

The Newsletter of the Canadian Institute of Resources Law

Down to Earth: Soil Conservation, Sustainable Development and the Law

by Janet Keeping

In 1984 the Senate Standing Committee on Agriculture, Fisheries and Forestry, chaired by the Hon. H. O. Sparrow, issued its report on the state of the nation's soils. The report was entitled *Soil at Risk, Canada's Eroding Future*¹ and documented a potentially catastrophic deterioration in the quality of Canadian soils. It pointed to soil degradation -- defined as "the depletion of the productive capability"² of the resource -- as "a serious problem in all regions of Canada".³ For example, "In Southwestern Ontario, the erosion problem has caused a loss in corn yields of some 30 to 40 per cent".⁴ On the other hand, "On lands affected by salinization in the Prairies, crop yields have been reduced by 10 to 75 per cent, even though farmers have increased their

use of fertilizer".⁵ (More recent data are no less disturbing: a 1989 publication of the Economic Council of Canada states that "... as a result of years of inadequate long-term management, the organic content of soils has declined by between 36 and 49 per cent in the Prairies and by 50 per cent in Ontario and Quebec".⁶) The Worldwatch Institute's 1989 report on the "State of the World" reports that "Much of the world's food-producing land is being sapped insidiously of its productive potential through overuse, lack of care, or unwise

treatment".⁷ The Sparrow report, and later Canadian studies,⁸ suggest that this statement is no less true of Canadian agricultural lands than of those in countries more often pointed to in this context, such as Thailand, Indonesia and Brazil.

This article will briefly examine the Canadian governmental response to the problem of soil degradation. That response has been, to a significant extent, province-specific, and the focus here will be on the Alberta situation.

Résumé

Cet article étudie le droit et la politique canadiens en matière de conservation des sols. La Stratégie agricole nationale de 1986, qui fut adoptée conjointement par les gouvernements fédéral et provinciaux, reconnaît l'importance de la conservation des sols pour le maintien de la productivité agricole. Les ententes bilatérales ainsi que les ententes plus spécifiques qui ont été conclues en vertu de la Stratégie ont établi divers programmes de conservation des sols. Au plan juridique, le plus important de ces programmes est l'examen d'une série de politiques gouvernementales qui ont été

identifiées comme faisant obstacle à la conservation des sols. Cet article soutient la position adoptée par d'autres, à savoir que, pour parvenir à établir des pratiques agricoles durables au Canada, il est nécessaire d'abandonner les politiques qui font obstacle à de telles pratiques, par exemple le régime de contingentement établi par la Commission canadienne du blé. L'auteur exprime l'opinion que les mesures réglementaires et punitives, telles que l'application stricte de la Soil Conservation Act (Loi sur la conservation des sols) en Alberta, ne suffisent pas, et sont même vraisemblablement inopportunes à l'heure actuelle.

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In late 1986 the federal and provincial governments, acting on their shared jurisdiction over agriculture⁹, jointly adopted a document entitled "A National Agricultural Strategy"¹⁰. The purpose of the strategy was said to be to help the Canadian agricultural industry meet the problems facing it. The strategy was stated to "involve a long-term thrust to create a market-based agriculture and food industry". To facilitate accomplishment of this long-term goal "short-term measures to bridge temporary difficulties" were also said to be necessary.¹¹ While the National Agricultural Strategy by no means focuses on the issue of soil conservation, one of the primary components of the strategy is "soil and water conservation and development efforts to protect and enhance our resource base, thereby guaranteeing agricultural productivity in the future".¹²

Adoption of the Strategy has led to implementation of a National Soil Conservation Program, which is constituted of two parts: scientific research on soil conservation, which is under the administration of Agriculture Canada, and agreements (known as "accords") between the federal government and each of the provinces.¹³ The aim of the national program is to provide a coordinated approach, but one which is adapted to the particular needs of each province through the bilateral agreements.

It is beyond the scope of this article to examine each of these federal-provincial agreements. Instead, particularly interesting features of the Canada-Alberta agreement (the "Canada-Alberta Accord on Soil and Water Conservation and Development"¹⁴) and measures taken pursuant to it will be briefly noted.

