



**ENVIRONMENTAL
LAW CENTRE**

Annual Report 2023-24



2023-24 OVERVIEW

As we take an end-of-fiscal-year deep breath, we're also taking a moment to reflect. If we had to choose a theme for this past year, it would have to be transition.

Along with our usual activities of teaching students and helping communities tackle environmental law problems, we celebrated a retiring colleague, launched Cohort 9 of ELC Associates Program, brought on a new lawyer to teach in the Clinic, mentored three articulated students and a co-op student, and moved to temporary office space.

While transitions pose challenges, we recognize that we are fortunate in many ways. We have sound funding from foundations and others as partners in our work. We are continually building new client relationships and deepening existing ones. We are grateful to have the support to keep improving our approaches to anti-colonial practice and to prioritize fostering a healthy organizational team. Talented and dedicated students and other professionals are the core of ELC client service. Notably, while we said goodbye to Calvin Sandborn in August, we welcomed Patricia Weber, an ELC alum who is now teaching in the Clinic. A full circle moment indeed!

Thanks to our many partners, our year of transitions was also productive. We offered three sessions of the Clinic and a Spring Intensive Clinic. We mentored 28 Clinic students, who provided over 2,812 hours of legal services to 23 client groups.

2023-24 BOARD & STAFF

Community Board Members

- Patricia Cochran, UVic Law Professor
- Lisa Fong, KC, Partner, Ng Ariss Fong
- Clare Frater, Director of Trust Area Services, Islands Trust
- Brenda Gaertner, Lawyer, Mandell Pinder LLP
- John Gailus, Partner, Cascadia Legal LLP
- Darcy Lindberg, UVic Law Professor
- Nikki Skuce, Director, Northern Confluence Initiative
- Karenna Williams, Lawyer, Huberman Law Group

Student Board Members

- Isaac Beech
- Adele DesBrisay (to Sept 2023)
- Danica Freiter
- Cassie Lumsden
- Nick Noble
- Anna Pachal
- Sasa Popovich
- Ashley Roussel
- Zoey Schutz

Student Board Advisors:

- James Mager
- Margaret Williams

Staff

- Gracie Chiu, Administrative Assistant
- Deborah Curran, Executive Director
- Holly Pattison, Director of Operations & Communications
- Patricia Weber, ELC Clinic Lawyer
- Charis Kamphuis, ELC Clinic Lawyer (to Aug 31.23)
- Calvin Sandborn, KC, Senior Counsel (to Aug 31.23)



FALL 2023

L-R: Patricia Weber, Deborah Curran, Emmaline English, Holly Pattison, Gracie Chiu



L-R: Gracie Chiu, Patricia Weber, Paarth Mittal, Adele DesBrisay, Holly Pattison, Deborah Curran

SPRING 2024

In total, ELC staff, Articling Students, Coop students and Clinic students provided 7,976 hours of services to help resolve public interest environmental law issues. For the ELC Associates Program, we held two webinars for the 12 lawyers in Cohort 8 and hosted one event and two webinars for the 14 new lawyers we accepted into Cohort 9 of the ELC Associates Program.

This 2023-24 Annual Report provides an overview of our activities and impacts from the past year. In particular, we are working with Indigenous organizations to uphold and advance their authority in new ways. We also continue to see communities interested in protecting water and land from pollution.

Our community of clients, donors, advisors, and students help us collaboratively work towards protecting and defending the natural environment. On behalf of all ELC Board and staff, your support is deeply appreciated!

