



ece law
east coast environmental law

ECELAW Annual Report 2014

January 1 to December 31, 2014



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Note from the Chair: Jessie Irving

This past year marked East Coast Environmental Law's eighth year of operations as the region's only non-profit organization dedicated to the advancement and effective use of environmental laws in Atlantic Canada. Thanks to the leadership and hard work of Jamie Simpson and Lisa Mitchell, in 2014 the organization assisted numerous individuals and community groups on local matters while contributing to provincial and national initiatives, including the review of aquaculture regulations in Nova Scotia and the promotion of environmental rights in Canada. This work would not have been possible without the assistance of our funders, including the Law Foundation of Nova Scotia, the Catherine Donnelly Foundation, the Sage Environmental Program, and our individual donors. We are very grateful for your support.

As 2014 marked the last year of my term on the Board of Directors, I would like to thank past and current staff, board members, and students who have been involved with ECELAW. It has been an honour and privilege to work with and learn from such talented and passionate individuals over the past six years. In particular, thanks to out-going board member Nathan Sutherland for his hard work and contribution to the organization as Vice Chair of the Board and chair of our Fundraising and Strategic Planning committee.

I look forward to seeing the organization's development over the next few years as Reuben Penner assumes the role of Chair. Reuben has been instrumental in ECELAW's development to date while on the board's executive committee and will do an excellent job of working with new and experienced staff and board members to bring new ideas, perspectives and energy to furthering ECELAW's mandate.

Executive Director's Message: Jamie Simpson

A year in, and in a word: Busy! As Lisa Mitchell describes in her message below, ECELAW has been at the fore-front of the movement to legally recognize citizens' right to a healthy environment. In conjunction with the David Suzuki Foundation and Ecojustice, we are laying the foundation for this big step forward in Canada. I spoke at two stops of David Suzuki's cross-country environmental rights tour, in St. John's NL and Halifax NS, and was honoured to introduce Dr. Suzuki at these events. ECELAW was also represented at the PEI and NB tour stops by board member Aaron Ward. ECELAW has been honoured with numerous other speaking invitations this past year: keynote address for ECO-PEI; pesticide bylaws for the PEI Citizen's Coalition; environmental rights for the NS Chapter of the Canadian Bar Association, the Halifax Naturalists and for Cape Breton municipalities and First Nations; virtual conference presentation for the Marine and Environmental Law Program at Dalhousie; Charter rights and environmental toxins for the Schulich Law School; and six talks to various university classes.

ECELAW is in the news. Our Failure to Enforce report that questioned the enforcement of environmental laws in Nova Scotia garnered a lot of attention, with pick-up by the Chronicle Herald, the Media Co-op and several CBC radio interviews. It also generated a good discussion with NS's Environment Minister on the need for greater government transparency. ECELAW published two editorials in the Chronicle Herald: one on the need to rein in the under-four hectare quarry situation, and one on the largely lawless state of Nova Scotia's forestry. Check out these reports, along with our Guide to Wetland Conservation, and our environmental rights primer and workshop summary, on our newly revamped website: www.ecelaw.ca. Speaking of media, we are now on Twitter. Tweet us. Follow us. @ecelaw

ECELAW also carried out research for the much-applauded Doelle-Lahey Aquaculture Report. There appears to be growing consensus and pressure on our governments to embrace a culture of transparency and smart environmental and resource industry regulation, for the health of our environment and our economy. Let's hope this pressure and recognition translates into action.

ECELAW continues to work with talented and dedicated students at the Schulich Law School at Dalhousie. This year, students have been a major help with our work on environmental rights, environmental law enforcement, pesticide by-laws, species at risk, and research on environmental laws in Newfoundland and Labrador. Some of the students' work is posted on our website.

ECELAW may be tiny, but we hit above our weight, as the expression goes. With one part-time executive director, one part-time lawyer, some passionate students, and a board of talented and dedicated volunteer directors, ECELAW has an impressive list of accomplishments this year, and continues to grow and make our mark in creating a healthier environment and healthier communities in Atlantic Canada.

