esources

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Environmental Review Under the Inuvialuit Final Agreement: The Kulluk Drilling Programme in Jeopardy

*by Gordon Griffiths**

Background

After holding public meetings for six days in June, 1990 the Environmental Impact Review Board (the Board), created under the Inuvialuit Final Agreement of June 5, 1984, (IFA) recommended to the Minister of Indian and Northern Affairs, Canada (the Minister) that the proposed Kulluk Drilling Programme 1990-92 of Gulf Canada Resources Limited not be approved. The Board cited two principal reasons for its recommendation:

1. The Board concluded from the evidence before it that there was a "startling lack of preparedness" of the government and Gulf to deal effectively with a major oil well blowout in the Beaufort Sea during the open water season; and

2. The Board on the evidence before it could not make the recommendation required of it under the IFA with respect to Gulf's potential liability in the event of a worst case blowout.

The Board made nine recommendations to the Minister with respect to the problems and issues raised in its decision. The Board stressed that these recommendations should not and would not constitute terms and conditions for the approval of the Kulluk Programme. The purpose of the recommendations was to facilitate future drilling activity.

Gulf has announced that the 1990 portion of the Kulluk Program will be cancelled. The Canada Oil and Gas Lands Administration (COGLA)[1] has not announced a decision with respect to the Kulluk Programme, but a committee has been established to review the entire situation.

Two important developments have followed on the Board's decision:

1. The Board has taken the position that COGLA must respond to the Board's recommendations within 30 days

Résumé

Après avoir examiné le projet de programme triennal de forage de Kulluk soumis par Ressources Gulf Canada Limitée en vertu de la Convention définitive des Inuvialuit, le Bureau d'examen des répercussions environnementales a recommandé que le projet ne soit pas approuvé et que l'Administration du pétrole et du gaz des terres du Canada (APGTC), l'organisme fédéral ayant juridiction dans ce domaine, examine sans tarder les problèmes qui n'ont pas été résolus et notamment les aspects environnementaux des éruptions et des procédures de nettoyage, qui préoccupent le Bureau.

L'APGTC n'a pas pris de décision sur les recommandations du Bureau d'examen, mais un comité d'organisation a été constitué pour conseiller le Ministre des Affaires indiennes et du Nord canadien et lui soumettre des recommandations. Bien qu'il ait été suggéré que toutes les parties intéressées soient représentées au sein du comité, cette façon de résoudre les problèmes qui ont surgi dans le développement des ressources de la mer de Beaufort semble contourner la Convention définitive et risque de compromettre la position des participants. Il est toutefois essentiel de s'occuper de ces questions.

of their publication, and since COGLA has failed to make any decision within 30 days, it can no longer approve the Kulluk Programme under the IFA.

2. A Steering Committee has been established to review and address the recommendations of the Board. What powers does the Committee have and who should be its members?

COGLA Decision

The Board's interpretation of the IFA is that the obligation on COGLA to make a decision is found in Sections 11(27) and 11(29) of the IFA.[2] COGLA argues that there is no time restraint on its deliberations pursuant to Section 11(27) of the IFA and that it would be imprudent to impose time deadlines on such important and complex decisions. COGLA states that the only time constraint it faces is one to give written reasons within 30 days of making any decision not to accept a recommendation of the Board.

It is obvious that these sections of the IFA may be deficient if they are capable of two interpretations. Certainly the spirit of the IFA appears to be that all institutions created under it will deal with matters before them either "expeditiously" or on a strict timetable. It seems logical that other bodies ruling on these matters would deal with them on the same basis.

The long-term solution to this issue would be to amend the IFA to reflect the apparent intention of the negotiators and draftspersons, namely that COGLA would deliver its decision within a fixed period of time. That solution does not, however, address the immediate problem. The Chairman of the Board has been quoted as stating that any approval by COGLA of the Kulluk Programme at this time would be illegal and subject to court challenge.

