



Environmental Law Centre

UNIVERSITY OF VICTORIA

RESEARCH • INFORMATION • COMMUNITY

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THE DOWN AND DIRTY ON THE OIL AND GAS MORATORIUM

by *Eva Cherewick*

In May of 2002, the BC Liberal Government stated they would not be legally bound by the moratorium on the exploration and development of offshore oil and gas reserves in Northern B.C.

The Liberals petitioned the Federal Government to lift its own moratorium and to join them in investing in offshore drilling research at UNBC. The Federal Government refused the funding request, but promised in July that it would make a decision on whether or not to lift the moratorium within 12-18 months. While the issue has been dichotomised in the media as “jobs versus environment,” it is much more complex.

On March 5, 2002 the Haida Nation launched a lawsuit against both the federal and provincial governments, claiming aboriginal title to Haida

Gwaii (“officially” the Queen Charlotte Islands), and over 320 kilometres of the Hecate Strait and the Pacific Ocean, including any resources in or below the sea. In a document prepared for West Coast Environmental Law, ELC students Susan Neary, Richard Neary, and Alyne Mochan noted that this unprecedented issue “will require an analysis of caselaw from other jurisdictions, and whether it can fit within the test for Aboriginal title set out in *Delgamuukw*”.

The 1982 Charter of Rights and Freedoms recognises and affirms Aboriginal title, which the Haida say extends to the sea, and has never been extinguished. Neary, Neary and Mochan were also asked to consider whether the government has the capacity to lift the moratorium on offshore drilling, and if so, whether it would be possible to apply for an injunction to prevent the government from doing so.

The Haida, together with other supporters of the moratorium, are concerned about the impacts of drilling and of spills that are an “inevitable” cost of operation of offshore oil rigs. While oil spills have a devastating impact on marine animals and seabirds, exploration raises just as many concerns. Seismic testing to locate oil reserves, which involves setting off a number of explosions under the surface of the ocean, has been proven to be extremely damaging to fish stocks.

With British Columbia's fishing industry already severely hit, seismic testing represents a serious concern for some rural fishing communities. Guujaaw, president of the Haida Nation, condemned the Provincial Government for its explicit plans to resume testing in the Queen Charlotte Basin. The Haida Nation isn't opposed to lifting the moratorium if offshore exploration and development can occur without harming the environment. They believe, however, that this is impossible. ✂

Hey, did you know...

In 1996, activities by Canadians resulted in the release of 508 million tons of carbon dioxide into the atmosphere, accounting for 75% of the country's contribution to global warming. Per capita, Canada is the largest consumer of energy in the world, and is the second largest producer of greenhouse gases. **With a population of less than 30 million, we use as much energy as the entire continent of Africa.**

RING AROUND THE WOODS:

A STATEMENT OF UNITY *by Jeanette Ettel*

On October 28, 2002, an estimated 360 concerned students and community members came together to form a ring of protection around Cunningham Woods. Media representatives from CBC Radio, the New VI, CFUV, the Victoria News and the Martlet were there to tell the story.

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ABOUT THE ELC

ELC Mission Statement:

The Environmental Law Centre is a student-run organization committed to the protection of the environment through education, discussion and research on environmental issues and their legal solutions, and to the development of legal advocacy skills for students and environmentalists. The Centre is open to law and non-law students and strives to create an inclusive environment, where all students may participate fully.

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UVic is in the process of finalizing a plan that will provide the broad framework for campus development over the next 15 years. Cunningham Woods, the last forested area within the University's Ring Road, is the approved site for the new medical building and the proposed site for a new engineering building.

Community concerns have been raised regarding the absence of a meaningful consultation process in the development of the draft plan and regarding the plan's failure to adopt land stewardship as a central principle.

To that end, the UVic CommUNITY for a Sustainable Campus (UCSC) has drafted a Statement of Unity calling for the implementation of a new campus planning process—one that would be based on open and extensive dialogue with the university and wider communities in order to better address common concerns and generate meaningful guiding principles. The Statement also calls for the preservation of all green spaces until the new planning process is completed; any construction taking place before that time is to be limited to pre-existing parking lots and building sites.

