



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



**Environmental
Law Centre**
UNIVERSITY OF VICTORIA

Annual Report 2016-17

Board Notes

This past year was remarkable in many ways. With just two paid staff – one lawyer and one paralegal administrator – and two other part-time instructors from the Faculty of Law, the ELC provided engaged legal assistance to almost 40 community organizations and First Nations in BC. This work is not possible without the boundless energy of UVic students who dedicated more than 4,000 hours to helping these clients achieve better environmental quality in BC. This past year was also a time of transition. The ELC celebrated its 20th anniversary and is planning for the next 20 years by undertaking a review of its governance and the clinic course. Chris Tollefson, longtime executive director, resigned to pursue his interest in litigation, and the current staff and board have developed a robust funding program as well as secured the first operating agreement with the Faculty of Law. This was a lot of activity for a small organization, but the collective energy of ELC students, staff and clients create the magic of positive change. Thank you for all your support – students, funders, clients, our supporters and the Faculty of Law. It takes a village!



Deborah Curran
Acting Executive Director



Tim Leadem, QC
Community Chair
Board of Directors



Andie Britton-Foster
Student Co-Chair
Board of Directors



Brodie Quinton
Student Co-Chair
Board of Directors

COVER PHOTO: Great Bear Rainforest, Holly Pattison



We train the next generation of public interest environmental lawyers

Students with a vision of providing legal assistance to British Columbians on environmental issues founded the ELC over 20 years ago. That mandate endures today with the ELC Clinic. Under the guidance of our team of legal professionals, ELC Clinic students produced high-quality research and comprehensive reports that highlighted the root of problems and proposed workable solutions.

Partnerships are the basis of all ELC work. This year we collaborated with First Nations, non-governmental organizations, community organizations, and lawyers with an interest in public interest environmental law. Through the passionate work of our students, this year we provided over 4,000 hours of legal assistance to 39 client organizations.

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

While providing law students with a rich learning environment through their clinical experience, we are also increasing the capacity of community groups, environmental organizations, First Nations and the public interest environmental law Bar in their efforts to protect and enhance conservation and sustainability in BC. This year we provided 19 community groups and First Nations with over 2,500 hours of legal services.

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

In 2016-17, we trained 37 students who worked on 38 active files and provided over 4,000 hours of legal aid services; our staff lawyers provided over 1,000 hours of legal supervision and guidance



Working to Protect Drinking Water and Watersheds

Thanks to your support, this year we helped community groups and First Nations with water quality and access concerns, and we developed a proactive toolkit to plan for and protect green space and watersheds.

Through the dedicated work of ELC students and staff, when a group of concerned citizens came to us about the effects on their aquifer from liquid manure applications at nearby farms, we requested orders to protect drinking water and to stop pollution. When government said an Area Based Management Plan would resolve the problem, we provided recommendations, which we hope will lead to a province-wide standard. In BC Supreme Court, we assisted a Vancouver Island community who were trying to prevent the dumping of contaminated waste near their watershed, and we celebrated with them when the permit that had allowed the dumping was revoked. As a result of our work with a First Nation to protect their traditional territory, the UNESCO World Heritage Committee called on the federal government to immediately protect Canada's largest national park before it becomes designated 'in danger' due to oil development and upstream hydro dams. Helping communities plan for the future, we developed legal tools for local governments and citizens to use in order to preserve and protect green space and watersheds.

Water is a critical to life. Together, we will continue to help make this important recourse to be clean and accessible to all communities.

FEEDBACK:

- Student: *It's great to see how our work is unfolding... it's a welcome reminder of the reasons I came to law school.*
- Client: *You have given us hope and confidence that we can eventually succeed in our goal of having safe drinking water*



Keeping the Public in Public Information and Resources

Thanks to years of ELC persistence, BC has improved information and privacy law. This year, we took that work one step forward. We also helped communities voice concerns over their diminishing access to public land.