As a solution to this apparent impasse, the Steering Committee has been established to address the issues and recommendations raised by the Board, not only with respect to the Kulluk Programme but also regarding the Isserk I-15 Drilling Programme (the first drilling programme reviewed by the Board in November, 1989.) The Committee has been asked by the Department of Indian Affairs and Northern Development to review the Board's recommendations and concerns, and to advise and make recommendations to the Minister.

The Steering Committee

The creation of the Steering Committee is not authorized under any legislation, and the Committee has no statutory or regulatory authority. It is an *ad hoc* entity created to address a difficult situation. There is some concern that if the issues raised by the Board are not addressed and resolved there could be a negative, long-term impact on development of Beaufort Sea resources.

Since the Committee has no legislative or regulatory power or authority, it must represent all interests in the region. It has been suggested that the Committee be composed of representatives of the Department of Indian and Northern Affairs, the Government of the Northwest Territories, the Government of the Yukon, the Inuvialuit and the Canadian Petroleum Association. The Chairman would be an independent person acceptable to all parties. At present it has been proposed that the Inuvialuit be represented by two members on the Committee.

Seven task groups have been formed to deal with the Board's recommendations. These task groups will review the recommendations of the Board and provide recommendations to the Committee, which will in turn make recommendations to the Minister with respect to his issuance of a permit regarding future drilling under the Kulluk Programme.

The Inuvialuit have not yet appointed representatives to the Committee and appear to be carefully assessing their position. This caution is understandable, given the possibility that the Minister might take his guidance from the Committee's report rather than the IFA review process. The Minister is expecting the Committee to provide guidance with respect to the Board's recommendations. The Inuvialuit, who have 50% representation on the Board's hearing panel, do not have the same representation on the Committee. Their opposition to recommendations will not necessarily have the same weight on the Committee as it would on the Board. This situation appears to contradict the spirit of the IFA, which provides that the Inuvialuit will have an equal voice in the review of uses of their territory.

If the Committee delivers a report to the Minister recommending that he exercise his discretion with respect to the Kulluk Programme in a way that is unacceptable to the Inuvialuit, are they estopped from challenging the Minister's exercise of his discretion if they participate on the Committee and its review of the Board's recommendations? Presumably, despite their participation on the Committee and on task groups, the Inuvialuit and any other interested party would retain their rights to challenge any decision made by the Minister or COGLA regarding the Kulluk Programme.

Conclusion:

It is disturbing that these issues have not been resolved through the process and the institutions established under the IFA. Does a

weakness exist in the IFA or are these environmental issues so complex that they can not be dealt with adequately in a review process? All parties agree that these issues must be addressed and resolved to prevent erosion of both the public's and the participants' confidence in the future development of Beaufort Sea resources, but one must wonder if an *ad hoc* committee is the appropriate vehicle for this exercise.

Gordon Griffiths is a lawyer with the Calgary firm of MacKimmie Matthews and is currently Practitioner-in-Residence at the Institute where he is engaging in research on environmental impact assessment of northern energy projects.

Notes

1. The Minister is empowered under the *Canada Petroleum Resources Act* R.S.C. 1985, C. 36 (2nd Supp.) 1986 and the *Oil and Gas Production and Conservation Act*, R.S.C. 1985 C. 0-7 to delegate certain powers, duties and functions to designated officials and he has delegated administrative and regulatory powers, duties and functions regarding the exploration for and the development and production of oil and gas on Canada's frontier lands to the Administrator of COGLA.

2. These sections provide:

11(27) The Decision containing the recommendations of the Review Board shall be transmitted to the governmental authority competent to authorize the development. That authority, consistent with the provisions of this section and after considering, among other factors, the recommendations of the Review Board, shall decide whether or not, on the basis of the environmental impact considerations, the development should proceed and if so, on what terms and conditions, including mitigative and remedial measures.

11(29) If the competent governmental authority is unwilling or unable to accept any recommendations of the Review Board or wishes to modify any such recommendations, it shall give reasons in writing within thirty (30) days, stating why it has not accepted the recommendations.

