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east coast environmental law

ECELAW Annual Report 2016

January 1 - December 31, 2016



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Mission & Vision

VISION

ECELAW envisions a future where innovative and effective environmental laws and the fair 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.

MISSION

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

- Public Education
- Collaboration
- Legal Action



Chair's Message



Public interest law work that seeks innovative and effective environmental laws is as relevant and critically important as ever. As the 6 billion of us on earth increase pressure on the natural environment, so will the pressure increase on our laws to speak to the way governments, enterprises, and individual citizens relate to the natural environment. Stepping up to this challenge is not just a civil act, but a civilized act. That the 'right of law' should be the measuring stick of justice, that there is a correct and true way, external to ourselves - even if difficult to find - to relate to people and to the natural environment, that differing parties can come to an agreement through reason on the way to govern themselves. These are all part of the long tradition of law reform reaching back millennia to which ECELAW is a part.

As lofty of a tradition as this may be, ECELAW acts in the most concrete and practical of ways in communities across Atlantic Canada: ensuring residents of Harrietsfield, NS without clean water are represented in court; engaging community groups in the development of legally-based Environmental Rights; speaking to the importance of Bay of Fundy species in the review of the proposed Energy East Pipeline in New Brunswick. With the deepest of gratitude we want to thank our funding partners, including both foundations and individual donors, for enabling this work. If you are not yet a funding partner, you too can participate in ensuring Atlantic Canada has effective environmental laws, and the judicial capacity to deal with what may be the greatest societal challenge of the next 100 years.

This marks my 6th and final year as a board member for ECELAW. Over this time, the little East Coast Environmental Law organization has faced its share of operational challenges, and this past year has been no different. Yet, once again ECELAW staff and board members have overcome these challenges with what has become its trademarks: resilience and teamwork. Being a part of this team over the past 6 years has been most rewarding. In order to meet its strategic goals, ECELAW has reworked its organizational structure this past year. Upon Aaron Ward resigning as Executive Director, our Senior Lawyer role was combined with the Executive Director role, and our long time lawyer, Lisa Mitchell, has filled this position. As a critical support to the Executive Director, an Office Manager position was created to handle the business operations of the organization, and is filled by Daniel Lavigne, a well-seasoned NPO leader. Together, Lisa, Daniel and our committed volunteer board are structuring ECELAW for continued growth throughout the Atlantic Provinces, and to continue to make real improvement to Atlantic Canada's environmental laws in 2017.

Reuben Penner

Executive Director & Senior Lawyer's Message

"Public Education. Collaboration. Legal Action."



Silver Donald Cameron's book 'Warrior Lawyers' provides a storied approach to some of the most engaging legal dramas I have ever read. Around our small blue planet, lawyers are jumping into the fray and using their skills to shift the momentum, using the courts to take our decision-makers to task, to force us to look at our future. Our generation is not doing a good job of ensuring that there is a healthy place for our children to live, so the children are going to court to fight for their right to a future. It is both exciting and, well, a little depressing.

High profile legal action is only one spoke in the wheel. To take a case to court, you must have the legal tools to work with, you must understand the law and you must know what is happening on the ground. It takes hours in the library and online learning and understanding how the law works and how it can be improved. It takes communication; listening to and learning from those who suffer the consequences of bad decisions today and those who will suffer in the future. For ECELAW it means mentoring law students, connecting with local communities, engaging with our colleagues and focusing on what lies ahead.

To be useful, the law has to evolve. 2016 marked an unprecedented opportunity to create better environmental law. After 10 years of rolling back our environmental laws, the federal government asked Canadians how to correct the mistakes and improve these laws. At ECELAW we could not ignore what is likely a once in a generation opportunity to create legal tools that will help us protect our marine and freshwater ecosystems, prevent poorly planned projects from going ahead, and protect communities from toxins. ECELAW collaborated with our colleagues and made submissions on improving the Canadian Environmental Assessment Act and the Fisheries Act.

ECELAW is here in Atlantic Canada to support our communities and to stand-up for the future. We are dedicated to applying our skills and resources to make our environment and communities healthier and more resilient and to help those who feel the sting of environmental racism from a legacy of dump sites and polluting industries. We, too, are warrior lawyers as we intervene in a federal court of Canada case to preserve Canadian environmental law and step up to fight for a community's right to clean water in Nova Scotia.

