

ecojustice

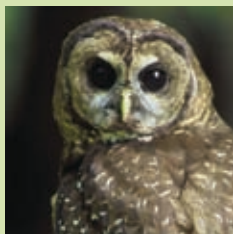
formerly Sierra Legal

QUARTERLY NEWSLETTER | FALL 2008 | ISSUE 56

Celebration in Ontario's Boreal Forest



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Fears of piece-meal development in Ontario's northern Boreal Forest were allayed this summer when Premier Dalton McGuinty announced that the province would protect half the forest from pressures such as logging and mining.

Giving even more cause for celebration, he also promised that a comprehensive land use planning process would be used to sustainably develop what land isn't conserved. Any new developments will require First Nations consent and a plan for resource benefit sharing.

"We're elated," said Ecojustice staff lawyer Anastasia Lintner who was an integral part of the push for increased Boreal protection. "This is Ontario being a leader in creating the framework for sustainable development."

The quest to see comprehensive land use planning in the Boreal Forest began in 2005 for Lintner, when she worked with staff lawyer Justin Duncan and staff scientist Elaine MacDonald to launch a formal request for policy reform on behalf of environmental groups.

The team's success has reinforced the value of speaking up for conservation.

"Three years later we have one of the largest conservation commitments made to date in Canada. Amazing," Lintner exclaimed.

The swath of protected area will provide a contiguous stretch of habitat for some of the country's most treasured animals including polar bears, woodland caribou, lynx and billions of migratory birds. It will also serve as a valuable tool in the province's fight against climate change as it absorbs an estimated 12.5 million tonnes of carbon dioxide from the atmosphere annually.

ecojustice.ca

Logging giant retreats from aboriginal dispute

The sound of silence is the mark of success for an aboriginal community in Northwestern Ontario. No longer will AbitibiBowater machinery be tearing through the Whisky Jack Forest, a one million hectare public forest that has been home to the Grassy Narrows First Nation for thousands of years.

The company turned in its logging licence in June, putting a rewarding twist on an arduous eight year battle.

“It’s an incredible victory,” said Ecojustice staff lawyer Anastasia Lintner who first reached out to the affected community in 2000. A summer student at the time, she helped launch a lawsuit on behalf of the Grassy Narrows First Nation.

While the community was not against all types of forestry, members objected to clear cut logging in a forest already ravaged by natural and human forces.

“It had been hard hit by overharvesting and forest fires. It really needed a rest from clear cut logging,” Lintner explained.

Two years after the lawsuit began, Grassy Narrows launched a high-profile blockade to stop the clear cuts. The blockade has now become one of the longest running land protests in Canadian history.

Lintner said she is hoping the logging company’s announcement signals the beginning of the end of the dispute. Still, the real test will be whether or not the provincial government will honour aboriginal concerns.

“If the province turns around and gives the same licence to clear cut to another big logging company, then they will have not learned or listened and the battle will continue,” she said.



PROPOSED LEGISLATION

Environmental Bill of Rights offers Canadians a strengthened voice

Canadians have a constitutional right to life, liberty and personal security but, strangely enough, there is no explicit right to a healthy environment. The lawyers at Ecojustice are trying to fill this gap and put more power in citizens’ hands by drafting an Environmental Bill of Rights.

“If passed by Parliament, it would provide Canadians with a tool to help ensure the federal government fully implements its own rules,” said Will Amos, staff lawyer at the uOttawa-Ecojustice environmental law clinic.

The new statute would protect our environmental rights by establishing accessible and affordable mechanisms for citizens to bring the federal government to court. This alone would give federal agencies more incentive to enforce legislation. There would also be greater requirements for access to information, public participation in decision making, and environmental whistleblower protection.

Staff lawyer Margot Venton noted that an Environmental Bill of Rights is not such a radical concept. “A healthy environment is already recognized in the constitutions of 118 countries across the world. The legislation we’ve drafted is actually inspired by similar statutes in Ontario, Yukon, Northwest Territories and Quebec.”