Jamie Simpson, BSc(H), MScF, JD, RPF

Lawyer's Message: Lisa Mitchell

Everyone is entitled to a healthy environment - unpolluted air, uncontaminated land and clean water. Our environmental laws were created to facilitate this goal, and yet as a society we continue to fall short. Canada is one of only a handful of countries in the world that does not recognize the right to a healthy environment. At ECELAW we took big steps this year to help change that statistic. Through the support of the Catherine Donnelly Foundation and by partnering with Ecojustice, the David Suzuki Foundation and many local and regional organizations ECELAW laid the ground work for legally recognized environmental rights in NS, NB and PEI.

Our inquiry line was busy this year. We provided support and advice on provincial (NS) aquaculture regulations, contaminated water in HRM, polluted air in Pictou County, damage to fish habitat in Colchester County, damage to wetlands and water supplies in Kings County, pesticide impacts on PEI, Children's' environmental health in NB and leaking oil from a sunken vessel off the coast of Newfoundland and Labrador.

ECELAW is growing and stretching to truly meet our vision of providing support for a clean, healthy environment throughout Atlantic Canada.

Lisa Mitchell, BA, MES, LLB



Governance

Vision & Mission

ECELAW envisions a future where innovative and effective environmental laws and the just application of those laws provide Atlantic Canadians with a clean, healthy environment, which will make a positive contribution to the quality of life of its present and future inhabitants and visitors.

ECELAW will promote the development and just application of innovative and effective environmental laws in Atlantic Canada through:

- Awareness and understanding -- increasing public awareness of and access to environmental laws.
- Education -- aiding in the education of future environmental law professionals.
- Collaboration -- working with the public, community groups and government to strengthen environmental laws in Atlantic Canada.

Board of Directors

Jessie Irving, BSc, LLB, (Chair) has been involved with East Coast Environmental Law since 2007, first as a student member, then as a Board Member. Jessie grew up in Prince Edward Island, completed a Bachelor of Science with Honours in Biology at Mount Allison University in New Brunswick and her law degree at Dalhousie Law School with a Certificate of Specialization in Environmental Law. Jessie currently lives in Halifax and is a solicitor with Nova Scotia Power Inc.

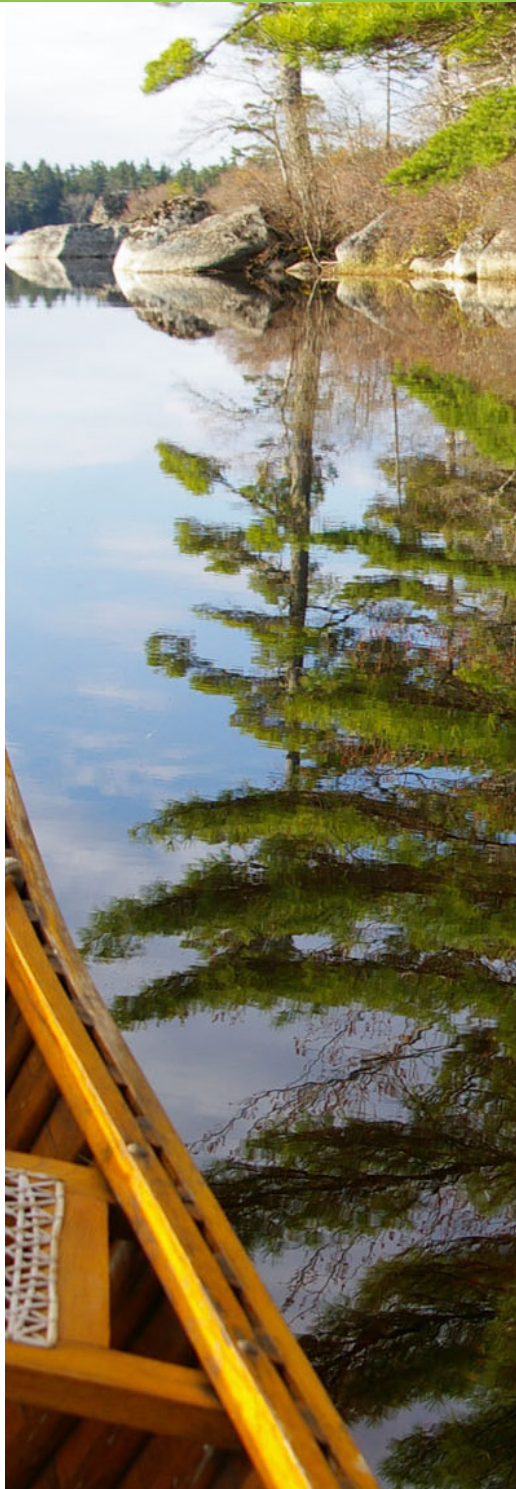
Nathan Sutherland, BA, LLB, (Vice Chair) is an associate in the Halifax office of Stewart McKelvey, practicing in the Litigation Group with a special interest in environmental, energy and natural resources law. Nathan is a graduate of Dalhousie Law School, where he was a member of the school's competitive environmental law moot team and involved in student organizations promoting social justice and the health of the environment. He has supervised Schulich School of Law pro-bono students on environmental and mental health law projects. Prior to his law career, Nathan graduated from McGill and worked briefly with a communications firm in Toronto.