Environmental Impact Assessment and the Forestry Sector: Lessons from the Alberta-Pacific Review

*by Monique Ross**

Introduction

Environmental assessment review in Canada has experienced a remarkable evolution over the past year. In particular, the forestry sector has witnessed a series of legislative, judicial and political developments which have the potential to affect significantly the management by industry and government of Canadian forests. For the first time, the EARP process has been applied to the proposed construction of a major-scale pulp mill. In addition, a revision of existing Environmental Impact Assessment (EIA) legislation has been put on the political agenda of both the federal and provincial governments. At the federal level, a proposed *Canadian Environmental Assessment Act*,[1] replacing the *EARP Guidelines*,[2] was introduced by the Minister of the Environment in the House of Commons in June of this year.

Similarly, the recent trend at the provincial level has been towards a much broader application of the EIA process to forestry-related developments. For example, following the Alpac Review, the government of Alberta tabled in the legislature a bill providing for the assessment of projects having a potential impact on natural resources, under which pulp and paper projects would be mandatorily reviewed.[3] Earlier this year, the government of British Columbia issued Guidelines for a Major Project Review Process to complement the existing Review Processes in place for Mine Development and Energy Projects and to apply specifically to pulp and paper mills. Ontario is in the process of reviewing its EIA process, and has undertaken a lengthy Class Assessment of Timber Management Activities on Crown Lands. Manitoba and Newfoundland are both assessing forest management activities as part of the approval process for forest management plans submitted by forest companies. And finally, all three maritime provinces have amended their legislation to provide for a broader application of their review processes to forest-related activities.

These developments have, on the one hand, raised expectations while, on the other, creating uncertainty. The Canadian public has begun to demand greater participation in the allocation and management of natural resources,

Résumé

Au cours de l'année passée, les procédures d'évaluation environnementale ont acquis une importance accrue, comme en témoignent les récents arrêts de la Cour Fédérale et les développements législatifs en cours tant au niveau fédéral qu'au niveau provincial. Dans le domaine forestier, l'évènement le plus remarquable a été l'examen conjoint par les gouvernements du Canada et de l'Alberta des répercussions environnementales du projet de construction de l'usine de pâte à papier Alberta-Pacific dans le Nord de l'Alberta. L'auteur décrit brièvement le déroulement de cet examen ainsi que les recommandations de la commission et leur effet sur les gouvernements, avant de tirer certaines conclusions sur les limitations inhérentes au processus d'examen conjoint tel qu'il est conçu par le gouvernement fédéral.

with the expectation that the broader use of EIA and the increased involvement of the federal government in this area will lead to greater recognition of environmental, as opposed to purely economic concerns in the decision-making process. By contrast, some provinces fear that the federal government, in the wake of recent Federal Court decisions on the Rafferty-Alameda[4] and Oldman River[5] dams, may attempt to infringe on provincial resource management authority. Finally, industry has expressed concern about increasing delays and costs in the approval process, especially when both levels of government are involved in project review.

With a focus on the forestry sector, and in light of the Alberta-Pacific Review Process and the proposed federal EIA legislation, this article will consider whether or not such expectations and concerns are justified, and in particular, whether, and to what extent, the federal government may in fact increasingly "interfere" in the provincial decision-making process with respect to natural resources management.

The Alpac Review

The proposed construction of the Alberta-Pacific pulp mill, described as the world's would-be largest kraft mill, was announced publicly by the government of Alberta in 1988, together with the construction or expansion of six other mills and the allocation under new Forest Management Agreements (FMAs) of over half of Alberta's forest lands. The mill is to be built on the Athabasca River, which flows through Wood Buffalo National Park, and, together with the Peace River, drains into Great Slave Lake in the Northwest Territories. Several Indian reserves, settlements and communities are located within the proposed FMA, which covers 11% of Alberta's total land area.

Negotiation of these forestry developments was carried out behind closed doors between the Alberta government and industry, with no provision for a competitive bidding process nor for public consultation, and without a previous comprehensive environmental impact assessment. The government announcement of the proposed projects was greeted with a major public outcry, which may have been influential in the federal government's decision to apply its review process to the proposed Alberta-Pacific pulp mill.[6] Legal justification for federal participation in the review was based on the mill's potential impacts on several areas of federal jurisdiction, including fisheries, federal lands, and native lands and native claims.

