

# The Program

**Registration:** coffee and pastries: 8.00 – 8.30 am

**Welcome and introduction:** 8.30 – 8.45 am

**Nigel Bankes, (Faculty of Law, University of Calgary)**

**Session one:** 8.45 – 9.45 am

**Presenter: Teresa Meadows (Miller Thomson LLP, Edmonton)**

*Triggers, Tracks and Trends: A Basic CEAA Primer*

- Understanding key definitions
- An overview of CEAA triggers
- Distinctions between environmental assessment tracks
- Project scoping considerations
- CEAA and provincial environmental assessment regimes

**Session two:** 9.45 – 10.45

**Presenter: Brad Gilmour (Bennett Jones LLP, Calgary)**

*The Role of Legal Counsel in Environmental Impact Assessment*

- EIA experts
- EIA Terms of Reference
- EIA methodology - mitigation, significance, cumulative effects and alternatives
- Review of EIA information prior to filing
- Joint federal and provincial EIA requirements
- EIAs and public hearings
- Ethical issues that arise

**Refreshment break:** 10.45 – 11.00

**Session three:** 11.00 – 12.00

**Presenter: Lara Tessaro (EcoJustice, Vancouver)**

*Update and Highlights: case law, recent panel reports and possible legislative developments*

- The Red Chris Mine Case
- The True North Case
- Encana Suffield Project, Joint ERCB\CEAA Review
- Federal proposals

**Lunch:** 12.00 – 1.15

**Featured speaker Yves LeBoeuf, Vice-President, Policy Development, Canadian Environmental Assessment Agency, Ottawa (precise topic to be confirmed)**

**Session four:** 1.15 – 2.15

**Presenters: JoAnn Jamieson (Osler, Hoskin & Harcourt LLP, Calgary) and Nigel Bankes (Faculty of Law, University of Calgary)**

*Environmental Impact Assessment and the duty to consult and accommodate*

- Overview of the Crown's Duty to Consult and Accommodate (Haida Nation)
- The extent to which Environmental Assessment Processes May Satisfy the Duty (Taku River, Ka'a 'Gee'Tu)

- The Duty to Consult May Arise at the Design Stage of the Regulatory Process (Dene Tha')
- Engaging Aboriginal Communities in the EIA Process
- Working Together, Capacity Funding and the Role of Agreements
- Integration of Traditional Land Use (TLU) studies and Traditional Ecological Knowledge into the EIA
- Mitigating Impacts/Creating Benefits for Communities
- The Emerging Role of Cultural Assessments

**Session five:** 2.15 – 3.15

**Presenters: Arlene Kwasniak (Faculty of Law, University of Calgary) and David Brett (Gowlings Lafleur Henerson LLP, Calgary)**

*Environmental assessment and Federalism: A Public Interest and Proponent's Perspective*

- The role of EA in the Canadian federation
- Distinguishing 'overlap,' 'duplication,' & 'harmonization'
- Identifying and addressing inefficiencies in joint
- Federal/provincial/territorial EA
- Public interest and proponent perspectives

**Refreshment break:** 3.15 – 3.30

**Session six:** 3.30 – 4.45

*Cumulative effects*

**Presenter: Lisa Jamieson (Gowlings Lafleur Henerson LLP, Calgary)**

*The treatment of Cumulative Effects under CEAA*

- The role of Cumulative Effects Assessments under CEAA
- Jurisdictional overlap and its affect on cumulative effects assessment
- The role and operation of Joint Review Panels
- A critique of cumulative effects assessment under CEAA

**Presenter: Steve Kennett, (Pembina Institute, Calgary)**

*The Legal and Policy Context in Alberta: From Project-Specific Cumulative Effects Assessment to the Land-use Framework*

- Why EIA became a focal point for considering cumulative effects
- Cumulative effects in EPEA and in ERCB and NRCB review processes
- Deficiencies of cumulative effects assessment in EIA
- Lessons from case studies
- Key features of a legal and policy framework for managing cumulative effects
- Alberta's new Land-use Framework

**Closing Remarks:** 4.45

**Nigel Bankes, (Faculty of Law, University of Calgary)**

## REGISTRATION

**Regular rate: \$375 (includes GST)**

**Student & not-for-profit rate (10 spots available): \$75 (includes GST)**

**Register online at:**

<http://netcommunity.ucalgary.ca/law>

## The University of Calgary Faculty of Law Presents: **The Law of Environmental Impact Assessment** Thursday, May 14, 2009 Murray Fraser Hall Rm. 2370

This one-day seminar is designed to provide a survey of the law of environmental impact assessment (EIA). The focus will be on the federal environmental assessment regime, while also covering the interaction between the federal, provincial, and other regimes.

The seminar presenters are drawn from various backgrounds, including academics and practitioners acting for both industry and environmental non-governmental organizations. We are particularly pleased to be able to welcome Yves Leboeuf, Vice-President of Policy Development with the Canadian Environmental Assessment Agency in Ottawa. This is an especially valuable addition to the program given the federal government is actively considering amendments to the Canadian Environmental Assessment Act.

Presentations will provide an overview of the relevant legislation and offer practical instructions on the role of counsel working with clients in the preparation of environmental impact studies. Topical matters to be covered include the treatment of cumulative effect and the interplay between the environmental assessment procedures and Crown's duty to consult and accommodate aboriginal peoples.

The seminar is intended for legal practitioners and others with a legal background; however, it may be of interest to environmental assessment practitioners. Materials will include prepared papers as well as PowerPoint presentations.