Kevin Reinhardt, BA(H), M Econ, (Treasurer) is a senior accountant with Deloitte, in Halifax. Kevin works in the Assurance and Advisory practice with Deloitte and is pursuing a Chartered Accounting Designation. He has worked on a myriad of companies including public, private and not-for-profit, with experience in financial statement preparation, finance and governance. He began his career in 2007 in the banking and finance industry with the Bank of Canada, Canada's central bank, as a Research Assistant (Economist). He holds an honours BA in Economics (Mount Allison University) and a Masters of Development Economics (Dalhousie University). Kevin lives in the Purcell's Cove area and enjoys hiking and running in his spare time.

Aaron Ward, BSc, JD, (Secretary) is a sole-practice lawyer in Halifax. Aaron has an interest in environmental and energy law, and completed the Marine and Environmental Law specialization program at Dalhousie Law School, where he graduated in 2011. Prior to graduation, Aaron completed a legal internship at EcoSecurities, a major carbon offset developer located in Oxford, UK. In his spare time, Aaron enjoys cycling and racquet sports, as well as volunteering with various nonprofits.

Reuben Penner, MA, is a Business Consultant. Sparked by his volunteer history, and interest in social enterprise, Reuben is also currently working towards an MBA-CMA at Sobey's School of Business at Saint Mary's University. Reuben grew up on a farm in Manitoba and later completed a B.A. in International Development Studies at the University of Winnipeg. He then moved to Halifax where he completed a B.A. Classics at the University of King's College, and then an M.A. in Classics from Dalhousie University.

David Hopper, BDEP, BA, MES, is a land-use planner and geographer who has worked in provincial government (BC and NS) for over 30 years. In 2004, he moved to the Nova Scotia Department of Environment where he is the private land conservation coordinator for the Protected Areas Branch. David is part of the team directly engaged in protecting 12% of the province for conservation by 2015 as required by the Environmental Goals and Sustainable Prosperity



Act. He has a long interest in land and waterway reclamation and is a national board member for the Canadian Land Reclamation Association (CLRA) and the cofounder and past chair of CLRA's Atlantic Chapter and the Atlantic Reclamation Conference (ARC). David's interests in the arts include being cofounder and past chair of the Linda Joy Media Arts Society, a 25 year old non-profit organization which presents awards to aspiring filmmakers in Atlantic Canada.

Dr. Moira McConnell, PhD, has been a member of the ECELA Board since October 2012. She is a Professor of Law at Dalhousie University and is the Associate Director of the Marine & Environmental Law Institute (MELAW). Dr. McConnell has also been a Co-director of Dalhousie University's Marine Affairs Program and is a former Executive Director of the Law Reform Commission of Nova Scotia. She is member of a number of organizations including the International Academy of Comparative Law, the IUCN - Commission on Environmental Law (CEL), the Society of International Economic Law, the International Commission of Jurists (ICJ - Canada, Canadian Council), Canadian Council on International Law, Canadian Maritime Law Association, Women in International Trade and Shipping (Canada) (WISTA) and Lawyers for Social Responsibility. She is an Co-editor of the international interdisciplinary Ocean Yearbook (1998 ff), an Associate Editor of the Yearbook of International Environmental Law (2006 ff), and is on the editorial boards of the WMU Journal of Maritime Affairs, the Global Journal of Comparative Law and the Journal of Arbitration and Mediation. She has published widely in the fields of international law, law of the sea, international labour law, governance systems, corporate governance, administrative and constitutional law, environmental law, maritime law and policy, social justice and human rights.