Lisa Mitchell



About ECELAW

WHO WE ARE

Incorporated in 2007, East Coast Environmental Law (ECELAW) is Atlantic Canada's legal environmental watchdog. We use the law to help create healthier communities and enrich our natural environment. As a registered charity based in Halifax, Nova Scotia, ECELAW strives to strengthen and effectively use Atlantic Canada's environmental laws.

ECELAW responds to questions and inquiries on environmental law matters. We collaborate with government and non-government organizations to improve the application of environmental law; we seek better enforcement and greater transparency. We work to build better laws that will ensure access to justice for environmental protection for healthier communities today and for future generations. We mentor and work alongside students, building stronger foundations for tomorrow's leaders.

HOW WE TAKE ACTION

Public Education

We make environmental laws and legal options easy to understand for Atlantic Canadian communities and organizations fighting for environmental justice.

- ECELAW carries out workshops, clinics, and speaking engagements to help inform and engage with Atlantic Canadian communities .
- Our online legal information library is a public resource of legal cases categorized by issue area that is not provided by any other free online service.

Collaboration

We work with individuals and groups to build better environmental laws and ensure application of those laws throughout Atlantic Canada.

- Every year, ECELAW mentors future law professionals through a variety of student placements.
- ECELAW works side-by-side with community groups, institutions, and NGO's to find sustainable solutions to environmental problems.

Legal Action

We identify ways to improve Atlantic Canada's environmental laws and we help Atlantic Canadians defend our environment through the fair application of the law.

- ECELAW carries out legal and policy research to help review and strengthen Canadian environmental law.
- When necessary, ECELAW will take action to fight for what is just through legal advice, referrals, or litigation.

ECELAW's Activities

2016 STRATEGIC HIGHLIGHTS

Our work falls under three streams: Public Education, Collaboration, and Legal Action, and in 2016, we made significant progress in each of these areas. Here are some of our highlights:

- ECELAW collaborated on the ENRICH Project addressing Environmental Racism
- ECELAW worked with and mentored 20 University Students
- ECELAW established Environmental Rights Working Groups in New Brunswick and PEI
- ECELAW intervened in the Federal Court of Canada against Bilcon to support the communities in Digby Neck, NS and protect Canadian environmental law
- ECELAW represented Nature Canada in the National Energy Board's Energy East Pipeline process
- ECELAW supported the affected residents of Harrietsfield, NS in court

PUBLIC EDUCATION

"Making environmental laws and legal options easy to understand for Atlantic Canadian communities and organizations fighting for environmental justice."

Environmental Rights and Racism

Under the umbrella of Environmental Rights, ECELAW has collaborated on the ENRICH (*Environmental Noxiousness, Racial Inequities and Community Health*) Project, led by Dr. Ingrid Waldron (www.enrichproject.org). Addressing environmental racism will require a long-term multi-faceted approach. Informed legislation and better legal tools can contribute to ending environmental racism. ECELAW believes that creating a legal right to a healthy environment may be well-suited to addressing systemic issues of environmental racism and environmental justice in various communities.

On March 22nd, 2016, ECELAW joined Dr. Waldron for a lecture at the Schulich School of Law at Dalhousie University, entitled *Race, Place, & the Law: A Socio-Legal Analysis of Environmental Racism* in Nova Scotia. The lecture was hosted by the Environmental Law Students' Society (ELSS) and was well attended by students, faculty, and members of the public.

Old Growth Forests

The Mersey Tobeatic Research Institute (MTRI) has been working urgently within southwestern Nova Scotia to identify old forests on private and public land and to encourage landowners to steward these special places and to restore old forest characteristics to their woodland. ECELAW was contracted by MTRI to conduct a legislative analysis of old-growth forest regulatory schemes in the Maritime Provinces as well as selected additional provinces and US states. To that end, ECELAW:

- Produced a comprehensive report entitled: "Comparative analysis of regulatory frameworks for Old Growth Forest in Selected Provinces and US States"
- Presented the research at a workshop in Sackville, New Brunswick, an event organized by MTRI.

