



THE CANADIAN
BAR ASSOCIATION

CBA ENVIRONMENTAL, ENERGY AND RESOURCES LAW SUMMIT

**FUNDAMENTALS OF ENERGY AND RESOURCE PROJECT
DEVELOPMENT IN THE EVOLVING CANADIAN CONTEXT**



JUNE 2-3, 2016 | ST. JOHN'S, NL

Thursday, June 2, 2016

8:45-9:00 Welcome & Introductions

Co-Chairs: Duff Harper, Blake, Cassels & Graydon LLP
Susan Gover, Canada-Newfoundland & Labrador Offshore Petroleum Board

9:00-9:45 Project Development on First Nations Lands

Indigenous communities across Canada are increasingly interested in developing complex commercial and industrial development projects on reserve lands. However, regulatory uncertainty on these lands has often discouraged investment and hindered economic development. This panel will explore one key initiative intended to mitigate regulatory risk on reserve lands – the First Nations Land Management Regime. The Regime provides the opportunity for First Nations to opt out of land-related sections of the Indian Act and assume jurisdiction over their reserve lands and resources for the benefit of their members. The panel will also discuss a precedent-setting environmental stewardship regime, which governs the environmental assessment and permitting processes for a proposed wind energy centre situate on reserve lands.

Moderator: Sarah Powell, Davies Ward Phillips & Vineberg LLP
Speakers: Ken Noble, Nigig Power Corporation (wholly owned by Henvey Inlet First Nation)
Rod Northey, Gowlings WLG

9:45-10:45 Environmental Aspects of Project Development, Including SARA, and Wetlands

Just how difficult is it to address the environmental aspects associated with a proposed project? This panel will tackle the vexing issues involving such environmental aspects including what studies need to be done, when and for how long. The panel will also look at scenarios involving species at risk or wetlands located within or adjacent to a project footprint and how best to address those situations.

Moderator: Susan Gover, Canada-Newfoundland and Labrador Offshore Petroleum Board
Speakers: Michelle Forrieter, Cenovus Energy Inc.
Kyle Stanfield, Crestview Resource Permitting Solutions
Melissa Gorrie, EcoJustice

10:45-11:00 Break

11:00-11:45 Community Engagement and Social Licence

Ensuring that the public is aware of a proposed project is one issue. Ensuring that the public understands and supports a proposed project is a totally different issue. When coupled with concerns surrounding social licence, the community engagement aspects of a proposed project become even more critical. This panel will discuss how and when to implement an effective community engagement program, which necessarily involves keeping the public apprised of ongoing issues and engaged throughout all aspects of the project development process.

Moderator: Alex Templeton, McInnes Cooper
Speakers: Doug Ford, Communica Public Affairs
Lisa Jamieson, LNG Canada

11:45-12:30 Increasing role of GHGs and carbon-constrained economy

NEB-regulated oil and gas pipelines are now required to address upstream GHG emissions. Keystone XL was vetoed in part because of concerns over upstream GHG emissions. Alberta will implement a cap on annual GHG emissions from the oil sands. The Paris Summit held in November and December of 2015 resulted in a global agreement to set a goal of limiting global warming to less than 2 degrees Celsius (°C) compared to pre-industrial levels. The list goes on and on. This panel will address the increasing role that GHG emissions are playing in all aspects of the economy, particularly on project development.

Moderator: Charles Birchall, Willms & Shier Environmental Lawyers LLP
Speakers: James Brown, ERM CVS (compliance auditor)
Ed Ma, Suncor

12:30-1:45 Lunch & Keynote Speaker

What better topic for discussion can there be during a conference dedicated to project development than one that discusses public confidence in energy regulators. Michael is the lead author in the below report that was just released in April of 2016. He will discuss the research that he has been undertaking and address the various controversies surrounding the development of energy projects in recent years with a particular emphasis on building and maintaining trust and confidence in the regulatory regime.

Speaker: Mike Cleland, author of *Fair Enough: Assessing Community Confidence in Energy Authorities*

1:45-2:45 Commercial Aspects Associated with Project Development

This plenary will address various commercial aspects associated with project development including issues surrounding project financing. It will also include a case study of a major project and the added complexity when multiple stakeholders are involved.

