A MESSAGE FROM THE PRESIDENT & EXECUTIVE DIRECTOR

Braiding together Indigenous and Canadian law to shape innovative and effective legal solutions is one of the unique offerings of West Coast Environmental Law. It is the approach we take to addressing the intertwined biodiversity and climate crises facing us all, and one which gives us hope in the wake of a devastating year of wildfires, heat waves and catastrophic flooding.

Just a few examples from 2021-22 include:

- The declaration of three new Indigenous Protected and Conserved Areas (IPCAs) by RELAW partners, grounded in their own inherent laws and inherent jurisdiction. RELAW is West Coast’s Revitalizing Indigenous Law for Land, Air and Water program.
- With the Indigenous-led Emergency Planning Secretariat, and other members of the Build Back Better, Together Collaborative, hosting a regional forum with the goal of beginning to build a principled and strategic approach to flood recovery and long-term resilience in the Lower Fraser region through sharing and dialogue.
- Advocating for a new provincial law, co-developed with Indigenous peoples, that establishes conservation of biodiversity and ecosystem health as an overarching priority across all resource sectors and provincial decision-making.
- Advancing the provincial commitment to develop a coastal strategy and law to holistically and sustainably manage coastal areas in partnership with Indigenous nations, as this campaign, initiated by West Coast and allies, comes closer to fruition.

We believe it has never been more important to learn from and uphold the time-tested environmental laws of Indigenous peoples, while strategically using Canadian law to take on climate polluters and other unsustainable industries. In this impact report, for example, you will read more about West Coast’s recently launched Sue Big Oil campaign to make major greenhouse gas polluters pay their fair share of climate costs faced by BC communities. By doing so, we seek to align actions and decisions with the needs of the planet and resilient communities, and create ethical space for shaping lasting solutions.

On behalf of the board and staff of West Coast Environmental Law, thank you for sharing this journey with us.
West Coast Environmental Law is a non-profit group of environmental law strategists, analysts and communicators working in the public interest and dedicated to safeguarding the environment through law. Since 1974, we have successfully worked with communities, non-governmental organizations, the private sector and Indigenous, federal, provincial and local governments, to develop proactive legal solutions to protect and sustain the environment.

TRANSFORMING THE LEGAL LANDSCAPE

West Coast Environmental Law harnesses the power of law to solve complex environmental challenges. We are transforming environmental decision-making and strengthening legal protection for the environment through collaborative legal strategies that bridge Indigenous and Canadian law. By putting the law in the hands of communities and creating legal risk for those who would harm our land, air and water, we are building the collective power to achieve a more just and sustainable future for all.

We recognize the jurisdiction and laws of Indigenous peoples who have actively governed their territories for millennia, and the role of their land and marine stewardship in shaping the ecological conditions that have allowed all beings to thrive through time. Working side-by-side with them we seek legal solutions that bridge between Canadian and Indigenous law to build greater sustainability for all.

We are leaders in the field of environmental law, using legislation and case law in strategic ways to advance environmental goals. At the same time, we are committed to shining the light on laws that contribute to unsustainable or unjust conditions in society and to building well-researched, comprehensive, practical legal solutions.

As a public interest law organization, we are committed to advancing access to justice and to public legal education so that individuals and communities have the tools and legal support they need to use the law effectively. We advocate for, lead and participate in deliberative processes to involve communities in shaping legal solutions. We do so within an environmental justice frame that seeks to break down silos between environmental and other social justice movements. This includes prioritizing an active antiracist and decolonial practice within our work to defend people and the planet from environmental harms, and in building legal solutions.

This annual report is a joint publication of the West Coast Environmental Law Association, the West Coast Environmental Dispute Resolution Fund Society (EDRFS) and the West Coast Environmental Law Research Foundation.

For highlights of Association/EDRFS programs see pages 4-15, and for Research Foundation programs see pages 16-25.
OUR SISTER ORGANIZATIONS

West Coast Environmental Law is made up of three provincially incorporated societies: West Coast Environmental Law Association, the EDRF and West Coast Environmental Law Research Foundation.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

The EDRF is administered by the Association and is West Coast’s environmental legal aid fund. Since 1989, with the generous support of The Law Foundation of BC, the fund has allowed individuals, community groups and Indigenous nations to hire lawyers to help them protect the environment in negotiations, mediation, in court or before government tribunals.

ASSOCIATION

West Coast Environmental Law Association provides legal services to individuals and organizations who have concerns regarding the environment. The Association also advocates for legislative reforms to protect the environment, to uphold the inherent rights of Indigenous peoples, and to promote meaningful public participation in environmental decision-making. The Association publishes West Coast’s Environmental Law Alert blog and our Legal e-Brief e-newsletter, and maintains the wcel.org website.

RESEARCH FOUNDATION

West Coast Environmental Law Research Foundation is a registered charity producing trusted, in-depth legal research to shape laws, regulations, standards and objectives that promote the maintenance of environmental quality. The Research Foundation educates the public about environmental law issues and advocates on behalf of individuals and communities to prevent legal violations and improve the effectiveness of environmental laws and regulations.

