



Pacific Business & Law Institute

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THE IMPACT OF UNDRIP ON RESOURCE DEVELOPMENT PROJECTS

Chaired by

Amyl Lalji

MLT Aikins LLP

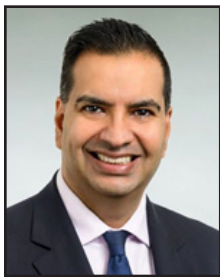
April 27th, 2023 • UBC Robson Square (800 Robson Street) • Vancouver, BC

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CHAIR



Aryn Lalji, Partner, MLT Aikins LLP, Vancouver, BC. Aryn F. Lalji has more than twenty years of experience representing Indigenous clients in negotiations and advocacy in respect of

Canada's largest resource-based projects and economic development initiatives. He also provides advice to Indigenous governments, leaders and development corporations in many areas of the law. Aryn has been recognized as a leading lawyer in Canada practising in the area of Indigenous law. He represents numerous First Nation development corporations and provides advice to their executives and boards on their roles, responsibilities, opportunities and potential liabilities in the areas of corporate, tax and employment law.

THE IMPACT OF UNDRIP ON RESOURCE DEVELOPMENT PROJECTS

Canada's *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Act* received Royal Assent in June 2021, marking a historic milestone in Canada. This legislation is paving the way for new relationships, agreements, and shared decision-making with Indigenous governments.

Resource developers need to navigate the legal, regulatory, financial, and reputational risks associated with development on traditional Indigenous lands. Many initiatives are underway to resolve expectations between resource developers and Indigenous communities. We will explore how Indigenous communities can use UNDRIP to gain economic participation in resource developments on their traditional lands.

While the law in this area continues to evolve, it also creates opportunities for parties who proactively identify and manage these issues. Our experts will cover the implications of recent court decisions and provide case studies of success stories from both industry and Indigenous communities. Attend this program to stay up to date on the latest developments that will impact current and future projects.

WHO SHOULD ATTEND:

- Indigenous leaders, officials, councillors, elders, negotiators, administrators, and advisors
- Lawyers practising in the areas of Indigenous law, administrative law, and business law, and lawyers who advise clients on major development projects or environmental issues
- Owners, managers, and representatives of resource development companies
- Federal, provincial and municipal government officials, policy advisors, and regulatory bodies
- Engineering and environmental service firms
- Consultants, accountants, financial planners, and others advising on projects involving First Nations

KEY AREAS ADDRESSED:

- The interplay between UNDRIP and the duty to consult
- Potential jurisdictional considerations
- Free, prior and informed consent
- Environmental and impact assessments on major resource projects
- Measuring cumulative effects
- Implications of the *Yahey* Decision and the Blueberry River First Nations Implementation Agreement
- Case update on the *Gitxaala* mining case before the BC Supreme Court in April
- Consent-based negotiations, effective practices, recent agreements and success stories
- Using UNDRIP to further joint decision making

INDIGENOUS SPONSORSHIP PROGRAM

PBLI offers sponsored registrations to individuals of First Nation, Inuit, or Métis Descent. One sponsorship is available per program. This sponsorship program is designed to make the education and networking opportunities at our conferences more accessible to Indigenous communities. For application details, visit www.pbli.com/scholarship-programs.

REGISTER TODAY!

FACULTY



Melanie Daniels, B.Sc., Consultation & Indigenous Relations Professional, Edmonton, AB. Melanie Daniels is a Consultation & Indigenous Relations Professional, she has over 26 years of experience working with Indigenous communities in an environmental, consultation and land management capacity. She gained her experience through working with First Nations and Métis, the Federal and Provincial Governments as well as industry. Through this experience Melanie has gained an understanding of all perspectives relating to environmental protection, land management and resource development. Through her years of service in various capacities she has built relationships based on mutual respect and trust with most of the Alberta First Nations, the Métis Nation of Alberta (MNA) and the Métis Settlements. Melanie has led in policy development relating to on Reserve environmental protection, served as a regulator, developed consultation procedures for the MNA and Louis Bull Tribe and has led consultation for numerous resource developments on behalf of industry. Melanie has been newly appointed to the Board of Directors for the Indigenous Centre for Cumulative Effects, and has been appointed to the Impact Assessment Agency commission roster by the Minister of Environment.



