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The Newsletter of the Canadian Institute of Resources Law

Delgamuukw and Natural Resource Allocation Decisions

*by John Donihee**

In December of 1997, the Supreme Court of Canada brought down its much anticipated decision in *Delgamuukw v. British Columbia.* This decision marks a watershed in the development of Canadian law on aboriginal rights. *Delgamuukw* will, for some time to come, be the primary source for the interpretation of issues related to aboriginal title raised before lower courts. Over the long run, it should also be important for its pronouncements on the relationship between aboriginal rights and aboriginal title and for the Supreme Court's treatment of evidence based on aboriginal oral histories.

The concept of aboriginal title which *Delgamuukw* establishes has, among other things, profound significance for natural resource allocation and development decisions. A series of seminars and workshops, case comments and academic analyses reviewing the decision have already resulted. Study of the judgment is only beginning. A number of uncertainties related to the concept of aboriginal title remain to be resolved, perhaps eventually by the Supreme Court itself.

Delgamuukw is of national and some suggest[1] international significance. It should, where the question of aboriginal title remains unresolved, result in a fundamental rethinking of the relationship between government and aboriginal peoples in the resource allocation process.

One of the questions which emerged from our review of the decision was how quickly and completely the concept and principles underlying aboriginal title might be applied or transferred outside of British Columbia. We asked counsel from two of the firms which had participated in the *Delgamuukw* litigation before the Supreme Court of Canada to address this question. Their views are reproduced below.

** John Donihee is a Research Associate at the Canadian Institute of Resources Law.*

Notes

1. See, Catherine Bell, Canadian Supreme Court: Delgamuukw v. British Columbia, 37 I.L.M. 261.

Résumé

L'arrêt de la Cour suprême du Canada dans l'affaire *Delgamuukw* est d'importance nationale et peut-être internationale en matière de droits des autochtones. Dans cet arrêt, la Cour a confirmé l'existence d'un titre de propriété autochtone protégé par l'article 35 de la *Loi constitutionnelle de 1982.* L'existence d'un titre autochtone exclusif qui pourrait inclure aussi bien les droits de surface que les droits miniers a des conséquences considérables eu égard à l'allocation des ressources par les gouvernements provinciaux. L'applicabilité de l'arrêt *Delgamuukw* en dehors de la Colombie britannique est une question qui mérite d'être étudiée de près. Les articles suivants analysent cet arrêt.

UPCOMING CIRL SEMINARS IN JUNE

Restructuring Alberta's Electricity System - **June 19 - see pg 5**

The Duty to Consult Aboriginal People - **June 8 - see pg 7**

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Defining the Boundaries of Aboriginal Title after *Delgamuukw*

by S. Bradley Armstrong *

Introduction

In *Delgamuukw*[1], the Supreme Court of Canada confirmed the recognition, in law, of a land tenure identified as "aboriginal title". This article will address the question of establishing the geographic extent or legal boundaries of lands held under aboriginal title. Defining these legal boundaries with precision is made imperative because of the court's finding that aboriginal title:

(a) *"... encompasses an exclusive right to the use and occupation of land, i.e., to the exclusion of both non-aboriginals and members of other aboriginal nations" (Lamer, C.J.C., paragraph 185); and*

(b) "... confers the right to use land for a variety of activities, not all of which need be aspects of the practices, customs and traditions which are integral to the distinctive cultures of aboriginal societies" (Lamer, C.J.C., paragraph 111), and also "encompasses mineral rights" (paragraph 122) and presumably rights to exploit all of the resources of the land (for example, timber).

The court identified internal limits on the use and disposition of aboriginal title lands (communal ownership and decision making (paragraph 115), uses not to be irreconcilable with the nature of group's attachment to the land (paragraph 117) and inalienability except to the Crown (paragraph 113)) and external liability to "infringement" by the Crown subject to meeting a test of "justification". (paragraph 160).