BOARD OF DIRECTORS

West Coast Environmental Law Association / EDRF Society
- Jonaki Bhattacharyya
- Sapna Dayal (to November 2021)
- Rita Lichimo (from November 2021)
- Lisa Matthaus
- Lorene Oikawa
- Kris Statnyk
- Tracy Wachmann

West Coast Environmental Law Research Foundation
- Myia Antone
- June Bird
- Sapna Dayal (to November 2021)
- Jess Háustí
- Anne Hill
- Rachel Holt
- Brennan Lew-Cooke (to March 2022)
- Rita Lichimo (from November 2021)
- Lisa Matthaus
- Mike McKenzie (to March 2022)

Lorene Oikawa
Christine Scotnicki
Kris Statnyk

Honorary Board
- David Anderson
- Hon. John Fraser, K.C.
- Chris Harvey, K.C.
- James Hoggan
- Greg McDade, K.C.
- Eden Robinson
- Darryl Walker

* The name “West Coast” refers to one or all of the West Coast Environmental Law societies, depending on where the reference appears in the report (i.e. references to “West Coast” on pages dedicated to West Coast Environmental Law Research Foundation refer to the Research Foundation).
Through our Access to Justice programs, West Coast Environmental Law provides valued legal resources and support for British Columbians seeking to defend the people, places and living beings they love from environmental harm. We offer free legal advice and funding to help organizations, community groups and individuals hire lawyers and experts; and our helpful online resources keep the public in the know when it comes to new developments in environmental law and regulation. We also provide unique educational opportunities and hands-on experience for young lawyers, law students and legal volunteers, fostering the next generation of public interest environmental lawyers and advocates.
LEGAL SUPPORT FOR NATURE AND COMMUNITIES

Many BC residents wishing to defend nature or public health require assistance in identifying, retaining and working with lawyers and other experts. West Coast connects clients with passionate professionals who work tirelessly to support this common cause, and provides the financial support they need to address environmental injustices affecting their communities.

“Since joining West Coast, I’m seeing firsthand how connecting with our Access to Justice program helps transform people who feel powerless facing environmental challenges into driven and knowledgeable advocates for the environment.”

Carol Coffey, Access to Justice Program Manager

The Access to Justice team continues to work toward environmental justice, recognizing that impacts of an environmental issue may be disproportionately experienced by Indigenous, Black, people of colour and other marginalized groups. This year, staff and the Environmental Dispute Resolution Fund (EDRF) Management Committee formally acknowledged and recognized that Indigenous knowledge holders should be recognized as experts for the purpose of EDRF funding. Consistent with this philosophy, West Coast seeks to offer trauma-informed services at all levels of our intake, application, and decision-making processes, including offering hands-on support to work through the EDRF application process and to provide holistic resources for clients.

* Total includes grants from 2022 Law Foundation allocation, plus cost awards/grant funds returned & regranted

“For those of us putting in countless volunteer hours to try to bring attention to local environmental protection issues of great importance, WCEL and an EDRF grant gives us badly needed hope and support.”

JENNIFER MARGISON
FRIENDS OF THE GULF ISLANDS, EDRF GRANT RECIPIENT
CITIZENS BRING ATTENTION TO SHIPBREAKING IN BAYNES SOUND
On Vancouver Island, local group Concerned Citizens of Baynes Sound (CCOBS) spoke out when they realized that shipbreaking activities were taking place in Union Bay, threatening important habitat for herring, waterbirds and other marine life. Dismantling old ships is a hazardous activity as derelict ships contain toxins and carcinogens such as asbestos, PCBs, mercury and lead.

CCOBS, together with the K’ómoks First Nation and the NGO Shipbreaking Platform, drew community and media attention to the environmental risks. CCOBS reached out to West Coast Environmental Law for help and the EDRF provided them with emergency legal support from lawyer Carla Conkin. As a result of the pressure from these groups, the Comox Valley Regional District filed for an injunction to enforce shipbreaking as a non-permitted use and stop the work at the site in Union Bay. This situation involves multiple jurisdictions and illustrates how industry can manipulate various governments processes to avoid regulation and government oversight.

This work will likely have the potential for precedential value given the international scope and approach to shipbreaking and impacts on the environment, and Canada’s role in such activities within its jurisdiction.

CARLA CONKIN
LAWYER FOR CONCERNED CITIZENS OF BAYNES SOUND
CREATING THE FRENCH CREEK EAGLE SANCTUARY

Denise Foster is a master collaborator. As chair of Save Estuary Land Society, she worked for three years to line up all the partners needed to create Vancouver Island’s first eagle sanctuary. The beautiful property between Qualicum Beach and Parksville – home to coastal Douglas fir forest, fresh and saltwater marsh and riparian forest – was secured for protection after the landowner agreed to donate 12.7 acres and sell the other five acres.

With a grant from the EDRF, lawyers Krista Vaartnou and Sean Hern developed a memorandum of understanding between the Save Estuary Land Society and Friends of French Creek Conservation Society. The groups launched a crowdfunding campaign together with BC Parks Foundation to purchase the land in the French Creek estuary to join to five acres of existing parks, creating a 23-acre nature reserve for bald eagles. The land will be purchased by BC Parks Foundation and managed as a nature preserve by the Regional District of Nanaimo – securing a vital wildlife corridor beside the French Creek Estuary and its salmon- and trout-bearing creek.

"The support from so many including the West Coast Environmental Law team has been instrumental in achieving this success!" — Denise Foster

SAVE ESTUARY LAND SOCIETY
Another summer, another great group of summer law students! We’re so grateful for the work and positive energy from the four students who completed summer placements this year, and who made such thoughtful and helpful contributions across our legal programs. We also welcomed interns from Osgoode Hall and the University of British Columbia during the school year.

Former articled student Dylan Sunshine Waisman was called to the bar and continued their work at West Coast as a staff lawyer. We’ve also been pleased to welcome Navjot Jassar and Shawna Smith as articled students at West Coast, working with the Access to Justice and RELAW programs.

During the Fall 2021 semester at UBC, we connected with former colleague Linda Nowlan to deliver our environmental law workshop course at the Allard School of Law. The course focused on an issue of longstanding importance for our work at West Coast: how to manage the cumulative effects of human activities on the landscape. We began with the landmark Blueberry River First Nations case, and had the opportunity to learn from a number of distinguished guests – Indigenous experts, a cartographer, a biologist and others – as well as working on some practical assignments designed to introduce students to the legal advocacy and reform toolbox.

“...It has been a privilege to have a behind-the-scenes look into the day-to-day operations of an organization that is transforming the legal landscape both by supporting Indigenous law revitalization projects and leveraging colonial legal tools to protect human and non-human beings, land, air, and water."