ONLINE RESOURCES

In addition to our work in the community, ECELAW makes environmental laws accessible to everyone through our online resources. In 2016, ECELAW engaged with Pro Bono Canada to fully update the legal cases in our online information library. The work is being completed by a group of committed student interns over a two year period. We expect the update to be fully functional by the fall of 2017. Completely free of charge, anyone can visit our website (www.ecelaw.ca) and access:

- Legal Information Library
- Environmental Law Publications
- Lawyer Directory

In addition, ECELAW responds to environmental law inquiries through our Legal Inquiry Service which, through an online inquiry form, provides the public with basic legal information to facilitate informed decisions on next steps. If the inquiry fits the mandate of ECELAW, additional resources may be applied to provide legal advice, research or in some instances legal action.

COLLABORATION

"Working with individuals and groups to strengthen environmental laws and ensure enforcement throughout Atlantic Canada."

Student Internships

Each year ECELAW is fortunate to work with some of Dalhousie's best and brightest law students. Through the pro bono legal program, the Environmental Law Placement Course, student representatives on our Board of Directors, and student volunteers, ECELAW is enthused with students' energy, ideas and hard work. In 2016, ECELAW worked with 20 students who contributed immensely to the organization. Some of the work they produced included:

- An impressive contribution to the ongoing development of ECELAW's online Information Library.
- Critical evaluations and research on species at risk, old growth forests, and the National Energy Board.
- Research on legislative tools for Environmental Rights.
- Legal research to address inquiries.

Environmental Rights and Community Working Groups

The objective of ECELAW's Environmental Rights Project is to organize an effective East Coast campaign promoting the need for, and recognition of, legally-based provincial environmental rights. ECELAW is conducting province-specific legal research, providing resources, starting community dialogue, creating strategic partnerships, and developing campaign action plans.

Working groups, consisting of environmental and community leaders, were established in three Atlantic Canadian provinces: Nova Scotia, New Brunswick and PEI. In 2016, strategy sessions were conducted in NB and PEI, completing the establishment of the three working groups, the first of 5 steps in the ER action plan as developed by ECELAW in 2014 and 2015.

ENVIRONMENTAL RIGHTS ACTION PLAN

1. Establish Environmental Rights Working Groups
2. Design a Legislative Work Plan for each province.
3. Build Relationships Nationally and Across the Provinces
4. Build Momentum Within the Provinces
5. Propose Environmental Rights in NS, NB and PEI which respect the unique priorities in each province.

Following the establishment of the Environmental Rights Working Groups, ECELAW produced the following documents in 2016:

- "Legislative Tools for Environmental Rights in New Brunswick: A Briefing for ERWG Members"
- "New Brunswick Environmental Bill of Rights" (Draft)
- "Legislative Tools for Environmental Rights in Nova Scotia: A Briefing for ERWG Members"
- "Legislative Tools for Environmental Rights on PEI: A Briefing for ERWG Members"

Beyond 2016, ECELAW will continue the environmental rights conversation and take concrete actions that will lead to legally based environmental rights. ECELAW has facilitated the efforts to date and is committed to continuing the partnerships we have developed, serving as an environmental rights information and resource hub for the Atlantic region.

LEGAL ACTION

"Identifying ways to improve Atlantic Canada's environmental laws and helping Atlantic Canadians defend our environment through the fair application of the law."

Bilcon

Almost 10 years after a joint Canada-Nova Scotia environmental assessment review panel recommended the rejection of a proposed basalt quarry and marine terminal at Whites Point on Digby Neck, we are forced to defend that process and Canadian environmental law against a NAFTA tribunal's finding that the review process was discriminatory and unfair to the quarry's proponent, Bilcon.

We at ECELAW, in partnership with the Sierra Club of Canada Foundation, are official interveners in the federal case to stop Bilcon from collecting US\$100 million from Canadian taxpayers. ECELAW and Sierra are being represented by Ecojustice.

- In July, 2016, in collaboration with Sierra and well-known author Noah Richler, we held an event in Sandy Cove, NS to bring information to the affected community. The event was held at Noah Richler's home and showcased the former studio of anti-quarry activist and Canadian artist Carol Mahtab.
- In September, 2016 and with the support of ECELAW Board member and gallery owner, Deborah Carver, ECELAW hosted a fundraiser to help support our intervention in the federal court of Canada case against Bilcon. It was held at Studio 21 in Halifax and was a huge success.



National Energy Board: Energy East Pipeline

Energy East is a proposed 4,600-kilometre pipeline by Calgary-based energy corporation TransCanada. It would stretch from Alberta to an export terminal in New Brunswick and could carry up to 1.1 million barrels of crude oil per day.