But the powerful nature and content of the aboriginal title tenure and the quality of exclusivity require the clear identification of the legal boundaries of aboriginal title lands within larger claim areas referred to as "traditional territories". Further, the "justification" test which the Crown must meet for infringement of aboriginal rights is more stringent in the case of aboriginal title.

Significant legal rights, duties, obligations and barriers will result from the identification of aboriginal title lands and their precise boundaries. Of equal concern, those charged with negotiating treaties must assess their negotiating positions against predicted outcomes of litigation should negotiations prove unsuccessful.

The Spectrum of Aboriginal Rights

Prior to 1996, the courts, including the Supreme Court of Canada, tended to refer to aboriginal rights and aboriginal title in a manner which suggested equivalency[2]. Aboriginal rights were characterized as "personal and usufructary" following the decision of the Privy Council in *St. Catherine's Milling and Lumber Co. v. The Queen* (1888), 14 A.C. 46.

In the cases of *R. v. Van der Peet*[3], *R. v. Adams*[4], *and R. v. Coté*[5], all decided in 1996, the Supreme Court of Canada clearly identified aboriginal title as a "sub-category of aboriginal rights which deals solely with claims of rights to land."

Following on these three cases, Lamer, C.J.C. in *Delgamuukw* concluded that:

"The picture which emerges from Adams is that the aboriginal rights which are recognized and affirmed by section 35(1) fall along a spectrum with respect to their degree of connection with the land." (paragraph 138).

The spectrum of aboriginal rights was described by Lamer, C.J.C. in the following terms:

(a) *"At the one end, there are those aboriginal rights which are practices, customs and traditions that are integral to the distinctive aboriginal culture of the group claiming the right. However, the 'occupation and use of the land' where the activity is taking place is not 'sufficient to support a claim of title to the land.' (at paragraph 26 of Adams). Nevertheless, those activities receive constitutional protection." (paragraph 138).*

(b) *"In the middle, there are activities which, out of necessity, take place on land and indeed, might be intimately related to a particular piece of land. Although an aboriginal group may not be able to demonstrate title to the land, it may nevertheless have a site-specific right to engage in a particular activity." (paragraph 138); and*

(c) *"At the other end of the spectrum, there is aboriginal title itself. As Adams makes clear, aboriginal title confers more than the right to engage in site-specific activities which are aspects of the practices, customs and traditions of distinctive aboriginal cultures. Site-specific rights can be made out even if title cannot. What aboriginal title confers is the right to the land itself." (paragraph 138).*

In general, the aboriginal rights identified in the first two components of the spectrum are non-exclusive in the sense that they do not encompass a right to exclude others from the use and occupation of the land. So long as the aboriginal rights in question were defined as non-exclusive there was little incentive to establish, in a generalized manner, the geographical boundaries of the area over which the rights could be exercised. But aboriginal title, which encompasses exclusive rights to the use and occupation of land, requires a precise location of boundary lines.

Proof of Aboriginal Title

On the question of proof of aboriginal title, Lamer, C.J.C. stated as follows:

> *"In order to make out a claim for aboriginal title, the aboriginal group asserting title must satisfy the following criteria:*
> *(i)the land must have been occupied prior to sovereignty,*
> *(ii)if present occupation is relied on as proof of occupation pre-sovereignty there must be a continuity between present and pre-sovereignty occupation, and*
> *(iii)at sovereignty, that occupation must have been exclusive."*
> (paragraph 143).

With respect to the issue of occupancy, Lamer, C.J.C. stated that in establishing the proof of occupancy, the courts will take into account both the physical occupation of the land as considered under common law and the aboriginal perspective on land, including, but not limited to, the aboriginal systems of law. (Reasons at paragraphs 147 to 149)

Some background will assist in understanding how the court arrived at this adaptation of the common law test of "occupancy" as proof of possession in the context of proving a claim for aboriginal title.