KAYMI YOON-MAXWELL
2022 SUMMER LAW STUDENT
ENVIRONMENTAL LAW ALERT

YOUR LEGAL EYES ON ENVIRONMENTAL PROTECTION

Too often Canadian and BC media don’t cover environmental law stories – or get the story wrong. So West Coast Environmental Law makes sure that British Columbians have credible legal analysis about emerging environmental law issues, through our Environmental Law Alert (ELA) program.

The 2021 federal election, the Canadian government promise of a “climate lens” in government decisions, and BC flood recovery plans are just a few of the topics that our ELA blog and program tackled over the past year. Through our blog posts, online discussions and interactive action tools, we have engaged thousands of community members and supporters to make submissions to decision-makers and/or participate in public consultations related to a variety of environmental laws and policy issues – such as climate preparedness, coastal protection legislation, green budget initiatives and strategies to end environmental racism.

AUG 2021

Our webinar on environmental justice, featuring West Coast legal experts along with guest panelist Denise Hampden, engaged over 100 attendees in a timely discussion about approaches to address environmental racism and advance environmental justice in Canada, including solutions grounded in both Indigenous and Canadian law.

SEP 2021

We published a series of blog posts about environmental issues raised in the Canadian election, comparing party platforms and encouraging our supporters to vote with the environment in mind. We continued our analysis post-election, highlighting new trends in federal climate platforms, and delving into the newly-elected government’s environmental campaign promises.

MAR 2022

Following a dire new report from the UN Intergovernmental Panel on Climate Change (IPCC), the marine team published a two-part blog series analyzing the IPCC Report from the perspective of the ocean: the impacts climate change has had (and will have) on the seas, and what we can do to help adapt to these changes, for the good of the ocean and for our collective future.
West Coast Environmental Law Association advocates for stronger environmental laws, better enforcement and more democratic decision-making in BC and across Canada. For almost 50 years, we have played a leading role in shaping key environmental laws at the federal and provincial level, from impact assessment to climate accountability. Our legal team engages in all stages of environmental law reform – sharing expert recommendations, testifying before committees, meeting with government officials and mobilizing community members to speak up for stronger environmental laws. Once new laws are in place, West Coast continues to act as a watchdog, advocating for strong regulations and enforcement.

In addition to our law reform work, we continue to advance efforts to protect the BC coast and communities from the threat of oil spills – in particular, by providing legal and strategic support for Indigenous peoples, grassroots groups and community members working to defend lands, waters and the climate from the Trans Mountain pipeline and tanker project.

West Coast also provides legal support for Indigenous lawmaking initiatives, and advocates for greater recognition of Indigenous laws and jurisdiction by Crown governments and institutions through our RELAW program. This includes legal work supporting the establishment of Indigenous Protected and Conserved Areas (IPCAs) and other contemporary expressions of Indigenous law. A project grant from the Law Foundation of BC is supporting West Coast’s Indigenous law-making work over a three-year period (2020-23). We gratefully acknowledge their support.
STRONG CANADIAN ENVIRONMENTAL LAWS

ENSURING SUSTAINABILITY, ONE PROJECT AT A TIME

Canada’s Impact Assessment Act is an important tool for ensuring that major projects like pipelines, mines and dams don’t harm nature and the climate, respect Indigenous peoples’ rights and authority, and meet communities’ needs. After years of pushing for a strong federal assessment law on the books, we are now making sure it works on the ground.

We have continued to track projects that come into the process and provide advice to groups on related issues – like how to get projects designated for assessments or how to make sure that important information is considered. We also collaborated on numerous recommendations to federal officials, including the Minister of Environment and Climate Change, on how to more meaningfully engage the public, create an ethical space for engaging with Indigenous peoples, make sure assessments are based on science and Indigenous knowledge, and take a bigger-picture look at regions and environmental priorities.

But the Impact Assessment Act is under threat. In May, the Alberta Court of Appeal issued an opinion that the Act is unconstitutional, despite our intervention to argue otherwise. Now, we must go all the way to the Supreme Court of Canada to make sure that federal jurisdiction to thoroughly examine the potential impacts of risky projects is maintained.

**June 2021:** With our help, the Multi-Interest Advisory Committee on Impact Assessment issued a report to the Minister of Environment and Climate Change recommending a number of ways to strengthen federal impact assessment.

**Oct–Dec 2021:** Along with allies, West Coast pushed for – and eventually received – internal government documents showing that key regulations were based on politics rather than science. With this information, we can now advocate for stronger regulations and more projects to be carefully scrutinized.

**Jun 2022:** Canada appealed the Alberta court opinion about the Impact Assessment Act, sending the case to the Supreme Court of Canada. We plan to intervene in the case, and expect a final decision next year.
INDIGENOUS LAWMAKING

West Coast’s RELAW Program – Revitalizing Indigenous Law for Land, Air and Water – aims to make a lasting contribution to Indigenous peoples’ legal capability to express their ancestral laws for the well-being of their territories and people. In 2021-22, a number of RELAW projects focused on the establishment of Indigenous Protected and Conserved Areas (IPCAs). IPCAs are modern expressions of the inherent authority of Indigenous peoples to manage their lands and waters under their own jurisdiction and laws – and IPCAs are increasingly being recognized as an effective pathway to advance Canada’s conservation and reconciliation goals. For additional RELAW highlights, see pages 17–18.

THE DECLARATION OF THE ASHNOLA PROTECTED AND CONSERVED AREA

The sməlqmíx, the syilx people of the Similkameen Valley marked a major milestone on April 28, 2022, with the declaration of the nʔaysnúlaʔxʷ snxaʔcnitkw (Ashnola Watershed) as a sməlqmíx Protected Area (sPA). The sPA is a key step for the sməlqmíx people in reclaiming full caretaking authority for their territory.

The nʔaysnúlaʔxʷ snxaʔcnitkw was prioritized for protection by sməlqmíx elders and the community because it is one of the last clean, cold stream systems in sməlqmíx territory. Protecting the waters of the nʔaysnúlaʔxʷ is
essential to ensuring the well-being of *sməlqmíx*, *tmixʷ* (four sacred ecosystems) and the land, as well as that of Similkameen settlers.

