

**Chapter 1 : Environmental Law and Policy Annual Review | Environmental Law Institute**

*The panel will highlight permitting issues and anticipated regulatory changes that arise under the NJDEP's Land Use Management and Water Resources regulatory programs.*

Annual Review Dionysios Rossi Dionysios Rossi is a partner at Borden Ladner Gervais LLP, where he practises civil litigation, with a focus on transportation, natural resources, environmental, and insurance matters. He is a frequent author and presenter on the subject of environmental law. Tim Pritchard Tim Pritchard is an associate at Borden Ladner Gervais LLP, where he practises environmental and regulatory law, as well as general commercial litigation. The authors wish to thank Jacob Gehlen, Trent Blanchette, and Scott Duncan, articulated students, for their valuable assistance in the preparation of this review. This publication is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means without the prior written permission of Borden Ladner Gervais LLP. There were several notable developments in the case law on areas such as contaminated sites, aboriginal and treaty rights in relation to industrial development, injunctions, and other subjects. The British Columbia Court of Appeal allowed a claim against a mining company to proceed in respect of wrongs that allegedly occurred in a foreign developing country, including alleged breaches of customary international law. Supreme Court has clarified the scope of coverage for all risk insurance policies in relation to contaminated sites liability. And there were several notable cases relating to prosecutions of environmental offenses, among other interesting developments. Highlights include more stringent provincial spill reporting regulations, as well as more severe penalties and new sentencing guidelines for various federal environmental offences. Environmental Law Case Law 1. Victory Motors Abbotsford Ltd. British Columbia Assessor of Area No. These businesses had stored gasoline underground, resulting in underground contamination. Jansen, the owner of the neighbouring property, which had also been contaminated. A numbered company controlled by Mr. Jansen later changed the name of the numbered company to Victory Motors Ltd. This was based in part on a number of renovations conducted by Victory. Victory appealed this reduced sum further to the Property Assessment Appeal Board the "Board" on the basis that there was no competitive market for the property due to the contamination and as a result Victory was the only entity to which the land could have any value. Victory then appealed to the Court. At the Supreme Court, the judge accepted the argument that the Board had made an error in how it had assessed the value of the property given the presence of environmental contamination. The judge therefore remitted the matter back to the Board for reconsideration. The assessor then appealed that decision. In doing so, the BCCA held that because the Board was engaged in interpretation and application of its home statute, the reasonableness standard of review applied. Further, in making its original assessment, the Board reasonably considered the current owner of a property as a potential purchaser. Specifically, the amount the current owner would be willing to spend to purchase the land was a reasonable method for assessing the value of the property. During this time contamination occurred through the leakage of petroleum hydrocarbons, and migrated offsite onto neighbouring lands owned by the City of Burnaby the "City". Suncor admitted responsibility and undertook remediation of the site and surrounding areas for several years. Suncor tested the site and found it to be within the acceptable risk standards for human health and the environment. Suncor then applied for a certificate of compliance "Certificate" from the Director. Suncor argued that they were not responsible for some of the contaminants on the City lands and therefore should be issued the Certificate despite the presence of these contaminants. The Director found this persuasive and granted the Certificate. The City sought to have the decision of the EAB quashed. The Court found that the EAB was reasonable in defining a "person aggrieved" under s. The Board found that the City did not meet this standard because other alternative remedies were available to the City. For example, the Director could, at any time, order an additional remediation under his

