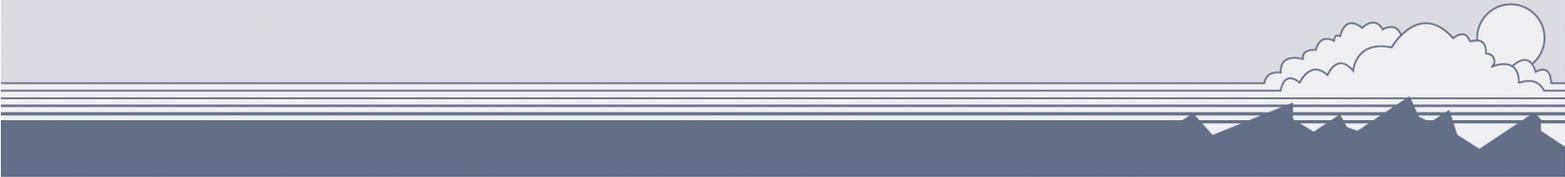




ENVIRONMENTAL LAW CENTRE

Annual Report 2008

www.elc.ab.ca



Our Vision:

A clean, healthy and diverse environment protected through informed citizen participation and sound law and policy, effectively applied.

Our Mission:

To ensure that laws, policies and legal processes protect the environment.

Our Ends:

Enactment and effective enforcement of sound environmental laws and policies.

Effective and informed public participation in environmental regulatory, law-making and decision-making processes.

2008 Highlights:

- The province's proposed Land Use Framework (LUF) was an area of substantial work in 2008. In the early part of the year, in anticipation of the release of the first draft, Centre staff members had ongoing discussions with various organizations regarding collaboration opportunities. The Centre released two briefs on the LUF: "Comments on the Draft Land Use Framework: The Devil is in the Details" in June and "Amendment process for regional land use plans under the Land Use Framework" in October. Through the summer and fall months, staff counsel met with government representatives to discuss the Centre's submission on the framework policy document, continued to collaborate with environmental organizations, and made numerous media appearances related to the draft framework.
- Jodie Hierlmeier produced the academic paper "Roadmap For Reforming 'The Public Interest' for the ERCB and NRCB" as part of the public interest project. The paper was published in the *Journal of Environmental Law and Practice* in September and resulted in numerous presentations and media appearances over the course of the year.
- In November the Centre co-hosted a workshop with the Miistakis Institute for the Rockies and Water Matters. The workshop took place in Calgary and brought together environmental, agriculture and landowner interests to discuss possibilities for developing a coalition or other collaborative effort to pursue land use issues in Alberta.
- Jodie Hierlmeier taught two courses at the University of Alberta as a sessional instructor: Natural Resources and Environmental Law in the Faculty of Rural Economy and Environmental Law: Process and Procedures in the Faculty of Extension.

President's Message

Gavin Fitch



The ELC was established in 1982 to provide an objective source of information about environmental and natural resources law. Part of the Centre's job is to comment on important environmental legal issues of the day. A couple of years ago, the Centre led the debate over the controversial Bill 46, the legislation which split the Energy and Utilities Board into the Energy Resources Conservation Board and the Alberta Utilities Commission in the wake of the EUB "spy scandal".

In 2008, the Centre continued to be in the forefront of commenting on what is arguably the most important new environmental law initiative in Alberta in years, the Land Use Framework. Since the early 1970s, Alberta has followed a "multiple use" policy towards development on provincial lands, which has been uncharitably described as the "anything, anywhere, anytime" policy. The proposed Land Use Framework would replace that ad hoc policy with one of regional planning and management based on cumulative effects. In 2008 the ELC published extensive commentary on the Land Use Framework in several leading newspapers and magazines, in addition to providing analysis directly to the government. The Board of Directors is proud of the Centre for again leading a principled debate on this very important initiative.

In order to be "an objective source of information", the Centre cannot simply generate information, it must also disseminate that information. In recognition of the importance of communicating to the makers of law and policy, as well as the general public, the ELC in 2008 created a new staff position of Communications Coordinator and has drafted a Communications Plan to guide the Centre through to 2010. This should ensure that the Centre builds on its solid track record of contributing to the public discourse on environmental law in Alberta.

Executive Director's Message

Cindy Chiasson



The environment continues to be on everyone's minds. Even with economic developments of the past year, the environment remains the second-highest concern for Albertans. Data shows that it is as much of a concern as it was during the last "green" peak in 1989, when most governments in Canada were developing new environmental laws and programs (McAllister Opinion Research). Consistent with these circumstances, there continues to be strong demand for the services provided by the Environmental Law Centre in our two main activity areas of public legal education and information and law reform and research.