The trial judge in *Delgamuukw*, McEachern, C.J., summarized his findings respecting the use and occupation of the extensive claim area (approximately 58,000 km^2 in North Central British Columbia) as follows:

> *"I am satisfied that at the date of British sovereignty, the Plaintiff's ancestors were living in their villages on the Great Rivers in a form of communal society, occupying or using fishing sites and adjacent lands as their ancestors had done for the purposes of hunting and gathering whatever they required for assistance. They governed themselves in their villages and immediately surrounding areas to the extent necessary for communal living, but it cannot be said they owned or governed such vast and almost inaccessible tracts of lands in any sense that would be recognized by the law. In no sense, could it have been said that Gitksan or Wet'suwet'en law or title followed (or governed) these people except possibly in a social sense to the far reaches of the territory.*

The trial judge went on to say:

> *"I pause to say that were I defining an area of aboriginal ownership or sovereignty, it would be limited to the areas surrounding the villages I have mentioned."* (Trial Decision, *supra*, at page 516)

On appeal to the Supreme Court of Canada, the Appellants argued that the trial judge had erred in law with respect to the admissibility and weight of oral history and sought an order declaring aboriginal title to their traditional territories and an order that the issue of the geographical scope of the traditional territories be remitted to the British Columbia Supreme Court for decision in accordance with the directions of the Supreme Court of Canada.

The Supreme Court of Canada overturned the findings of fact of the trial judge based on errors of law respecting the admissibility and weight given to oral histories. The Supreme Court of Canada stated:

> *"Had the trial judge assessed the oral histories correctly, his conclusions on these issues of fact might have been different."* (paragraph 107).
>
> *"A new trial is warranted, at which the evidence may be considered in light of the principles laid down in Van der Peet and elaborated upon here. In applying these principles, the new trial judge might well share some or all of the findings of fact of McEachern, C.J."* (paragraph 108).

With respect to the question of the proof required to make out a claim to aboriginal title, Lamer, C.J.C. summarized the positions of the Appellant and the Respondent governments as follows:

> *"There was a consensus among the parties on appeal that proof of historic occupation was required to make out a claim to aboriginal title. However, the parties disagreed on how that occupancy could be proved. The Respondent asserted that in order to establish aboriginal title, the occupation must be the physical occupation of the land in question. The Appellant, Gitksan Nation, argued, by contrast, that aboriginal title may be established, at least in part, by reference to aboriginal law."* (paragraph 146)

As noted above, Lamer, C.J.C. resolved the issue of the test for proof of historic occupation by finding that both the physical occupation required by the common law and the aboriginal perspective on land (including but not limited to their systems of law) should be taken into account. Thus, the test for occupancy to establish aboriginal title remains the greatest uncertainty following the decision in *Delgamuukw*.

There is little doubt that occupation of the village sites and adjacent areas such as fishing sites would meet the common law test of possession through physical occupation, as well as the test of "aboriginal perspective", and therefore meet the test of proof for aboriginal title. Title to the village sites and adjacent areas was not contentious in *Delgamuukw* since those sites already fall within reserve lands set aside for the exclusive use of the aboriginal groups.

However, the "traditional territory" claimed in *Delgamuukw* covered an area of 58,000 km^2 in north central British Columbia. The question which remains uncertain is whether a new trial, guided by the dicta in *Delgamuukw* would result in the recognition of aboriginal title to all or any portion of this extensive claim area, outside of the village sites.

Finding the Balance

There are two aspects of the *Delgamuukw* decision which may provide some insight into the approach which may be adopted by the courts in determining boundaries for aboriginal title. These aspects are the identification and description of the "spectrum" of aboriginal rights and the concept of reconciliation recognized as a basic purpose of Section 35(1) of the *Constitution Act of 1982.*

The "spectrum" of aboriginal rights identified by Lamer C.J.C. at paragraph 138 of the decision confirms that certain forms of "occupation and use of land" will be sufficient to establish non-exclusive aboriginal rights to carry on the activities, either over a general territory or over a "particular piece of land", but would not be sufficient to support a claim of title to the land.

