);
- Attending the Sustainability Education Across the Province workshop at Simon Fraser University to assist professors from all disciplines to integrate sustainability into all course content (Burnaby May 2010);
- Organizing the conference and presenting on “Collaborative Learning in the Law School Environment: The Use of Field Trips” at the Canadian Association of Law Teachers annual conference (Victoria, June 21 2010);
- Presenting on the ELC clinic model “Using Environmental Law for Clinical Education” at the first Canadian Clinical Legal Education Conference at the University of Western

Ontario (London Ontario, October 23 2010);

- Providing strategic advice to Ecojustice on intervening in the Wallot v. Quebec case about regulating the use of land adjacent to watercourses at the Quebec Court of Appeal;
- Hosting a meeting of professors and staff engaged in environmental and sustainability work at the University of Victoria;
- Presenting on water governance at the annual SustainAble Communities conference (Kelowna, November 18 2010);
- Presenting on sustainable food systems at the Canadian Political Science Students’ Association conference (Victoria, January 21 2011);
- Co-facilitating and presenting on protecting agricultural land and improving the viability of farming for a Planning Institute of B.C. continuing professional development seminar (Victoria, February 16 2011);
- Co-coaching the University of Victoria team for the inaugural Willms and Shier Environmental Law Moot (Toronto Ontario, February 19 2011). The team consisted of Naomi Kovak (current ELC Intensive student and ELC Student Board Chair) and Sunny Zhai (ELC Intensive student 2009-2010); and
- Representing the faculty/professors on the Fraser Building Sustainability Action Team for the University of Victoria Building Sustainability Challenge during which six building communities on campus are competing to reduce their waste and energy (February to April 2011).

HOLLY PATTISON

Over the past year, Holly Pattison dedicated numerous volunteer hours in the creating of films that were used to enhance and distribute ELC Clinic work (available here: <http://www.elc.uvic.ca/press/videos.html>) and assist communities.

In May 2010, Holly produced a film to raise public awareness, distinguish the stormwater issue from the contentious local sewage issue and promote the ELC’s stormwater report. Several students and volunteers were involved in the production, which was comprised of interviews with experts: a biologist, an engineer, and a local politician. The film has been shown as part of student presentations to the CRD, a variety of municipalities, and the Cohen Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River.

In October 2010, Holly produced a film to introduce the concept of Biosphere Reserves. Interviewees included ELC Clinic student Amelia Walsh, who wrote a report on Biosphere

Reserves in the spring, and research scientist Glen Jamieson, who was involved in the application process for the Mount Arrowsmith Biosphere Reserve. The film was used to open a well-attended public event in November about establishing a Biosphere Reserve on southern Vancouver Island.

In January 2011, Holly edited her original film about Echo Heights in Chemainus and created a longer version for the community to highlight some of the local First nations concerns. The revised film will be shown in the community, which is still fighting North Cowichan council's efforts to develop the area.

All film work was done with equipment, resources and guidance available through MediaNet, a non-profit filmmaking organization of which Holly is a member. She also continues to sit on the Editorial Board of The Malahat Review, on the Advisory Committee for the UVic Campus Community Gardens, and representing staff on the Fraser Building Sustainability Action Team for the University of Victoria Building Sustainability Challenge during which six building communities on campus are competing to reduce their waste and energy (February to April 2011).