In 2009, our priorities include participating in the development of new land use legislation, helping to build Alberta water policy, and providing educational tools to better assist Albertans to participate in environmental regulatory processes and access relevant information. We will be working to expand public knowledge and use of our information and education services, including our library, and to further distribute and follow up on our law reform submissions and recommendations.

Current economic and societal challenges offer us a great opportunity to explore new ways of protecting the environment through law and policy. Public concern about environmental issues and protection remains strong and the Centre will continue to be at the forefront as an information source and a leader in the development of environmental law and policy for Albertans.

The Board of Directors

The Executive Committee

President

Gavin Fitch
Barrister & Solicitor
McLennan Ross LLP

Vice-President

Corbin Devlin
Barrister & Solicitor
McLennan Ross LLP

Secretary/Treasurer

Sarah Palmer
Barrister & Solicitor

Past President

Karin Buss
Barrister & Solicitor
Ackroyd, Piasta, Roth & Day LLP

Directors at Large

Cheryl Bradley, P.Biol.
Environmental Consultant

Tim Haufe
Barrister & Solicitor
City of Calgary Law Department

Robert W. Kennedy, P.Eng.

Jennifer Klimek
Barrister & Solicitor
Klimek Law

Dave Poulton, M.A., LL.B.
Environmental Consultant

Cameron MacLennan
Barrister & Solicitor
Huckvale Wilde Harvie MacLennan LLP

Glen Semenchuk
Executive Director
Federation of Alberta Naturalists

Honourary Members

Gerry DeSorcy
DeSorcy Consulting

Linda Duncan
Barrister & Solicitor

Alan Hunter, Q.C.
Code Hunter LLP

Dean Alastair Lucas, Q.C.
University of Calgary, Faculty of Law

Dean David Percy, Q.C.
University of Alberta, Faculty of Law

People at the Centre

Executive Director

Cindy Chiasson
Barrister & Solicitor

Staff Counsel

Jason Unger
Barrister & Solicitor

Jodie Hierlmeier
Barrister & Solicitor

Dean Watt
Barrister & Solicitor

Financial Officer

Steven Hull
Certified Management Accountant

Information Services Coordinator

Iris Djurfors
Professional Librarian

Office Manager

Debbie Lindskoog

Bookkeeper

Jennifer Anselmo

Executive Assistant

Cathy Halonen

Search Service Technician

Cindy Dewing

Communications Coordinator

Leah Orr

Research Assistant

Meagan Johnston



2008 at the Centre

Public Programs

The public programs are the Environmental Law Centre's core activity. These include both ongoing activities and term projects, and encompass information services, monitoring and law reform, community services, publications and the public library of environmental law.

Information Services

Through this unique service, the Centre lawyers and librarian answer the public's environmental law and policy questions free of charge. During 2008 this program, which the Centre has operated since its creation, answered 406 information requests.

As part of this service, the Centre maintains a lawyer referral list for Centre users who seek legal representation. In 2008, Centre staff provided 113 lawyer referrals. Lawyers who are interested in being included on this list are encouraged to contact the Centre (elc@elc.ab.ca) for further information.

Law Reform & Monitoring

Through these activities, staff members pursue the Centre's mission of ensuring that laws, policies and legal processes protect the environment. Staff activities in this area include preparing reform briefs and commentaries, participating in law reform processes, and serving on law reform or monitoring committees.

In 2008, Centre staff provided briefs or comments on the following matters:

- The Government of Alberta's *Draft Land-use Framework*;
- Practical and legal reforms to facilitate conservation easements in Alberta;
- Reforming the "public interest" in terms of Energy Resources Conservation Board and Natural Resources Conservation Board decision-making; and
- Nuclear matters, including establishment of a Joint Review Panel for a new nuclear plant proposal and the Canadian Nuclear Safety Commission's draft regulatory document for site evaluation for new nuclear plants (RD-346)

Centre briefs and comments, from 1998 to the present, can be accessed online at www.elc.ab.ca/briefs/index.cfm.

The Centre also participated in a range of consultations during 2008, including:

- Provincial policy initiatives, including wetland policy, upstream oil and gas policy integration, governance issues and land use;
- Alberta's Climate Change Emission Management Fund;
- Parks Canada's species at risk recovery plan for the swift fox; and
- Water markets and shared governance under *Water for Life*.