Working to improve information and privacy law in BC, we've made submissions to Legislative Committees, advocated successfully for changes to the rules, and complained to BC's Office of the Information and Privacy Commissioner when government failed to comply with their duty to release information. When we discovered this year that we still had to seek orders from the Commissioner to force the

release of government documents in the public interest, we took action. On behalf on an NGO, we provided a law reform proposal with specific systemic recommendations to the Information Commissioner and asked them investigate why government is failing to live up to its obligations when it comes to releasing public information.

On behalf of BC citizens concerned about public access to public land, we developed reports and legal arguments with respect to the public’s right to exercise their traditional rights to enter, navigate and fish public lakes.

People need access to information to protect public health, the environment and to keep government accountable; and public spaces and resources need protection. With your support, we’ll continue to press government to make sure things are moving in the right direction.

FEEDBACK:

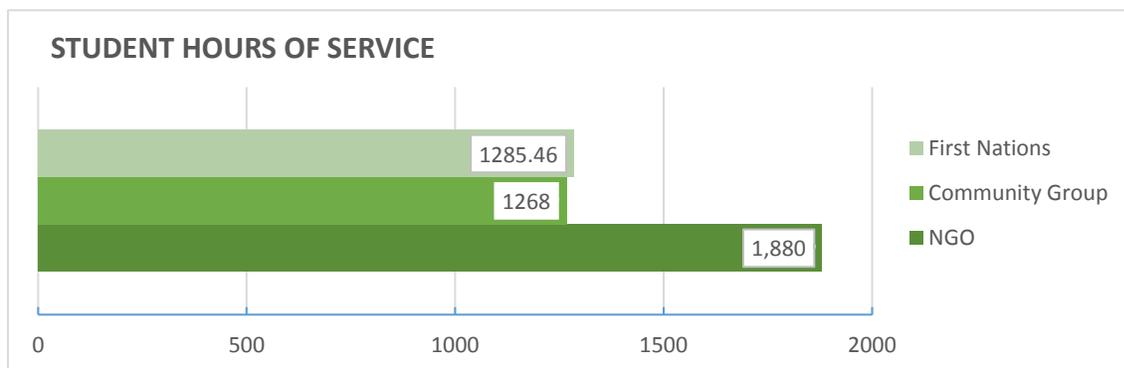
- *Student feedback: The skills that I have developed will assist me throughout my career, and the practical experience has been invaluable.*
- *Client feedback: ...it is heartening to know that the future is in much more capable hands than most of my generation would ever know ... or admit.*



Making laws stronger to better protect the environment

Building on our past efforts, we are working to strengthen laws that protect both the environment and democracy. With the support of students and staff, and working in collaboration with our clients, the ELC contributed to BC’s new *Water Sustainability Act* and its regulations, made submissions to reform federal environmental assessment laws, and asked BC to investigate and update its Klondike-era mining regulation.

As regulations are developed for BC’s new *Water Sustainability Act*, the ELC is creating tools and providing recommendations to government, community groups, and First Nations. On behalf of a national NGO, we encouraged the federal government to include regional strategic environmental assessments in their rewrite of the *Environmental Assessment Act*.

