

Environment in the Courtroom: Enforcing Canadian GHG Emissions Laws

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Université Laval
Québec City, QC

SPEAKERS

Jamie Benidickson

Jamie Benidickson teaches Canadian and International Environmental Law, Water Law, Sustainable Development Law and Administrative Law at the Faculty of Law, University of Ottawa. His publications in these areas include *Environmental Law 5th* (Irwin Law, forthcoming) and *The Culture of Flushing: A Social and Legal History of Sewage* (UBC Press, 2007).

In addition to these academic interests, Jamie has been actively involved in the public policy process through his work with a number of royal commissions and inquiries, including the Royal Commission on Economic Union and Development Prospects for Canada and the Walkerton Inquiry. He has also held several administrative positions with professional and academic organizations and recently served as Director of the IUCN Academy of Environmental Law.

His ongoing research projects centre on governance regimes for watersheds. *Levelling the Lake: Transboundary Resource Management and the Lake of the Woods Watershed* (UBC Press) will be published shortly. Jamie's non-academic interests in canoeing and wilderness travel have also led to a number of publications, including *Idleness, Water and A Canoe* (University of Toronto Press, 1997).

Nathalie Chalifour, PhD

Nathalie Chalifour (PhD) is an Associate Professor and Co-Director of the Centre for Environmental Law and Global Sustainability at the Faculty of Law, University of Ottawa. She is cross-appointed to the Institute of the Environment where she teaches in an interdisciplinary Masters of Environmental Sustainability. Nathalie's main area of research is environmental law and policy, with a focus on the intersection between the environment, the economy, and social justice. She is currently leading a five-year SSHRC funded project on Environmental Justice in Canadian Law and Policy. Her publications address a variety of topics, including climate change, carbon pricing, environmental justice, constitutional law, environmental human rights, the green economy and sustainable food and agriculture. Her most recent articles focus on the constitutionality of carbon pricing policies and Charter rights in the context of climate change. She is the co-editor of three international books, including "Energy, Governance and Sustainability" (Edward Elgar, 2016). Nathalie was elected to the Royal Society of Canada's College of New Scholars in 2018. She obtained her Doctorate of Law at Stanford University, and holds a Master in Juridical Sciences, which she obtained as a Stanford Fellow and Fulbright Scholar

Paule Halley

Paule Halley, LL.D., LL.M., LL.B., is a full professor with the Faculty of Law, Université Laval, where she teaches environmental law (1994-). She holds the Canada Research Chair in Environmental Law (2002-) and is a member of the *Barreau du Québec* (1988-). Professor Halley is the author of many articles and works on environmental law and sustainable development and is involved in the activities of several organizations, including the Kativik Environment Advisory Committee (KEAC) (Nunavik), the *Institut de la Francophonie pour le développement durable* (IFDD) and the *Institut Environnement, Développement et Société* (IEDS). Her work and achievements were honoured in 2015 with the Michel-Jurdant Award in environmental science from the *Association francophone pour le savoir* (ACFAS), with the *Prix scientifique de la Francophonie* awarded in 2005 by the Scientific Advisory Board of the *Agence*

Universitaire de la Francophonie (AUF) and with the “Best monograph” award from the *Fondation du Barreau du Québec* in 2003, for her work entitled *Le droit pénal de l'environnement*.

Allan Ingelson

Allan Ingelson is Executive Director of the Canadian Institute of Resources Law and Associate Professor in the Faculty of Law at the University of Calgary. He holds BSc, JD and LLM degrees and was admitted to the Law Society of Alberta in 1991. Professor Ingelson has published numerous articles in a variety of Canadian and international scholarly energy and environmental law journals, and is the General Editor of the *Canada Energy Law Service* published by Carswell (Thomson Reuters). He has delivered courses on energy regulation, environmental law, oil and gas law, international petroleum transactions, renewable energy and environmental impact assessment. He has made invited presentations on the regulation of the oil and gas industry in Canada, the US, Peru, Republic of Congo, China, India, Ecuador, Brazil, Colombia, Norway and Qatar. Currently he is part of an advisory committee to Mexican government officials and regulators on carbon capture and storage (CCS).

Malek Kacem

Malek Kacem joined the Green Aviation Research and Development Network – GARDN as a Project Manager in September 2017. His position puts him at the forefront of the monitoring process of the ongoing eighteen GARDN's research projects of which three are focused on biofuels. In 2015, Mr. Kacem graduated with a bachelor of commerce degree from the University of Ottawa. In December 2017, he completed a graduate diploma in management at HEC Montreal.