Lisa C. Glowacki, Partner, Ratcliff LLP, Vancouver, BC. Lisa is a leading legal advisor with extensive experience acting in litigation matters on behalf of First Nation clients. With a focus on Aboriginal rights and title, she has led many landmark cases and significant developments which have advanced the rights of Indigenous peoples in British Columbia and beyond. Lisa also holds deep expertise in environmental and natural resources law, regulatory law, constitutional law, First Nations consultation, administrative law, social justice and human rights, self-governance, and employment law. Over her years of practice, Lisa has developed a particular knowledge of fisheries, including DFO management, conservation issues, and, most importantly, the significance of fisheries to many First Nations. Lisa was counsel for environmental organizations at the Cohen Commission of Inquiry into the Decline of Sockeye Salmon, and has represented First Nations in numerous court actions and negotiations regarding fisheries and Aboriginal fishing rights, including Thomas and Saik'uz First Nation v Rio Tinto Alcan Inc., Ahousaht Indian Band et al. v. Canada, and Squamish Nation v. Minister of Fisheries and Oceans. Lisa is counsel to Ehattesaht First Nation in a judicial review challenging mineral claims in their territory. The petition is being heard together with a similar petition filed by Gitxaana Nation.



Darren Haines, Associate, Ratcliff LLP, Vancouver, BC. Darren advises First Nation governments, businesses, individuals and institutions on issues ranging from negotiation and implementation of agreements with the Crown, to Indigenous governance and economic development, to corporate/commercial matters, real estate, and estate administration. He enhances his practice with applied knowledge of corporate public affairs, social finance, and small business development, including experience in strategic communications, grants programs, and micro-lending. Darren is Metis with family belonging to the Paddle Prairie Metis Settlement in Treaty 8 territory. Darren contributes to his community as a Board Member of Kílala Lelum (Urban Indigenous Health and Healing Cooperative), and as a member of the Indigenous Bar Association.



Kevin Hille, Partner, Olthuis Kleer Townshend LLP, Toronto, ON. Kevin is a partner at Olthuis Kleer Townshend LLP, where he practices civil litigation, class action and administrative law on behalf of First Nation clients across the country. Kevin is class counsel in the National First Nations Drinking Water Class Action and is currently working to implement the \$8 billion settlement agreement. Prior to joining OKT, Kevin practised Indigenous rights law in New Zealand and public law litigation at the Ontario Ministry of the Attorney General.



Emma Hume, Associate, Ratcliff LLP, Vancouver, BC. Emma has dedicated her practice to Aboriginal and environmental law. Today, she works primarily with Indigenous governments to advance and protect their rights to manage their territories. As clients grapple with the pros and cons of industrial development in their territories (e.g., dams, oil and gas development, major pipelines, quarries, and liquefied natural gas facilities),

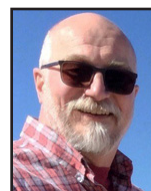
Emma supports them to understand their options and achieve their goals. Emma works on cases dealing with Aboriginal rights and title, consultation and accommodation, fiduciary duties, and tort and as well as other environmental and constitutional matters. She has appeared before the BC Supreme Court, Federal Court of Appeal, and the Specific Claims Tribunal and has been counsel in regulatory reviews conducted by the Canada Energy Regulator (formerly the National Energy Board), Impact Assessment Agency of Canada (formerly CEEA), BC Environmental Assessment Office, and the BC Oil and Gas Commission. Outside of work Emma most enjoys time spent in wilder spaces and is grateful to nations for their protection and stewardship of the lands she has the privilege of spending time in.



