



# Environmental Law Centre

UNIVERSITY OF VICTORIA

RESEARCH • INFORMATION • COMMUNITY

www.elc.uvic.ca

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## KYOTO SPEAKS: JANUARY PANEL HEATS UP THE DEBATE

by Karrie Wolfe

On January 29<sup>th</sup>, the ELC and the International Law Club (ILC) co-hosted a public panel discussion entitled “Climate at the Crossroads: The Implications of the Kyoto Protocol for British Columbia.” Held at the Murray Fraser Auditorium, the event drew a large and varied audience, from curious onlookers to dedicated activists.

The event panel canvassed three potential areas of impact flowing from Canada’s ratification of Kyoto. Gerry Scott, the Climate Change Program Director at the David Suzuki Foundation, laid the groundwork for the debate with a discussion of the science behind climate change and the underlying rationale for the Kyoto Protocol. Scott stressed the need for proactive measures regardless of so-called scientific uncertainties, reiterating the “precautionary principle” advocated by Mme. Justice L’Heureux-Dubé in the *Spraytech* case.

Former UVic Law Grad Chris Rolfe, Acting Executive Director of West Coast Environmental Law, discussed on the legal and political implications of Kyoto. Rolfe was critical of the federal government’s relatively mod-

erate implementation strategy, and stressed that federal-provincial conflicts are likely to hinder Canada’s ability to meet its Kyoto targets. However, Rolfe was adamant that it was “better to be taking a small step forward, than to be taking no steps at all.”

Professor Case van Kooten presented a contrasting view to the first two speakers. Van Kooten, the Canada Research Chair in Environmental Studies and Climate Change at the UVic Department of Economics, argued that even in the best case scenario the economic costs of Kyoto are simply not worthwhile. While he agreed that climate change needs to be addressed, van Kooten asserted that more effective progress could be made through the use of alternative market-based mechanisms such as a carbon tax.

The panel discussion was followed by a question and answer period, a source of lively debate during the informal reception. The ELC and ILC thank all those who attended and look forward to future joint endeavours to increase public debate in the area of international environmental law. ✍

## A LOOK AT THE PROPOSED *WORKING FOREST INITIATIVE*

by Susan Mossing

### The Plan

There has been a lot of discussion lately in BC about the government’s proposed *Working Forest Initiative*. Under the proposed policy, about 45 million hectares of Crown land – 48 per cent of the province – will be given a new legal “working forest” designation. Essentially, all the Crown forest land outside of protected areas and parks will become part of the “working forest”. The proposal is intended to achieve the following three goals:

- Increase certainty regarding the land base available to the forest sector and other economic users (mining, oil, tourism etc.)
- Improve the efficiency and cost-effectiveness of the administration of the land

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### Hey, did you know...

*...that the hidden resources needed to produce a good are often startling when compared to the end? 2.5 litres of orange juice needs a cup of diesel fuel for processing and transport, and approximately 55 litres of water for irrigation and washing the fruit.*



## 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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- Balance economic priorities with conservation and stewardship interests. While it is apparent that the first two objectives are genuine issues addressed by the initiative there is concern that the third consideration amounts to no more than political lip service.

### The Criticism

The *Working Forest Initiative* lacks general public control and input. Further, despite citing aboriginal interests and conservation issues as priorities, it fails to deal with them constructively or provide any accountability. Individuals opposed to the proposal have coined it the "Anti-Forest Protection Initiative" and have criticized it for masking the true objectives and consequences of the policy. These include:

- Land-use zones (enhanced timber zones).
- Timber access targets that will quantify the area of forest that companies must be able to log within a certain zone.
- *Land Act* revisions that would empower the Premier and Cabinet, rather than the Legislature, to implement the proposal at their discretion.
- The possibilities of the "No Net Loss" clause which entails giving up protected lands if any of the "working forest" ends up being designated as protected or lost to interests other than industry.
- Financial compensation provisions which would provide reimbursement to industry in the event that there is a loss in the net land of the "working forest".
- The intent to delegate huge powers to the Executive Branch of government to implement the proposal severely limiting the public's ability to provide input into the use of land.