Sandra Farwell BSc, BA, MPA, is Director of Sustainable and Renewable Energy with the Nova Scotia Department of Energy. She completed a Bachelor of Science in Biology, Bachelor of Arts in Sociology and Masters of Public Administration from Dalhousie University. Much of her work with the Department has been in the area of public policy development and stakeholder engagement related to implementing the Province's Cleaner Energy Plan. Sandra serves as the provincial government member on the Board of FORCE -Fundy Ocean Research Centre for Energy- Canada's leading research centre for in-stream tidal energy. Prior to joining government, Sandra worked for a fisheries industry association for several years where she focused on policy and regulatory affairs. (Sandra completed her term with ECELA in 2014.)

Deborah Carver, LLB, LL.M, was trained as a lawyer, receiving her LL.B. from Dalhousie University and her LL.M. from the London School at Economics with a focus on marine and environmental law. She practiced law with Stewart, MacKeen and Covert from 1979 to 1985. Currently, Deborah is the Owner and Director of a commercial art gallery,

Studio 21 Fine Art in Halifax. Previously she served as the Executive Director of East Coast Environmental Law Association for two years. Between 2003 and 2005, Deborah was the Executive Director, Special Projects and then Interim VP University Relations at NSCAD University where her responsibilities included acting as the frontline representative of the university in communications, media and community relations. Prior to 2002, Deborah worked in the film and television industry for Salter Street Films and The Independent Film Channel Canada.

Lauren Kautz, BSc, JD, is an associate at the Halifax office of Pink Larkin. In 2011, she received a J.D. from the Schulich School of Law at Dalhousie University, along with a certificate in Environmental Law. While at law school, Lauren served as the co-chair of the Environmental Law Students' Society. Prior to this, she received a Bachelor of Science in Earth Sciences from the University of Calgary. (Lauren completed her term with ECELAW in 2014.)

Georgia Lloyd-Smith, BSc(H), BA, JD, is in her third year of law school at Dalhousie's Schulich School of Law. She completed her undergrad studies in Biology and International Development. She has spent most of her years exploring natural landscapes around the world and has cultivated a keen interest in protecting the beauty that remains. She likes to spend her thinking time in places where cultures, values, fields and ideas converge. ECELAW is one of these spaces and she is happy to be able to experience the diversity on the ECELAW board. (Georgia completed her term with ECELAW in 2014.)

Tristan Willis, BSc(H), JD candidate, is in his third year at Dalhousie's Schulich School of Law. He grew up in rural Ontario where he was able to explore the nearby wetlands, forests and lakes. He completed his undergraduate studies in biology and is interested in environmental law, photography and the connections people form with wild spaces. He appreciates the opportunity to sit on the ECELAW board.

Benjamin Ojoleck, BSc(H), JD Candidate, is in his second year of law school at Dalhousie's Schulich School of Law. He completed his undergraduate degree at Dalhousie, where he received a combined honours degree in Environmental Science and International Development. He grew up in Cape Breton where he developed an affinity for, and appreciation of, green spaces and the great outdoors, and the desire to conserve them. He hopes to channel this passion into his role on the ECELAW Board, and is looking forward to the opportunity to do so.

Sachi Gibson, BA, BSc(H), MES, is a senior policy analyst with Nova Scotia Environment, providing advice and leading initiatives on climate change policy. Sachi first moved to Nova Scotia to complete a Master's of Environmental Studies at Dalhousie University, where her thesis research took her to forest communities in Nova Scotia, New Brunswick and Newfoundland. Prior to her current position with the Nova Scotia government, she worked with an environmental grant-making foundation in Toronto and a sustainable energy think tank in Ottawa.

Operations and Administration

Staff

Jamie Simpson, BSc(H), MScF, RPF, JD (executive director): Jamie comes to ECELAW with a background in biology, forestry and law, and has worked as a forester, writer and advocate for sensible forestry practices. He has received several awards for his conservation work, as well as the Elizabeth May Award for Environmental Service, the Edward C. Foley award, and the Environmental Law prize at Dalhousie University. Jamie is the author of *Restoring the Acadian Forest: A Guide for Woodlot Owners in the Maritimes*, and *Journeys Through Eastern Old-Growth Forests*.