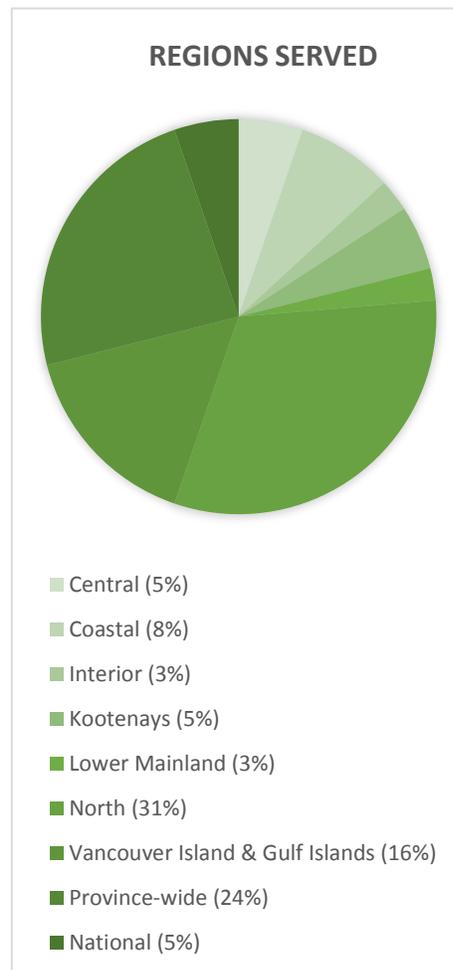
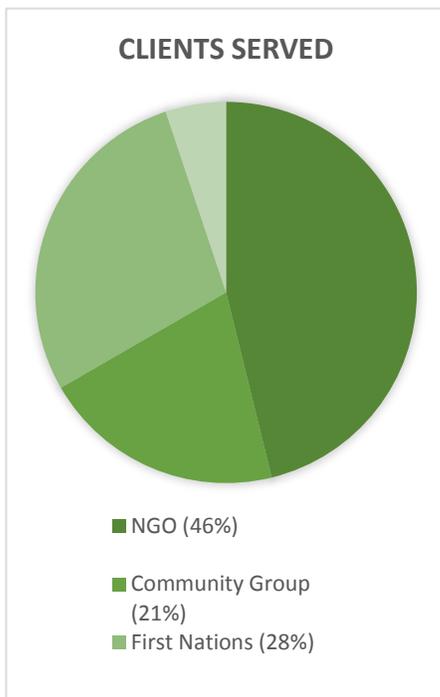


On behalf of our NGO client, and with the support of 19 First Nations, conservation groups, health professionals and community organizations, we prepared a report outlining systemic failures in BC’s mining regulation and asked government to launch a Judicial Inquiry to investigate and make recommendations to improve the province’s regulation of the mining industry.

With help from our partners, we are putting our strong grounding and expertise to initiate and guide law reform. Thanks to everyone who empowers us to do this work.

FEEDBACK:

- *Student feedback: This experience was an opportunity to engage in true law reform in real-time. Without the ELC, it’s unlikely that I would have had time to participate in the once-in-a-lifetime opportunity to contribute to developing a new environmental assessment regime.*
- *Client feedback: Again, thanks for this mighty work. May it come to leverage a splendid outcome.*



2016-17 CASE LIST



2016-17 Case List (edited for client confidentiality)

1. Protecting salmon habitat from oil and gas development
2. Investigating aquifer contamination from dairy effluent
3. Reviewing a mining discharge permit application
4. Protecting school children from pollution
5. Pursuing UN recourses to address development
6. Legal recourses regarding damage from a mine spill
7. Dumping of contaminated soil into a watershed permit challenge
8. Strengthening environmental development permit areas
9. Public's right to access lakes
10. Researching the Water Sustainability Act
11. Developing a river watershed plan
12. Reforming federal environmental assessment laws (2 files)
13. Strengthening BC's agricultural land reserve in the face of drought and climate change
14. Investigating the Aboriginal right to clean air
15. Identifying the implications of mining
16. Protecting Granby Valley Grizzly population
17. Seeking SARA protection of mountain caribou
18. Reforming BC mining law
19. Re-patriating public waterfront parks in Saanich and Victoria
20. Protecting wetlands in the Fraser Valley
21. Posting environmental orders, decisions and policies
22. Developing legal tools for water stewardship
23. Providing best practices for issuing permits for visitors
24. Environmental assessment & judicial review of an oil and gas project
25. Judicial review of major infrastructure approvals
26. Helping to protect endangered and at-risk species in a national park
27. Eliminating net pen fish farms on BC coast
28. Protecting a river park from gunfire
29. Cleaning up Tod Inlet
30. Protecting boreal caribou
31. Drafting a Watershed Authority Act
32. Developing a moose management plan
33. Bolstering the Migratory Birds Convention Act and the Canada Wildlife Act
34. Protecting Whitman Creek Watershed
35. Challenging the burning of railway ties
36. Reforming laws governing plastic marine debris
37. Intervention in a Judicial Review of a pipeline project