After being circulated to all federal political parties this spring, the idea has been favourably received by all but the Conservative Party. Ecojustice’s clients on the file, the Sierra Club Canada and Friends of the Earth, plan to vigorously promote this proposed statute in the next Parliament.



How do you value a tree? A forest?

It started out as one more effort to preserve the old-growth forest habitat of Canada's most endangered bird, B.C.'s northern spotted owl. What emerged was a landmark study challenging traditional economics that a logged forest is more valuable than one left standing.

This September, researchers at Simon Fraser University shared the results of a study that assessed the value of B.C.'s old growth forests. But rather than focusing only on the value of a forest as timber, the researchers assessed the value of forests left standing in terms of carbon storage, recreation, and non-timber products such as wild mushrooms.

The study showed that when a conventional valuation of forests is broadened to include these features, increased conservation wins out over logging in most cases.

That means, when owl habitat is protected, so too is our financial well-being.

"It's time for economics to wake up," said Keith Ferguson, a lawyer at Ecojustice, which helped sponsor the research. "This study is the start of a whole new wave of using economics to make sustainable decisions that are truly in the public interest."



Proposed diamond mine triggers mercury concerns

When the province granted its approval for a large-scale diamond mine pit in Ontario's northern Boreal Forest, the public had no say in the matter.

Concerned about this violation of law and the impact the mine would have on the region's pristine lakes and rivers, Ecojustice staff lawyers Anastasia Lintner and Justin Duncan helped launch litigation alleging the government had circumvented the public's right to be involved in the decision-making process.

Their message was heard. This spring, Ecojustice was able to withdraw its legal challenge after the government backtracked and opened the project for public comment. As result, the DeBeers Victor Diamond Mine was subjected to the legally required public consultation process throughout the summer. Ecojustice has filed its own comments on behalf of client CPAWS-Wildlands League, citing concerns about toxic mercury releases from the mine.

Mercury has devastating effects on all levels of the food chain, accumulating in soil and plants where it is then passed on to animals. In humans, mercury exposure has been linked to significant neurological and developmental disorders.

Despite these dangers, Lintner said she is unsure how vocal the public will be about the project, in part because the local Attawapiskat First Nation has already signed an Impact Benefit Agreement with the company. "If the community wants that kind of development, we will respect their wishes," she said.

For now, Ecojustice anxiously awaits the government's response to the public's submissions. Lintner is hopeful that the ongoing reform of Ontario's 135-year old Mining Act will address these types of concerns. Ideally, she said she would like to see mining exploration in the area halted until the far-reaching impact of this mine has been fully understood.



RANJ DHALIIVAL

You might spot Ecojustice paralegal Ranj Dhalival caught in a trance on the subway. With the screen turned down and a scene rolling through his mind, he blindly types out the pages of his latest West Coast crime novel.

Ranj already has a bestselling novel with his first release Daaku. The story spares no gory detail as it follows the violent life of a young Indo-Canadian gang member.

But when Ranj reaches the Vancouver Ecojustice office in Gastown, his mind turns from blood red to green. He spends his days as a paralegal, helping our lawyers and scientists present the strongest case possible.

It is through his sympathetic eyes that one can discover what the spotted owl has in common with troubled youth. “I’ve always helped defend those who can’t defend themselves,” he said.

In addition to his writing and paralegal work, Ranj also speaks to at-risk youth, volunteers at a homeless shelter and lends a hand at his Sikh temple in Surrey.

When he came to Ecojustice as part of a legal administrative practicum six years ago, he was hired within two weeks. He continued helping staff as a volunteer after funding ran out for his position. “That spotted owl sucked me in,” he said with a laugh.

Ranj made his way back on staff in 2007 after training to be a paralegal at Vancouver Community College. His interest in the environment is in many ways an extension of his affection for his hometown of Surrey. He said he has always been one to pick up garbage and admire the trees that survive ongoing development.

As he learns more about conservation, his focus has shifted from litter clean-up to energy conservation. A self-professed “light bulb guy” Ranj is diligent about using energy saving technology, even showing up at friends’ houses with CFL lights in hand.