In July 1989, the federal and provincial Ministers of the Environment reached an agreement on a federal-provincial environmental review of the proposed Alpac mill and appointed a Review Board composed of 2 federal and 5 provincial members, as well as one member representing the interests of the Northwest Territories. The Review Board was asked to examine the expected cumulative impacts of effluent discharges on the Peace-Athabasca River system, taking into account existing as well as proposed discharges from other mills in the same river basin, and to consider the effects of timber harvesting on Indian Reserve Lands.

The Review Board, after holding a series of public hearings in eleven different communities and receiving a total of 750 written submissions, forwarded its final report to the provincial government in February 1990. Even though the Board found that the proposed mill would be "one of the safest of its kind, in terms of environmental impacts, anywhere in the world",[7] it nevertheless recommended that its construction should not be approved until further scientific studies on the river systems were conducted "to determine if the mill could proceed without serious hazard to life on the river and for downstream users".[8]

The report was strongly criticized by the Premier of Alberta, who reproached the Board for not having sufficiently analyzed the scientific data.[9] As a result, the provincial government hired an engineering firm to reassess the findings of the Review Board. The firm in turn recommended that an environmental master plan for pulp mill development on the Peace-Athabasca rivers watershed be prepared and that a study of fish populations be completed.

In July 1990, the federal and provincial Environment Ministers announced that a study of the cumulative impact of development on the Peace, Athabasca and Slave river systems would be undertaken over a three-year period severally by the provincial, federal and Northwest Territories governments. It is unclear, however, whether the Board's recommendation to refuse approval of the mill until the completion of such studies will in fact be followed, since a revised proposal submitted by Alberta-Pacific has just been reviewed by a three-member scientific panel appointed by the provincial government. The panel is expected to report to the provincial government in October 1990.

Although it is premature to draw final conclusions on the Alpac Review, it is possible at this point to make some general observations regarding the extent, form and impact of the joint assessment process.

a) As to the *extent of the joint assessment* performed, it is safe

to state that the federal government tends to restrict its review to potential environmental impacts which clearly involve a matter of well-established federal jurisdiction. An obvious example in the case of pulp and paper mill developments is water pollution, which has the potential of interfering with fisheries or Indian rights, or affecting lands under federal jurisdiction (national parks, the Northwest Territories).

However, the federal government may choose not to intervene in matters within the jurisdiction of the provinces (management of provincial forest land), even though certain overlapping areas of federal responsibility may be involved. Thus, in the case of the Alpac Review, the Review Board's terms of reference did not include an assessment of the impacts of timber harvesting practices in the proposed Forest Management Agreement (with the exception of impacts on Indian reserve lands), even though such practices could also affect matters falling under federal jurisdiction, such as fisheries, international air pollution or migratory birds.

The Board was placed in the awkward position of having to assess how timber practices might affect certain lands, without having access to sufficient information concerning those practices. During public hearings, concern was expressed with respect to the effects of timber harvesting and forestry road construction on unique environments or critical habitats, and on the overall impact on wildlife, including endangered species. The Board expressed opinions on a number of these issues but, because of its restricted terms of reference, declined to deal with them in detail. In its evaluation of the effectiveness of the process, the Board took strong objection to the separation of the review of the issues surrounding the mill construction from the review of the Forest Management Agreement and related timber harvesting practices.[10]

Under the proposed *Canadian Environmental Assessment Act*, the statutes under which the federal government may require an environmental assessment must be listed by regulation.[11] Because no draft regulations were released with Bill C-78, it is now open to question as to how far the federal government will go in defining its own scope of intervention. The proposed Act also provides the Minister of the Environment with the option of assessing serious adverse environmental effects of a project, when they may occur in other countries, provinces and federal lands or lands in respect of which Indians hold interests,[12] or when public concerns regarding these environmental effects warrant it.[13]

