



Sarah D. Hansen

Partner | Vancouver

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Biography

Sarah's legal expertise is in general commercial litigation. With over 23 years of practice, she has specialized in the areas of environmental and Indigenous law. She represents (or has represented) clients in complex commercial litigation matters in relation to various energy projects focusing on regulatory and administrative law, environmental assessments of major projects, extra-provincial regulatory regimes, industry standards, sustainable energy practices, climate change and environmental compliance issues.

She has represented individuals, government, industry, and First Nations in a wide-variety of commercial disputes including breach of contract and tort claims, criminal and quasi-criminal environmental defense matters, contaminated sites, judicial reviews and shareholder and other corporate disputes. Sarah represents clients in matters relating to land claims, project development, judicial reviews and injunctions and various other issues concerning consultation with and accommodation of First Nations in relation to energy projects.

She has appeared throughout western Canada in several courts including the Supreme Courts and Courts of Appeal of Alberta, British Columbia, Yukon and Nunavut Territories, and the Federal Court and Court of Appeal of Canada. She has experience in various sectors including wind energy, forestry, electricity, mining, oil and gas, eco-tourism, organics composting, bio-gas and run-of-river hydro projects.

Sarah is called in Alberta (2000), BC (2005) and the Yukon (2010). She is a past Executive Member at Large of the National Energy, Environment and Resource Law Section (NEERLS), 2017-2023 and a past Executive Member at Large, CBA, BC Branch, Environmental Law, 2008-2011.

Professional achievements & leadership

- *The Canadian Legal Lexpert Directory*, Indigenous Law, 2021; Environmental Law, 2023
- *Benchmark Canada*, Litigation Star: Aboriginal, Environmental, General Commercial, 2017-2024
- *Lexpert Zenith Award*: Mid-Career Excellence in the Legal Profession, 2018

RELATED SERVICES

Administrative & Public Law
Commercial Litigation
Environmental Law

RELATED INDUSTRIES

Aboriginal
Energy & Natural Resources

RELATED FOCUS AREAS

ESG and Carbon Finance

- Viscount Bennett Fellowship Award, 2004
- Campbell McLaurin Achievement Award, 1999

Notable matters

- Successfully argued before the Agricultural Land Commission (ALC) that the potential adverse effects on an Aboriginal fishery at Battle Creek and the Thompson River required consideration by the ALC in relation to CN Rail's application to continue the non-farm use of the McAbee Quarry located within the Stk'emlúpsenc te Secwépemc Nation ("SSN") asserted territory. Conditions to approval were added to address SSN's concerns.
- Successfully argued in the Territorial Court of Yukon that a warrantless search of a commercial property carried out by the Crown violated rights under section 8 of the *Charter*, and that evidence obtained during the search was to be excluded from future proceedings pursuant to section 24(2) of the *Charter*.
- Successfully challenged the Inspector of Mines' permit amendment to increase production in the McAbee Quarry on the basis that the amendment was unreasonable and failed to adequately discharge the honour of the Crown regarding the consultation process with the Stk'emlúpsenc te Secwépemc Nation (*Ignace v. British Columbia (Chief Inspector of Mines)*, 2021 BCSC 1989).
- Successfully resolved an Appeal before the Environmental Appeal Board with respect to a decision to issue a water use approval to a mining company, New Gold, under the BC *Water Sustainability Act* in relation to the New Afton Mine Project.
- Successfully defended multiple appeals before the Environmental Appeal Board Panel of an air quality permit and a class proceedings relating to an air quality permit and the discharge of odour and other air quality emissions in Metro Vancouver under the *Environmental Management Act* and the Air Quality Bylaw.
- Successfully defended the Stk'emlúpsenc te Secwépemc Nation ("SSN") in opposing Trans Mountain Expansion project throughout the national energy board process and before the Federal Court of Appeal.
- Successfully argued in BC Supreme Court land claims case that Indigenous elders can present deposition evidence as a panel with the assistance of a word speller and/or interpreter in accordance with traditional customs and practices (*Ignace v. British Columbia (Attorney General)*, 2019 BCSC 10).
- Successfully overturned the Governor in Council's decision to approve the Trans Mountain Pipeline Project before Federal Court of Appeal (*Tsleil-Waututh Nation v. Canada (Attorney General)* 2018 FCA 153) on that basis that the Crown failed to adequately consult and address impacts from the project on the Nation's Aboriginal rights and title, in particular noting failure to engage with the Nation about project's proposed route which passes through a cultural heritage site.
- Advised waste-to-clean-energy technology companies in BC, assisting with obtaining air emissions permits, increases to licensed volumes, and managing odour issues including proceedings before BC Environmental Appeal Board.
- Advised utility contractor on Environment Canada investigations under federal *Fisheries Act* with respect to spills in or about waters frequented by fish.
- Successfully defended an appeal before the British Columbia Supreme Court in the matter of *Spookw v. Gitxsan Treaty Society, Her Majesty the Queen in Right of the Province of British Columbia*,