*kaiʔlúpaʔ*n Chief Keith Crow describes the impacts of the health of the *nʔaysnúlaʔxʷ* on food sovereignty for the community:

“I haven’t shot or hunted the *nʔaysnúlaʔxʷ* since 2014… I’ve been up there a few times, but there’s nothing left. And that’s one of the issues that we’re seeing and that we need to remedy. How do we do that? That’s where the planning is going to come into play.”

West Coast is proud to have provided legal and communications support for the historic *nʔaysnúlaʔxʷ snxaʔcnitkw* (Ashnola Declaration). Our RELAW team continues to support the *sməlqmíx* through ongoing legal strategy related to the creation and implementation of a sPA management plan, negotiations with Crown governments to address current mismanagement of the territory, and community engagement to revitalize, express, and enforce *sməlqmíx* / *syilx* law.

“*It’s not just about protecting the nʔaysnúlaʔxʷ, it is about us as sməlqmíx people, our practices, our knowledge, our stories, us as a whole. What the province doesn’t realize is that our nation has the knowledge, expertise and the power to solve water, fire and climate problems that BC is also experiencing.*”

*JANESSA LAMBERT*

YOUTH COMMUNITY MEMBER & PARKS TEAM MEMBER
KEEPING BC OIL SPILL FREE

TRANS MOUNTAIN PIPELINE AND TANKER PROJECT
This year, our longstanding work to keep BC oil spill free continued, focusing on the skyrocketing costs, collapsed business case and ongoing Indigenous and community opposition to the Trans Mountain Expansion Project (TMX).

West Coast has long argued that TMX is not economically viable, sharing regular updates and analysis for Canadians, investors and insurers about the financial and legal risks. In November 2021, when an atmospheric river walloped BC, the resulting floods and landslides washed out large sections of the Trans Mountain pipeline route, exposing the original pipe and destroying many of the construction sites. The climate-related disaster caused the pipeline to be shut down for nearly one month for repairs, and it was not up to full capacity until January. This near-catastrophe only added to the delay and costs facing TMX.
In June 2022, after Trans Mountain revealed that the construction cost had jumped to $21.4 billion, Canada’s Parliamentary Budget Officer released updated analysis confirming that TMX would not turn a profit, and would lose $600 million in a best-case scenario.

As construction on the project moves ahead, we’ll continue documenting the risks to taxpayers, as well as providing legal and strategic support to Indigenous nations and communities working to protect lands and waters from TMX.

**Sep 2021:** West Coast published a report about the construction delays and resulting costs facing TMX. This report compiled regulatory filings and construction updates along with Trans Mountain’s own affidavit evidence to forecast that the project was years behind schedule and billions of dollars overbudget. We estimated at the time that the construction cost had exceeded $20 billion, but neither the federal government nor Trans Mountain would confirm this.

**Feb 2022:** Trans Mountain announced that the cost of construction had increased to $21.4 billion — confirming our analysis. This prompted the federal government to promise Canadians that no further public money would be invested in TMX, cementing its status as a financial and political liability. It also set in motion a series of back room deals involving federal cabinet and the big Canadian banks.

**Sep 2021:** Two Lloyd’s of London insurers, Aspen and Arch Insurance, confirmed that they would not renew their coverage of Trans Mountain, following extensive advocacy by West Coast and allies.

The federal government’s reckless handling of TMX has resulted in massive losses for the Canadian public. Continuing to double down in the hopes of reducing those losses is a literal and figurative pipe dream.

— EUGENE KUNG
STAFF LAWYER
TRANSFORMING THE LEGAL LANDSCAPE

West Coast Environmental Law Research Foundation leverages legal research, analysis and dialogue to secure lasting gains for ecosystems, communities and the climate. Our legal experts work collaboratively to research, design and implement innovative legal strategies grounded in federal, provincial and Indigenous law. This includes strong laws for healthy oceans and marine ecosystems; legal tools to hold global polluters accountable for climate change; collaborative solutions to build resilient communities and ecosystems; partnerships supporting the revitalization of Indigenous laws for land, air, water and communities; and developing solutions for collaborative environmental governance that braid together Canadian and Indigenous laws.
REVITALIZING INDIGENOUS LAW FOR LAND, AIR AND WATER

Through our RELAW (Revitalizing Indigenous Law for Land, Air & Water) program, West Coast collaborates with Indigenous partners to express legal principles taught by their stories and knowledge holders in written laws, plans, declarations and other legal instruments. In the past year, we have celebrated a number of exciting milestones with RELAW partners:

Aug 2021: Wilp Wii Litsxw, supported by the Gitanyow Hereditary Chiefs, declared the Wilp Wii Litsxw Meziadin Indigenous Protected Area, grounded in their own laws. This IPCA protects 54,000 hectares of land and water in Gitanyow territory.

Apr 2022: West Coast lawyers co-authored a Globe and Mail op-ed titled Restoring Sumas Lake is an important step in B.C. flood recovery, climate adaptation and reconciliation, along with our RELAW Partner the Lower Fraser Fisheries Alliance and other allies.

Apr 2022: The smalqmíx announced the Declaration of the Ashnola sPA (ʔʔq̓aysnuləʔxʷ iʔ k̓l̓ul̓xʷn̓wixʷmtəʔ), protecting the Ashnola watershed in the Similkameen Valley.

May 2022: Taku River Tlingit First Nation released a beautiful video documenting its journey to revitalize Tlingit laws.

June 2022: Kitasoo Xai’xais Nation declared its own marine protected area along a critical and biodiverse portion of the central BC coast, Gitdisdzu Lugyeks (Kitasu Bay), covering about 33.5 square kilometres of ocean near Laredo Sound.