The ELC has signed on to the Statement of Unity along with a number of other university and community organizations. We support the commitment to a more participatory process and to the notion that the campus development plan must embrace land stewardship principles.

For more information on the Campus Development Plan or the UVic Community for a Sustainable Campus, contact the POLIS Project on Ecological Governance at 472-4637, or check out their website at <http://www.demandsmartgrowth.org>. 

PARTIAL VICTORY FOR FREEDOM OF “GRIZZLY” INFORMATION by Susan Mossing

In the spring of 2000, the Raincoast Conservation Society and the Environmental Investigation Agency requested the release of information gathered by the government pertaining to grizzly bear kills within the province. While the Ministry of Water, Land and Air Protection was willing to produce data pertaining to when and how the kill occurred as well as the sex and age of the bear and status of orphaned cubs, it refused to release information concerning the location of the kills. The Ministry argued that the release of that data would pose a threat to the conservation of the grizzly bear, by encouraging poaching and discouraging kill reporting.



On December 3rd 2001, David Loukidelis, B.C.'s Information and Privacy Commissioner decided that there wasn't sufficient evidence to indicate that the release of this data would have any negative effects on the bear population or related conservation efforts. The Commissioner not only ordered the release of the information but commented that

the government's challenge to the release was an attempt to avoid public criticism of the work being done by the Ministry.

The government, determined to withhold the data, appealed to the BC Supreme Court to overturn the Commissioner's order. Concerned about the commercial impact on sport hunting, the Guide Outfitters Association of BC joined with the Ministry of WLA to challenge the ruling. On October 11th 2002, Madam Justice Satanove dismissed the appeal of the Ministry on the grounds that they were unable to prove that the release of information would harm the conservation of the grizzly. The GOA argued their position under s.54 of the Freedom of Information and Privacy Act, which stipulates that when a request for review is issued the Commission is obligated to inform appropriate persons. Failing to provide copy to the GOA resulted in the Court allowing their petition on the grounds that they alone could represent their specific concerns, namely harm to commercial interests and safety concerns in the sport hunting industry. As such, the case has not yet reached its conclusion and the Commissioner is charged with assessing the petition of the GOA. He is ordered to consider the submissions of the GOA as they pertain to the concerns of hunters implicated by the potential release of the information. The Court was clear that as the case relates to the disclosure of information and its impact on conservation is now closed and no further challenges to the release of information will be allowed on that point. ✍



A view from the ELC hike in East Sooke Park, September 2002

FEDERAL GOVERNMENT AIMS TO FLUSH WASTEWATER WOES *by Danielle Smith*

Recently, people have become more aware of the fact that several cities in Canada continue to dump municipal wastewaters straight into their respective harbours. Both Halifax and Victoria have been singled out.

These municipal effluents contain high levels of toxic substances, such as ammonia, inorganic chloramines and chlorinated wastewater effluents, which have a negative impact on the environment. These substances, and the government's policy to control them, have the potential to drastically affect our water use and consumption.

Chlorinated wastewater was added to the *Canadian Environmental Protection Act, 1999* (CEPA 1999) List of Toxic Substances, Schedule 1 in 1999. A June 2001 proposal by the Ministers of Health and Environment sought to also place ammonia and inorganic chloramines on the list. Under the *Toxic Substances Management Policy*, CEPA authorizes the federal government to make regulatory instruments dealing with toxic substances. In 1999, the government was given two years to propose control instruments and a further eighteen months to finalize these plans.

The goal is to put in place regulations to reduce or eliminate the presence of these toxic substances from municipal wastewater effluents. Consultation sessions have occurred throughout the country, and in Spring of 2003 Environment Canada should present a formal proposal of a control instrument for ammonia, inorganic chloramines and chlorinated wastewater effluents. A sixty-day comment period will precede the publication of the final instrument in 2004. Residents of Victoria should be informed about their ability to pro-

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Some Environmental and Related Resources in Victoria...