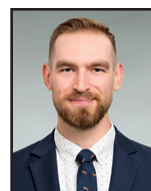
Drew Lafond, Partner, MLT Aikins LLP, Saskatoon, SK. Drew advises clients on matters related to economic development, gaming, housing, commercial leasing, corporate governance, structure and finance. Drew also assists Indigenous clients with asserting and exercising jurisdiction over cores areas of governance, including land management, taxation, gaming and agriculture in Alberta, Saskatchewan, British Columbia and Yukon. Drew was raised in Treaty 6 territory on the Muskeg Lake Cree Nation reserve and is also of Secwepemc descent from the Simpcw First Nation in British Columbia. He has also served as President of the Indigenous Bar Association since 2019.



Nalaine Morin, B. A.Sc., EP, Vice President, Sustainability, Skeena Resources Limited, Vancouver, BC. Ms. Morin has extensive technical experience in both mining and environmental assessment processes, and is well known for her work to build positive relationships that recognize the role of Indigenous Nations in decision making on Indigenous Lands. Prior to joining Skeena, she was the Lands Director for the Tahltan Central Government. Ms. Morin has been recognized for her leadership as recipient of the 2021 Skookum Jim Award, 2018 Indigenous Trailblazer Award and the 2018 Aura Award. She is also a board member of BC Hydro. Ms. Morin is a nationally recognized professional that has managed environmental reviews of several large resource development projects on behalf of Indigenous Nations. She holds a Bachelor of Applied Science degree from the University of British Columbia and a Mechanical Engineering Technology Diploma from the British Columbia Institute of Technology.



Dr. Terry Osko, Senior Associate and Senior Agrologist, Solstice Environmental Management, Edmonton, AB. Terry has a broad academic background in renewable resources management. He has worked extensively in the agriculture, forestry, and energy sectors. Terry has performed wildlife habitat research, reviewed the effects of industrial noises on wild and farmed game species productivity, and studied management of wildlife pests. He has also conducted vegetation inventories within most of Alberta's ecoregions and used such information to produce rangeland management plans and assess forest management and reclamation prescriptions. Terry has participated in a number of applied research projects studying innovation in construction and reclamation practices for situ oil sands operations and co-authored best practices documents and guides for companies operating in boreal forests and wetlands. He has prepared evidence and appeared as an expert witness at the Alberta Surface Rights Board, Natural Resources Conservation Board, Impact Assessment Agency of Canada, Canada Energy Regulator, and Alberta Utilities Commission. Terry has been providing a supporting role to the Lands for Prosperity Project undertaken by the Louis Bull Tribe of Maskwacis, Alberta to re-engage in agricultural enterprises on 4500 ha of off-reserve lands. He has operated a small livestock and forage farm since 1998, producing white-tailed deer, beef cattle, and hay and is a student of regenerative agricultural practices.



Travis W. Smith, Associate, MLT Aikins LLP, Vancouver, BC. Travis is an associate in MLT Aikins LLP's Indigenous and Environmental Practice Groups. He has experience advancing the rights and interests of First Nation clients in environmental regulatory proceedings and Indigenous sovereignty in First Nation governance disputes. He has also recently represented a number of First Nations in the engagement process carried out under Canada's *United Nations Declaration on the Rights of Indigenous Peoples Act*.

AGENDA — APRIL 27TH, 2023

9:00 Welcome and Introduction by PBLI

9:05 Chair's Welcome and Introduction

Amy Lajji, MLT Aikins LLP

9:10 The Interplay Between UNDRIP and the Duty to Consult

Amy Lajji, MLT Aikins LLP

- Potential impacts of implementing UNDRIP on the duty to consult
- The evolution of free, prior and informed consent?
- Jurisdictional issues

10:00 Questions and Discussion

10:10 Implementing the Blueberry River First Nations Decision

Darren Haines & Emma Hume, Ratcliff LLP

- Implications of the Blueberry River decision in BC and potentially in Canada
- Update on the historic Blueberry River First Nations Implementation Agreement in BC
- Assessing and managing the cumulative effects and protecting treaty rights from a legal perspective