and the Attorney General of Canada with respect to a petition to the Supreme Court for the winding up of the Gitksan Treaty Society under the *Society Act*, RSBC 1996, c. 433 on the basis that the petitioners lacked standing as proper persons.

- Successfully applied to Environmental Appeal Board for stay of certificate of cost recovery relating to a spill of hazardous substances into a fish-bearing stream, 2014-EMA-007(a) & 2014-EMA-008(a).
- Successfully made an application to dismiss plaintiff's claim against Gitksan Treaty Society, which among other things, sought to wind up the Society in *Spookw v. Gitksan Treaty Society*, 2014 BCSC 1100.
- Successfully appealed a reassessment made under the *Income Tax Act* for an aboriginal business located on reserve. The Court concluded that the appellant's business income was personal property having a strong connection to the reserve and thus is property situated on a reserve for the purposes of the *Indian Act* and hence exempt from taxation pursuant to section 81 of the *Income Tax Act* in the case of *Reynold Dickie v. Her Majesty the Queen*, a July 10, 2012 decision of Pizzitelli J.
- Successfully overturned a conviction as "constructor" under the *Yukon Occupational Health and Safety Act* in the case of *Director of Occupational Health and Safety v. Government of Yukon et al.*, 2012 YKSC 47. Veale J. allowed the appeal finding that the Yukon Government was not the constructor on the project.
- Representation before the Supreme Court of BC relating to aboriginal rights and title, judicial reviews and injunction proceedings in the forestry sector and in the Federal Court relating to mining exploration
- Representation before the BC Environmental Assessment Office relating to a run-of-river project and aboriginal consultation and accommodation.
- Representation before the Environmental Appeal Board relating to the failure to consult and accommodate First Nations and on environmental matters in the mining sector.
- Representation before YESAB relating to business operations and aboriginal rights and title in the context of a modern day treaty.
- Representation before the Tax Court of Canada relating to Indian Exempt Status under the *Income Tax Act*.
- Representation before the British Columbia Utilities Commission relating to electricity transmission.
- Reinforcement; conducting cross examinations of witness panels and drafting final and reply arguments and experience before with the National Energy Board relating to energy projects.
- Representation before the Alberta Energy & Utilities Board (AEUB) in an oil & gas regulatory pre-hearing and negotiation of a Land-Use Resource and Development Agreement (LRD Agreement) involving multiple parties including landowners, land developers, oil & gas companies, and City of Calgary officials.
- Representation before the Federal Court of Canada relating to First Nations Aboriginal rights issues; experience in First Nations and resource development matters generally.
- Representation before Environmental Assessment Panels.