powers from the EMA. West Van Holdings Ltd. In a separate West Van and Lions Gate sought to rely upon their insurance policy from Economical Mutual Insurance Company "Economical" and Intact Insurance Company "Intact" to advance their claim that the insurance companies had a duty to defend and indemnify the policy holders in the Original Action based on an all risk insurance policy. Importantly, was also alleged that the pollutants may have existed or resulted from operations prior to the operations of Lions Gate and West Van but that they were now liable for the leakage. For a period of these operations, insurance was provided by Intact and Economical based on policies, which included environmental and pollution liability exclusions. This responsibility was established based on two considerations: On the first point, the Court held that the general, broadly worded grant of coverage included the damage at issue. The insurers did not seriously dispute this point, relying instead primarily on the exclusions in the policy. When considering the exclusion clauses,, the Court held that the policies did not "clearly and unambiguously" preclude coverage, and therefore did not meet the applicable legal test. The policies from Intact failed to exclude coverage for environmental claims for which the insured was deemed to be liable, but for which they had not caused the underlying pollution such as pollution from a previous owner, with absolute and retroactive liability arising under the EMA. The policy contained a broad catchall, but also listed a number of specific exceptions that the judge found created ambiguity as to whether deemed liability would be covered. As a result, the Court held that at least one or more of the claims specifically those related to liability arising from pre-existing pollutants were not clearly and unambiguously excluded under the policy. As a result, the Court held the duty to defend had been triggered. Litwack, ONSC , the plaintiff alleged that land that was adjacent to land owned by the defendants had been contaminated by a previous tenant of the defendants. As a result, the plaintiff sought damages for the cost of remediation, and for the diminution in the value of the lands from the "stigma" of contamination. The plaintiffs sought to advance their claim on three grounds: The court dismissed all three claims. The claim under the EPA failed because no evidence was adduced at trial that the defendants were the "owners" of the pollutants at issue. The nuisance claim failed because under Ontario common law it must be shown that the nuisance was either "plainly contemplated by the lease" or reasonably foreseeable. Based on the facts found at trial, neither was the case the previous tenant was a drycleaning business and the landlord had no indication or expectation that contaminants would be leaked at the time. Although the court recognized that neighbours have a duty to each other to not use their lands in a way that would pose a foreseeable risk to adjacent properties, the third claim in negligence failed as well. The court emphasized the fact that the harm which occurred in this case from the drycleaners was not reasonably foreseeable by the defendant at the relevant time.. The property was loaned to a low-risk business, and was therefore distinguishable from cases involving obviously risky businesses, such as a propane business that might carry the risk of escaping gas, explosion or fire. Thus the harm that occurred was not something the landlord could have reasonably foreseen or expected at the relevant time, and the claim in negligence was dismissed. Rio Tinto Alcan Inc. At the bequest of BC Hydro, Rio Tinto initiated a rapid reduction in the volume of water passing through the station in order to enable BC Hydro to conduct emergency repairs on a power transmission line. Changing the water flow resulted in casualties amongst the local juvenile salmon population, which was a violation of the Fisheries Act, R. At trial, the court held that Rio Tinto had not exercised sufficient due diligence in order to avoid such harm, that Rio Tinto had acted unlawfully, and that compliance with the law in the circumstances was not demonstrably impossible. As a result, all four defenses raised - due diligence, necessity, ministerial authorization and officially induced error were rejected. Annual Review 5 Rio Tinto appealed the convictions and sentence to the summary conviction appeal court. As a result, the appeal overturned that aspect of the sentence. As a result, there was no basis on which an appeal could succeed, and therefore leave to appeal was denied.. Saputo was charged with 6 counts under s. The treatment facility operated by collecting all waste water into a "lift tank". The water would then travel by pipe from the lift tank to Tank 1 and then to Tank 2 for treatment before being released into the local sewage system. The spill occurred where the pipe connected the lift tank to Tank 1. As section 36 3 of the Act is a strict liability offence, at issue was whether Supota committed the prohibited act, and if so, whether Supota could avoid liability by demonstrating that it exercised due diligence. Because there was no evidence as to the Ph level of the waste water at the point it entered the