Thank You

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Sarah Cox

Gwen Barlee

Anne Mullens

Russ Francis

Krista Robertson

Paul Seaman

Connie Nisbett

Albert Peeling

John Borrows

Ken Wu

Charles Campbell

Jaye Castelden

Don Castelden

John Pennington

Murray Browne

Stephen Hume

Vicky Husband

Judith Sayers

Leanne Baker

Maxine Matilpi

Sean Holman

Judith Lavoie

Eric Swanson

Mark Haddock

Heather Mahoney

Fred Perron-Welch

MEDIA LOG

DATE ARTICLE PUBLICATION

- 22-Feb-11 There is evidence of major coal plans (Times Colonist)
- 22-Feb-11 \$2.75-million grant expands environmental law teaching, research at UVic (Academica Group)
- 18-Feb-11 Pay-as-you-drain system pondered by city council (Victoria News)
- 18-Feb-11 Board shuts down legal opinion in closed session (The Citizen)
- 17-Feb-11 Victoria eyes rain catchment incentives (Victoria News)
- 17-Feb-11 Quadra Island foundation gives \$2.75 million to UVic for sustainability research (Times Colonist)
- 17-Feb-11 Significant gift to UVic law school (CFAX 1070)
- 16-Feb-11 Groups want inquiry into sour gas health effects (The Epoch Times)
- 10-Feb-11 Mayor talks up benefits of stormwater utility (Times Colonist)
- 9-Feb-11 Meeting allows coal-mining opponents to give views (Times Colonist)
- 9-Feb-11 Calvin Sandborn earns more legal kudos (Victoria News)
- 8-Feb-11 Groups call for inquiry into health effects of sour gas (Globe & Mail)
- 8-Feb-11 UVic urges BC to use Public Health Act to investigate sour gas leaks (Vancouver Sun)
- 26-Jan-11 City of Victoria awards 14 honorary citizens for contributions (Victoria News)
- 21-Jan-11 Victoria awards 14 honorary citizens (Victoria News)
- 20-Jan-11 Oil spill clean up could cost Canadians (North Island Gazette)
- 19-Jan-11 Calvin Sandborn named honorary citizen (ELAW)
- 14-Jan-11 Vantreight housing opponents go to court (Times Colonist)
- 14-Jan-11 Oil spill to cost Canadian taxpayers billions (Economist)
- 14-Jan-11 Potential BC spill could cost taxpayers (Calgary Herald)
- 14-Jan-11 Debate breaks out over oil spill clean up (Terrace Standard)
- 14-Jan-11 Oil spill fund may be too small, report says (Times Colonist)
- 14-Jan-11 UVic study: Oil spill would hit taxpayers hard (Vancouver Sun)
- 13-Jan-11 Canadian taxpayers on the hook for catastrophic oil spills from Enbridge Northern Gateway (Vancouver Observer)
- 13-Jan-11 Enbridge oil spill could cost Canadians billions: report (Tyee)
- 7-Jan-11 Neighbourhood group wins fight against infrastructure expansion (Tyee)
- 29-Dec-10 Save the Orcas: Regulate whale watching (Vancouver Sun)
- 25-Nov-10 Biosphere bid good for region (Times Colonist)
- 2-Dec-10 UVic law students campaign for CRD biosphere reserve (Martlet)
- 18-Nov-10 Biosphere island (Monday Magazine)
- 17-Nov-10 Groups want UNESCO designation for Vancouver Island (Times Colonist)
- 17-Nov-10 Overhaul of environment assessment urged in report (Vancouver Sun)
- 17-Nov-10 Can we become the world's most liveable community? (Times Colonist)
- 16-Nov-10 EA Act needs to be revamped (Vancouver Sun)
- 1-Nov-10 A CRD Biosphere Reserve? (Econews)
- 14-Oct-10 No Man's Land (BC Business)
- 24-Aug-10 PESTS hires lawyer to look into safety (Dawson Creek Daily News)
- 18-Aug-10 Coal mine prompts environmental concerns (Vancouver Sun)
- 17-Aug-10 Input needed for proposed mine (Times Colonist)
- 17-Aug-10 Comox Valley mine proposal threatens shellfish (Vancouver Sun)
- 13-Aug-10 First group WFP lands transferred to CRD (CRD media release)
- 3-Aug-10 Sewage plan taking shape (Saanich News)
- 3-Aug-10 Region's sewage plan begins to take shape (Victoria News)
- 15-Jul-10 Court fight aims to halt marina plan (Times Colonist)
- 15-Jul-10 Rezoning threatens mega-yacht marina plan (Times Colonist)
- 8-Jul-10 It's Time to Stop the Senseless Killing of Grizzly Bears in British Columbia (CounterPunch)
- 7-Jul-10 Stop the Needless Killing of BC's Grizzly Bears (Huffington Post)
- 21-Apr-10 Rainwater Revolution (Monday Magazine)
- 10-Apr-10 The public's right to know (Vancouver Sun)
- 2-Apr-10 Victoria mayor on mega-yacht marina: Not in our harbour (Times Colonist)
- 18-Mar-10 Langford in court (Monday Magazine)
- 18-Mar-10 And the jobs are where? (Monday Magazine)
- 17-Mar-10 Rainwater runoff the key to a green city (Times Colonist)
- 14-Mar-10 Mega marina, mega debate (Special Report: Mega-Marina Battle) (Times Colonist)
- 9-Mar-10 Bids pour in for Western Forest Products land; For sale (Times Colonist)
- 8-Mar-10 The pollution problem we can't save for a rainy day (Globe & Mail)
- 6-Mar-10 District purchase completes park plan (Times Colonist)
- 5-Mar-10 Region buying West Coast 'jewel'; Beach, forest, townsite: \$18.8 million (Times Colonist)
- 4-Mar-10 Juan de Fuca deal in works (Times Colonist)
- 4-Mar-10 Pending waterfront land sale draws hundreds to meeting (Sooke News Mirror)
- 3-Mar-10 Ex-MP blasts 'irrational' land handover (Times Colonist)
- 1-Mar-10 Raw sewage to flow when it rains, despite treatment (Times Colonist)
- 27-Feb-10 Poor rainwater system leads to pollution: study (Times Colonist)
- 23-Feb-10 Double standard on WFP lands (Times Colonist)
- 18-Feb-10 Big push underway to purchase WFP land (Times Colonist)
- 11-Feb-10 Politicians join WFP land fight (Times Colonist)
- 10-Feb-10 Marina berths marketed despite lack of approval (Times Colonist)
- 6-Feb-10 WFP land sale could be revived; Cabinet minister pushes idea of rekindling UBC negotiations (Times Colonist)
- 4-Feb-10 BC Government accused of secrecy and stonewalling (CBC News)
- 4-Feb-10 Vantreight plan panned (Monday Magazine)
- 4-Feb-10 BC accused of 'rampant censorship' (Globe & Mail)
- 3-Feb-10 FOI-Hansard report: Special Committee to Review the Freedom of Information and Protection of Privacy Act (Hansard)
- 3-Feb-10 UBC, WFP no closer to Island land deal (Vancouver Sun)
- 3-Feb-10 UBC talks with forest firm to buy Island land (Times Colonist)