Thought leadership

Presentations

- Guest lecturer, Law 693.10 "Negotiating Indigenous Rights Course" on the duty to consult, University of Calgary Faculty of Law, March 8, 2022
- "Implications of the *Impact Assessment Act*", CBA NEERLS &

Department of Justice Online Symposium, 2020

- "Review of Federal Environmental Assessment and Regulatory Processes", Project Development – Environmental and Indigenous Considerations, Miller Thomson seminar, 2017
- "Managing Environmental Due Diligence Investigations" panel, Environmental Issues in Property Development, Miller Thomson seminar, 2015
- "Environmental Issues in Agriculture: Anaerobic Digestion & GHG Emissions Regulation in BC", Annual Legal and Regulatory Review, Agri-Energy and Waste Management Forum, Pacific Agriculture Tradeshow, 2015
- "Regulating GHG Emissions in BC", Environmental Issues in Agriculture, Miller Thomson seminar, 2014
- "BC Contaminated Sites 101 and Consultants Liability", Miller Thomson presentation, 2014
- "Monitoring GHG Emissions in BC", Environmental Law in BC, Insight seminar, 2013
- "Environmental Update – Case Law and Tribunal Decisions", Off-Site Contamination: A Primer for Developers and Landowners, Miller Thomson seminar, 2013
- "R. v. Dickie – Income Earned on Reserve – The Latest Developments in First Nation Taxation", Aboriginal Law: Current Issues, Pacific Business & Law Institute seminar, 2013
- "Making Your Case Before an Administrative Tribunal", CBA Skilled Lawyer Series III, 2013
- "Environmental Case Law Update", Presentation for Environmental Managers Association of BC Workshop, 2012
- "Dealing with Regulatory Inspections and Investigations", Miller Thomson Environmental seminar, 2012
- "Winning Advocacy Skills: Tips and Techniques for Appearing Before an Administrative Tribunal", CBA Canadian Legal Conference & Expo, 2011
- "Litigation Arising Out of LEED Issues, Green Buildings: Problems, Solutions & Opportunities", Miller Thomson seminar, 2011
- "Environmental Assessment: An Overview of Federal and BC Environmental Assessment Regimes", Understanding Environmental Regulation, EPIC Conference, 2011
- "Regulating Renewable Energy and the Pacific Carbon Trust (PCT)", CleanTech, Green Energy and Environmental Update, Miller Thomson seminar, 2009
- "Aboriginal Rights vs. The Public Interest", Pacific Business & Law Institute seminar, 2009
- "Feds, Frogs & Fish – Environmental Issues: Case Studies", Understanding Aboriginal and Environmental Issues in Project Development, Miller Thomson seminar, 2008
- "Climate Change: Managing Risks and Creating Opportunities", Climate Change: Managing Risks and Creating Opportunities in the New Carbon World, Miller Thomson seminar, 2007
- "Regulatory and Legal Issues Respecting CBM Development in Alberta and British Columbia", Canadian Petroleum Law Foundation Conference, 2007

Published Works

- Authored article: "Environmental Liability in Canada", *Annual Review of Civil Litigation*, Carswell, 2011

Publications

- "SCC Ruling on Aboriginal Title: *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 and Significant Changes to the Legal Landscape", *Aboriginal Law Update*, July 2014