11:00 Questions and Discussion

11:10 Refreshment Adjournment

11:25 "Death by a Thousand Cuts" – Measuring Cumulative Effects

Melanie Daniels, Consultation & Indigenous Relations Professional

Dr. Terry Osko, Solstice Environmental Management

- Impact assessments on major resource projects
- Update on NorthRiver Midstream – NEBC Connector Project
- What protocols are in place?
- New ways of assessing and managing cumulative impacts of industrial development

12:15 Questions and Discussion

12:25 Catered Lunch

1:30 Gitxaala Case Update

Lisa C. Glowacki, Ratcliff LLP

Kevin Hille, Olthuis Kleer Townshend LLP

- The tension between DRIPA and *terra nullius*
- What would an alternative mineral claim system look like?

- BC Directive on Civil Litigation involving Indigenous Peoples
- Potential implications of this case

2:20 Questions and Discussion

2:30 Using UNDRIP and Exercising Indigenous Jurisdiction to Further Joint Decision Making

Drew Lafond, MLT Aikins LLP

Nalaine Morin, Skeena Resources Limited

- Success stories of commercial agreements with municipal and provincial governments
- Section 7 agreements under DRIPA
- Consent-based negotiation techniques and effective practices
- A new future in true partnership?

3:20 Questions and Discussion

3:30 Refreshment Adjournment

3:45 Looking Forward: UNDRIP and the Judiciary

Travis W. Smith, MLT Aikins LLP

- Setting the stage – reviewing the judiciary's (limited) engagement with UNDRIP
- Future judicial treatment of UNDRIP – possibilities and limitations
- What can section 35 jurisprudence teach us about UNDRIP's implementation in Canada?

4:00 Questions and Discussion

4:05 Leveraging UNDRIP on Resource Development Projects

Faculty Roundtable – Facilitated by the Chair

- Looking ahead: what are the lessons learned and implications for future resource development in Canada?
- Does UNDRIP impact certainty?
- Can UNDRIP change attitudes?
- Using UNDRIP as a tool
- Risks and benefits of going above and beyond regulatory requirements
- Action vs. action plans

4:40 Chair's Closing Remarks – Forum Concludes

INFORMATION

Two Ways to Register:

1. Telephone us: 604-730-2500
2. Register at www.pbli.com/undrip23

Registration: The registration fee is \$845.00 plus GST of \$42.25 totalling **\$887.25**. Registration fee covers your attendance at the program, electronic materials, a catered lunch and refreshments throughout the day.

Early Bird Discount: Register by March 27th, 2023 and receive a \$100 discount on the registration fee (\$745.00 plus GST). Discounts cannot be combined.

Group Discounts: Register four persons from the same organization at the same time and you are entitled to a complimentary fifth registration. Discounts cannot be combined.

Payment: You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the program.

When and Where: Check-in begins at 8:30 a.m. The program starts at **9:00 a.m. (PDT)**. UBC Robson Square is located at the basement level of **800 Robson Street** in Vancouver, BC. Please visit <http://robsonsquare.ubc.ca/find-us/> for directions.

Materials: The faculty will prepare papers and/or other materials explaining many of the points raised during this program. Please contact us at registrations@pbli.com if you are unable to attend the program and wish to purchase a set of electronic materials.

Your Privacy: We will keep all information that you provide to us in strict confidence, other than to prepare a delegate list containing your name, title, firm and city for our faculty and the program delegates. We do not share our mailing lists with any non-affiliated organization.

Cancellations/Transfers: Refunds will be given for cancellations (less a \$60.00 administration fee) if notice is received in writing five full business days prior to the program (**April 20th, 2023**). After that time we are unable to refund registration fees. Substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content, availability of webinar or venue and transfer in-person registration to webinar registration for this event.

Course Accreditation: Attendance at this course can be listed for up to **6.25 hours** of continuing professional development credits with the Law Societies of BC and Ontario. For practitioners in other jurisdictions, please check your governing body's CPD requirements.

Registration Form

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April 27th, 2023

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