Contract Lawyer

Lisa Mitchell, B.A., LL.B., M.E.S., provides legal services to ECELAW, responding to inquiries and working with partner organizations such as Ecojustice, Ecology Action Centre and Sierra Atlantic on environmental law issues and projects. Lisa is the founder of LJM Environmental Law in Wolfville. Since 1995 her firm has provided legislative and policy advice and services to the federal and provincial governments, including drafting work on the revised federal Pest Control Products Act and the 1995 Nova Scotia Environment Act. She has also worked for many industry clients and public interest organizations. Lisa also served as ECELAW's interim executive director following Tricia Berry's departure.

Students

ECELAW continues to benefit from the good work of environmental law students at the Schulich School of Law at Dalhousie University. ECELAW thanks the following students for their contributions:

- Enforcement of Environmental Laws: [same as last year]
- Species at Risk: [same as last year, except delete 'Jamie Simpson' and add 'Steven Evans']
- Pesticide By-laws: Will Horne
- Environmental Rights: Georgia Lloyd-Smith
- Dalhousie Pro Bono Law Students: Sarah Walsh, Kimberly Sweeny, Kacie Oliver, Will McLennan, Alyssa Rahey

Office and Meeting Space

ECELAW greatly appreciates the generosity of the Marine and Environmental Law Institute at the Schulich School of Law in providing us with office and meeting space, enabling ECELAW to work closely with both students and faculty at the law school and other faculties at Dalhousie University.

Activities

Public Awareness and Publications

ECELAW provides workshops, publications, information, and online resources and responds to inquiries with information and support. Our intent is to assist community and conservation organizations and the individuals who are involved with them to understand the legal and policy framework that governs protection of the environment and ensure environmental laws are effectively used, improved and strengthened.

In 2014 ECELAW released the following reports, all of which can be viewed on our website:

A Citizen's Guide to Wetland Conservation in the Halifax Regional Municipality (February 2014)

In partnership with the Ecology Action Centre and with support from the Sage Environmental Program, ECELAW was pleased to release a guide on the legal aspects of wetland conservation in the Halifax Regional Municipality. The Guide includes information about how the Nova Scotia Environment Act, Environmental Impact Assessment Regulation, and the Nova Scotia Wetland Conservation Policy apply to the regulation of activities that impact wetlands. The Guide also considers HRM land-use by-laws and policies that impact wetland conservation.

Comparative Analysis of Five Aquaculture Frameworks in Canada (April 2014); and Comparative Analysis of Aquaculture Regulatory Frameworks in Maine and Nova Scotia (June 2014)

ECELAW was honoured to be asked by the Doelle-Lahey Panel on the Aquaculture Regulatory Review to provide expert reports comparing the approach to aquaculture regulation in five Canadian and one US (Maine) jurisdictions with our current approach in Nova Scotia. The Reports were used by the Panel to develop their final recommendations for Low Impact/High Value Aquaculture in Nova Scotia, released in December 2014.

Failure to Enforce: Time for transparent and effective environmental enforcement (June 2014)

Working with the Environmental Law Students' Society at the Shulich School of Law and following a year of extensive information gathering, ECELAW released a report that assesses Nova Scotia Environment's enforcement of the Environment Act over a 20 year period and provides our recommendations to government to embrace a culture of transparency.



**An Introduction to Environmental Rights for Prince Edward Island, New Brunswick and Nova Scotia (June 2014);
and Environmental Rights Workshop Summary and Roadmap Forward (November 2014)**

With the support of the Catherine Donnelly Foundation, ECELAW organized three strategy sessions on environmental rights, one in each of the Maritime Provinces. Individuals and representatives of organizations with an interest in environmental rights attended the sessions to learn more about the need to legally recognize citizens' rights to a healthy environment, and to strategize next steps. In preparation for the strategy sessions, ECELAW prepared an overview of environmental rights and how such rights might be included in provincial law. Following the strategy sessions ECELAW released a summary of the sessions, including recommendations for next steps unique to each province.

In July of 2014 ECELAW submitted formal comments on the Discussion Paper: *Hydraulic Fracturing – Understanding the General Regulatory Issues*, to the Nova Scotia Hydraulic Fracturing Review.

ECELAW provided support to a coalition involved in the federal government's consultation process on the proposed Aquaculture Activities Regulations under the *Fisheries Act*.