Arlene J. Kwasniak

Arlene J. Kwasniak, B.Sc., (Eastern Michigan University), M.A. (Wayne State University), LL.B. (University of Alberta) , LL.M. (Lewis and Clark, Northwestern School of Law), is Professor Emerita of Law, Faculty of Law, Adjunct Professor, Faculty of Environmental Design, and Senior Research Fellow, Canadian Institute of Resources Law, University of Calgary. Arlene has been a member of the Alberta Law Society since 1981.

Arlene's academic and practice interests include public lands and resources law (in particular water), municipal law, inter-jurisdictional approaches, environmental assessment, law and climate change, and economic-based legal tools to attain sustainability goals. Arlene has published and presented extensively in these areas.

Arlene's books include *Public Lands and Resources Law in Canada* (2016), with Professors Alastair Lucas and Elaine Hughes), *Alberta Wetlands: A Law and Policy Guide* (first ed. 2001, second ed. 2016), *A Legal Guide to Non-Private Lands in Alberta* (2015), *Reconciling Political and Ecosystem Borders: A Legal Map* (1998), *A Conservation Easement Guide to Alberta* (1997), and *Alberta Public Rangeland Law and Policy* (1993). Arlene has served on numerous policy/resource management committees including on the North American Instream Flow Council, the Alberta Water Council, Wetlands Team, the federal Regulatory Advisory Committee on environmental assessment, and the Alberta Water Management Review Committee. Arlene is a director of the only water trust in Alberta.

Arlene received the University of Calgary Teaching Leadership Sustainability Award (2015), the Howard Tidswell Memorial Award for Teaching Excellence (2010/2011) and the Canadian Bar Association/Law Society of Alberta Distinguished Service Award for Legal Scholarship (2013).

Sophie Lavallée

Sophie Lavallée is a lawyer and full professor at the Faculty of Law. She specializes in environmental law and land-use and urban planning law. Admitted to the Barreau de Québec in 1996, she regularly acts as a consultant in the fields of environmental law and land-use planning law for organizations such as the Institut de la Francophonie pour le développement durable (IFDD) which is part of the International Organization of La Francophonie (OIF).

Sophie Lavallée published the 4th edition of *La Preuve civile* with Professor Jean-Claude Royer, a work that is regularly quoted by the courts at all levels. She also co-published the three editions of the monograph, *Droit international de l'environnement*, which was awarded the Fondation du Barreau du Québec award in 2008. She is the author of numerous articles in the fields of environmental law and land-use planning law. She is a researcher at the Quebec Centre for Biodiversity Science, is a member of the board of directors for the Association internationale de droit économique (AIDE), and is a member of the scientific advisory board for the Institut Environnement, Développement et Sociétés (EDS), the Ouranos Consortium's Ecosystems and Biodiversity Program and the publication "Liaison-Énergie, Environnement" (LEF) published by the Institut de la Francophonie pour le développement durable (IFDD).

Marc-Antoine Racicot (will present the research of Sophie Lavallée)

Marc-Antoine Racicot is a lawyer in the province of Quebec and was admitted to the Quebec Bar in September 2017. He is currently completing his master's thesis entitled: "Legal reflections on the Canadian climate efforts: between carbon pricing mechanisms and authorization of new oil pipelines". His fields of interests include international and national environmental law, capacity-building in developing countries, economic instruments for environmental protection, climate change policy and biodiversity preservation.

He graduated from the Université de Sherbrooke in 2015 (*LL.B., M.B.A.*) and will receive a Masters of Laws (*LL.M*) from the Université Laval by the end of 2018. Before his master's studies, he was an articling student at Commission des normes, de l'équité, de la santé et de la sécurité du travail (*CNESST*) and practiced labour law. His international studies has brought him in Belgium (Université catholique de Louvain), in Lithuania (Vilnius University) and in Togo.

Jonathan S. Leo

Jonathan S. Leo is an attorney licensed to practice law in the state and federal courts of California. He received his BA in Political Science with a minor in Russian from the University of California at Los Angeles (1971) and his JD from the University of Southern California (USC) Gould School of Law in 1977.

From 1979-1985, he worked in the Los Angeles City Attorney's Office: as a misdemeanor criminal trial deputy, an environmental crimes prosecutor, an advisor to the City Council on environmental issues, author of the City's underground hazardous substance storage tank and emergency response right-to-know ordinances, and a regulatory and litigation attorney for the City's environmental and land use permitting agencies and its Cultural Heritage Board.

From 1985-1998, Jon worked for the environmental practice group of the law firm Heller, Ehrman, White & McAuliffe in San Francisco. He specialized in hazardous waste and materials regulatory compliance, state and federal administrative agency industrial wastewater discharge permitting and counselling for commercial and industrial clients, environmental auditing for real estate and business transactions, and Superfund cost-recovery and toxic tort litigation.