MEDIA SNAPSHOT

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

- **Stormwater**
 - [Editorial: Oak Bay sewage plan slow but steady](#) (2016 Oct 14) *Times Colonist*
 - [Victoria issues new utility bill for stormwater runoff](#) (2016 Oct 12) *CBC News*
- **Professional Reliance**
- **Freedom of Information**
 - [BC must unlock environmental information](#) (2017 Mar 26) Op Ed *Times Colonist*
- **Mining**
 - [Unmonitored Mining Pollutes Fraser River, Threatens Salmon Runs: Report](#) (2017 Apr 25) *Desmog Canada*
 - [What's Changed on the Ground Since the Mount Polley Mine Disaster?](#) (2017 Apr 12) *The Tyee*
 - [Millions in political donations prompt call for review of B.C. mining regulations](#) (2017 Apr 7) *CBC News*
 - [60 years later, Alaska still calling B.C. to task on a mine leak flowing through its river](#) (2017 Apr 5) *CBC News*
 - [Comparing Mine Management in B.C. and Alaska is Embarrassing \(and Explains Why Alaskans Are So Mad\)](#) (2017 Apr 5) *Desmog Canada*
 - [British Columbians Saddled With \\$40 Million Clean-Up Bill as Imperial Metals Escapes Criminal Charges](#) (2017 Mar 28) *Desmog Canada*
 - [Regulatory chaos leaves taxpayers on hook for mining messes](#) (2017 Mar 7) *Vancouver Sun*
 - [Public Inquiry Formally Requested to Investigate B.C.'s Shoddy Mining Rules](#) (2017 Mar 8) *Desmog Canada*
 - [First Nations coalition demands B.C. inquiry into mining practices](#) (2017 Mar 07) *Globe and Mail*
 - [The rebirth of B.C.'s Jordan River is a victory for biological activism](#) (2016 Oct 17) *Globe and Mail*
 - [Provincial failures on mining pollution leaving taxpayers on the hook](#) (2016 Oct 16) *Vancouver Sun*
 - [Editorial: Province should clean up mine sites](#) (2016 Oct 11) *Victoria Times Colonist*
 - [Ministry doesn't know why contaminated site was deemed clean](#) (2016 Oct 8) *Times Colonist*
 - [Jordan River salmon wiped out by copper tailings](#) (2016 Oct 4) *Vancouver Sun*
 - [Old copper mine still fouling Jordan River](#) (2016 Oct 4) *Times Colonist*
- **Professional Reliance**
 - [POINT OF VIEW: Is it time to stop relying on professional reliance?](#) (2017 Mar 04) *CBC News*
 - [Another Wild West Show? BC's Regulatory Experiment with Professional Reliance](#) (2017 Feb 21) *TheTyee.ca*
 - [Professional reliance experiment a regulatory failure?](#) (Sept 2016) *Focus Magazine*
- **Public Access**
 - [Editorial: Unlock access to wilderness](#) (2017 Mar 06) *Times Colonist*
 - [Jack Knox: A David and Goliath fight over back country](#) (2017 Jan 24) *Times Colonist*
- **Shawnigan Lake**
 - [BC Environment Minister cancels waste discharge permit at Shawnigan Lake](#) (2017 Feb 23) *CTV News*
 - [BC cancels Cobble Hill waste-discharge permit near Shawnigan Lake](#) (2017 Feb 23) *Globe and Mail*
 - [Does the turmoil over a contaminated soil dump near Shawnigan Lake point to problems with B.C. environmental assessments?](#) (2017 Jan 30) *CBC News* Radio interview with Calvin Sandborn
 - [Shawnigan decision reveals policy flaws: critic](#) (2017 Jan 30) *Times Colonist*
 - [Shawnigan Lake residents win a round in quarry battle](#) (2017 Jan 24) *Times Colonist*

PEOPLE

Many hands support the ELC. In addition to our two full-time paid staff, we receive support from the Law Faculty, Board members, students, clients, foundations and our individual donors.