**Register online at:**

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**CALGARY**  
FACULTY OF LAW

# The Speakers

## Nigel Bankes

Nigel is a Professor of Law at the University of Calgary, where he has taught since 1984. He currently holds the Chair in Natural Resources Law. His principal research interests are in the areas of indigenous peoples' law, water law, oil and gas law and international environmental law. He is currently working on legal issues related to carbon capture and storage and an interdisciplinary collaborative project on instream ecological flow requirements.

## David Brett

David is a partner with the Calgary office of Gowlings Lafleur Henerson LLP. He practices in the field of energy law, with a focus on economic regulation of utilities, energy facilities licensing and approvals processes, utility valuation, energy pricing and pipeline-costs dispute resolution, and government policy and regulatory reform. David's clients have include electrical gas utilities, oil and gas companies, pipeline operators, governments, utility regulatory authorities and major energy consumers and consumer groups.

## Bradley Gilmour

Bradley is a partner with the Calgary office of Ben-

nett Jones LLP. His practice focuses primarily on environmental, energy, occupational health and safety, and regulatory law. He has significant experience in facility approval applications associated with energy, chemical, petrochemical, hydro, oil sands, biofuel and other industry types. He frequently appears before the Alberta Environmental Appeals Board, the Energy Resources Conservation Board, the Natural Resources Conservation Board and the National Energy Board. Before practicing law, Brad worked in Calgary as an environmental consultant conducting environmental liability assessments and site remediation programs. Brad teaches, writes and speaks on topics concerning environmental and regulatory law.

## JoAnn Jamieson

JoAnn is a senior associate with the Calgary office of Osler, Hoskin & Harcourt LLP. Her practice focuses on project-related issues in the energy sector with a specialization in regulatory, environmental and aboriginal law matters. JoAnn has extensive experience providing advice on consultation processes with aboriginal communities, the negotiation of impact and benefit agreements and structuring business relationships with

aboriginal businesses all across Canada. Prior to joining Osler, JoAnn served as in-house counsel and later as Regulatory Manager Approvals and Compliance for Shell Canada Limited.

## Lisa Jamieson

Lisa is an associate the Calgary office of Gowlings Lafleur Henerson LLP. She practices in the areas of energy and natural resources law, regulatory law, administrative law, and environmental law. Lisa counsels commercial and energy industry clients with respect to a variety of energy and regulatory issues including regulation of utilities and energy facilities licensing and approvals processes. She also provides clients with advice on issues of environmental regulation and liability concerns, including climate change, contaminated lands, air and water emissions, waste, environmental reporting, environmental issues in commercial transactions, and corporate, officer and director environmental compliance concerns. She is co-chair of the Alberta Canadian Bar Association Environmental Section.

## Steve Kennett

Steve is a Senior Policy Analyst in the Energy Solutions Program at The Pembina Institute. His work focuses on

environmental governance and natural resource policy, including the development of integrated planning and regulatory regimes for oil and gas development, and other land and resource uses. Prior to joining the Pembina Institute, Steve was a Research Associate with the Canadian Institute of Resources Law at the University of Calgary. His publications and contract work have examined a range of topics in natural resource and environmental law and policy, including integrated resource management; cumulative effects assessment and management; resource management and regulatory processes in Alberta, the Northwest Territories and the Yukon; environmental assessment and; climate change.

## Arlene Kwasniak

Arlene is an Associate Professor in the Faculty of Law at the University of Calgary. Arlene's research areas are natural resources (in particular water), environmental law, municipal law, legal and policy issues concerning land use conservation, inter-jurisdictional approaches, and watershed management. Her books include: Alberta Public Rangeland Law and Policy, A Conservation Easement Guide to Alberta, Reconciling Political and Ecosystem Borders: A Legal

Map and Alberta Wetlands: A Law and Policy Guide. She has served on the Alberta Water Council Wetland Team, the federal Regulatory Advisory Committee under the Canadian Environmental Assessment Act, and the Alberta Water Management Review Committee.

## Yves LeBoeuf

Yves is Vice-President of Policy Development of the Canadian Environmental Assessment Agency. In this capacity, he has broad accountability for defining the conceptual foundation and federal policy objectives in the environmental assessment (EA) field and for designing, developing and aligning federal EA processes and associated legislation and regulations with government policy. Yves also leads EA negotiations with the provinces and territories and is responsible for identifying Canadian interests in an international context. Yves has also served as counsel with the Department of Justice.

## Teresa Meadows

Teresa is a lawyer with the Edmonton office of Miller Thomson LLP where she heads up the Alberta contingent of Miller Thomson's National Environmental Law Group. She has more than 25 years of experience in the environmental

regulatory field. Her diverse background includes working with Alberta Environment as a park naturalist and Stantec Consulting Limited. as an environmental regulatory consultant. Teresa has worked with all levels of environmental authority in Alberta as an advisor and advocate, and has successfully argued cases before all levels of Courts and has worked as the regulatory lead on several high-profile regulatory approval projects in a wide range of industrial sectors.

## Lara Tessaro

Lara is a staff lawyer at Ecojustice (formerly Sierra Legal Defence Fund), which is Canada's leading non-profit environmental law organization. Through a combination of litigation and law reform efforts, Lara advances Ecojustice's Healthy Oceans project, working to conserve marine and freshwater biodiversity and to protect coastal waters from pollution. Lara has also developed expertise in Canadian environmental assessment law, advocating for improved assessment of tar sands and metal mining projects, and for public consultation rights. Prior to joining Ecojustice in 2006, Lara acted as Commission Counsel with the Arar Commission and worked in private practice in Vancouver.