Moderator: Will Cahill, Cox & Palmer
Speakers: Simon Baines, Osler
Jeff Dawson, PwC
Marc McClean, EDF EN Canada

2:45-3:30 Regulatory Milieu (Part I)

So, what does a regulator do when an application is placed before it and just how does a project get to a decision? A panel of experts representing the major federal regulators with jurisdiction over project development in eastern Canada will discuss their respective authorization review processes including the respective timelines and environmental pre-requisites necessary to commence work or activities within their administrative jurisdictions. This panel is expected to be one of the highlights of the conference and additional time has been set aside for an extended question and answer period.

Moderator: Dufferin Harper, Blake, Cassels & Graydon LLP
Speakers: Paul Johnston, NEB Board Counsel
Shanti Dogra, CNSOPB General Counsel
Susan Gover, CNLOPB General Counsel
John Pratt, Major Projects Management Office
Mike Atkinson, CEEA Regional Director, Atlantic

- 3:30-3:45** **Break**
- 3:45-4:45** **Regulatory Milieu (Part II)**
Continuation of Regulatory Milieu Panel
- 4:45-4:50** **Closing Remarks**
- 5:00-7:00** **Cocktail Reception**
The Gypsy Tea Room
315 Water Street

Friday, June 3, 2016

- 8:30-9:30** **Emergency Planning and Project Security Issues**
Emergency Planning and Project Security are both essential aspects necessary for project development and throughout the full lifecycle of its operations. This panel will address the interplay between the two, including what or how much information should be disclosed and to whom. In that context the panelists will discuss the thorny scenario of what happens when releasing emergency planning information could potentially have a deleterious impact on project security.

Moderator: Janet Bobechko, Norton Rose Fulbright
Speakers: Jim Donihee, COO of Canadian Energy Pipeline Association
 Michael Charles, Stantec Consulting Ltd.

- 9:30-10:15** **Project End-of-Life Considerations**
Although project proponents spend a lot of time trying to get a project approved and operational, they should not, and indeed cannot, overlook end-of-life considerations. This panel will address end-of-life considerations for projects in both the offshore and mining sector, in particular: how the issues are addressed 20-30 years in advance of cessation of activities in the legislative framework; the requirements to file rehabilitation and remediation plans; the advantages of conducting progressive remediation work; the various forms of financial guarantees and; the potential flow through liabilities as well as D & O liabilities.

Moderator: Mira Gauvin, Gowling WLG
Speakers: Van Penick, McInnes Cooper
 John Stefaniuk, Thompson Dorfman Sweatman

- 10:15-10:30** **Break**

- 10:30-11:15** **Project Approvals and Compliance with Project Conditions**
Assuming a project gets approved, the approval can be subject to various conditions, which conditions are often a concern of project proponents. However, what happens if two sets of conditions are imposed by two levels of government? This panel addresses the scenario of the province of British Columbia adding additional conditions to the federally-regulated Northern Gateway project. In Coastal First Nations v. BC, the BC Supreme Court addressed the interplay between federal and provincial jurisdiction and confirmed that although British Columbia cannot prevent a federally-regulated project from proceeding, it can impose additional environmental conditions on it. This panel includes two of the counsel who argued the case (counsel for Coastal First Nations and counsel for the Minister of Environment for British Columbia). Will they reargue the merits before the audience?

Topics and speakers are subject to change.

We'll see. Nevertheless, the panel should be entertaining and shed some light on what is often considered the dull topic of constitutional division of powers.

Moderator: Tony Crossman, Blake, Cassels & Graydon LLP

Speakers: Nancy Brown, Government Counsel on Coastal First Nations decision

Catherine Boies Parker, Counsel for Petitioners in Coastal First Nations decision

11:15-12:15 Show Me the Money - New Reporting Standards and Transparency in the Resource Extraction Sector

The enactment of the Extractive Sector Transparency Measures Act (ESTMA) in Canada and U.S. Securities and Exchange Commission transparency rules under the Dodd-Frank Act have ushered in a new era of corporate disclosure of third-party payments by oil and gas and mining entities. Combine this with considerations of corporate ethics, public scrutiny and perceptions, the impacts on both social licence and share values, and the prospect of penalties. Panel members will provide perspectives on: (i) ESTMA and compliance in Canada; (ii) disclosure and transparency in the context of arrangements with groups representing Indigenous Peoples; and (iii) the U.S. perspective on transparency and disclosure in the extractive resource sector.