See <http://www.elc.uvic.ca/media/> for links

www.elc.uvic.ca

ELCS Board of Directors (2010-2011)

Community Board Members

	<i>Gillian Calder, Law Professor (on leave July 2010-July 2011)</i>		<i>Maeve Lydon, Office of Community- Based Research at UVic</i>		<i>Andrew Newcombe, Law Professor (resigned May 2010)</i>
	<i>Hamar Foster QC, Law Professor</i>		<i>Dan MacIsaac, Lawyer</i>		<i>Karla Point, ELC Alumnus</i>
	<i>Claire Hutton, Consultant</i>		<i>Maxine Matilpi, Law Professor</i>		<i>Murray Rankin, QC, Lawyer and Community Co-Chair</i>
	<i>Robert Janes, Lawyer</i>		<i>Alyne Mochan, ELC Alumnus</i>		

ELC Staff

	<i>Chris Tollefson, Executive Director</i>		<i>Calvin Sandborn, Legal Director</i>		<i>Deborah Curran, Project Director</i>		<i>Holly Pattison, Paralegal Program Administrator</i>
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Student Executive Board Members 2010-11

	<i>Naomi Kovak, Club President and Student Co-Chair</i>
	<i>Ethan Krindle, Vice- President</i>
	<i>Rose Keates, Communications Coordinator</i>
	<i>Sam Rapoport, Communications Coordinator</i>
	<i>Tharani Balachandran, Projects & Events Coordinator</i>
	<i>Jenn Cameron, Projects & Events Coordinator</i>

	<i>Alex Etchell, Treasurer</i>
	<i>Kat Bounds, Treasurer</i>
	<i>Irene Sattarzadeh, Summer Coordinator</i>
	<i>Connie Nisbet, Summer Coordinator</i>
	<i>Danny Oleksiuk, Upper Year Rep</i>
	<i>Allison Edgar, Upper Year Rep</i>

	<i>Kaylee Apostoliuk, First Year Rep</i>
	<i>Adil Khan, First Year Rep</i>

ELC 2010 Articled Students

	<i>Jill Vivian</i>
	<i>Sarah Sharp</i>
	<i>Derek Noyes</i>
	<i>Micah Carmody</i>