creek, all charges were based on the second mode of committing a s. The court first determined that the substance was deleterious. Evidence from the Ph probe in Tank 1 demonstrated that the Ph level of the water in the tank at the time of the spill was at a level that would kill fish. However, as no other direct evidence of Ph levels of the waste water existed, the Crown failed to prove that the waste water at other points in the treatment facility were deleterious, and there was insufficient evidence to draw any such inference.. As a result, counts related to deposits of the waste water at Tank 2, the lift tank, and other sections of connecting pipe were dismissed, and only the charge related to the deposit from Tank 1 remained. Defence counsel argued that under the second mode of s. The Court disagreed, finding that "foreseeability" is not part of the actus reus analysis but only is considered at the due diligence stage. All the Crown must prove is that there was a factual risk that the substance may enter water frequented by fish. The court accepted such a risk existed in this case and found that the defendant had committed the actus reus with respect to the waste water from Tank 1. Moving on to whether Saputo exercised due diligence, the court considered whether the spill was reasonably foreseeable. The court stated that foreseeability is considered with respect to the particular event. The issue is not whether it is reasonably foreseeable that a spill would reach the creek, but whether it was foreseeable that the spill would occur due to the coupler failing. The court found that the spill from Tank 1 was not reasonably foreseeable based on the following factors: The system was not connected in any way to the storm sewer system and no waste water was expected to go outside the sanitary system. R elated to the above, Saputo employers were shocked that the spill occurred: The cause for misalignment was uncertain and could have been due to natural events such as the ground settling. As a result, Saputo was acquitted of all charges. The couple undertook significant landscaping work without acquiring the requisite permits and maintaining appropriate sediment control plans. The defendants acquired approximately dump truck loads of soil over the course of several months and deposited these onto their residential property. Due to weather conditions and persistent moisture, there was seepage of mud onto adjacent properties, along with the collapse of a fence between the properties. In the conviction and sentences were appealed on nine different grounds before the British Columbia Supreme Court. In upholding the decision of the lower court, the Supreme Court found that the sentencing judge had sufficient evidence on the record, had correctly interpreted and applied the relevant law and authorities, and had the appropriate jurisdiction to make the decision made. The appellants sought to raise two novel arguments on appeal:

## Chapter 2 : Annual Environmental Review Template and Calculation Tool - EPA Tasmania

*The Annual Environmental Review panel will discuss permitting issues that arise under the New Jersey Department of Environmental Protection's Land Use Management regulatory program, including the Flood Hazard Area Control Act rules, Coastal Zone Management rules, and Freshwater Wetlands rules, and also Stormwater Management rules.*

## Chapter 3 : Instructions on how to prepare an Environmental Review Document | EPA Western Australia

*The Environmental Law and Policy Annual Review (ELPAR) is a special issue of the Environmental Law Reporter (ELR), published in collaboration with the Vanderbilt University Law School (VULS) and the Environmental Law Institute (ELI) in Washington, DC.*

## Chapter 4 : Annual Environmental Review Template and Calculation Tool - EPA Tasmania

*The Annual Review of Environment and Resources, in publication since , provides authoritative reviews of significant topics within environmental science and engineering, including ecology and conservation science, water and energy resources, atmosphere, oceans, climate change, agriculture and living resources, and human dimensions of resource use and global change.*

## Chapter 5 : Annual Reports and State Review Framework Summaries | ECHO | US EPA

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*Annual Environmental Review Template and Calculation Tool Page Content In Tasmania, operators of larger wastewater treatment plants are required to report environmental performance annually in line with the Annual Environmental Review Template.*

### Chapter 6 : Annual Reports and Reviews - Chartered Institute of Environmental Health

*Annual review of the Planning and Environmental Appeals division for the period to*

### Chapter 7 : Annual Review of Environment and Resources - Wikipedia

*It is intended that the publication of this comprehensive annual Environmental Management Performance Review (EMPR) will prove to be a helpful resource for the Joint Readiness Training Center (JRTC) and Fort Polk leadership, installation planners, and environmental.*

### Chapter 8 : U.S. Energy Information Administration (EIA) - Data

*Our Annual Meeting is an opportunity for all Save The Bay members to gather and recount the accomplishments of the past year. It also serves as the perfect opportunity to recognize local environmental heroes for their individual accomplishments as we present our annual Environmental Awards.*

### Chapter 9 : Planning and Environmental Appeals division: annual review - calendrierdelascience.com

*Included are data on total energy production, consumption, and trade; overviews of petroleum, natural gas, coal, electricity, nuclear energy, renewable energy, as well as financial and environmental indicators; and data unit conversion tables.*