ECELAW represents Nature Canada and Nature New Brunswick in the National Energy Board (NEB) process. On August 8th, 2016, Lisa Mitchell put forward Nature Canada's seven key areas of concern, all of which focus on potential impacts to the Bay of Fundy ecosystem, including increased tanker traffic, oil spills, and cumulative environmental effects.

As of the printing of this report, the NEB has restarted the review process, making all decisions made by the prior NEB panel void.

ECELAW continues to represent Nature Canada and Nature New Brunswick as the process moves forward.

Contaminated Drinking Water: Harrietsfield, NS

For years, many residents of Harrietsfield, Nova Scotia, have been unable to drink the water from their taps. Actions taken at a construction and demolition recycling facility located in the community has resulted in polluted groundwater, often exceeding the Canadian Drinking Water Quality Guidelines.

As far back as 2010, the government of Nova Scotia ordered companies that had owned or operated the facility to address the contamination, monitor the groundwater and ensure clean water for the residents. The orders have been challenged by the responsible parties resulting in years of court battles. Through all of this the residents of Harrietsfield have received no protection or relief.



Photo: Rebecca Hussman

Working together ECELAW and our colleagues at Ecojustice represented the affected residents of Harrietsfield as intervenors in the court proceedings. In 2016, there were two separate proceedings in October and November. The decision following the October proceedings found in support of the order and the community. As of the printing of this document, we are still awaiting the second appeal decision.

WATER RALLY IN HARRIETSFIELD, NS

In June, 2016, ECELAW, represented by Lisa Mitchell, participated in a community water rally in Harrietsfield at the Harrietsfield Williamswood Community Centre, organized by Marlene Brown, official intervenor in the case.

Aquaculture

ECELAW has a long history of engaging with communities and organizations concerned about the health of our oceans, including the impacts of open-net finfish aquaculture.

ECELAW provided support to clients on two separate formal investigation requests under section 17 of the Canadian Environmental Protection Act. The first investigation related to the response by industry to mass mortalities of fish following a 'super-chill' event off the coast of Nova Scotia in 2015. The second investigation relates to the ongoing application of pesticides and disinfectants to marine environments for the treatment of aquaculture fish.



Students @ ECELAW

ECELAW's student collaborators joined the team from four sources: the Schulich Law School Pro Bono program, Osgoode Environmental Justice Sustainability Clinic, Environmental Law Placement course and general volunteer opportunities.

Pro Bono: The Schulich Pro Bono program offers Dalhousie Law Students volunteer opportunities that develop their lawyering skills by working with supervising lawyers on projects that connect with and serve the local community.

Placement Courses: The vast majority of ECELAW's placement students derive from the Environmental Law Placement course (LAWS 2225) at Dalhousie's Schulich Law School, which provides students with the opportunity to work with environmental law practitioners in Halifax during the winter term.

Osgoode Environmental Justice Sustainability Clinic: 2016 was ECELAW's second year participating in this virtual clinic program which pairs a senior law student with an environmental organization over the full academic year.

Volunteers: ECELAW receives general student volunteers from a variety of sources, some looking for law placements to build their skillset and gain experience, and others joining our Board of Directors, filling ECELAW's two seats reserved for active students.

Here are the incredible students that worked with ECELAW in 2016:

Pro-Bono Students

Amy Prosper
Carla Cichowska
George Franklin
Iain Macdonald
Logan Grant
Melissa Pike
Mike Kofahl
Myles Thompson

Environmental Law Placements and Osgoode Clinic

Samuel Mason (LAWS 2225)
Nina Butz (LAWS 2225)
Peter L'Esperence (LAWS 2225)
Jessica Karban (Osgoode Clinic)

Volunteers

Quinn Keenan
Grace Jothiraj
Katie Shipp
Dan Vanclieaf
Olga Koubrak
Melia Moorhouse
Vini Vaitheeswaran (ECELAW Board)
Ben Ojoleck (ECELAW Board)



Funders

Thank you to our funders and supporters for your generosity to ECELAW; we would not be able to provide Atlantic Canadians with such an important service without your ongoing contribution.