7,976
HOURS
OF LEGAL SERVICES

40
PEOPLE





1. Impromptu hallway meeting in the Law Library mezzanine where the ELC has temporary office space

2. Team campus walk with Paarth, Adele and Deborah

3. Launch of Cohort 9 ELC Associates Program in Vancouver at Mandell Pinder

4. Calvin at his ELC retirement party receiving his gift: a cedar hat woven and presented by ELC Alum Karla Point

5. Support from the ELC and Ng Ariss Fong allowed 25 ELC Club members to travel this year to University of Oregon's annual public interest environmental law conference

6. Gracie and Holly on the boardwalk behind the National Centre for Indigenous Law, where the ELC will have new offices!

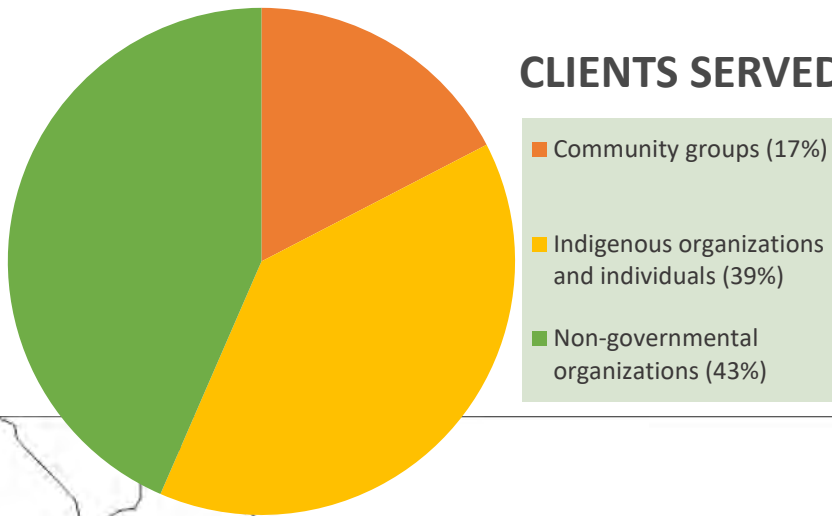


CASE ROSTER AT A GLANCE

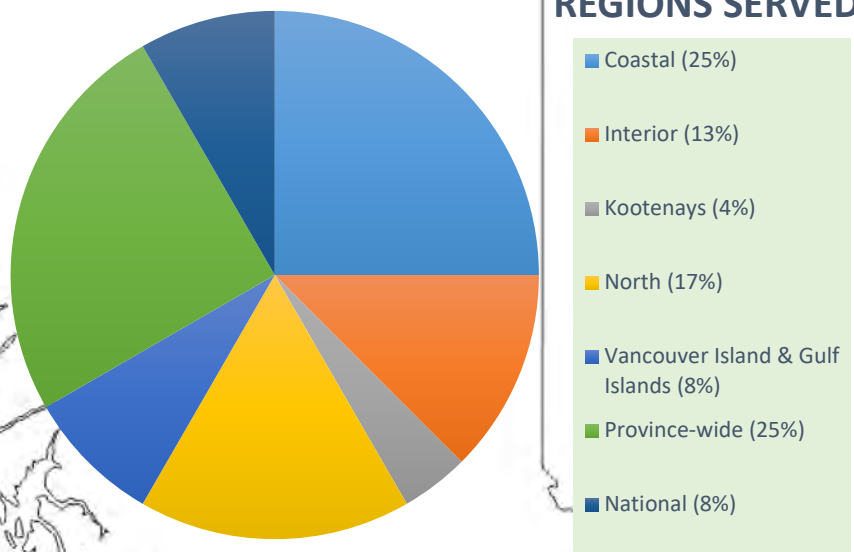
The ELC receives many more requests for assistance each term than we can address. Thankfully, we are guided by a case selection policy and process. In addition to providing an educational component for students, our policy guides us to look for cases with the potential to make a significant contribution to the development of environmental law. We also consider our five focus areas: Healthy Watersheds and Airsheds, Resilient Coasts, Sustainable Communities, Climate and Energy Equity, and Environmental Justice. As a glance at our past year's list of new and continuing cases (edited for confidentiality) shows, the result of our process is a selection of diverse cases that call for a variety of legal approaches, which provides rich learning opportunities for students.