Aug 2022: The first project assessment commenced under the Wilp Sustainability Assessment Process, a Gitanyow law for impact assessment developed in partnership with West Coast.
In addition to RELAW projects, our unique RELAW Co-learning Program provides training and co-learning opportunities for Indigenous individuals who are revitalizing and applying their laws to environmental and social challenges – bringing co-learners together in a year-long cohort based in three retreats. A key focus for our fifth cohort has been on IPCAs.

The 2021-22 RELAW Co-learning Program involved two online retreats (*Indigenous Law in Story, Indigenous Law in Dialogue*) and an in-person retreat in June 2022 on Nuu-chah-nulth territories (*Indigenous Law in Action*). We had an active group of co-learners that ranged from 25-32 people at each retreat with representatives from Kaska Dene, Taku River Tlingit, Tsidilkot’in, Tsleil-Waututh, Lower Similkameen, Ahousaht, Tla-o-qui-aht, Mowachaht/Muchalaht, Gitanyow, Tsawwassen and the Lower Fraser Fisheries Alliance, among others.

*RELAW is a joint program of the West Coast Environmental Law Association and the West Coast Environmental Law Research Foundation.*
GREEN COMMUNITIES

Back in 2011, a technical document from the BC government caught the attention of planners in coastal regions – projecting that sea levels would rise by one metre by 2100. This is a big adaptation challenge for coastal communities, but it is also significant for the rich biodiversity in coastal ecosystems, and their vital role in connecting marine and freshwater webs of life. In highly urbanized areas like the Lower Mainland and parts of Vancouver Island, the hardening of shorelines with dikes and sea walls means that large extents of intertidal areas in and around estuaries are at risk of drowning over time.

At West Coast, we had early discussions with coastal communities about this slow-moving, but potentially devastating situation. Existing Crown laws are strongly biased towards building higher dikes and sea walls and ignoring the consequences. We found that a pathway to pilot and implement nature-based alternatives requires relationship-building across jurisdictions – local, provincial, federal and Indigenous – and a shared, long-term commitment to protect coastal ecosystems.

Our work with the Living Dike in Boundary Bay – moving from high-level concept, to pilot funding from Infrastructure Canada, to a collaborative design process, and implementation still to come – has shown that nature-based approaches to flood management are possible, but need time and care from the earliest phase to not repeat colonial injustices. While this unique pilot project is technically about adding layers of sediment and planting salt marsh species, in reality it is also about truth and reconciliation, and respect for the ancestral territories of Semiahmoo First Nation and other nations, and their contemporary authority, objectives and responsibilities in those territories.

OCT - JUL 2022
West Coast (working with the Indigenous-led Emergency Planning Secretariat) convened and co-chaired multiple meetings of the Living Dike Roundtable and its Technical Working Group, as the pilot project for Boundary Bay makes its way through the demanding design phase.

NOV 2021
We co-facilitated the first meeting of the Sturgeon Bank Sediment Enhancement Pilot Project Roundtable, to support the joint project of Ducks Unlimited, Tsawwassen First Nation, Lower Fraser Fisheries Alliance and Raincoast Conservation Foundation.

JULY 2022
Inspired by the Living Dike pilot in Boundary Bay, Infrastructure Canada’s new “Natural Infrastructure Fund” specifically identified “living dikes” as an eligible funding category.
OCEAN PROTECTION

MARINE PROTECTED AREAS
Seventeen years ago, Indigenous nations on the north and central coast of British Columbia initiated planning to protect their marine territories through development of a network of marine protected areas (MPAs) in collaboration with Canada and the Province of BC. This project, which West Coast has contributed to over many years, hit a significant roadblock in late 2021 when Fisheries and Oceans Canada took a step back, stating that it could not support the plan as drafted.

In response, West Coast engaged intensively with Indigenous nations and a broader coalition of NGOs to provide legal analysis, political advocacy and public communications. Thanks to these efforts and the leadership of Coastal First Nations, the project is now back on track – gearing up for the official designation of an MPA network in the region, also known as the Great Bear Sea.

We have also gained traction in our work on marine dumping. Our 2021 report on cruise ship pollution resulted in Transport Canada introducing new restrictions on greywater and sewage discharges for the 2022 cruise season, and committing to making these measures legally binding by 2023. Transport Canada has also committed to developing minimum standards to prohibit dumping within all new MPAs, anticipated for release in late 2022.

BC COASTAL MARINE STRATEGY
Since 2019, West Coast has been calling for a BC coastal marine strategy and law, in order to holistically and sustainably manage coastal areas in partnership with Indigenous nations. In 2020, the provincial government committed to co-developing such a strategy with Indigenous nations.
We have made significant progress in the development of the coastal marine strategy in the past year. BC and coastal Indigenous nations began the process of developing a strategy by releasing a backgrounder document and holding information and consultation sessions with marine stakeholders. An intentions paper for the strategy has been co-drafted by BC and Indigenous nations, and the new coastal marine strategy is expected to be adopted in 2023. West Coast has been supporting the process throughout to ensure the strategy will be as strong as possible and legally implemented.

INDIGENOUS PROTECTED AND CONSERVED AREAS
Since time immemorial, Indigenous nations have been governing their territories and fulfilling responsibilities to care for their lands and waters. In recent years, more and more Indigenous nations have established Indigenous Protected and Conserved Areas (IPCAs) under their own laws as modern reflections of long-standing relationships and responsibilities. West Coast supports Indigenous nations in creating IPCAs by providing legal knowledge and analysis, presenting on IPCA legal considerations, hosting co-learning retreats through our RELAW program, and creating public resources such as reports and blogs. This year, several new marine IPCAs along the Pacific coast were declared, including the Kitasoo Xai’xais Nation’s Gitdisdzu Lugyeks Kitasu Bay MPA.

Sep 2021: Átl’ka7tsem/Howe Sound was designated as a UNESCO Biosphere Region. West Coast’s marine team was asked to serve as the official Legal Advisor of the Howe Sound Biosphere Region Initiative.