Although the possibility exists to do so, it appears unlikely that the federal government will attempt to broaden its participation in a joint review process to include an assessment of impacts on matters traditionally within provincial jurisdiction. For the forestry sector, this means that the ecosystem approach to environmental reviews of forestry projects recommended by the Alpac Review Board has only a slight chance of being adopted.

b) As to the *form of the assessment process*, it may be assumed that, unless there are no provisions for assessment of a given project at the provincial or territorial level, the federal government will not unilaterally undertake its own review. Rather, it will favour a joint federal-provincial process whereby a single review panel made up of federal and provincial or territorial representatives will be jointly appointed. The Ministerial Order establishing the Alberta-Pacific Review Board[14] emphasizes the necessity of ensuring that environmental impact assessments are carried out by both levels of government "without creating confusion for the public or proponents and avoiding duplication, unnecessary delays and uncertainty". This is confirmed by Bill C-78's provisions regarding the appointment of joint review panels.[15]

However, neither the *EARP Guidelines Order* nor the proposed *Canadian Environmental Impact Assessment Act* provides sufficient detail to indicate the means by which joint assessments will be conducted. Bill C-78 merely provides that the Minister of the Environment may appoint or approve the appointment of a chairman and other members, and fix or approve the terms of reference of the panel. The Bill also specifies that the public shall be given an opportunity to participate in the assessment, and that the panel's final report must be published.[16]

With respect to procedures, past practice has been that the applicable environmental assessment procedures are those of the party which has primary responsibility for approving the project. In the case of Alpac, the above-mentioned Ministerial Order stated that "Alberta and Canada have agreed that the undertaking of the project is primarily within the constitutional jurisdiction of Alberta", thus implying that Alberta's procedures would be followed. Bill C-78 now provides that regulations respecting procedures and requirements may be enacted and made applicable to joint review panels.

c) Insofar as the *impact of the recommendations* of joint review panels is concerned, it is doubtful that the recommendations will carry much weight as long as the assessment process remains discretionary. Even though the public nature of the joint review process makes it difficult for

governments to completely ignore the panel's recommendations, in the end the decision-making process remains entirely political. The case of the Alberta-Pacific Review Board clearly illustrates this point. The intense interest with which the public and the press followed the work of the Review Board did not prevent the provincial government from publicly criticizing and questioning the joint panel's findings. In apparent rejection of the Board's recommendation to not approve construction of the mill until further studies of the river systems are completed, the provincial government is now reviewing a new proposal by Alpac, on which it will likely come to a decision in the near future.

Conclusion

In conclusion, the federal government will likely apply its own review process to a growing number of provincial forestry development projects with a potential impact on areas of federal jurisdiction. It is clear, however, that the federal government will avoid superimposing its own process on the provincial process and rather favour a joint review process. Further, in the event that the federal government participates in the review process, it will take great care to set clear limits on the extent of its intervention and only address those potential environmental impacts which relate to clearly established areas of federal responsibility. Although the obvious intention of the federal-provincial review process is to avoid duplication and unnecessary delays and costs, this narrow approach to environmental reviews may well have the opposite result, since those impacts which have been left out may well need to be assessed at a later date. The experience gained from the Alberta-Pacific Review Process should be used by both provincial and federal governments to re-evaluate their approach to joint environmental reviews.

**Monique Ross is a Research Associate with the Canadian Institute of Resources Law.*

Notes

1. *An Act to establish a federal environmental assessment process*, Bill C-78, First Reading, June 8, 1990.

2. *Environmental Assessment and Review Process Guidelines Order*, SOR/84-4678, June 22, 1984.

3. *Natural Resources Conservation Board Act*, Bill 52, Second Reading, 18 June 1990.

4. *Canadian Wildlife Federation Inc.* v. *Canada (Minister of the Environment)* (1989), 3 C.E.L.R. (N.S.) 287 (F.C.T.D.) aff'd (1989), C.E.L.R. (N.S.) 1 (F.C.A.D.).