- Federal Budget Review, 2013
- "Environmental Law: Recent Developments of Importance", *The Lexpert@American Lawyer Guide to the Leading 500 Lawyers in Canada*, 2013
- "Tax Court of Canada Rules on Location of Business Income For Tax Exemption Under Indian Act", *Tax Notes*, November 2012
- "Greater Vancouver Regional District Proposes New Odour Management Bylaw", *EnviroNotes!*, September 2012 – BC Client Alert
- "Tax Court of Canada Rules on Location of Business Income for the Purpose of Tax Exemption Under the *Indian Act*", *Aboriginal Law Update*, July 2012
- "Injunctions Issued Against Companies for Lack of Aboriginal Consultation", *Aboriginal Law Update*, March 2012
- "Case Comment – *Upper Nicola Indian Band v. British Columbia (Environment)*, 2011 BCSC 388", *Aboriginal Law Update*, June 2011
- "Due Diligence in Buying Residential Property – Beware Leaking Oil Tanks", *EnviroNotes!*, May 2011
- "Tougher Environmental Enforcement Measures Now In Place", *EnviroNotes!*, February 2011 – BC Client Alert
- "Report Indicates Canada Should Implement National Climate Policies Ahead of U.S.", Miller Thomson Client Alert, 2011
- "Prosperity Mine Project Blocked by Federal Government", *EnviroNotes!*, December 2010
- "Consultation Process for Proposed Emissions Trading and Offsets Regulations", *EnviroNotes!*, December 2010
- "Prosperity Mine Project Blocked by Federal Government", *EnviroNotes!*, November 22, 2010 – BC Client Alert
- "Case Comment – *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*", *Aboriginal Law Update*, November 2010
- "Consultation Process for Proposed Emissions Trading and Offsets Regulations", *EnviroNotes!*, November 3, 2010 – BC Client Alert
- "Controlling Odours in Metro Vancouver: The Ability of Regulators to Impose Controls", *EnviroNotes!*, September 2010
- "*West Moberly First Nations v. British Columbia* (Chief Inspector of Mines), 2010 BCSC 359: Delegation to Departmental Officials Failed to Satisfy the Honour of the Crown", *EnviroNotes!*, September 2010
- "Major Petroleum Spill in Johnstone Strait in Orca Sanctuary: Due Diligence Lessons for Captains and Barge Owners", *EnviroNotes!*, September 2010
- "BC Introduces New Clean Energy Act", *EnviroNotes!*, May 2010 – BC Client Alert
- "*West Moberly First Nations v. British Columbia* (Chief Inspector of Mines), 2010 BCSC 359: Delegation to Departmental Officials Failed to Satisfy the Honour of the Crown", *Aboriginal Law Update*, April 2010
- "The Environmental Assessment Track – Discretion to Scope is Not Discretion to Track?", *EnviroNotes!*, April 2010
- "Mandatory Reporting of Greenhouse Gas Emissions: Some Recent Developments in Canada", *Canadian Consulting Engineer*, 2010
- "British Columbia's Mandatory Greenhouse Emissions Reporting to Begin on January 1, 2010", *EnviroNotes!*, December 2009
- "Climate Change: Carbon Tax v. Cap and Trade", *EnviroNotes!*, June 2009 – BC Client Alert
- "Is Your Company Prepared for New Environmental Enforcement?", *Eco Bulletin*, 2009
- "Environmental Enforcement and Compliance in BC – An Update", *EnviroNotes!*, May 2009

- "Review of Federal Budget 2009: Environmental Aspects", *EnviroNotes!*, Spring 2009
- "Mandatory Reporting of Greenhouse Gas Emissions in BC: Obligations to Begin in Early 2009", *EnviroNotes!*, Spring 2009
- "Recent Climate Change Initiatives in British Columbia", *EnviroNotes!*, Fall 2008
- "The Latest Word: When Does the Duty to Consult Arise? The Dene Tha' First Nations Case", *Aboriginal Law Update*, March 2007
- "Getting a Break on Your Property Taxes for Contaminated Land – What You Need to Know: Valuation and Property Tax Implications", 2007
- "The 'Made in Canada' Solution to Greenhouse Gases and the Kyoto Protocol: the *Clean Air Act* Introduced", *EnviroNotes!*, November 2006

Corporate directorships

- Member-at-Large, Canadian Bar Association, National Environmental, Energy and Resources Law Section
 - Co-chair, 2019 NEERLS Summit
- Chair, Miller Thomson National Environmental Sustainability Committee
- Past Member-at-Large, Canadian Bar Association, Environmental Law Section, BC Branch
- Past Executive Member, Environmental Managers Association of BC

Professional memberships

- Canadian Bar Association
- Law Society of British Columbia
- Law Society of Alberta
- Environmental Managers Association of British Columbia
- Miller Thomson National CleanTech Committee

Bar admissions & education

- Yukon, 2010
- British Columbia, 2005
- Alberta, 2000
- LL.M., London School of Economics and Political Science, 2005
- LL.B., University of Calgary, 1999
- B.A., University of Calgary, 1995