Apr 2022: Transport Canada introduced new measures to address cruise ship pollution and committed to legally implementing these measures in time for the 2023 cruise ship season. West Coast called for these and other measures in our February 2021 report with Stand.earth, Regulating the West Coast Cruise Industry: Canada at the Low Water Mark.

Jun 2022: Kitasoo Xai’xais Nation declared an MPA in Gitdisdzu Lugyeks Kitasu Bay under Indigenous law. West Coast supported the nation in developing a management plan for the area.

Sep 2022: After over a decade of development, Coastal First Nations, the Government of Canada and the Province of BC released plans for Canada’s first MPA Network in the Great Bear Sea.
CLIMATE ACCOUNTABILITY

KEEP CALM AND SUE BIG OIL
Climate change is here. The heat-trapping blanket of fossil fuel pollution surrounding the globe brought us 2021’s deadly heat waves, wildfires, floods and landslides.

The bills already being paid by taxpayers are nothing compared to the billions of dollars in costs that we face in the years to come. And yet today’s fossil fuel economy continues to reward the corporations, investors and governments that make billions of dollars selling yet more oil, gas and coal. That’s bad economics: it diverts money from our communities and encourages those companies to continue working to delay climate action and promote false solutions.

On June 15th, 2022, after months of preparation, West Coast Environmental Law and our allies launched the Sue Big Oil campaign, asking BC’s local governments to work together to bring a class action lawsuit against the largest global fossil fuel polluters. Sue Big Oil is building a network of British Columbians who are pressing their local elected officials to use existing legal tools to ensure that taxpayers will not be on the hook for all climate costs – and that climate costs are included in the fossil fuel industry’s future business decisions.

FEB 2022
Andrew Gage chaired the first Climate Law Conference hosted by BC’s Continuing Legal Education Society.

MAR 2022
We released Net Zero or Net Reckless, our scientific literature review and policy recommendations on the use of negative emissions technologies to reach Canada’s climate targets.

JUNE 2022
The Sue Big Oil campaign kicked off with a well-attended webinar hosted by journalist Avi Lewis, featuring West Coast experts, guest speakers and climate activists.
VANCOUVER PASSES SUE BIG OIL MOTION

Just weeks after the campaign launch, Vancouver City Council voted to put aside $1 per resident toward the costs of a joint local government class action lawsuit. This early win has set the stage for our continued work engaging with municipal councils around BC, asking them to take tangible steps to Sue Big Oil.

We’re very excited about Sue Big Oil, but we’re also hard at work on other approaches to confront climate change, including pressing the BC and Canadian governments to follow through on their legislated commitments to reduce greenhouse gas emissions.

There is no shared prosperity in oil. Fossil fuel companies continue to take in record profits, while everyday people struggle with the unaffordability of the overlapping climate disasters we’re experiencing. [Here] in BC you would have experienced the four atmospheric rivers, the heat dome, the wildfire and the flooding ... These costs are not going away ... It’s past time that fossil fuel companies are held accountable for their role in the climate crisis.

Kukpi7 Judy Wilson
NESKONLITH CHIEF COUNCILLOR & SECRETARY OF THE UNION OF BC INDIAN CHIEFS
WANTED: A NEW BC LAW TO PROTECT BIODIVERSITY AND ECOSYSTEM HEALTH

West Coast continues to work toward a new provincial law, co-developed with Indigenous peoples, to conserve biodiversity and ecosystem health in British Columbia.

One of our main goals in 2022 was reaching out to local government councillors to craft a motion of advocacy for a biodiversity law in BC. With support from several environmentally-minded local government councillors, the City of New Westminster, Port Moody and the Islands Trust Council passed motions. This put this issue on the agenda at the Union of BC Municipalities Convention, where advocacy resolutions for a new BC law for biodiversity and ecosystem health passed by a wide margin.

Meanwhile, West Coast has been working on a project to expand the RELAW curriculum and create a resource that illustrates examples of Indigenous law in language around biodiversity and ecosystem health. RELAW participants from different Indigenous nations are working with knowledge holders in their legal traditions to explore their understanding of words in their language that describe ecosystem relationships and the collectivity of all beings. At the same time, we interviewed western-trained scientists to describe related terms in English. This work is underway, and we are excited about the potential resource we can create to inform the development of BC’s biodiversity law.

West Coast has also been working with a coalition of ENGOs to continue pushing for the implementation of the Old Growth Strategic Review Panel’s recommendations – including the recommendation to establish an overarching law for biodiversity and ecosystem health. To that end, we completed a briefing note illustrating the case for the new law, and for co-developing it with Indigenous peoples. The coalition sent this briefing note to several MLAs, hoping to inspire the Province to initiate a process to develop and enact this legislation in partnership with Indigenous leadership.
SUPPORTING GITXAAŁA NATION TO CHALLENGE BC’S OUTDATED MINERAL TENURE REGIME

In October 2021, the Gitxaała Nation launched a legal challenge in the BC Supreme Court over a series of mineral claims granted in their traditional territories on Lax k’naga dzol, or Banks Island, part of what is referred to as the Great Bear Rainforest on the Pacific north coast. Gitxaała’s case has the potential to bring about meaningful change to a mineral tenure regime that is deeply rooted in colonialism and has long posed significant obstacles to environmental protection measures. West Coast Environmental Law is part of the legal team representing Gitxaała in the litigation.

Under BC’s “free entry” mineral tenure regime, anyone who registers as a “free miner” by completing a simple application may then purchase mineral claims online by selecting cells on a map and paying a small fee. Free miners acquire mineral claims automatically upon payment, with no consent, consultation, or even notification of the Indigenous nations in whose territory the mineral claims are located.

Once acquired, a mineral claim gives its holder the right to minerals in the claim area. The tools to get rid of inappropriate mineral claims are very limited, and the spectre of multi-million-dollar compensation payments to claim-holders create a financial and political barrier to doing so. What’s more, mineral claims and mining activities are legally exempt from most land use plan designations and objectives.