Critics see no reason for such an initiative beyond ensuring the absolute rights of corporate industry to log the remaining forests of BC. It is apparent that despite the euphemistic title of the proposal, the initiative itself is much more about the protection and enhancement of industry rather than sustainable forest practices.

Due to pressure from First Nations and the general public, the comment period on the *Working Forest Initiative* has been extended to April 30, 2003. For more information or to comment please see the sites below. A full text of the discussion paper is available on the provincial government site. ☞

<http://www.workingforest.org>

<http://www.gov.bc.ca/rmd/workingforest/comments.htm>

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## ELC CLINIC PROJECTS

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*Each term a number of students enroll in the ELC Clinic course through the Faculty of Law. These students have an opportunity to work with clients from the community and provide practical research on a variety of different environmental issues and concerns. The following is a summary of the projects completed through the clinic, during the spring 2003 term.*

### Incorporating the Community into Campus Planning Kim Hawkins

The purpose of this project is to highlight alternatives to the current planning model that would more effectively harness the perspectives of our neighbours, and better explore creative possibilities for sustainable growth on campus. This project was initiated by the POLIS Project (<http://www.polisproject.org>). Members of the University community are well aware of

the controversy surrounding the proposed Campus Plan that will proceed to the UVic Board of Governors for approval this summer. A key concern with the process has been the way the plan was developed. In particular, there have been concerns with whether the planning process has adequately incorporated the views of citizens and elected officials in neighbouring municipalities.

### **Contaminating the Coast: The Farmed Salmon Industry in BC**

*Jeanie Lanine*

As you read this, the wild pink salmon are returning to BC's Broughton Archipelago to spawn. Last year, their numbers decreased from 3.615 million to 147 thousand fish. The Pacific Fisheries Resource Conservation Council, an independent body formed to advise government, identified sea lice escaping from open net salmon farming pens as the probable cause of the collapsing population. Sea lice are only one of a number of well-documented environmental problems related to fish farming. The government continues to deny or minimize the issues while actively promoting an expansion of the aquaculture industry in BC. This project will examine the government's liability for this growing environmental crisis.

### **Spraying the Great Bear Rainforest: Pesticide Planning on the Central Coast**

*Krista Robertson*

BC's Central Coast, also known as the Great Bear Rainforest, is the backdrop for a case the ELC Clinic has undertaken for two clients: the Heltsuik First Nation and the Raincoast Conservation Society (RCS).

The ELC Clinic has worked with RCS in the past filing a freedom of information request on Grizzly kills. This request is still in litigation with the BC government. The case this term arises out of an application by Interfor for approval of a five-year pesticide management plan (PMP) that would allow them to apply pesticides over much of the Heltsuik's traditional territory. The legal issue concerns the duty of government to consult with Heltsuik before approving the plan. The project reviews the adequacy of the consultation process and examines arguments that might be mounted to oppose spraying in the event that the PMP is approved.

### **Aboriginal Governance and Environmental Control**

*Namaste Marsden*

The Fort Nelson-based Northeast Aboriginal Trappers Society (the "Society") is currently working with the ELC on a project that examines whether there is a legal basis for traditional First Nations governance. The Society represents traditional headmen and women advocating for a traditional governance system in their First Nations communities. Environmental concerns raised by the Society include the effect of emissions from the Tackama OSB Plant on trap lines as well as the impact of logging of traditional trap line areas around Fort Nelson. Many traditional chiefs in BC assert that their systems of law endure and are closely tied to ownership and stewardship of their territories. Recently, there have been several BC cases concerning aboriginal rights that have been brought in the name of traditional chiefs. Rory Morahan, of Morahan & Ajula in Victoria, BC is working with the ELC and the Society on this project.

### **Defending Environmental Defenders: Environmental Advocacy and the Law of Defamation**

*Anne Maloney*

What do toxic ingredients in floor cleaners have to do with the ELC? What does the *Charter* have to say on this issue? The Labour Environmental Alliance Society (LEAS) is engaged in public education campaigns on toxic ingredients in common household cleaning products. There are no labelling laws in Canada that require manufacturers to inform people of the harmful

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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



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chemicals they may be exposed to while cleaning their homes. Obviously manufacturers have a vested interest maintaining the status quo. LEAS, on the other hand, wishes to raise awareness but fears being sued if it uses strongly-worded language in its campaigns.