Environmental Law Inquiry Service

With the financial support of the Nova Scotia Law Foundation, ECELAW offers environmental law advice and information to individuals and community groups through our inquiry service. In some instances we facilitate more detailed advice and support through our lawyer referral service.

ECELAW received a steady stream of inquiries in 2014. We worked with and provided advice to individuals, community groups, and larger ENGOs on a variety of issues. Some of our key inquiries included: aquaculture, hydraulic fracturing, quarry development, forestry, fisheries, brine pumping into a river, seed libraries, air pollution, pesticide by-laws, and oil spills from a ship wreck.

ECELAW provided key support to Ecojustice while they represented community members in Harrietsfield, Nova Scotia as interveners in an appeal of an Order issued by the Minister of Environment. The community members support the Order as it pertains to the remediation of their contaminated well water. ECELAW appreciates the support provided by a small group of environmental lawyers in private practice who accept referrals from ECELAW at a modest fee.

Educating and Mentoring Environmental Law Professionals

ECELAW hosted three students in the Environmental Law Placement Program at the Schulich School of Law at Dalhousie University. Georgia Lloyd-Smith completed a project on environmental rights (The Relationship between Environmental Rights and Aboriginal Rights: A Balanced and Synergistic Approach), William Horne completed a project on the potential for pesticide by-laws in PEI (Are General Welfare Provisions Carte Blanche for Municipalities? A case study exploring authority to enact a pesticide bylaw in Stratford, Prince Edward Island), and Steven Evans completed an assessment of the legal obligations of the Nova Scotia government with respect to mainland moose (The Recovery Plan for Moose in Mainland Nova Scotia and the legal implications of the province's failure to satisfy its obligations under the Endangered Species Act). All student papers are posted on ECELAW's website.

Participants in the Pro Bono Students Canada Program worked with ECELAW to complete research on environmental law in Newfoundland and Labrador and Canada's Seed Act (these students include Sarah Walsh, Kimberly Sweeny, Kacie Oliver, Will McLennan, and Alyssa Rahey).

Other students at the law school assisted with our species at risk work (Mick Levin, Christine Conrad, Tristan Willis, and Shane Belbin), and with our environmental law enforcement project (Georgia Lloyd-Smith, Tristan Willis, Christine Conrad, Wes Hartman, Jeff Terrell, and Emily Dawn).

In March of 2014, former Dalhousie law student Fraser Thomson contributed a paper to ECELAW's Occasional Papers Series entitled Environmental Rights for Nova Scotia. Fraser is now working as a staff lawyer with the Alberta office of Ecojustice.

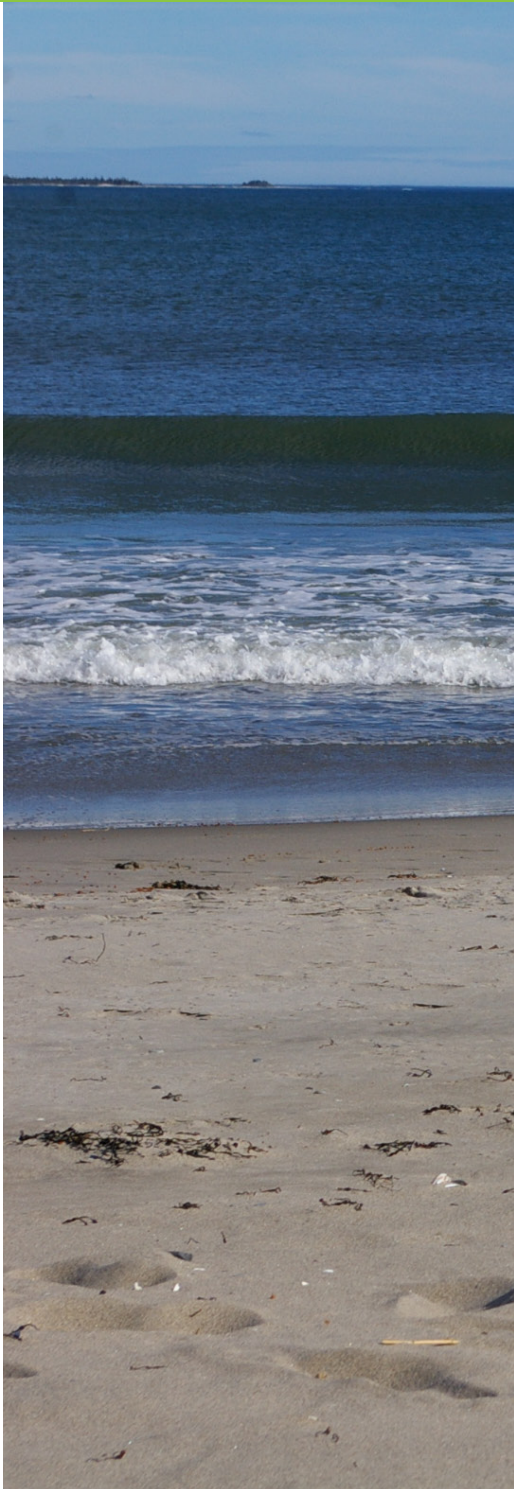
Collaboration with Other Non-Profit Organizations