The ELC Associates Program also enhances our work. As a network of aspiring and practicing public interest environmental law practitioners, ELC Associates share their knowledge of environmental and natural resources law and collaborate on issues of mutual concern with ELC staff and students.

We greatly value our relationship with ELC alumni, many of whom came out to celebrate our 20th anniversary events this year in Victoria and Vancouver (despite some horrific weather conditions).

Staff



Deborah Curran, *Acting Executive Director*

Deborah focuses primarily on land and water law. She has significant experience in analyzing and making recommendations on how local governments approach regulation and planning for environmental protection, particularly in the context of smart growth and ecosystem integrity.

The Real Estate Foundation of BC named Deborah as their 2016 Land Champion for her outstanding work in sustainable land use.



Calvin Sandborn, *Legal Director*

Calvin is one of BC’s most experienced public interest environmental lawyers. Former counsel to West Coast Environmental Law and the Forest Practices Board, Calvin was Associate to the historic Commission on Resources and Environment. In 2011, Calvin was named Honourary Citizen of the City of Victoria and received the Andrew Thompson Award, BC’s top prize for Environmental Advocacy.

In March 2017, Calvin received the Svitlana Kravchenko Environmental Rights Award for his public interest and environmental law work.



Holly Pattison, *Paralegal Administrator*

Holly teaches file management in the clinic, manages the law office, maintains the Society’s records and finances, updates the website, organizes events, edits and desktops various reports, publications and applications. She’s a writer, photographer and filmmaker and uses her photography to illustrate the ELC’s work and environmental issues whenever possible.

2016-17 Board of Directors

Community Board Members

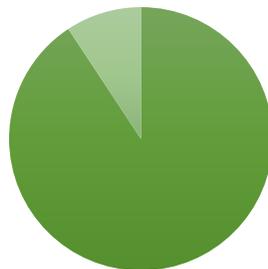
- Oliver Brandes, POLIS
- Gillian Calder, UVic Law Professor
- Clare Frater, Policy Analyst, Islands Trust
- Tim Leadem, QC, retired Lawyer
- Alyne Mochan, Lawyer, Office of the Conflict of Interest Commissioner of BC
- Stuart Rush, QC, retired Lawyer
- David Thomas, Businessman

Student Executive Board Members 2016-17

- Andie Britton-Foster, Co-President
- Brodie Quinton, Co-President
- Peter Nyhuus, Vice President
- Kelly Lindsay, Vice President
- Graham Litman, Internal Communications
- Conner Wear, External Communications
- Chelsea Harris, External Communications
- Ashley Thomas, Treasurer
- Will McClary, Treasurer
- Adele Lay, Project and Events Coordinator
- Andhra Azevedo, Project and Events Coordinator
- Andrew Lemieux, Summer Coordinator
- Dora Tsao, Summer Coordinator
- Joelle Karras, Indigenous Law Students Association Liaison
- Erin Linklater, Indigenous Law Students Association Liaison
- Kathryn Gullason, Upper Year Rep
- Caitlyn Stockwell, Upper Year Rep
- Graham May, First Year Rep

Thank you to our donors

Thanks to foundational support from the Law Foundation of British Columbia, the North Growth Foundation, the Oasis Foundation, the Sitka Foundation, and to the support of our individual donors, the ELC continues to move towards improving environmental protection and access to environmental justice in BC.



INCOME

- Foundations (91%)
- Donations (9%)

EXPENSES

- Payroll (87%)
- Communications, Publications & Development (1%)
- Expert and Legal fees and disbursements (6%)
- Office supplies, operations and computing (2%)
- Travel (4%)

