



ENVIRONMENTAL TRIBUNALS PROJECT

The Environmental Law Centre is carrying out a legal research and law reform project on British Columbia's administrative tribunals with environmental mandate. The overall objective of this project is to examine the extent to which accountability for environmental decision-making is provided in British Columbia through a well-designed and properly mandated administrative tribunal system.

The main focus of the project will be those tribunals that have a quasi-judicial function, such as the authority to affirm or overturn an approval made by a government official, on matters that have environmental impacts (the Environmental Appeal Board, Forest Appeals Commission and Farm Industry Review Board). However, we will also review those tribunals with related environmental mandates, such as the Forest Practices Board, Private Managed Forest Land Council, Mediation and Arbitration Board (under the Petroleum & Natural Gas Act), Agricultural Land Commission, Utilities Commission, and the Oil and Gas Appeal Tribunal.

The research project will focus on the following five issues:

1. **Standing & Rights to Appeal:** To what extent does environmental legislation in BC, and tribunal decisions interpreting it, allow citizen (or public) rights to appeal environmental decisions made by government?
2. **Tribunal Mandate & Rationale:** What matters may be heard before environmental tribunals, and what may not be? What combination of appeal rights and tribunal powers would provide British Columbians with a reasonable level of accountability for environmental matters?
3. **Participant Funding & Costs:** To what extent is the cost of participation in tribunal proceedings an important issue for parties and interveners, including their ability to raise expert evidence? How are these issues addressed in other jurisdictions?
4. **Tribunal Procedure & Dispute Resolution:** To what extent is the standard rationale for creating administrative tribunals – that they provide an expedited, expert and cost-effective dispute resolution service to society – being met? How should that be evaluated? Are there any approaches in other jurisdictions that BC could benefit or learn from?
5. **Tribunal Structure:** BC's tribunals system depends to a great extent on relatively short term appointments of tribunal members who are practitioners in their fields outside of tribunal work. Is the current configuration, structure and function of environmental tribunals in BC effective and appropriate? Should members have tenure, rather than short-term appointments? Is there anything for BC to learn from the tribunal structure in other jurisdictions?

In carrying out this project we intend to:

- a) consult legal practitioners, tribunal members and staff, government agencies, public interest environmental organizations and citizens who have been involved in tribunal processes concerning current and emerging issues;
- b) research the mandate, jurisdiction, and access to environmental tribunals in BC and other jurisdictions in Canada and abroad;
- c) prepare a discussion paper that summarizes the issues identified in our research and consultations;
- d) host a workshop or focus group sessions with key stakeholders to discuss the issues identified in the above;
- e) publish a final report that reviews the use of environmental tribunals in BC and include any recommendations identified through research or by the stakeholders consulted;
- f) carry out education and extension activities among decision-makers in tribunals, government agencies and Ministry of Attorney General;
- g) provide hands-on educational opportunities for law students interested in the practice of environmental law before administrative tribunals.

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