Community Services

Greater understanding of environmental laws and policies helps citizens protect the environment. To add to this understanding, the Centre pursues opportunities to provide environmental law education services to various audiences. This includes providing assistance and information to community groups, environmental and industry organizations, and students through presentations, materials and the Centre's public library of environmental law.

In 2008, Centre staff made 29 presentations on the following topics:

- Land matters, including conservation easements and other conservation tools, environmental impact assessment and environmental laws related to real estate;
- Regulatory matters, including energy and electricity development, nuclear power regulatory process, oil and gas issues, greenhouse gas regulation, watershed planning, public participation in regulatory processes, due diligence and defences to environmental regulatory offences; and
- General environmental matters, including the public interest in environmental law, access to environmental justice, environmental farm plans, and environmental law services.

Centre staff also wrote three opinion editorials, which were published in the *Calgary Herald* and the *Edmonton Journal*, two articles for *Law Now* magazine, and carried out 29 interviews with print and electronic media on a range of environmental topics. In November 2008 they also began publishing bimonthly columns in *Alberta Oil Magazine*.

In 2008, the Centre also supported the study of environmental law in Canada through its sponsorship of the 17th annual Sir John A. Mactaggart Essay Prize in Environmental Law. The essay competition is open to students studying in a recognized law program at a Canadian university and is sponsored by the Mactaggart Third Fund and Carswell. Megan Murtha of the University of Ottawa won first prize for *British Columbia's Farmed Salmon Crisis: A Case for Modernizing the Rule of Standing in Public Nuisance*. Scott Bernstein of the University of British Columbia won second prize for *Bandaging 1,000 Cuts: Addressing Cumulative Environmental Impacts in BC's Hydropower Development Planning*.

Publications

Centre publications continue to inform Albertans about environmental law and policy and the Centre continues to shift much of its publication activity to electronic formats. This includes *News Brief*, the Centre's electronic newsletter that contains short articles and columns on environmental law and policy developments in Alberta and Canada.

For further information about all Centre publications, see the Publications page on the Centre's website at www.elc.ab.ca/publications/index.cfm.

Public Library of Environmental Law

The Centre's library is an important Canadian source of environmental and natural resources law and policy materials. The library is open to the public and loans materials free of charge to library users. The Centre's staff also assists library users in locating materials and carrying out their research. Over the course of 2008, the library collection grew to include over 23,600 records, including journals and periodicals, texts, decisions of courts and administrative tribunals, videotapes and legislation.

Other Services

The Centre offers three services, consistent with its mission, vision and strategic objectives, in addition to its public program activities. It offers two environmental information search services under agreements with Alberta Environment, which provide searches of databases for historical information in relation to environmental enforcement action and land reclamation regulatory actions taken by Alberta Environment. The net revenues from these search services are used to support the Centre's public programs and technology needs. The Centre's program staff also undertake fee for service work consistent with the Centre's mandate.

Community Contributions

Based on their environmental law experience and expertise, Centre program staff members are often asked to provide input on environmental law and policy and participate in related initiatives. In 2008, Centre program staff members were involved on these boards, committees and groups:

- Alberta Ecotrust Foundation, Grant Review Committee;
- Alberta Environmental Farm Plan Company;
- Alberta Environmental Network: Board of Directors, Water Caucus, Clean Air/Energy Caucus, Land Use Caucus, Agriculture Caucus, and Mineable Oil Sands Caucus;
- Alberta Water Council: Director, and Healthy Aquatic Ecosystem Working Group and Project Team;
- Land Stewardship Centre of Canada, Board of Directors;
- Natural Resources Conservation Board, Policy Advisory Group; and
- Water Matters, Board of Directors.

Thanks to Our Volunteers

The Environmental Law Centre's work cannot be done without the help of its many volunteers, who give generously of their time to assist in various projects and activities.

The Board of Directors is the volunteer mainstay of the Centre; the Directors freely gave their time to support the Centre's charitable goals. Many other volunteers also helped the Centre in 2008:

News Brief Advisory Committee

Roger Bryan, Alberta Agriculture and Food
Elaine Hughes, Faculty of Law, University of Alberta
Ron Kruhlak, McLennan Ross LLP
Glen Semenchuk, Federation of Alberta Naturalists
Marta Sherk, City of Edmonton

Sir John A. Mactaggart Essay Prize in Environmental Law, Judging Committee

Alastair Mactaggart (Honourary)
Sarah Palmer
Steve Kennett, Pembina Institute for Appropriate Development
Brad Gilmour, Bennett Jones LLP