Gitxaała’s litigation seeks to overturn the challenged mineral claims, arguing that BC’s practice of automatically granting mineral claims is inconsistent with constitutional principles as well as the United Nations Declaration on the Rights of Indigenous Peoples. Gitxaala’s case has been supported by resolutions from the Union of BC Indian Chiefs and the First Nations Summit, which both called on BC to reform its antiquated mineral tenure laws.

An important milestone was reached in March 2022, when the BC Government’s Action Plan under the Declaration on the Rights of Indigenous Peoples Act promised to modernize BC’s mineral tenure legislation over the next five years, in cooperation with Indigenous peoples. However, in that same month, BC filed a legal response vigorously opposing Gitxaala’s case. Gitxaala’s litigation is as important as ever to challenge BC’s ongoing practice of automatically granting mineral claims, and to hold BC accountable to its promise for reform.
TIPPING POINTS: THE FAR-REACHING IMPLICATIONS OF **YAHEY V BRITISH COLUMBIA** FOR STOPPING THE DEGRADATION OF ECOSYSTEMS AND BIODIVERSITY (June 2021)

On June 29, 2021, Blueberry River First Nations won a groundbreaking case that provided urgent legal direction to the BC Government to stop the “death by a thousand cuts” resulting from piecemeal approvals for activities like logging, oil and gas development and mining, in order to respect the constitutionally-protected rights of Indigenous peoples. This case comment outlines potential implications of **Yahey v. British Columbia** for transforming the way the BC Government manages (or does not manage) the cumulative effects of human development. **Yahey** propels us towards new integrated legal approaches that begin by looking at the big picture, prioritizing Indigenous rights, and protecting the needs of ecosystems and communities.

LEGAL BACKGROUNDER: THE IMPACT ASSESSMENT ACT REFERENCE CASE (MAY 2022)

West Coast Environmental Law has intervened on behalf of Nature Canada in the constitutional reference of the federal **Impact Assessment Act** (IAA) at the Alberta Court of Appeal. This legal backgrounder by Staff Lawyer Anna Johnston provides the context of the case, why it matters, and the main arguments of the parties and of Nature Canada.

REVITALIZING INDIGENOUS LAW WITH THE LOWER FRASER FISHERIES ALLIANCE VOLUMES 1-3 (JANUARY 2022)

This legal synthesis consolidates months of learning alongside the Lower Fraser Fisheries Alliance (LFFA) as part of the LFFA-RELAW project. The summary report and accompanying volumes explore what stories and Elders’ knowledge teach us about Indigenous laws related to watershed management and fisheries governance in the Lower Fraser River. The LFFA-RELAW team met with over 60 knowledge holders, fishers, and community members from Lower Fraser First Nation communities to develop the legal synthesis report. The reports were formatted by iSto:lō Media Solutions (Sts’ailes), and contain beautiful artwork by Ocean Hyland (Tsleil-waututh and Cheam). Published jointly with LFFA and the Association.
NET ZERO OR NET RECKLESS? WHAT IS THE APPROPRIATE ROLE FOR NEGATIVE EMISSIONS TECHNOLOGIES IN MEETING CANADA’S CLIMATE TARGETS? (MARCH 2022)

Negative emissions technologies (NETs) are technologies that remove carbon dioxide from the atmosphere and permanently store it, resulting in the net removal of greenhouse gases from the atmosphere. This paper examines the risks and limitations of industrial NETs, explores key related questions, and concludes with recommendations to the Canadian government on the use of NETs in meeting climate targets. The recommendations may also be useful to other levels of government that have or are considering net-zero goals.

POLLUTION IN PARADISE: DUMPING BY SHIPS IN CANADA’S MARINE PROTECTED AREAS (AUGUST 2022)

This brief takes a close look at Canada’s most important laws on ocean dumping, identifying significant legal loopholes that continue to permit dumping in almost all Canadian marine protected areas (MPAs). This analysis demonstrates that even in the most important and most vulnerable marine ecosystems of Canada, which have been designated as MPAs for special protection, dumping can continue as if the area were wholly unprotected. West Coast is calling for the federal government to protect marine life from such pollution by implementing minimum standards in all MPAs.

ACTION FOR HEALTHY COMMUNITIES: BENEFITS OF A PROVINCIAL LAW FOR ECOSYSTEM HEALTH (SEPTEMBER 2022)

Communities across British Columbia grapple with the consequences of a provincial legislative framework that prioritizes resource development over ecosystem health. This thought paper outlines three case studies that illustrate the impacts and cumulative effects of BC’s prioritization of resource development over ecosystem health on local communities in British Columbia – and looks at how a new, overarching provincial law to protect biodiversity and ecosystem health can support community and ecosystem resilience.
WEST COAST ENVIRONMENTAL LAW STAFF

Top row (L-R): Stephanie Hewson, Carol Coffey, Fiona Koza, Navjot Jassar, Whitney Lafreniere Vicente, Jessica Clogg, Andrew Gage, Samantha Myran, Georgia Beaty, Hanna Araza, Deborah Carlson, Sambriddhi Nepal, and Faria Bhuiyan.


2021-2022 EDRF LAWYERS

Each year, West Coast works with talented lawyers across BC who represent clients through the Environmental Dispute Resolution Fund (EDRF), working at partial pro-bono rates. We would like to acknowledge the following lawyers who worked on EDRF cases in 2021-2022:

Alexia Cadoret
Angela McCue
Anne Muter
Anthony Ho
Brittany Morrow
Carla Conkin
Charlotte Chamberlain
Chris Tollefson

Christopher Harvey, K.C.
Claire Kanigan
David Wu
Elizabeth Zarpa
Erica Stahl
Erin Gray
Ian Knapp
Ian Moore

Jason Gratl
Jessica Ginsburg
John Cliffe
Joshua Lam
Karen Campbell
Kevin Smith
Krista Vaartnou
Lilina Lysenko
OUR SUPPORTERS

SUSTAINING PARTNER: THE LAW FOUNDATION OF BC

The Law Foundation of British Columbia has been West Coast Environmental Law Association's Sustaining Partner since 1974. Funding from the Law Foundation enables us to provide environmental legal support for BC communities in every corner of the province. This funding helps us achieve success in our Access to Justice programs and allows us to leverage additional funds from other granting agencies, companies, and individuals.