This distinction was recognized in *R. v. Adams* (supra), a case involving charges against a Mohawk Indian for fishing without a license defended on grounds of aboriginal rights and aboriginal title to the land in question where Lamer C.J.C. stated as follows:

> *"Where an aboriginal group has shown that a particular activity, custom or tradition taking place on the land was integral to the distinctive culture of that group then, even if they have not shown that their occupation and use of the land was sufficient to support a claim of title to the land, they will have demonstrated that they have an aboriginal right to engage in that practice, custom or tradition."* (*R. v. Adams* at paragraph 26).

This finding, as well as the dicta in *Delgamuukw* respecting the "spectrum" of rights, recognize a distinction between forms of land use and occupation sufficient to establish aboriginal rights, and forms of occupation, presumably more intensive, which would be necessary to establish possession of land and aboriginal title. This distinction follows from, and will be informed by, the content of aboriginal title, which includes the powerful rights to exclude others and to use that land for a variety of purposes.

The boundary between aboriginal title land and land subject to aboriginal activity rights, will also be informed by the purpose of reconciliation identified by the court in the context of Section 35(1) of the *Constitution Act* of 1982. The spectrum of aboriginal rights, which will include some lands subject to aboriginal title, and significant tracts of lands subject to non-exclusive aboriginal rights, is clearly the type of balance which will be suggested by the purpose of reconciliation.

The factual question of the sufficiency of occupation and the resultant boundaries of aboriginal title lands versus aboriginal rights lands, must clearly be decided on the evidence and in the circumstances of each case. In considering these factors in each case, the courts will have consideration for both the spectrum of rights and the concept of reconciliation. These concepts will provide the degree of flexibility necessary to balance claims of title and exclusivity against claims of joint and non-exclusive use, occupation and enjoyment of Crown lands.

Implications for Policy and Law outside British Columbia

The *Delgamuukw* decision may have significant implications outside of British Columbia on two fronts:

(a) challenges to existing treaties; and

(b) pressure to renegotiate existing treaties.

The *Delgamuukw* decision was made in the context of mainland British Columbia, east of the Rocky Mountains, where no treaties have ever been signed with aboriginal people. Accordingly, the *Delgamuukw* decision provides a broad framework of principles respecting pre-treaty aboriginal title to land.

Aboriginal groups operating under treaties negotiated in the late 1800's and early 1900's, covering all of the Prairie provinces and parts of Ontario, may undertake assessments of the potential for challenging the validity of the treaties (based on claims of misrepresentation or other vitiating circumstances) if they determine that their rights, in the absence of a treaty, and in accordance with the principles set out in *Delgamuukw* would be superior. The general terms of the numbered treaties provided for reserve lands and other individual allotments of land, and continued rights to hunting, fishing and trapping, in exchange for a general surrender of aboriginal right and title. In the case of *Re Paulette*[6], sixteen chiefs applied to lodge a caveat with the Registrar of Titles covering an area of 400,000 miles^2 (all within areas covered by Treaties 8 and 11) in the western portion of the North West Territories. The chiefs argued that Treaties 8 and 11 were not effective instruments to terminate aboriginal rights and title. The trial court found that the filing of the caveat was valid and that there was an arguable claim that Treaties 8 and 11 did not extinguish aboriginal title. This decision was overturned by the North West Territories Court of Appeal, and a further appeal to the Supreme Court of Canada was dismissed. The appellate courts did not deal with the issue of the effectiveness of Treaties 8 and 11 with respect to extinguishment of title but restricted their reasons to the interpretation of the *Land Titles Act* and the validity of the caveat under that Act. Accordingly, the underlying issue of the validity or effectiveness of Treaties 8 and 11 was not decided. It does not appear that these proceedings were taken any further by the chiefs after the caveat was rejected. The decision in *Delgamuukw* may have some bearing on whether or not the validity and effectiveness of the numbered Treaties might be challenged in the future.