Environmental Process Guide, Advisory Committee

Jennifer Klimek, Barrister & Solicitor
James Tweedie, Bert Riggall Environmental Foundation
Gilbert Van Nes, Alberta Environmental Appeals Board
Larry Williams, Alberta Environment

Conservation Easement Outreach and Law Reform, Advisory Committee

Don Watson, Ducks Unlimited Canada
Gordon Garside, Davis and Company

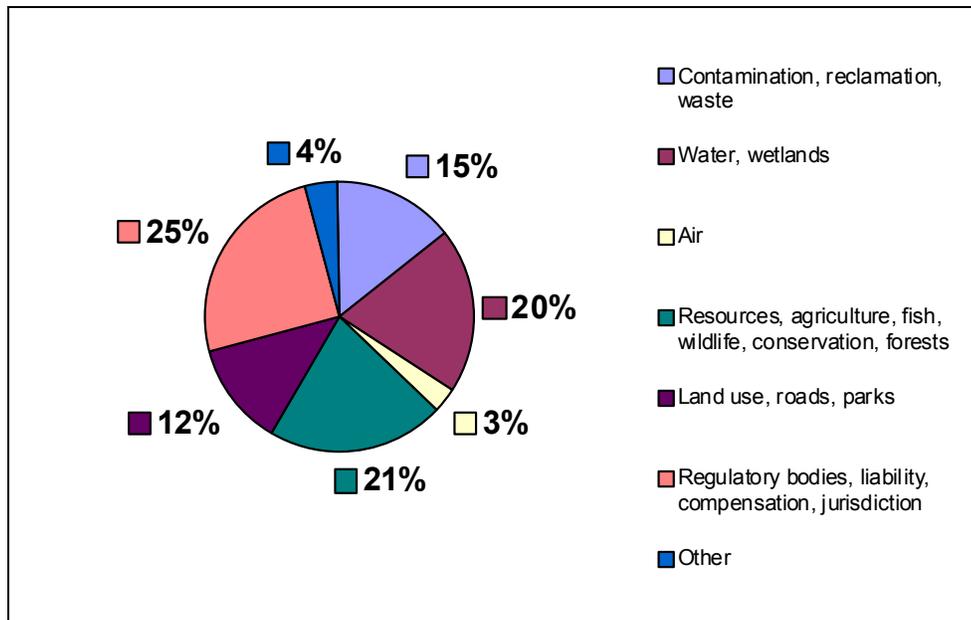
Public Interest and Environmental Regulatory Decision-Making, Advisory Committee

Dr. Brian Bietz
Alastair Lucas, Q.C., University of Calgary, Faculty of Law
Hon. Judge Brian O'Ferrall, Provincial Court of Alberta
Steven Kennett, Pembina Institute for Appropriate Development

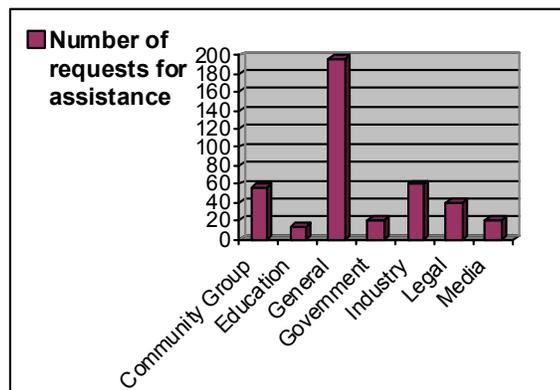
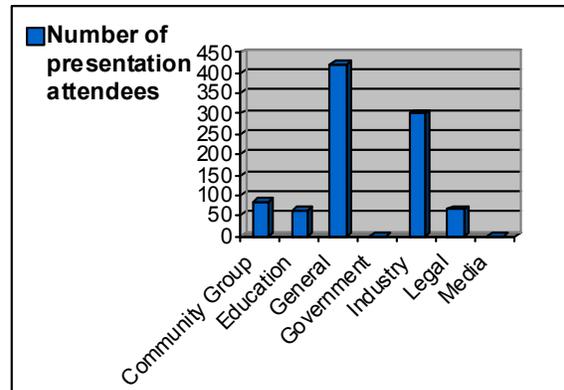
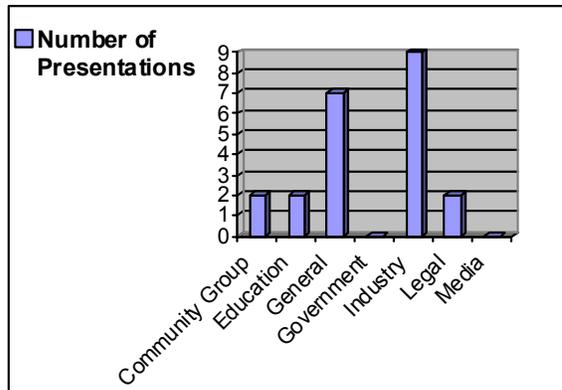
Oil Sands Reclamation Security Research, Advisory Committee