1. Assisting an Indigenous Organization to Incorporate Indigenous Laws Into Local Government Laws and Practice
2. Working with an Indigenous Organization to Restore Shellfish Harvesting
3. Enhancing Indigenous Guardians' Enforcement Authority
4. Advocating for a Moratorium on Placer Mining Claims and Leases
5. Protecting Forested Aquifer Recharge Areas
6. Developing a Guide to Private Prosecutions
7. Protecting Eelgrass Beds as an Ecosystem-based Strategy for Climate Change Adaptation
8. Assisting a First Nation Develop Land and Water Management Laws Based on their Legal Orders
9. Addressing Ghost Nets and Other Discarded or Lost Plastic Fishing Gear
10. Proposing Law Reform to Combat Climate Change Greenwashing
11. Reforming BC Pesticide Laws to Better Meet Citizen and First Nation Concerns
12. Preparing an Emergency Order under the *Species at Risk Act*
13. Changing the Softwood Lumber Agreement to Allow Subsidies for Forestry Fire Prevention Measures
14. Examining the Public Financing of Fossil Fuels
15. Preparing a Federal Submission on Proper Management and Recycling of HFCs
16. Reforming Mineral Tenure Compensation in BC
17. Calling on Governments to Protect Kokanee in Kootenay Lake West Arm
18. Protecting Peatlands in an Indigenous Nation's Territory
19. Protecting the Fraser River
20. Addressing an Oil Tailings Pond Leak and Spill on an Indigenous Nation's Territory
21. Challenging Illegal Private Docks in Esquimalt's Gorge and Harbour
22. Updating the Indigenous Guardians Field Guide to Environmental Laws in the Central and North Coast
23. Developing a Model Legal Framework for Advancing "Good" Fire in BC
24. Working with an Indigenous Nation to Incorporate their Laws and Priorities into Collaborative Land Use Planning
25. Eliminating Cigarette Butt Litter in the Oceans
26. Investigating Collaborative Governance for Watershed Health
27. Developing Green Bylaws for the Sunshine Coast
28. Removing Barriers to Indigenous-led Conservation Solutions
29. Working with an Indigenous Nation to Develop their Water Policy
30. Managing Water Flows to Better Protect Fish Habitat and Spawning Grounds
31. Working with a First Nation to Reclaim Harvest of Traditional Foods
32. Considering the Feasibility and Challenges of Banning Fossil Fuel Ads
33. Amending an Effluent Discharge Permit to Better Monitor Groundwater
34. Advancing the Circular Economy in BC through Law Reform
35. Understanding National Marine Conservation Area Governance