The current treaty negotiating process in British Columbia seems likely to result in treaties which recognize significant tracts of aboriginal title land, and generous packages of financial assistance and recognition of self-government. These results are reflected in the Agreement of Principle between the Nishga people and the federal and provincial governments, signed in 1996 and expected to be finalized this year. It is reasonable to expect that these modern treaties may result in pressure on the federal and provincial governments to reconsider the terms and provisions of treaties signed in the late 1800's and early 1900's, which, in comparison, are likely to appear imbalanced.

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Notes

1. *Delgamuukw et al v. British Columbia et al*, (1997), Supreme Court of Canada.

2. *Calder v. A.G.B.C.*, [1973] S.C.R. 313, at p. 328; *Baker Lake (Hamlet) v. Min. of Indian Affairs & Nor. Dev.*, [1979] 107 D.L.R. (3d) 513 (F.C.T.D.), at pp. 541-542; *Mabo v. Queensland,* [1992] 5 C.N.L.R. 1 at pp. 49-52, 70-77, 88. See also *Wik v. The State of Queensland* (1997), 141 A.L.R. 129; *Guerin v. R.*, [1984] 2 S.C.R. 335 at p. 349.

3. [1996] 2 S.C.R. 507 at para. 74.

4. [1996] 3 S.C.R. 101 at paras. 26-30.

5. [1996] 3 S.C.R. 139 at paras. 38-39.

6. *Re Paulette et al and Registrar of Titles (No. 2)*, (1973) 42 D.L.R. (2d) 8, N.W.T. Supreme Court; [1976] 2 W.W.R. 193, N.W.T. Court of Appeal; [1977] 2 S.C.R. 628.

Restructuring Alberta's Electricity System: How Will it Work?

June 19, 1998, University of Calgary

Convened by the Canadian Institute of Resources Law and the Faculty of Law, University of Calgary

Alberta's Bill 27, introduced in March, 1998, sets in place the template for the second stage of restructuring the electricity industry in Alberta. It is designed to introduce more competition in the marketing of electricity in the province, and to encourage new entry. If increased competition drives down prices, will new entry be discouraged? Or, will capacity shortages force prices to rise until there is sufficient new entry? Will the new system be able to limit the market power of the big three generating companies? If so, what will be the impact? How will the new system work? What will be its impact on transmission and distribution?

Alberta is leading the way in Canada, so the Alberta experience is highly relevant to understanding future events in other Canadian provinces. Leading experts from government, industry and the private bar will address these kinds of questions:

- *What is likely to happen in the transition from the current situation?*
- *How competitive will the market really be?*
- *How will essential new supply be added?*
- *Who are likely to be the winners or losers under the new legislation?*
- *What is the future for natural gas in this situation?*

The course will be of interest to in-house counsel, regulatory lawyers, administrators in public, private and government organizations, regulatory analysts, and market analysts.

The registration fee is $395.00 (GST Exempt). This includes attendance at all sessions, materials and lunch.

To register or for further information, please contact the Institute at:
Phone: (403) 220-3974; Fax (403) 282-6182;
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Delgamuukw Confirms Broad Aboriginal Rights over Resources

*by David Schulze**

While some may have been surprised by the conclusions of the Supreme Court of Canada in *Delgamuukw* v. *British Columbia*, they largely confirm the practice which has evolved between Aboriginal peoples and European settlers since contact. Now that Aboriginal title is among the rights "recognized and affirmed" by s.35(1) of the *Constitution Act, 1982*, the Court has offered a fuller explanation of its meaning and content.

The legal principle that the Crown's title to land in Canada is burdened by the rights of Aboriginal occupants is not new. The principle was embodied in the *Royal Proclamation of 1763*, modern Canada's first constitutional document, when it forbade settlement on Indian land unless their rights had first been surrendered to the Crown.