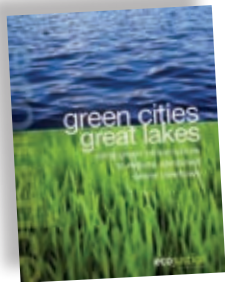
When interviewed on radio programs, Ranj’s many credentials are often boiled down to the title of positive role model. While he shirks at the label, it is one of the few phrases that encapsulate the many branches of his life.

To find out more about Ranj, visit www.ranjdhalival.com.

staff profile

Creative solutions to seeping sewage

Tackling the single biggest pollutant to the Great Lakes might seem like an enormous task. But when it is our own sewage destroying the waters, we can't wait on a mountain of money to turn the problem around.



That's why Ecojustice researcher Liat Podolsky released a green infrastructure report this September. The investigative report outlines alternative ways municipalities and homeowners can reduce untreated sewage entering the Great Lakes.

It all comes down to antiquated municipal infrastructure. Podolsky's research uncovered that at least 89 municipalities in Ontario have combined sewer pipes that carry both sewage and stormwater. On wet days, the system overflows, and sewage hits the water untreated. The result is closed beaches, diminished biodiversity and contaminated fish deemed unsafe to eat.

Green roofs, permeable pavement, and downspout disconnections are just a few of the ways to decrease the amount of water that goes down the drain into our combined sewer systems. While municipalities are aware of the problem, upgrading a municipal pipe network is so costly that many communities have been trapped into a disturbing status quo.

Podolsky's well-received report is helping politicians and homeowners recognize that green solutions can be a viable way of managing outdated infrastructure on a tight budget. "Green infrastructure is often seen as a nice thing to do but it doesn't have to come after conventional fixes," she said.

To download the complete report *Green Lakes, Green Cities* visit www.ecojustice.ca.



PERMEABLE PAVEMENT: A hard surface that allows rainfall to seep into underlying soils.

Tire burning tests environmental laws

A toxic brew of burning tires and slaughterhouse waste won't be hanging in the air of a small Ontario town anytime soon.

Two years ago, residents of Bath were shocked to learn the provincial Ministry of Environment had given the cement company, Lafarge, approval to burn tires, plastics, bone meal and other waste at its local plant. The decision made Bath the only place in Ontario where the burning of such a cocktail of noxious waste is permitted.