FOUNDATION FUNDING

West Coast is honoured by the longstanding and diverse partnerships of our foundation funders. Program support from private, community, and family foundations is a crucial component of West Coast’s overall funding. In 2021-2022, we were supported by the following foundations from across Canada and beyond:

RESEARCH FOUNDATION
- 444S Foundation
- Bullitt Foundation
- Conservation Alliance
- Environment Funders Canada
- Gencon Foundation
- Global Greengrants Fund (Swift Foundation)
- Gordon and Betty Moore Foundation
- McConnell Foundation
- Metcalf Foundation
- North Family Foundation (Formally North Growth Foundation)
- Sitka Foundation
- Patagonia (Tides Foundation)
- Vancouver Foundation
- Wilburforce Foundation
- Windward Fund

The Research Foundation also received funds for legal and related work conducted through collaborations with Canadian Environmental Network, Nature United, and University of British Columbia School of Architecture.

ASSOCIATION
- Real Estate Foundation of BC
- Impact Assessment Agency of Canada
- Law Foundation of British Columbia
- Salal Foundation
- WestWind Foundation

The Association also received funds for legal and related work conducted through collaborations with BC First Nations Energy and Mining Council, Canadian Environmental Network, Canadian Parks and Wilderness Society, Nature Canada, Oceans North Conservation Society, Tsleil-Waututh Nation, and University of British Columbia, Peter A. Allard School of Law.
## REVENUES

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## GRANTS AND EXPENSES

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<td>Excess revenue for the year</td>
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Excerpt from the audited financial statements of West Coast Environmental Law Association, West Coast Environmental Law Research Foundation, and West Coast Environmental Dispute Resolution Fund Society. Full audited financial statements available upon request.
OUR WORK WOULD NOT BE POSSIBLE WITHOUT YOU

Whether it’s through donations, grants, or advocating within your networks, your support means we are making advancements to protect and defend the land, water, and air we all share by harnessing the power of law to solve complex environmental challenges.

This past year has been a true wake-up call for many of us in Canada. From heat domes that killed hundreds in BC, to catastrophic flooding and storms that left thousands displaced from their homes, we are just beginning to get a taste of climate change impacts that communities around the world have already been contending with. Now is the time to harness our hope for the future. Now is the time to take collective action.

Throughout this Impact Report, you’ve read about the innovative and diligent work that our lawyers, strategists, and communicators have been doing at the forefront of efforts to strengthen Canada’s environmental safety net. From our work at a local level to create green, resilient communities, to our federal efforts to protect the oceans, to our collaborative work revitalizing Indigenous laws, and everything that falls in between – our contributors played a crucial role this year and will continue to have a long-term impact on our ability to protect the environment through law.

Every individual donation allows West Coast to remain responsive and act on emerging environmental challenges. The support we receive from dedicated foundations and individuals allows us to provide environmental legal aid, environmental law research and analysis, and education services, to promote protection of the environment and public participation in environmental decision-making.

The information included in this report is just a sample of the work that we were able to accomplish this year. Our funders, donors, supporters and volunteers are all key players in these successes and many more.

We know we can continue to count on you as we work together to leave a better world for generations to come.
YOUR SUPPORT MAKES A DIFFERENCE

At West Coast Environmental Law, your gift today, or in the future, is a significant source of support for our critical work, and is fundamental to preserving the environment now and in years to come. There are a number of ways you can support West Coast, and in so doing, make a lasting commitment to the environment and your community:

- **Become a West Coast Protector:** Monthly donors are the backbone of our organization. This way of giving provides consistent, reliable support to West Coast’s programs with minimal effort. Even $10 a month makes a big impact.
- **An Environmental Legacy – Yours to Give:** Protect the environment through the law, for generations. By leaving a gift to West Coast Environmental Law in your will, you are making a significant contribution to the future sustainability of an organization working to protect what you value most.
- **Tribute or Memorial Gifts:** Make a gift on behalf of someone special, or in celebration of a special occasion, or in memory of a family member, friend or colleague.
- **Gifts of Stocks or Securities:** Gifts of securities (stocks, bonds, mutual funds) enable you to make a big difference in ensuring that environmental protection is enshrined in law – while realizing great tax savings.

**LEGAL NAME:**
West Coast Environmental Law Research Foundation
**ADDRESS:**
#700 – 509 Richards St., Vancouver BC V6B 2Z6

**REGISTERED CHARITY NUMBER:**
#11929 2451 RR0001

Donations can be made online to the Research Foundation at [wcel.org/donate](http://wcel.org/donate), or to the Association at [wcel.org/donate-west-coast-environmental-law-association](http://wcel.org/donate-west-coast-environmental-law-association).

Please call 604-601-2509 for more information and other giving options.
West Coast Environmental Law harnesses the power of law to solve complex environmental challenges. We are transforming environmental decision-making and strengthening legal protection for the environment through collaborative legal strategies that bridge Indigenous and Canadian law. By putting the law in the hands of communities and creating legal risk for those who would harm our land, air and water, we are building the collective power to achieve a more just and sustainable future for all.

#700 – 509 Richards St., Vancouver BC V6B 2Z6
xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish) &səl̓ ilwətaʔɬ (Tsleil-Waututh) Territories

Phone: 604-684-7378 or 1-800-330-WCEL
Fax: 604-684-1312
Email: admin@wcel.org • Web: www.wcel.org
Charitable Registration #11929 2415 RR0001

Cover image: Tofino, BC, nuučaan̓uułth (Nuu-chah-nulth) Territory. Photo by Dan Prat.