As a result, the experience in northern Ontario and the Prairie provinces has been taken as a model: treaty-making preceded settlement, title was exchanged for reserves and certain rights, such as education, agricultural assistance and hunting and fishing. But in much of the country, for many years, little or no settlement took place or else the provincial governments refused to recognize Aboriginal title.

An example of the first situation was northern Quebec, which was largely ignored by provincial authorities and most of Euro-Canadian society until the perceived urgency of hydro-electric development in the 1970s led to the *James Bay and Northern Quebec Agreement* with the Cree and the Inuit.

British Columbia was an example of the second situation: from the time the province entered Confederation in 1871 until early in this decade, provincial governments had refused to recognize the existence of any Aboriginal land rights. Nevertheless, First Nations such as the Gitksan and We'suwet'en who brought the action in *Delgamuukw* continued to assert their unextinguished Aboriginal title and their inherent right to self-government.

The claim in *Delgamuukw* covered both land settled by Euro-Canadians and unsettled land. However it is not new to hold that Aboriginal title remains intact in the absence of a surrender, even where settlement occurs. For instance, in 1923 the federal and provincial governments took pains to obtain the surrender of title to long-settled lands in southern Ontario from the Chippewa and Mississauga in the form of the Williams Treaty.

The Supreme Court remitted the question of Gitksan and We'suwet'en title for a new trial, in large part because the trial judge failed to admit or gave insufficient weight to the plaintiffs' oral histories as proof of occupation and use of the territory they claimed. However the Court also took advantage of the occasion to define the content of Aboriginal title and explain how it is protected by s.35(1) of the *Constitution Act, 1982*.

The most important point may well be that Aboriginal title is more than the right to use land to engage in the practices, customs and traditions which are integral to distinctive Aboriginal cultures. Aboriginal title is the right to exclusive use and occupation of land itself and allows for a broad range of activities, including any of the group's present-day needs.

The two limitations on Aboriginal title are that it is inalienable except by surrender to the Crown and that it will not allow uses which are irreconcilable with the group's attachment to the land.

Most regions of Canada where Aboriginal title has not been surrendered are now the subject of comprehensive claims by First Nations or the Inuit in which assertions of title are accepted by government for the purposes of negotiations. Notably, all of British Columbia west of the Rocky Mountains is or will be the subject of negotiations to arrive at a treaty. But progess is slow and disputes over resource use can be expected in the meantime.

The Supreme Court of Canada held in *Delgamuukw* that Aboriginal title requires evidence that the group asserting title occupied the lands in question at the time the Crown asserted sovereignty, that occupancy was exclusive and that it has continued into the present. However the Court pointed out that the spectrum of Aboriginal rights protected by s.35(1) of the *Constitution Act, 1982* also allows a group to prove a right to engage at a specific site in activities which are aspects of the practices, customs and traditions of its distinctive culture.

As a result, an Aboriginal group will be able to show legal rights over particular lands and resources where a dispute over development arises, without necessarily being obliged to prove its title to an entire area. Recent case law from British Columbia shows that development which fails to take those interests into account may well be illegal.

The most important decision in this regard is *Halfway River First Nation* v. *B.C. (Ministry of Forests)*, [1997] 4 C.N.L.R. 45 (B.C.S.C.), concerning a cutting permit which the First Nation alleged would interfere with use of its land for hunting, gathering plants for food and medicine and spiritual purposes. (Though the case concerned the rights of a First Nation which was a party to Treaty 8 -- covering British Columbia east of the Rockies -- the land at issue was the subject of an outstanding claim under its treaty land entitlement.)

On an application for judicial review, the provincial cutting permit was quashed. The court found evidence that logging would infringe on the First Nation's Aboriginal and treaty rights and the district manager's conclusion that those rights would be unaffected was therefore a jurisdictional error. The Ministry's failure to make all reasonable efforts to consult with the First Nation and to provide it with relevant information was a breach of the province's fiduciary duty and therefore a breach of procedural fairness.