Moderator: John Stefaniuk, Thompson Dorfman Sweatman LLP

Speakers: Eugene Smary, Warner Norcross (US perspective)

Cairns E. Price, MEG Energy

Sandra Gogal, Miller Thomson

12:15-1:30 Lunch & Keynote Speaker: Review of Environmental Response to Oil Spills

The talk will be a review of the MV Marathassa oil spill response in Vancouver Harbour 2015. It will cover the basic facts and timeline of the response and discuss several of the key recommendations to improve the overall response with partners in the area. A Q/A period will follow the presentation.

Speaker: John Butler, Canadian Coast Guard

1:30-2:30 Project Development beyond Canada's borders

This panel includes practitioners from the United Kingdom and the United States who will address international project developments from their respective points of view. They will be joined by an environmental practitioner who has worked on mining projects around the world, particularly on the aspects of social and indigenous risk. Together they should provide interesting perspectives on international project development.

Moderator: Mike Simms, McInnes Cooper

Speakers: Pam Barker, ABA SEER chair (US perspective)

Ben Stansfield, Stephenson Harwood, (UK perspective)

Caroline Rossignol, Ramboll Environ

2:30-3:30 Cross-Canada Hot Topics Panel (Part I)

The hot-topics panel has been a fixture at NEERLS conferences for many years and is something that many attendees consistently look forward to. The topics this year will hopefully meet or exceed those expectations. This year the topics include an update on the polluter pays principle, particularly in the province of Ontario. In addition, updates on pipelines and key issues in the mining sector will be provided. As an added twist, one of the topics will involve a discussion about the recent change in the federal government and the priorities and challenges that the new Liberal government is facing.

Topics and speakers are subject to change.

Finally, an update on the various GHG regimes that either exist or are being proposed across Canada will be provided.

Moderators: Stuart Chambers, McLennan Ross LLP

Jennifer Danahy, Gowling WLG

Speakers: Charles Birchall, Willms & Shier – ‘polluter pays’

Gavin Fitch, McLennan Ross – ‘pipelines update’

Johanne Senecal, Mining Association of Canada – ‘key issues in the mining industry’

Alan Young, co-president Tactix Government Relations and Public Affairs – ‘priorities and challenges of the federal government’

Sarah Powell, Davies Ward Phillips & Vineberg LLP – ‘cross-Canada GHG regime update’

3:30-3:45 Break

3:45-4:45 Cross-Canada Hot Topics Panel (Part II)

Continuation of Hot Topics Panel

4:45-5:00 Closing Remarks

6:00-11:00 Pub Crawl – “Rally in the Alley”

*Experience the famous nightlife of downtown St. John’s, the city with more bars and pubs per capita than any other city in Canada! Begin the night with a traditional Fish and Chips Dinner and follow with an organized Pub Crawl that features local entertainment and cultural experiences in each venue, such as an Irish Step Dance lesson, a Sing-a-Long, and a Screech-In! Finish the evening with a live dance band and enjoy a Scuff and a Swally! **Tickets required – available at the registration desk.***

Saturday, June 4, 2016

8:30-10:00 Nature Hike with Susan – “The North Head Trail”

The North Head Trail is 1.7 km and rises 500 feet above sea level. Rain or Shine, we will start at the Outer Battery at 8:30 am and walk up the trail to Cabot Tower, the location of Marconi’s first transatlantic wireless signal -an “S” for Susan of course! Along the way we will visit Fort Waldegrave, Ross’ Valley and Lady’s Lookout. It is rated difficult so good walking shoes and a wind breaker are recommended. Water will also be provided as the hike is about 90 minutes. After the hike, you can mosey down to the GeoCentre, walk or get a taxi back downtown. Be sure to bring your camera to take a picture of Cape Spear – the most easterly point in North America!

Accreditation in each province and territory:

Please visit the conference webpage for additional information:

www.cbapd.org/details_en.aspx?id=NA_env16

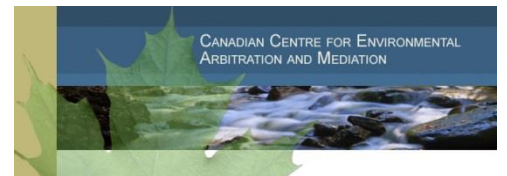
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