5. *Friends of the Oldman River Society* v. *Minister of Transport, and Minister of Fisheries and Oceans, and Her Majesty The Queen in Right of Alberta* (1990) F.C.J. No. 921, Action No. A-395-89, March 13, 1990.

6. In the meantime, construction of the Daishowa Canada Co. Ltd. kraft pulp mill, which will discharge its effluents into the Peace River, had begun before the company had even tabled its EIA. No federal review of the proposal was conducted.

7. *The Proposed Alberta-Pacific Pulp Mill: Report of the EIA Review Board*, March, 1990, The Alberta-Pacific Environmental Impact Assessment Review Board, Alberta Environment, Publications Centre, Edmonton, p.84.

8. *Id.*, Executive Summary.

9. Calgary Herald, March 27 and March 28, 1990.

10. *Supra*, note 7, pp.77-78.

11. *Supra*, note 1, s.5(d) and paragraph 55(1)(g).

12. *Id.*, ss.43-45.

13. *Id.*, s.21.

14. Ministerial Order No. 08/89, Department of the Environment, Province of Alberta, dated 11 July 1989.

15. *Supra*, note 1, ss.37-39.

16. *Id.*, s.38.

SPECIAL INSTITUTE

International Resources Law: A Blueprint for Mineral Development

The Canadian Institute of Resources Law is a supporting organization for a two day Special Institute on "International Resources Law: A Blueprint for Mineral Development". The Institute, organized by the Rocky Mountain Mineral Law Foundation and the Section on Energy and Natural Resources Law of the IBA, will present an organized and comprehensive approach to the major factors to be considered when initiating and developing foreign mineral projects.

Speakers with international expertise will focus on topics such as: Fundamentals of Civil Code Legal Systems, Treaties and Bilateral Agreements, Country Risk; Host Country Relationship: Government Take; Structuring the Investment for Mineral Development; Doing Business in the Host Country: Tax and Non-tax Considerations; and Extraterritorial Effect of U.S. Laws.

The Institute will be held in Denver, Colorado, U.S.A. on February 18-19, 1991. To receive a programme and registration form please contact:

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7039 East 18th Avenue
Denver, Colorado 80220
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OR

International Bar Association
2 Harewood Place, Hanover Square
London W1R 9HB England
Tel: (71) 629-1206
Fax: (71) 409-0456

Institute News

1990 Essay Prize Awarded

The Institute recently awarded its annual $1,000 essay prize to Ms. Brenda Johnson for her paper entitled "*Environmental Protection Legislation: The Crown Immunity Problem.*"

Ms. Johnson graduated from the University of Lethbridge in 1977 with a B.A. (with Distinction) in Recreation and Leisure. She worked for ten years in the parks and recreation field in Fort McLeod, the County of Lethbridge and the City of Calgary.

While in Law at the University of Calgary, she was awarded the Louise McKinney Post-Secondary Scholarship, the Dean's Prize, E.S. Watkins Memorial Prize in Torts, Alberta Academy of Trial Lawyers' Prize in Civil Process, and the Life Underwriters' Association of Canada Educational Foundation Scholarship. She won the Billington-Baker Debating Cup, was on the winning team of the 1988 Blackstone Debate, and was a member of the second place team in the 1990 National Gale Cup Moot.

She received her LL.B. in 1990. She is currently articling in Calgary with the law firm of Bennett Jones Verchere, and will complete her articles with the Alberta Court of Appeal.

Ms. Johnson's paper was one of ten essays submitted to a Selection Committee composed of Jim Hope-Ross of Petro-Canada; Judy Snider, a lawyer with the firm Code Hunter; and Professor Pat Rowbotham of the University of Calgary Faculty of Law. Students wishing to submit an entry for the 1991 Essay Prize should contact their Dean of Law.

Upcoming Conference

The 5th Institute Conference on Natural Resources Law, co-hosted by The University of Ottawa, Faculty of Law (Common Law), will be held in Ottawa on May 9-11, 1991 and will focus on resource use conflict resolution. The conference will bring together experts from various disciplines to discuss themes such as: resource use rights and resource use conflicts, preserving wilderness, land claims agreements, international resource use conflicts, co-management of natural resources, EIA as a tool for addressing resource use conflicts, non-conventional legal techniques to resolve resource use conflicts and integrated resource management.