Another significant decision is *Westbank First Nation* v. *British Columbia* (1996), [1997] 2 C.N.L.R. 221 (B.C.S.C.) although the plaintiff was unsuccessful in its application for an interim injunction to restrain forestry companies from logging which interfered with trapping on its traditional lands.

While the court declined to interrupt logging already underway, it held there was a fair question to be tried as to whether the Aboriginal right of the plaintiff's members to trap marten would be infringed by significant reductions in the trap-line area. The plaintiff retained the right to apply for relief with respect to future logging and the matter is to proceed to trial on the merits.

Since both *Halfway River* and *Westbank* were decided when a more restrictive interpetation of Aboriginal title applied under the British Columbia Court of Appeal's judgment in *Delgamuukw*, they are not just good law but may well be followed by even stronger interim relief to preserve Aboriginal rights.

** David Schulze is a lawyer with the firm of Hutchins, Soroka & Dionne in Montreal. He has published numerous articles on Aboriginal law. Hutchins, Soroka & Dionne acts for First Nations across Canada in Aboriginal rights and treaty litigation. The firm is affiliated with Hutchins, Soroka & Grant in Vancouver which appeared for the appellants in the Supreme Court of Canada in Delgamuukw V. British Columbia.*

THE DUTY TO CONSULT ABORIGINAL PEOPLE:
Implications for Resource Development on Traditional Lands in Alberta

June 8, 1998, University of Calgary

A Workshop Convened by the Canadian Institute of Resources Law and the Arctic Institute of North America

Supported by a series of ground-breaking decisions of the Supreme Court of Canada on aboriginal rights and title (most recently the *Delgamuukw* decision) and the findings of the Report of the Royal Commission on Aboriginal Peoples, aboriginal communities are asserting their rights to play an active role in the development of natural resources on their traditional lands. Resource companies increasingly include consultation, mitigation and compensation or sharing of socio-economic benefits with affected aboriginal groups in their resource development practices.

Leading experts from the private and public sectors and representatives from First Nations will focus on the duty to consult as it is being defined by the courts and as it is currently implemented in Alberta.

The workshop will focus on these key issues:

- How will recent court decisions on the duty to consult affect the resource development process in Alberta?
- What is the constitutional foundation for the duty to consult?
- Who must consult, the Crown, the private sector, or both?
- What are the information requirements for proper consultation?
- Does consultation mean obtaining consent?
- How useful are consultation protocols or agreements?
- Facilitation, negotiation and mediation in the consultation process

The workshop will be of interest to lawyers, aboriginal people, government officials, resource industry representatives, consultants and academics with an interest in aboriginal issues in resource development. The registration fee is $250.00 (GST Exempt). This includes attendance at all sessions, materials and lunch.

To register or for further information please phone the Institute at (403) 220 3974 or E-mail at cirl@acs.ucalgary.ca

The complete brochure is also available on the Institute's website at: http://www.acs.ucalgary.ca/~cirl

Institute News

The **Canadian Institute of Resources Law** has received funding from the Canadian International Development Agency (CIDA) for continuation of its work with the Ministry of Fuel and Energy of the Russian Federation on reform of Russia's system for regulation of the oil and gas industry. The Institute has been involved in projects with the Russian Ministry for over five years. It has conducted seminars in Russia on various aspects of oil and gas regulation, has provided analysis of draft legislation and published a book jointly with the Ministry.

The funding of $1.3 million will enable the Institute, along with personnel from various Canadian oil and gas regulatory agencies, to carry out four projects over the next 2 ½ years.

The projects will focus on 1) the role of joint (Russian/foreign) ventures in the Russian petroleum sector, 2) Russia's system for the classification of petroleum reserves, 3) oil and gas licensing legislation in Russia and 4) how environmental values and indigenous peoples' interests can be better protected in the process of oil and gas development.

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