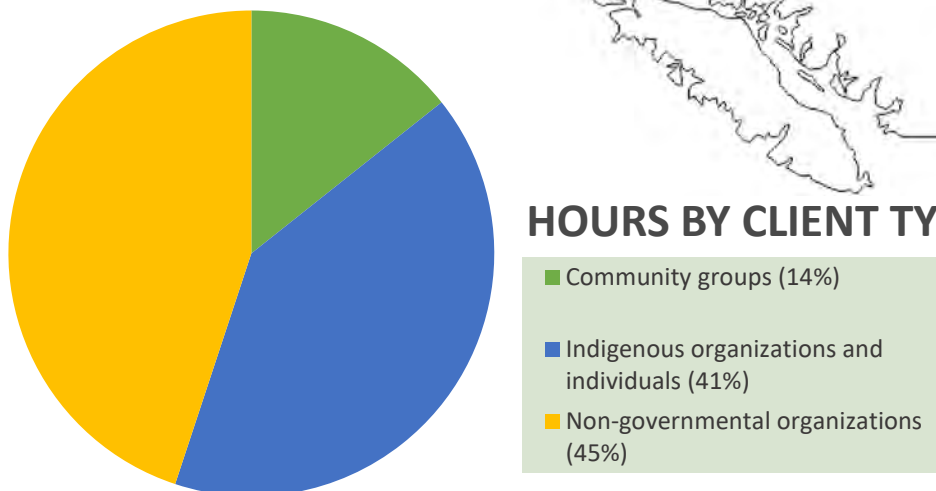
CLIENTS SERVED

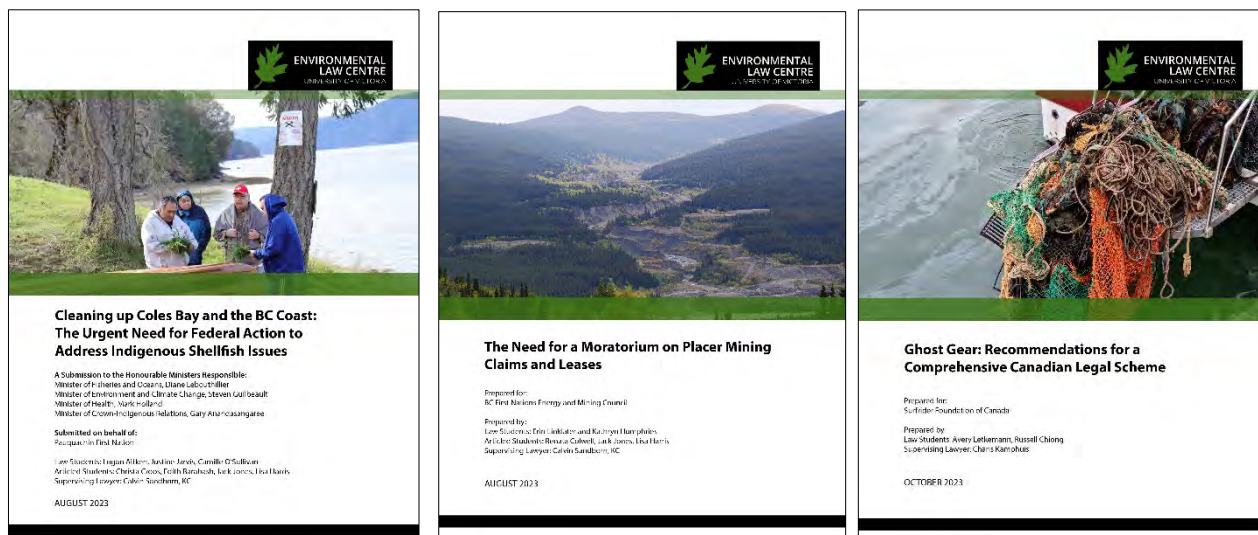


REGIONS SERVED



HOURS BY CLIENT TYPE





PUBLICATIONS

Work that we can share publicly is available on our website under [Publications](#). Below is a list of all the reports we publicly released in 2023-24.

1. [Cleaning Up Coles Bay: The Urgent Need to Restore Traditional Shellfish Harvesting Sites of the Pauquachin First Nation](#)
2. [Cleaning up Coles Bay: A Partnership for Justice and Shellfish Restoration](#)
3. [Cleaning up Coles Bay and the BC Coast: The Urgent Need for a Federal Action to Address Indigenous Shellfish Issues](#)
4. [Whole-of-River-Protection for the Fraser River: A Scan of Legal Protection](#)
5. [Kootenay Lake Fisheries Act Investigation Request](#)
6. [Provincial and Federal Submissions Regarding the Need for Proper Disposal and Recycling of HFCs](#)
7. [The Need for a Moratorium on Placer Mining Claims and Leases](#)
8. [Ghost Gear: Recommendations for a Comprehensive Canadian Legal Scheme](#)

I really value the time and attention to detail that the staff and students give toward their work. It's a high standard of quality that we have come to trust.