From 1999-2013, Jon worked for Science Applications International Corporation (SAIC, Inc.) and Toeroek Associates, Inc., as a senior environmental attorney. Jon managed a variety of Superfund enforcement support projects for US EPA Region IX; provided special counsel on Appalachian surface coal mining federal environmental permitting and enforcement actions; and managed Union Pacific Railroad Company's permit application process to modernize its Intermodal Container Transfer Facility at the combined Ports of Los Angeles and Long Beach.

From 1993-2002, Jon was Chair of the Board of Trustees of Pacific Environment, a federal non-profit organization which worked with Russian Far East and Siberian environmental organizations to protect non-Slavic indigenous populations and their ecosystems in the face of offshore oil and gas exploration, boreal forest logging, industrial mining, and fisheries operations.

From 2002 through the present, Jon has served on the Board and Advisory Board of Trustees of Friends of the Arava Institute for Environmental Studies, the premier environmental academic and research institute in the Middle East, which gives Jewish and Arab Israeli, Palestinian, and Jordanian undergraduate and graduate students the personal and professional skills necessary to cooperatively identify, manage, and resolve transboundary environmental and public health issues.

Currently, Jon serves as the Policy Coordinator and legal advisor to the Lancaster Hills Alliance, a coalition of farmers and homeowners in southeastern Nebraska that opposes the siting of an industrial-scale confined poultry feeding operation in an agricultural and residential neighborhood. He also serves on the Board of Nebraska Interfaith Power & Light, which works with faith congregations and local organizations and governments to respond to climate change by promoting energy conservation and efficiency and renewable energy.

Peter L' Esperance

Peter is an associate in McInnes Cooper Halifax Office. His practice focuses on energy law, corporate law and the law for charities, non-profits, social enterprises and start-ups. Peter strives to provide practical, responsive legal solutions informed by a deep understanding of his clients' needs. Peter is a graduate of the Schulich School of Law at Dalhousie University and the University of King's College. He has received multiple awards for academic achievement, leadership and community service, including Professor William Tetley Award 2017; Dalhousie Impact Award – Faculty Leadership Award Schulich School of Law; Dalhousie Alumni Distinction Award; and, the G.O. Forsyth Prize. Peter has authored and co-authored multiple academic and industry publications.

Peter has a strong record of environmental leadership and community service. He is the founder and director of the non-profit organization Solar Schools Canada, which assists public schools to develop and fund solar panel installations. Peter founded and led the Carbon Consultancy project, generating \$28,500.00 to install a 3.44 kW solar panel system at Dalhousie University in August 2017. He also founded and led the Row the South Shore project in 2013, generating funding and awareness in support of the *Nova Scotia Nature Trust*.

Alastair Lucas

Alastair Lucas, Q.C. is Director of the University of Calgary Sustainable Energy Development (SEDV) MSc Program, and one of the Program founders. He is Professor and former Dean of Law and Adjunct Professor of Environmental Design at the University of Calgary. Al has served as an Acting Member of Alberta's Energy Resources Conservation Board and Executive Director of the Canadian Institute of Resources Law (CIRL), and is now an Associate with CIRL. His interests concentrate on energy and environmental regulation, oil and gas law, administrative law and constitutional law, with special focus on comparative environmental and energy law. He is a member of the Law Society of Alberta. Teaching experience includes the SEDV Program (in Calgary and Quito, Ecuador), the Urban Environmental Management Program at Thailand's Asian Institute of Technology, and the Faculty of Law, University of Copenhagen. Awards include the Law Society of Alberta/Canadian Bar Association Distinguished Service Award for Legal Scholarship and the U of C President's Internationalization Achievement Award.

Owen Saunders

Owen Saunders was the Executive Director of the Canadian Institute of Resources Law from 1989 to 2012. He is currently a Senior Fellow with the Institute. He holds a B.A. (Hon. Econ.) from St. Francis Xavier University, an LL.B. from Dalhousie University, and an LL.M. from the University of London (London School of Economics and Political Science). His main areas of interest include natural resources policy, international trade law, energy law, transboundary water law, and environmental and constitutional law.

Sharon Mascher

Sharon is a Professor in the Faculty of Law at the University of Calgary. Prior to joining the Faculty of Law, Sharon held academic positions at the University of Western Australia, Victoria University of Wellington (New Zealand) and the University of Saskatchewan. Sharon's research focuses on legal issues relating to climate change law, environmental law, property law and laws affecting Indigenous peoples. Her recent publications include an article entitled "Striving for Equivalency across the Alberta, British Columbia, Ontario and Québec Carbon Pricing Systems: the Pan-Canadian Carbon Pricing Benchmark" (Climate Policy, 2018), and a co-authored article entitled "Experience with Carbon Taxes and Greenhouse Gas Emissions Trading Systems" (Duke Environmental Law and Policy Forum, forthcoming).