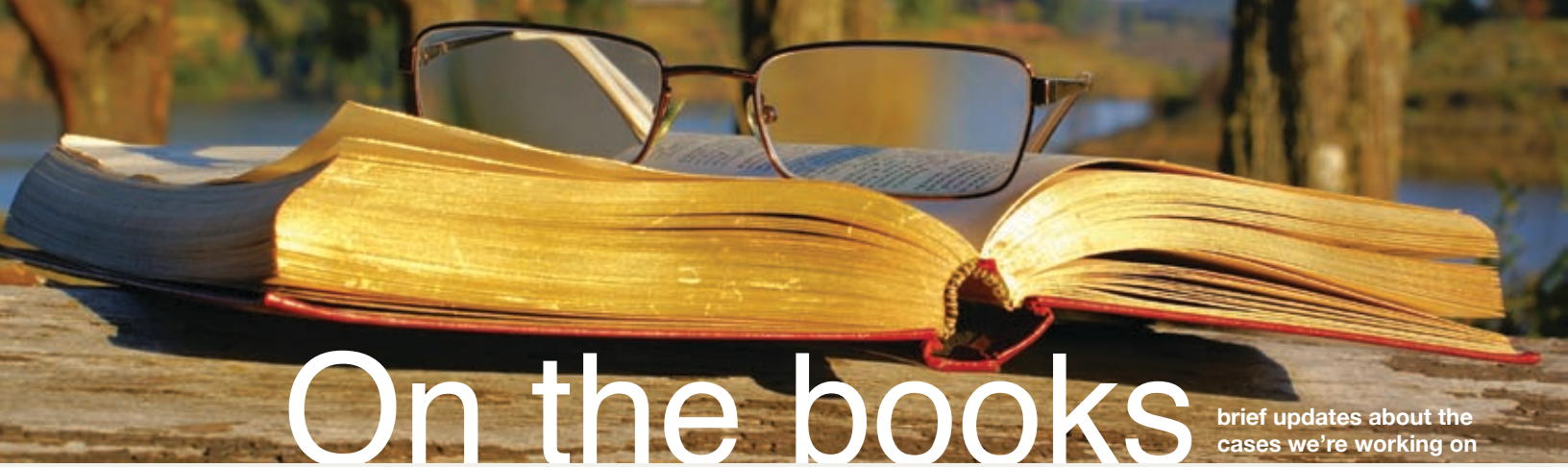


The community did not embrace the role of guinea pig. Concerned residents turned to Ecojustice to help fight the approval. Working along with counsel for Lake Ontario Waterkeeper, appeals were launched, leading to an Environmental Review Tribunal hearing.

The hearing has been heavily contested and delayed by Lafarge. In June, Ecojustice lawyers had a heartening triumph when the Ontario Divisional Court rejected a request by the company to shut down the hearing. The precedent-setting ruling confirmed that the public has a right to take part in environmental decisions.

"It's a huge victory that we had in Divisional Court, and a huge step for environmental law," said Ecojustice staff lawyer Hugh Wilkins. Lafarge continues to search for ways to avoid the hearing. They have now turned to the Ontario Court of Appeal to challenge the Divisional Court's ruling.

Staff lawyer Marlene Cashin said she is optimistic the court will rule against Lafarge again.



On the books

brief updates about the cases we're working on

NAFTA investigation looks at U.S.

The eyes of NAFTA's environmental watchdog have finally fallen on the United States. For the first time in its 14-year history, the Commission for Environmental Cooperation recently launched its first full investigation against the U.S. for failing to enforce the Clean Water Act against mercury-spewing American coal-fired power plants.



PIPING PLOVER

The move comes shortly after Ecojustice lawyers Albert Koehl and Randy Christensen organized an international coalition of academics and groups demanding an end to stalled investigations.

Fishy decision lands DFO in Court

The Species at Risk Act will get its day in court – thanks to the Nooksack Dace, a small endangered minnow that the federal government is required to protect. Last year, Ecojustice sued the Department of Fisheries and Oceans (DFO) for removing critical habitat

information from the minnow's recovery strategy. This September, DFO tried to have our case thrown out, arguing that the issue is moot because the recovery strategy has since been fixed with re-inserted habitat maps. Ecojustice lawyer Lara Tessaro argued in Federal Court that Nooksack Dace is just one example that provincial and federal governments are colluding to prevent identification of habitat that endangered species need to survive. The judge sided with the environmentalists and allowed the case to proceed. If successful, the case would ensure that federal agencies are required to identify critical habitat in all future recovery strategies.

Weak regulations ignore chemical dangers

It was a disappointing summer for environmentalists trying to ban toxic, widely-used fire retardants known as Polybrominated Diphenyl Ethers (PBDEs). This July, Environment Minister John Baird took a futile swipe at the chemicals, banning mixtures that were already phased out and exempting the one mixture, DecaBDE that is still used today. The weak announcement failed to address concerns that emerged when the regulations were first proposed in 2006. At this time, Ecojustice put forward a formal objection under federal

law outlining the legal reason for a complete ban. Widely used as flame retardants in household products like cell phones, and TVs, PBDEs are ubiquitous in the environment and rapidly accumulating in substances ranging from mothers' breast milk to Great Lakes sediment. Canada declared PBDEs as "toxic" in 2006 and various studies have linked them to serious health impacts including cancer. Stunned by the gap between science and policy, Ecojustice scientist Elaine MacDonald continues to wait for the government to recognize the household health risk.