CAPITAL REGION DISTRICT WASTE REDUCTION & RECYCLING
Hotline: 250.360.3030 or
hotline@crd.bc.ca
<http://www.crd.bc.ca/recycle/>

VICTORIA CAR SHARE CO-OP
#4-312 Cook Street
Contact: 250.995.0265
ekaye@direct.ca
<http://vuv.com/~carshare/>

GREATER VICTORIA CYCLING COALITION
1056A North Park Street (@ Cook)
Contact: 250.480.5155
<http://www.gvcc.bc.ca>

WEST COAST ENVIRONMENTAL LAW
Contact: 604.684.7378 or
1.800.330.WCEL
admin@wcel.org
<http://www.wcel.org>

LIFECYCLES
527 Michigan Street
Contact: 250.383.5800
info@lifecyclesproject.ca



vide input to Environment Canada about these issues and the regulatory instruments themselves.

The project will likely require changes to the treatment plants in Victoria and the federal government has promised to provide funding to municipalities. Environment Canada has also advocated full-cost accounting, user/polluter pay principles for water and wastewater services, and pricing that reflects the true cost of water and wastewater treatment. This latter measure in particular ensures the efficient use of water and allows municipalities to recover a part of their infrastructure investment. Paying more for the water that reaches your lips may help to ensure the water reaching the ocean is more palatable to the environment. ✎

ELC GALA FUNDRAISER

On May 22, the Environmental Law Centre hosted a fundraising event in celebration of our 5th Anniversary. The gala evening was attended by over 250 guests who enjoyed an evening of fine food, wine, and entertainment at historic Gibson House in Oak Bay. This highly successful event not only raised over \$6,500 in support of future ELC activities, but was also an opportunity to showcase the ELC to the broader community. Several students from the Clinic class and the Executive acted as ambassadors promoting the ELC to those in attendance. The event was also featured on VI TV's Environmental programme. Many thanks to the following sponsors and volunteers, whose generous support made the event a huge success.

Gold Sponsors:

Eurosa Gardens Ltd., Freybe Gold Medal Quality Meats, Thrifty Foods
Sponsors: Bernard Callebaut Chocolaterie, Clearly Canadian, Saturna Island Vinyards, Silk Road Aromatherapy & Tea Co., Whitehall Reproductions Canada Ltd., Wild Fire Bakery

Patrons:

Jocelyn Floyer & Ron MacIsaac, Val Hemminger & Co., Alan Pratten of Exit Realty Abacus, Dr. Roy and Lois Sutherland, Bruce Torrie, Niki Verzuh of Coast Catering

Supporters:

Keith Allison of Allison Piano, Marianne & Leo Buijs, John Crouch of R.M. T., Gaffer-Ricks Wellness Services, Gala-Van Party Shop, Lighthouse Brewing Company, Andrea Matthews of Something Grand, Mozart House Bed & Breakfast, Slater's First Class Meats. ✎

Hey, did you know... (part 2)

A recent United Nations report showed that of the 15 most forested countries in the world, Canada ranked 12 in terms of forest protection with 7.4 percent of our forests protected.

There are currently 380 endangered species in Canada.

Greenhouse gases from merely producing oil at one new tar sands plant, are equivalent to adding 1.35 million cars to Canadian roads.

The average Canadian uses twice as much water per day as the average European.



Ask the ELC Guru

Treesfo Rever: *ELC Guru, what's up with the recycling around this place? There's paper in the containers bin, there are containers and garbage in the paper bin, and I'm not even sure what can be recycled anyway. And where the heck is the compost container?*

Guru: I'm so glad you asked, Treesfo! Recycling is an ongoing problem on the UVic campus. ELC First Year Rep, Berry Hykin, is continuing an initiative with other members of the Fraser Sustainability Project to educate students using the Fraser Building about recycling. Berry hopes to liaise with the UVSS to expand this to the university community in general. Berry hopes to work with the Canadian Union of Public Employees (CUPE) so that volunteers could sort through recycling bins to ensure that the contents of these bins are recyclable and get recycled. This initiative would include researching CUPE parameters to ensure that volunteers are not taking work or jobs away from union members, while at the same time ensuring that sustainability principles are being implemented. Volunteers are both welcome and needed!

Composting is found just outside the student lounge, in a black container. It is emptied weekly by ELC volunteers. Berry will be working to expand the scope of composting to include more members of the university community.

The ELC is also concerned about resource wasting, and will be starting a campaign to conserve electricity. Look to your ELC Guru to keep you posted!