Core Funders

Law Foundation of Nova Scotia
ECHO Foundation
Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University
Sage Environmental Program

Project Funders

Catherine Donnelly Foundation
Law Foundation of Newfoundland and Labrador
Mersey Tobeatic Research Institute

Individual and Corporate Funders

Sara Seck
Barbara Blouin
Meinhard Doelle
Jessie Irving

Our Team

BOARD OF DIRECTORS

Reuben Penner, MA, MBA, CPA, CMA (Chair) is a Financial Analyst at the IWK Health Centre.

Mathieu Poirier, B.A.Sc., MBA, JD, (Vice Chair) is a management consultant with Deloitte Canada.

Kevin Reinhardt, CPA, CA (Treasurer) is a Senior Financial Analyst with Nova Scotia Power.

Brian Hebert, LLB, is a Partner at the law firm Mckiggan Hebert.

Catherine Abreu is the Executive Director of the Climate Action Network.

Deborah Carver, LLB, LLM, is the Owner and Director of a commercial art gallery, Studio 21 Fine Art in Halifax.

Derek Simon, B.B.A., LLB, is a Partner at Burchells LLP in Halifax.

Heather J. Hill BA (Hons), LLB, teaches business subjects at Acadia University and the Nova Scotia Community College.

Melia Moorhouse is in her second year at the Schulich School of Law, Dalhousie University.

Phillip M. Saunders, QC, is a Professor of Law at Schulich School of Law and an Associate Professor at the School for Resource and Environmental Studies, Dalhousie University.

Vinidhra Vaitheeswaran, B.Sc., is in her final year at the Schulich School of Law, Dalhousie University.

STAFF

Executive Director and Senior Lawyer
Lisa Mitchell, BA, LLB, MES

Office Manager
Daniel Lavigueur, BA, GDBA

Social Media Coordinator
Kyle Jennex

2016 Financial Statements

East Coast Environmental Law Association Unaudited Statement of Financial Position As at December 31, 2016

	2016	2015
	\$	\$
ASSETS		
Current Assets		
Cash	104,695	74,032
Investments	22,761	61,698
Accounts Receivable	70,959	79,633
	<u>198,415</u>	<u>215,363</u>
Long Term Assets		
Long Term Receivable		30,000
TOTAL ASSETS	<u>198,415</u>	<u>245,363</u>
LIABILITIES & NET ASSETS		
Liabilities		
Current Liabilities		
Accounts Payable	11,130	13,476
Defferals	44,594	63,008
	<u>55,724</u>	<u>76,484</u>
Long term Liabilities		
Long Term Defferals	17,500	47,500
TOTAL LIABILITIES	<u>73,224</u>	<u>123,984</u>
NET ASSETS		
Unrestricted Net Assets	65,772	61,960
Internally Restricted Net Assets	59,419	59,419
TOTAL NET ASSETS	<u>125,191</u>	<u>121,379</u>
TOTAL LIABILITIES AND NET ASSETS	<u>198,415</u>	<u>245,363</u>

East Coast Environmental Law Association Unaudited Statement of Operations & Changes in Net Assets For the Year Ended December 31, 2016

	2016	2015
	\$	\$
REVENUE		
Direct Grants	112,458	97,808
Direct Contributions	14,401	9,468
Other Revenue	1,827	1,197
TOTAL REVENUE	<u>128,686</u>	<u>108,473</u>
EXPENSES		
Program		
Salaries & Wages	68,191	52,218
Research & Direct Project Costs	7,121	28,383
Indirect Project Costs	944	2,356
	<u>76,256</u>	<u>82,957</u>
Management & Administrative		
Salaries & Wages	32,694	21,785
Other	12,038	9,306
	<u>44,732</u>	<u>31,091</u>
Fundraising		
Salaries & Wages	3,798	2,555
Other	88	584
	<u>3,886</u>	<u>3,139</u>
TOTAL EXPENSES	<u>124,874</u>	<u>117,187</u>
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENDITURE FOR THE YEAR	<u>3,812</u>	<u>(8,714)</u>
UNRESTRICTED NET ASSETS - beginning of the year	61,960	70,674
UNRESTRICTED NET ASSETS - end of the year	<u>65,772</u>	<u>61,960</u>



ecelaw

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www.ecelaw.ca

6061 University Avenue, Halifax, Nova Scotia B3H 4H9
info@ecelaw.ca | 902 489 7997