



Feds Move to Limit Environmental Assessment Processes

By Holly Vear

The federal government recently released its plan to “streamline” environmental assessment in Canada to promote speedy approval of major development projects. The government plan is designed to get around all of those pesky environmental laws that might delay or deny a project from proceeding in the face of significant adverse environmental impacts. Enter Bill C-38, *Jobs, Growth and Long-term Prosperity Act* (the “Budget Bill”).

The Budget Bill was tabled on April 26, 2012, with a staggering 150 out of its total 425 pages devoted to gutting Canada’s most important environmental protection laws. Among those laws on the chopping block is the *Canadian Environmental Assessment Act* (“CEAA”). The Budget Bill repeals and replaces CEAA with an entirely new statute, the *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”). The clear mandate behind CEAA 2012 in conjunction with amendments to the *National Energy Board Act* and other significant statutes is to reduce the number of project reviews, narrow the scope of project reviews, and ensure the federal cabinet has the final say on project approval.

The effect of the proposed changes is that they:

- Reduce the number of reviews by transferring

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RECENT EVENTS:

On April 23rd, RAVEN (Respecting Aboriginal Values & Environmental Needs) raised \$7900 at a sold-out fundraising event to assist the Tsilhqot’in Nation with the 2nd round of the fight to save Teztan Biny (Fish Lake). Billed as an intimate evening with Chief Marilyn Baptiste, guests heard from the Chief as well as **Jay Nelson** from W&Co and RAVEN President David Williams.

Employment Law in the First Nations Context:

W&Co lawyers demonstrate expertise at legal conference

Two of W&Co’s legal team, **Berry Hykin** and **Leah Mack**, taught a well-attended session on employment law at the recent CLE Employment Law Conference in Vancouver, BC.



J. Berry Hykin



Leah Mack

Several of Woodward & Company’s lawyers work in this complex field of law. Employment cases in the First Nations context can present unique challenges to legal counsel, raising issues that may be unfamiliar to general employment law practitioners. The paper presented by Berry and Leah at the conference canvasses some key issues that can arise in this context.

In the first section the pair provided an update to the question of how to determine jurisdiction, in light of the recent Supreme Court of Canada case *NIL/ITU, O Child and Family Services Society v. B.C. Government and Service Employees’ Union*, [2010 SCC 45](#).

In the following section, the presentation discusses common issues that both lawyers deal with in their practice and offer recommendations for addressing them. Lastly, they highlight human rights issues that arise specifically with respect to First Nations employers. The paper is available on the Woodward and Company website.

- responsibility to the provinces and territories;
- Impose strict timelines on the length of environmental assessments no matter how large or complex the project;
- Limit opportunities for public participation and intervenor status;
- Politicize project approvals by:
 - o allowing the federal cabinet to conclude that a project may proceed despite a finding of significant adverse environmental effects; and
 - o assigning federal cabinet as the final decision-maker for pipeline project proposals before the National Energy Board, regardless of the conclusion rendered by the independent body.

The provision making the federal government a final decision-maker will apply retroactively to current review panel assessments – including Enbridge’s Northern Gateway pipeline – a project with significant public opposition.

By making these changes in an omnibus Budget Bill, the government has ensured that there will be no appropriate review by the Standing Committee on Environment and Sustainable Development. No experts will be consulted and there has been and will be no consultation with First Nations on the proposed law.

The Conservatives will likely use their majority to successfully pass this regressive legislation, representing a massive step backward in environmental and land protection in Canada. Nevertheless, the Crown cannot legislate itself out of its constitutional duty to consult with a First Nation who’s asserted rights stand to be impacted by a proposed development. This means that the restrictive provisions proposed by the Budget Bill, and provincial and territorial legislation, cannot hamstring the Crown’s consultation efforts in connection with specific projects.

Skookum Racers in Times-Colonist 10K



Woodward and Co’s intrepid 10K team took to the streets for the annual Times-Colonist event and turned in some great times, ranging between 50-64 minutes, most people taking a huge chunk off their personal bests. This year’s team comprised Leah, Eamon, Dominique, Heather, Jenny, Alana, Micki, Berry, Matt, and some friends.



W&CO ON SUDDENLY DANCE BOARD

WoodCo. solicitor, **Drew Mildon**, has just recently (or suddenly, if you will) joined lawyer, **Leah Mack** as a board member of the prestigious, celebrated and long-established Victoria-based modern dance company, Suddenly Dance Theatre Society.

The mandate of Suddenly Dance is to educate and provide opportunities for dancers and choreographers to improve in their craft and to increase public appreciation of dance by providing artistic performances in public places.

Now entering its 20th season, Suddenly Dance consistently presents quality dance works to the public through original commissions, collaborations, and through Romp! A Festival of Independent Dance (this year occurring in Market Square, Victoria).

In the picture above, Drew performs his signature piece, Rise of the Golden-Mantled Ground Squirrel (in Manning Provincial Park) (not really!).

SIGNS OF SUMMER:

Two students join W&Co for summer break

This summer the firm will benefit from the efforts of **Simon Turner**, who joins us from his second year at Dalhousie Law School and has previously spent a summer doing Aboriginal law with Morgan and Associates. Simon began his summer term with the firm May 1st.

In the second week of May we will be joined by **Camille Israel** – who will largely be devoting her time with us to working on an important update to *Native Law*. Camille comes to us from second year at UBC.