ECELAW continued to build strong relationships with other environmental non-profit organizations, including the David Suzuki Foundation, Ecojustice, Sierra Club Atlantic and Ecology Action Centre. ECELAW worked closely with the David Suzuki Foundation on our environmental rights project, and with Ecojustice on several projects, including the Harrietsfield contaminated well case.

Our environmental rights workshops were successful due to our collaboration with groups including Conservation Council of New Brunswick, New Brunswick Environmental Network, Nature NB, Citizens' Coalition of PEI, and Nova Scotia Environmental Network.

In keeping with our environmental rights initiative, ECELAW has been serving as a member of Team Policy, part of the New Brunswick Children's Environmental Health Collaborative. Team Policy has been the primary force behind the development of a provincial Bill of Rights to Support Children's Environmental Health.

In Nova Scotia, ECELAW chairs the Environmental Rights Working Group, which includes representation from the Ecology Action Centre, Wooden Monkey, David Suzuki Foundation, Ecojustice, Atlantic Institute for Sustainability, Sierra Club Atlantic and the Green Interview.



Funders

Thank you to our funders and supporters for their generosity to ECELAW.

MAJOR:

Law Foundation of Nova Scotia

Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University

Individual Donors:

Fred Blois, Plumhole Lumber

Peter Mushkat

Anonymous donors

Projects:

Catherine Donnelly Foundation

Sage Environmental Program

Doelle-Lahey Panel

Law Foundation of Newfoundland and Labrador

Contributors:

Boyne Clarke

Stewart McKelvey

Statement of Financial Position

East Coast Environmental Law
STATEMENT OF OPERATIONS
Year Ended December 31, 2014

	2014 Unaudited	2013 Unaudited
INCOME		
Public Contracts	-	5,200
Direct Grants	102,208	66,683
Direct Support or Contributions	1,115	12,950
Government Grants	10,600	4,118
Other Income	441	1,102
TOTAL INCOME	114,364	90,053
EXPENSES		
Program Expenses		
Salaries & Wages Expense	25,490	11,687
Research and Direct Project Costs	55,835	49,070
Indirect Project Costs	7,011	2,660
Total Program Expense	88,336	63,417
Management and Administrative Expenses	11,140	9,089
Fundraising Expenses	751	592
Total Expense	100,226	73,098
Excess of Revenue over Expense	14,138	16,955

East Coast Environmental Law
STATEMENT OF FINANCIAL POSITION
As of December 31, 2014

	2014 Unaudited	2013 Unaudited
ASSETS		
Current Assets		
Cash	67,588	47,755
Term Deposits	61,698	113,640
Accounts Receivable	27,403	22,053
Other Current Assets	-	115
Total Current Assets	156,688	183,563
TOTAL ASSETS	156,688	183,563
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable	11,116	4,784
Deferred Revenue	16,354	63,752
Other Liabilities	53	-
Total Current Liabilities	27,524	68,536
Total Liabilities	27,524	68,536
Equity		
Unrestricted Net Assets	69,748	56,428
Internally Restricted Net Assets	59,416	58,599
Total Equity	129,165	115,027
TOTAL LIABILITIES & EQUITY	156,688	183,563



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Annual Report 2014

6061 University Avenue
Halifax, Nova Scotia
Canada
B3H 4H9

Website: www.ecelaw.ca
Email: info@ecelaw.ca
Telephone: 1 902 489 7997