LEAS retained the ELC to research the law of defamation. Canada's current laws in this area are biased greatly in favour of those complaining of defamation. Community groups and environmental organisations need to keep this in mind whenever they decide to criticise a company or developer. Most grassroots groups don't have the resources to go to court should they be sued. The result is a chilling effect on public debate and an infringement on freedom of expression; rather than risk a lawsuit, groups may be silenced. *✍*

## THANK YOU TO OUR RAFFLE SPONSORS

*The ELC will be holding its annual fundraising raffle on March 22, 2003. Proceeds are going to support the hiring of a student to help maintain the ELC office during the summer. A hearty thank you to all our gracious and generous sponsors!*

- **Bean Around the World**—533 Fisgard, 386-7115
- **Black's Photography**—Hillside Centre, 595-1696
- **Coastline First Aid**—102-400 Dupplin, 661-1989
- **Continental Kitchen**—121-5325 Cordova Bay, 658-8191
- **Coy Treatment Centre**—101-1595 McKenzie, 472-3629
- **Escent's Aromatherapy** — 124-560 Johnson, 386-1818
- **Fibre Options**—642 Yates, 721-3263
- **Fish Hair Salon**—1227 Broad, 388-3474
- **Fitness World**—1-3301 Douglas, 475-6002
- **Hugo's Grill and Brew House**—625 Courtney, 920-4844
- **Instinct Art & Gift** — 622 View, 388-5033
- **Martin Hykin** — Handcrafted Jewelry, 658-1899
- **Moxie's** — 1-1010 Yates, 360-1660
- **Munro's Books**—1108 Government, 382-2464
- **Queen Bee's Personal Luxuries**—654 Fort, 480-7878
- **Quizno's**—108-1595 McKenzie, 721-2063
- **Robert Bateman Foundation**
- **Rogers' Chocolates** — 913 Government, 384-7021
- **Royal BC Museum**—675 Belleville, 356-7226
- **Saanich Commonwealth Place**—4636 Elk Lake, 727-5300
- **Silk Road Aromatherapy Spa**—1624 Government, 382-0006
- **Torrefazione Italia Inc.**—1234 Government, 920-7203
- **Urge Studios**—586 Johnson, 380-2989
- **Vancouver Island Canoe/Kayak Centre**—575 Pembroke, 361-9365
- **Victoria Bug Zoo**—631 Courtney, 384-BUGS
- **West Coast Air**—100 Wharf, 405-8248
- **West Coast Wraps and Smoothies** — Eaton's Centre, 383-1433
- **West Coast Wraps and Smoothies** — 3388 Douglas, 383-1570
- **Wine Works** — 347 Cook, 384-8550

### Hey, did you know? (Part 2)

Vehicle particle emissions in the US has dropped from 550,000 tons in 1960 to less than 200,000 tons in 2000.

Annually, enough energy is saved by recycling steel to supply Los Angeles with electricity for almost 10 years.

One ton of recycled paper saves 3,700 pounds of lumber and 24,000 gallons of water.



## Green Advice

**Q:** Mr. Smith, you have over 30 years experience working with environmental issues. What would be the message you'd like the law students of UVic to take into their futures?

**A:** Well, first I'd like to make it clear that as law students and potential lawyers you are truly in a unique position. Like it or not, throughout your lives, as individuals and as part of a group, you will be looked to for opinions, advice, and as an example to follow. The choices you make, and the ways in which you make those choices, *will* have an impact on others who might one day emulate your values and choices. One thing that you *must* take into your future is the idea of **shopping green**. Start asking questions about lifecycle management, about what went into the products you use everyday, and what will come out of them. Think not just about recycled content, but also about the energy it takes to make, use and recycle that product. The next twenty to thirty years will be a key time for environmental management, and you can help manage human-made systems not only through your own efforts, but by imparting a concern for stewardship of the environment to your children. Teach them to ask questions, and show by example how to be vocal to manufacturers and suppliers about less packaging, less chemicals, and most importantly, less waste. Ultimately, it's about working to reduce your footprint on this earth.