A detailed brochure will be included with the next issue of *Resources*.

Recent Visitors

Geoffrey Feasey and
Bruce Chapman
Energy and Resource Development
Ministry of Commerce
New Zealand

Mukhtar Ahmed
Dy. Manager (Legal Services)
Oil & Gas Development Corp.
Markaz, Islamabad

Gordon H. Jones, President,
Resources Management
Alconsult International Ltd.
Calgary, Alberta

Recent Presentations

- Susan Blackman participated in a workshop in Edmonton, sponsored by Alberta Energy and Alberta Environment, entitled "Clean Air Strategy for Alberta" on September 6-8, 1990.

- Barry Barton attended a meeting of the Provincial-Territorial Mining Recorders' Committee in Halifax on September 19-21, 1990.

- Owen Saunders and Monique Ross presented a paper on the Legal Aspects of Environmental Protection and Control at the Conference on Environmental Protection and Pollution Control for the Pulp and Paper Industry in Montreal on September 24-26, 1990.

- Owen Saunders spoke on "Environmental Law" at the University of Calgary's Showcase Science Week Series on October 17, 1990.

Institute Co-Hosts Seminar

- The Institute, together with the University of Calgary, Faculty of Law and the Law Reform Commission of Canada, hosted a 2-day seminar on "The Power of the Purse: Financial Incentives as Regulatory Instruments". The seminar, held October 12 & 13, attracted approximately 75 participants from across Canada, the United States and New Zealand. The seminar explored the problems and opportunities associated with use of economic incentives as an alternative to more direct forms of governmental regulation relying on traditional "command-penalty" instruments.

New Publication

Security of Title in Canadian Water Rights, by Alastair R. Lucas, 1990
ISBN 0-919269-22-2 102 pages. $22.00

The question of security of title to water rights has attracted relatively little attention from Canadian lawyers, steeped as they are in the common law tradition by England, where water supplies were historically abundant. However, the increasing strains placed on water supplies makes this issue of vital interest in those areas of Canada and the United States (primarily in the West) which suffer greater aridity. This work addresses the key question of what potential weaknesses water rights hold for their users. In conducting this analysis, Professor Lucas not only examines the traditional riparian law on the matter, but also deals with the important statutory developments that have taken place, especially in western Canada. In this latter respect, readers will find the included case studies particularly useful. This work will be of interest, not only to water managers in government, but also to those individuals and corporations in the private sector who rely on water rights for their livelihood.

This is one of a series of studies resulting from the Canadian Water Law Project sponsored by the Donner Canadian Foundation and Environment Canada.

Recent Publications

The Legal Challenge of Sustainable Development, Essays from the Fourth Institute Conference on Natural Resources Law, Ottawa, Ontario, edited by J. Owen Saunders. 1989. 404 pages. $75.00.

Successor Liability for Environmental Damage, by Terry Davis (discussion paper). 1989. 43 pages. $10.00.

The Inuvialuit Final Agreement, by Janet Keeping. 1989. 157 pages. $24.00.

The Offshore Petroleum Regimes of Canada and Australia, by Constance D. Hunt. 1989. 166 pages. $24.00.

Toxic Water Pollution in Canada: Regulatory Principles for Reduction and Elimination with Emphasis on Canadian Federal and Ontario Law, by Paul Muldoon and Marcia Valiante. 1989. 114 pages. $22.00.

Surrounding Circumstances and Customs: Extrinsic Evidence in the Interpretation of Oil and Gas Industry Agreements in Alberta. by David E. Hardy (discussion paper). 1989. 36 pages. $10.00.

Interjurisdictional Issues in Canadian Water Management, by J. Owen Saunders. 1988. 127 pages. $22.00.

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To order publications please send a cheque payable to "The University of Calgary". Orders from outside Canada please add $2.00 per book. Please send orders to:

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