ELC Client 2023-24



UPHOLDING INDIGENOUS AUTHORITIES

This past year, we continued to see strong demand for new tools for and approaches to recognizing the rights of Indigenous communities to manage and safeguard their relationships with the environment in their territories, to strengthen their exercise of their stewardship responsibilities, and to respond to impacts from industrial pollution. There has been particular interest in supporting Indigenous organizations working with local governments to exercise local government jurisdiction in support of ecological health and Indigenous interests. In the past year we worked with an Indigenous organization to release recommendations to restore shellfish harvesting in their territories to three levels of government: municipal, provincial and federal.

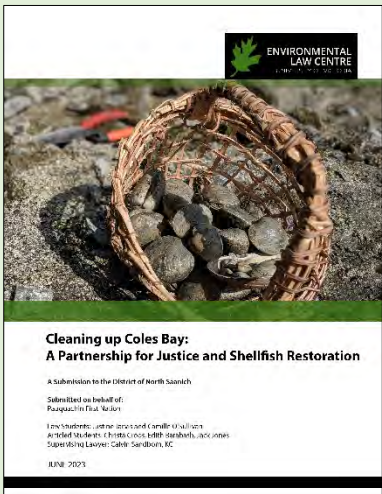
We continue to deepen existing relationships and engage with several First Nation clients on developing land and water management instruments based on their Indigenous laws. We've worked with several Nations to establish their own water flow and quality standards to which any water users need to adhere to within their territories. As a modern expression of their laws, the intent is that the instruments put both proponents and the provincial government on notice as to what behaviour is expected. In

essence, these laws/policies establish the consent-based standard for that territory. For example, see the ELC client project with the Gitanyow Hereditary Chiefs [Aks Ayookxw Water Policy](#) and the Athabasca Chipewyan First Nation's [tu bet'a ts' ena With Water We Live](#).

Conservation and other organizations are increasingly working with Indigenous communities to achieve collective ecological protection goals. Some of those environmental organizations are turning to us to better understand interim and long-term land protection mechanisms to better assist their Indigenous partners. A significant component of this work is the restoration of riparian areas, ecological connectivity and harnessing the potential of water sustainability plans to achieve ecological governance structures.

ELC staff continue to play an important role in law reform, environmental conservation, and policy development by providing legal capacity and advice to Indigenous and community organizations on watershed issues. We are regularly asked to provide strategic advice on a range of watershed governance and *Water Sustainability Act* implementation and evaluation issues.

Water flow problems have been growing over the past decade on the east coast of Vancouver Island and in other parts of the province. Because of our expertise in water and watershed issues, Cowichan Tribes staff invited Deborah Curran, with the support of ELC students, to be an advisor to the first ever water sustainability plan process in BC for the Koksilah watershed, which is a unique and exciting collaborative watershed management project to address flow issues caused by a variety of factors. We also act as an advisor to other collaborative watershed governance processes underway in the province. Water sustainability plans have the potential to uphold Indigenous authority, incorporate collaborative governance arrangements, and address water quality and quantity issues over the long term.



RESTORING SHELLFISH HABITAT: In response to our [August report on behalf of the Pauquachin Nation](#) to local government regarding the rehabilitation of shellfish habitat on the Saanich Peninsula, [North Saanich Council passed resolutions in September](#) to join the CRD's bylaw to regulate the maintenance of sewage systems and to work with CRD to determine the cost and required maintenance resources of sewage systems, including properties within the Coles Bay watershed, which is a primary source of shellfish contamination that could be resolved through proper maintenance. Council also appointed dedicated staff to liaison with Pauquachin First Nation on the initiative.

Law school can often get lost in high-level concepts, and it's grounding to work on issues directly impacting peoples' values and concerns. This hands-on process has been fulfilling and enlightening and has seriously stoked my interest in public interest environmental law.

ELC Clinic student 2023-24



PROTECTING WATER AND LAND

Abundant healthy water is vital for BC, and water is also a wedge into all land use activities. Protecting and restoring land and water resources, supporting public participation, and government accountability in decision making about land and water resources continue to be of interest to our client partners.