Larry Brocke, Millennium EMS Solutions Ltd.
Nickie Vlavianos, Canadian Institute of Resources Law
Dan Woynillowicz, Pembina Institute for Appropriate Development

Information Request Topics



Audiences Served in 2008



MOVING FORWARD

Environmental Law Centre Strategic Objectives 2008 – 2010

- **Information and Education:** Provide and promote information and education programs that improve the awareness and capacity of Albertans to use laws to protect the environment.
- **Water:** Review, evaluate and promote reform of the legislative and policy framework to protect watershed and aquatic ecosystems.
- **Land Use:** Improve environmental considerations in land use planning and decision-making processes in Alberta.
- **Cumulative Environmental Impacts:** Strengthen legal requirements and government procedures for effective application of cumulative environmental impact assessment by regulatory and government decision-makers.
- **Public Participation:** Increase accessibility, public participation and involvement in key environmental and energy development assessment and approval decision-making processes.
- **Greenhouse Gases:** Increase transparency, effective access to information and public participation in the development and implementation of laws regulating greenhouse gas emissions.

Auditor's Report

To the Members of Environmental Law Centre (Alberta) Society

The accompanying summarized statement of financial position and statement of operations and fund balances are derived from the complete financial statements of Environmental Law Centre (Alberta) Society as at December 31, 2008 and for the year then ended. In our auditor's report on the complete financial statements dated March 11, 2009, we expressed a qualified opinion because we were unable to satisfy ourselves concerning the completeness of donation revenue and because capital assets are expensed in the year of acquisition. The fair summarization of the complete financial statements is the responsibility of management. Our responsibility, in accordance with the applicable Assurance Guideline of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying financial statements fairly summarize, in all material respects, the related complete financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes. For more information on the Society's financial position, results of operations and fund balances, reference should be made to the related complete financial statements.

The comparative amounts have been reclassified, where applicable, to conform to the presentation used in the current year.

Mac Kay LLP
Chartered Accountants

Edmonton, Canada
March 11, 2009

Management's Responsibility for Financial Reporting

The accompanying summarized financial statements are the responsibility of the management of Environmental Law Centre (Alberta) Society and all information in this annual report has been reviewed by the President and Secretary/Treasurer on behalf of the Board of Directors. The summarized financial statements have been prepared by management in accordance with Canadian generally accepted accounting principles established by the Canadian Institute of Chartered Accountants and necessarily include estimates which are based on management's best judgements.

The Board of Directors is responsible for ensuring that management fulfills its responsibilities for financial reporting and is ultimately responsible for the summarized financial statements. The summarized financial statements have been reviewed and approved by the Board of Directors principally through its Audit Committee, which is composed of the Directors and other members.



Gavin Fitch, President
March 11, 2009



Sarah Palmer, Secretary/Treasurer



ENVIRONMENTAL LAW CENTRE Annual Report 2008

Environmental Law Centre (Alberta) Society Summarized Statement of Financial Position December 31, 2008

| | 2008 | | 2007 |
|------------------------------|------------|----|---------|
| ASSETS | | | |
| CURRENT ASSETS | | | |
| Cash | \$ 478,878 | \$ | 516,120 |
| Term Investments | 241,088 | | 235,730 |
| Accounts receivable | 27,296 | | 6,669 |
| Prepaid expenses | 3,802 | | 3,802 |
| | 751,064 | | 762,321 |
| LONG TERM INVESTMENTS | 119,764 | | 130,000 |
| | \$ 870,828 | \$ | 892,321 |
| LIABILITIES | | | |
| CURRENT LIABILITIES | | | |
| Accounts payable | \$ 65,284 | \$ | 33,821 |
| Deferred revenue | 108,752 | | 175,922 |
| | 174,036 | | 209,743 |
| FUND BALANCES | | | |
| Unrestricted funds | 49,541 | | 44,551 |
| Restricted funds | 647,251 | | 638,027 |
| | 696,792 | | 682,578 |
| | \$ 870,828 | \$ | 892,321 |