Jean Piette

Jean Piette is with the firm of Norton Rose Fulbright Canada. He has 46 years of experience in both environmental law and the development of environmental policy. He is chair of the firm's environmental law team. He is rated by Chambers as one of Canada's two Senior Statesmen in environmental law. *Best Lawyers* nominated Mr. Piette "lawyer of the year" in environmental law in 2010 and 2019. In his practice, he provides legal counsel and strategic advice on matters of Québec, federal and international environmental law. He advises clients on environmental permit applications, environmental due diligence for business transactions and environmental compliance issues and strategies. He also provides assistance to clients in the areas of mining law and of land use planning law. Mr. Piette represents clients in negotiations with environmental authorities, in environmental litigation before administrative and judicial tribunals and in private transactions involving environmental problems.

He is a member of the International Council on Environmental Law and has worked on an assignment of the World Bank to assist the Government of Uzbekistan in the development of a pesticide control legislation. Before joining the firm, Mr. Piette worked successively for the Environment Protection Services, the Ministry of Justice and the Ministry of Environment of Québec. He was General Counsel of the Ministry of Environment from 1974 to 1983 and was Director of Policy Development and of Intergovernmental Affairs of the same Ministry from 1983 to 1991. While remaining a legal practitioner with Norton Rose Fulbright, he also was a teacher of environmental law in the B.A. program and the Master's program of environmental law at *Université Laval* in 2010, 2013 and 2016. He is currently Chairman of the Board of the *Conseil patronal de l'environnement du Québec*. He was nominated "Advocatus Emeritus" by the Bar of Québec in 2013.

Fenner Stewart

Dr. Fenner Stewart is an associate professor at the University of Calgary. He has a Ph.D. in law from Osgoode Hall Law School (Toronto), where he was an adjunct professor for four years. He was also a Visiting Fellow at Columbia Law School (New York City), studying American corporate law and finance.

Dr. Stewart's substantive focus is on energy generation, transmission, and distribution. He studies the challenges facing the governance of energy markets, including: decarbonization, innovation, new urbanism, inter-governmental battles over jurisdiction, risk management, duties to indigenous populations, environmental protection, and public trust. His work addresses the public dimensions of energy regulation (such as energy federalism), the private dimensions (such as corporate responsibility), and the public-private dimensions (such as managing risk governance networks).

Topics from his recent publications and current research include electricity capacity markets, carbon pricing, energy federalism and transport, energy innovation and utilities in smart cities, the priority of environmental obligations in bankruptcy proceedings, and the application of security risk management by energy companies in politically unstable countries.

Dr. Stewart teaches Business Associations, the Dentons' International Energy Law Study Tour, and Oil and Gas Law in the JD program, as well as the graduate seminar in legal theory, which is mandatory for all thesis-track LL.M. students. He has supervised research papers and LL.M. projects on many aspects of energy governance, including topics focused on regulated industries, corporate governance, risk management, contract law, and public-private governance.

Hélène Trudeau

Hélène Trudeau holds a Bachelor of Laws from the Université de Montréal, a Master of Laws from Laval University and a Diploma of Advanced Studies (3rd cycle) from the University of Bordeaux I in France. She is a professor of environmental law and a researcher at the Center de recherche en droit public at the Université de Montréal. Her research focuses on the legal management of environmental problems, from the perspective of international law as well as Canadian and Quebec law. Her most recent work focuses on the problem of contaminated soils and climate change.

Isabelle Vachon

Isabelle Vachon is a Senior Legislative Policy Advisor with the Legislative Governance Division of Environment and Climate Change Canada. She has worked on various legislative initiatives over the last

6 years with the Department, including by supporting the development of the *Greenhouse Gas Pollution Pricing Act* and the Department during the Parliament's 2016-2017 review of the *Canadian Environmental Protection Act, 1999*. Isabelle graduated from the University of Ottawa in 2007 (civil law degree) and the University of Montreal in 2010 (Master's Degree in international law).

David Wright

David is an Assistant Professor and a member of the Natural Resources, Energy and Environmental Law Research group in the University of Calgary's Faculty of Law. Prior to his faculty appointment, David held positions with Canada's Commissioner of the Environment and Sustainable Development, the Gwich'in Tribal Council, the United Nations Development Programme, the Government of Nunavut, the law firm of Stewart McKelvey, and the Marine and Environmental Law Institute at Dalhousie University. He holds an MA and JD from Dalhousie University and an LLM from Stanford University. During his graduate studies at Stanford Law School, David was a fellow with the Stanford Woods Institute for the Environment.