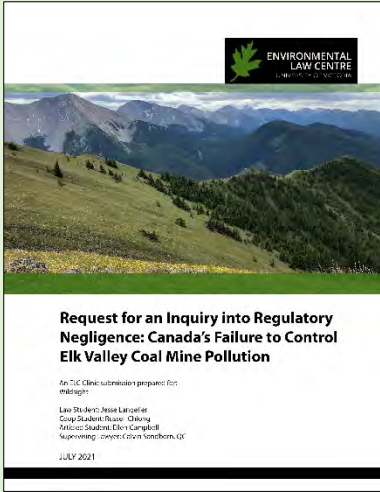
In the past year, clients and community organizations have asked us to engage in provincial consultations on the new watershed security strategy, and we are still regularly asked to lead webinars and workshops on our *Green Bylaws Toolkit*. Organizations and citizen groups are frequently requesting law reform and other products to protect biodiversity and ecosystems, and there is an increasing interest in finding ways to mitigate the impacts of climate change through careful planning (i.e. local government planning and regulatory bylaws, and provincial forestry and watershed planning activities) and to encourage governments to take action on moving away from fossil fuels.

In this reporting period, we worked on several projects to address climate change risks in the wildland urban interface. We identified avenues for comprehensive law reform to reduce wildfire damage in the wildlife urban interface and supported clients in engaging in provincial-level consultations regarding mineral tenure compensation, watershed sustainability

planning, and priority of water use.

We are also continuing to receive requests to deal with the problem of plastic pollution. Over the past few years, [our work to develop and coordinate strategic law reform for the production, use, recycling and disposal of plastics](#) helped lead to action by both the federal and provincial governments, including the [approval of local bans on single-use plastics](#), establishing a legal framework to provide for province-wide bans of single-use plastic items, and a federal commitment to ban harmful single-use plastics and to have zero plastic waste by 2030. Last year, we [provided submissions to the federal government in response to their proposed regulations to ban single use plastics](#). In June 2023, the federal government released their [Single-use Plastics Prohibition Regulations](#), which bans six categories of single-use plastics: checkout bag, cutlery, foodservice ware, ring carriers, stir sticks and straws. In July 2023, the Minister of Environment and Climate changed announced that the next step in delivering on Canada's commitments on plastic waste and pollution would be two consultations to develop rules for recyclability and compost-ability labelling; and establish a federal plastics registry for producers of plastic products. Over the past year, we completed a comprehensive review of the regulatory framework for managing

abandoned, lost or discarded fishing gear and developed law reform recommendations to better prevent and clean up this type of marine pollution. We also started to investigate legal mechanisms to reduce cigarette butt pollution, which is a major source of pollution in oceans and coastlines worldwide. Finally, we are seeing growing client interest in law reform for the circular economy. Whether to address the life cycle of plastics to critical minerals, clients are focusing on reducing materials throughput as a key strategy for addressing climate change and preventing further ecological destruction.



Request for an Inquiry into Regulatory Negligence: Canada's Failure to Control Elk Valley Coal Mine Pollution

An IJC Client submission prepared for Wildsight

Lead Student: Anna Lancelotti
Coop Student: Bruce Chong
Assistant Student: Eliza Campbell
Supervising: caryn@elc.ca, london, UK

JULY 2021

COAL MINE POLLUTION IN THE ELK VALLEY: A 2021 submission the ELC filed on behalf of Wildsight played a part in leading to a [March 2024 referral](#) from the governments of Canada and the United States, in partnership with the Ktunaxa Nation, to the International Joint Commission (IJC) to address transboundary water pollution in the Elk-Kootenai/y Watershed. The ELC became involved in late 2020 when Wildsight asked us to investigate a solution for dealing with coal mine pollution in the Elk Valley that was causing serious damage to fish. We prepared two submissions: one to the Commissioner of the Environment and Sustainable Development and the Auditor General of Canada seeking an inquiry into Canada's failure to control Elk Valley's coal mine pollution and a follow-up letter to Canada's Minister of Foreign Affairs and US asking for a referral to the IJC. In mid-May 2022, the [International Joint Commission wrote an unprecedented letter to the US and Canadian governments](#) indicating their concern and belief that this matter should come to them from both countries as a joint reference. The joint request was sent almost two years later, and after a US State Department [statement of support](#) and a March 2023 summit between President Biden and Prime Minister Trudeau.