Environmental Law Centre (Alberta) Society Summarized Statement of Operations and Fund Balances For the year ended December 31, 2008

| | 2008 | | 2007 |
|---|------------|----|---------|
| REVENUE | | | |
| Search Service Fees | \$ 439,188 | \$ | 503,780 |
| Grants and Fee for Service | 489,083 | | 406,597 |
| Donations, Interest and Other Income | 45,107 | | 66,617 |
| | 973,378 | | 976,994 |
| EXPENSES | | | |
| Salaries and Benefits | 598,724 | | 551,210 |
| Occupancy & Insurance | 148,313 | | 123,069 |
| Contract, Consulting, and Professional Fees | 95,812 | | 76,203 |
| Equipment | 29,240 | | 23,719 |
| Supplies and Services | 32,252 | | 60,649 |
| Library Materials and Supplies | 28,065 | | 26,553 |
| Travel and Staff Development | 16,522 | | 28,434 |
| | 948,928 | | 889,837 |
| Excess of Revenue Over Expenditures | 24,450 | | 87,157 |
| Fund Balance, beginning of year | 682,578 | | 595,421 |
| Unrealized gain (loss) | (10,236) | | |
| FUND BALANCE, end of year | \$ 696,792 | \$ | 682,578 |

Visit <http://www.elc.ab.ca/about/Annual.cfm> for the complete audited financial statements.

Friends of the Environmental Law Centre 2008

The Environmental Law Centre extends its gratitude to those individuals, companies and foundations who made a financial contribution to support the Centre's operations in 2008. They are:

Benefactors - \$5,000 +

Alberta Law Foundation
Sarah Palmer Plunkett

Alberta **LAW** FOUNDATION

Patrons \$2,500 – \$4,999

McLennan Ross LLP
Nexen Inc.

Partners \$1,000 - \$2,499

Dr. David Y.F. Ho
Michael L.J. Morin, Q.C.

Friends up to \$999

Anonymous
Anonymous
Anonymous
Garry Appelt
Cindy Chiasson
Corbin Devlin
Thomas A. Dickson
David M. Duggan
Steven Ferner
David Gifford
Dr. Mary Griffiths
Catherine Halonen

Jodie Hierlmeier
Ronald Kruhlak
Debra Lindskoog
Alastair R. Lucas
Sarah Lulman
James Mallet
Dr. Mary Richardson
Michel D. Sauve Professional
Corporation
Vincent St. Louis
United Way of Calgary, Donor Choice
Program

The Environmental Law Centre would also like to recognize the following organizations and individuals who donated time and/or resources to the Centre in 2008:

Project funders:

Alberta Ecotrust Foundation
Alberta Energy Resources Conservation Board
Alberta Law Foundation
Alberta Natural Resources Conservation Board
Max Bell Foundation
Walter and Duncan Gordon Foundation

In kind contributions:

McLennan Ross LLP

Supporting the ELC

The Centre's staff and Board are dedicated and commit their time and energy to ensure that the law works to protect the environment. To carry out its work with the public, the Environmental Law Centre depends on donations, grants, contract work and volunteers. 100% of all donations received are applied directly to public programming. Environmental Law Centre donors will receive a tax receipt* and are entitled to donor benefits.

Friend (up to \$999) and Partner (\$1,000 - \$2,499)

- Tax Receipt
- ELC Annual Report and audited financial Statements
- Acknowledgment in the ELC Annual Report and on the ELC website

Patron (\$2,500 - \$4,999) and Benefactor (\$5,000 and over)

- All of the above benefits, and
- Notification of all Centre public seminars, conferences and new Centre publications
- Website link on the ELC website

The Environmental Law Centre received \$18,288 in charitable donations in 2008 and has budgeted to raise \$25,000 in charitable donations in 2009. These donations will support the Information and Education program. Donations can be made to the Environmental Law Centre by:

- fax to (780) 424-5133,
- mail to 800, 10025 – 106 Street, Edmonton, AB T5J 1G4, or
- electronically through our website at www.elc.ab.ca.

Please contact Cindy Chiasson, Executive Director, with any questions you may have about donating to the Centre.

*Canada Revenue Agency Registration Number 11890 0679 RR0001



Environmental Law Centre
800, 10025 – 106 Street
Edmonton, AB T5J 1G4

Phone: (780) 424-5099
Fax: (780) 424-5133
Toll-Free: 1-800-661-4238

E-Mail: elc@elc.ab.ca
Website: www.elc.ab.ca