Endangered Species Act at risk

A major loophole in Ontario's Endangered Species Act was used by the Province to soften the law this year, but environmentalists are determined to make it a temporary exception. After unveiling what has been hailed the country's strongest law on endangered species in 2007, the province took a step backwards by exempting the logging industry until 2009. Ecojustice was one of several environmental groups that spent years fighting to ensure the Ontario government better protects its 200 species at risk. Now that a new act has been introduced, Ecojustice lawyer Justin Duncan is committed to ensuring forestry and other industries comply.

Retired logger gives stock to the environment

Sometimes falling in love with nature is as simple as standing in the mossy shadow of a towering tree. When this beauty strikes, it can have a transformative effect. In the case of Allan McInnes, it turned a long-time logger into an advocate for habitat protection.

“Not everything I did in my life as a logger was good. Nothing was sacred. The objective was to get the logs out,” recalls the Revelstoke resident who once operated his family’s saw mill. “Spending time outdoors as a hiker and as a logger, I could see things going wrong environmentally.”

To leave a more positive mark on the landscape he’d grown to love, McInnes began supporting Ecojustice. Recently, he and his wife Evelyn decided to take a creative approach to donating. With Bell Canada (BCE) moving from public to private hands, McInnes opted to donate a portion of his Bell stock portfolio to Ecojustice.

The McInnes’ most generous gift even came with a few perks. The move spared them from paying a burdensome capital gains tax. They also received a tax receipt for the full market value of their shares.

“We thought, why not have the tax savings and also promote more environmental protection?” he declared.



Allan and Evelyn McInnes find inspiration outdoors as they explore the breathtaking wilderness of Revelstoke, BC.



For 73-year-old McInnes, making a stock donation to Ecojustice is also a way of helping out future stewards of the land. “The way the world is going, the younger generation does not seem to have the quality of life I did. By donating, I am helping those kids.”

With his logging days behind him, McInnes has forged a new connection with the land as an avid cross country skier. He also appreciates nature from inside his Revelstoke home where he enjoys watching birds pay visits to his feeder.

To find out how you can help, contact Sheri Urquhart at surquhart@ecojustice.ca or 604.685.5618 x 249.



Going green at holiday time

Some ideas for capturing the spirit of the season while treading lightly on the planet.

- Make a donation to Ecojustice as a gift for someone you love who cares about the planet. We'll send a card and four stunning wildlife postcards. Please call Danielle in Donor Relations at 1.800.926.7744 x 230 to learn more.
- Put your environmental thoughts into practice by hand-making gifts or designing gift experiences. Send handmade cards made from recycled materials. Wrap gifts using recycled or salvaged materials – scraps of colourful fabric, or old tea tins.
- Be mindful of what food you serve during the holidays. Consider where your food choices come from and how they are produced. Choose local, organic and free-range wherever possible.



What's next

Empowering the environmental movement

The past few months at Ecojustice have been marked with an inspiring string of successes. As you'll see in this newsletter, our firm stand on protecting boreal forests, species at risk and air quality have yielded strong results.



Although we might be walking a little taller, we never lose sight of the fact that our victories are also our clients' victories and that success is shared. Behind every determined environmental lawyer and scientist is a myriad of impassioned people combin-

ing strengths to stand up to government or industry wrongdoings.

In many ways, sharing success and empowering the environmental movement is what we do. One trait that makes Ecojustice unique is our ability to act as the glue between environmental coalitions that join forces as our clients. To ensure success against significant odds,

our clients must work as hard on the ground as we do in court. But when building a case seems like too tall a task for one, Ecojustice has gained a reputation for skillfully building client coalitions.

For example Nature Canada, the David Suzuki Foundation, Environmental Defence, Forestethics and the Wilderness Committee recently joined as clients so that we could use the courts to protect habitat for the endangered piping plover. In this way, the bonds we form between environmental coalitions can turn small steps into big leaps.

The same can be said for our donors. Almost two thirds of our revenue comes from individuals, just like you. There are times when it might be hard to believe that a single donation could affect a problem as enormous as tar sands pollution. But rest assured, pooling together resources to create something powerful is what we do best. In fact, it's all we do.

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