[The ELC] builds capacity for communities and organizations such as ours and gives us an opportunity to link with students and young emerging leaders to help support their growth and career.

ELC Client 2023-24



RESEARCH-A-THON 2024: CLIMATE JUSTICE

Student enviro-volunteerism was on display again this year for the 7th annual Research-a-thon. The Research-a-thon is a one-day event where students gather to generate research that supports public interest environmental law in BC and Canada. The goal of this year's Research-a-thon was to create a list of resources that outline how climate risk and climate justice is understood in different areas of legal practice (e.g. health or immigration law) and how (or if) lawyers have engaged with law reform to respond to climate risk and climate justice. The work was done in support of the non-profit Lawyers for Climate Justice (L4CJ) and may provide a basis for further work on developing a set of climate justice principles. The principles could be applied in the Canadian legal context to evaluate whether law and policy is consistent and to identify any examples of how climate justice has been considered in law or policy related to climate change mitigation or adaptation. The lunchtime speaker was ELC Associate and Alum Erin Gray, lawyer at West Coast Environmental Law and member of L4CJ.

This is the type of work I have envisioned for my future career in law, and [I] am grateful to have been able to gain such practical skills in knowledge that will no doubt serve me well in the future.

ELC Clinic student 2023-24



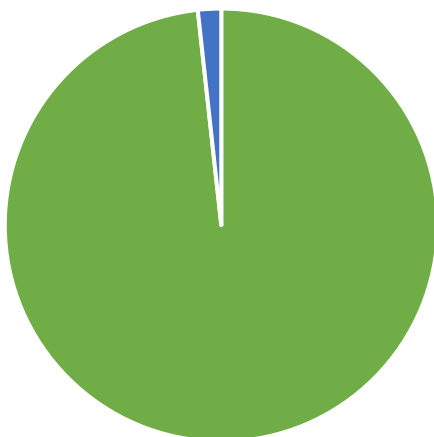
MANY THANKS FOR YOUR PARTNERSHIP!

Many hands sustain the ELC. In addition to our staff, we work in partnership with students, clients, the Law Faculty, Board members, lawyers, foundations, and our individual donors. Special thanks for all your hard work and happy engagement with the ELC.

We are privileged to have ongoing and core support from a variety of foundations and individual donors. Thanks to the Law Foundation of British Columbia, North Family Foundation, Sitka Foundation, MakeWay Foundation, Wilburforce Foundation, and the *Janet Person Environmental Law Centre Endowment Fund*. We are also grateful to the Real Estate Foundation of British Columbia for project funding.

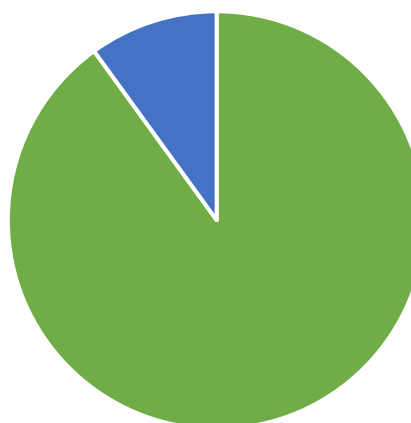
We also continue to diversify our revenues through private donations. We hope to see this trend continue as we move through our next transitional stages of organizational sustainability. We deeply appreciate all our donors – thank you!

REVENUES



■ Foundations ■ Individual donors

EXPENDITURES



■ Payroll ■ Operating expenses

Your support helps us develop and support strong laws that protect air, land and water