The objectives of the Accord are straightforward enough:

- to facilitate implementation and coordination of a comprehensive agricultural soil and water conservation and development program in Alberta as

envisioned in the National Agricultural Strategy, [and]

- to define a process by which federal and provincial responsibilities, relationships and programs in soil and water development and conservation shall be established and coordinated.¹⁵

The principles which motivate the Accord are of greater substantive interest:

3.1 Soil and water conservation and development activities are essential to enhance the quality of rural life and the long-term viability of the rural economy.

3.2 Programs must be sensitive to off-farm effects and multiple use principles, and integrate conservation, development and diversification philosophies.

3.3 Fish and wildlife are provincial resources that are dependent on soil and water and must be considered an essential component of soil and water conservation and development.

3.4 Water development projects are integral to agricultural growth and development, and contribute to farm viability, economic stability, growth, diversification, value-added activities and rural stability.

3.5 Land use should be consistent with the capabilities of the resource, and should include management practices to sustain long-term productivity.

3.6 Funding and other commitments should be consistent with the long-term nature of the problems and solutions, opportunities, and expected benefits.

...

3.8 Government policies should support the adoption of soil and water conservation practices. Changes to policies that inhibit these practices should be pursued.¹⁶

Section 5 of the Accord describes the instruments that are to be used in achieving the objectives of the Accord. Where new financial undertakings are required, the federal and Alberta governments are to enter into agreements as

outlined in section 5.2. Otherwise, that is where existing programs are to be used or "expressions of intent with respect to a policy, program or activity" are involved, the parties "may sign Memoranda of Understanding which outline the action each intends to take".

New financial undertakings on the part of both governments were, indeed, required. Hence, the Canada-Alberta Agreement on Soil Conservation which came into effect simultaneously with the Accord. Section 2 of the Agreement sets out its purpose and objectives:

2.1 The goal of this agreement is to define the activities, coordination processes and resource commitments by Canada and Alberta to soil conservation.

2.2 The overall purpose of these activities is to encourage the implementation of the most appropriate soil resource management and use, within practical economic limits and according to the soils capability, in order to sustain the long-term productivity of the soil. Economic diversification will be enhanced, where applicable, within the context of soil conservation activities.

2.3 The objectives of the initiative undertaken pursuant to this agreement shall be to:

(a) Facilitate the reduction of soil degradation on individual farm units and effect land use changes in order to maintain or enhance the productivity of the soil resource and to reduce the off-farm impacts of degradation.

(b) Extend the knowledge of soil conservation technology, practice and soil quality trends and to enhance the transfer of this information in support of awareness and on-farm activities.

(c) Review government policies which inhibit the adoption of soil conservation practices.

(d) Foster a long-term soil conservation ethic in society and increase the awareness and

understanding of soil degradation and conservation among farmers in order to obtain public understanding and support in the protection of the soil resource and encourage the early adoption of soil conservation practices by farmers.

(e) Enhance economic diversification, where applicable, within the context of effective soil conservation.

Section 4 of the Agreement addresses the "work planning process" necessary to implementation of the Agreement, and Schedule "A" to the Agreement - the Canada-Alberta Conservation Work Plan - "defines the principles, resource commitments, activities and delivery arrangements" for the Agreement.

The programs set out in the Work Plan, and actually undertaken pursuant to this rather elaborate scheme, fall into a variety of categories. These include the "Permanent Cover" program, the purpose of which is "to retire sensitive marginal land from annual crop production by putting it under permanent cover such as forage or tree cover" and the "Soil Conservation Equipment/Support" program, the purpose of which is "to make available specialized farm equipment for soil conservation practices carried out by Alberta farmers".¹⁷ Another kind of program set out in the Work Plan is a "Program and Policy Review".¹⁸ The rest of this article is devoted to this part of the Canada-Alberta Soil Conservation Initiative, as the overall joint effort on soil conservation is known. What do the Alberta and federal governments intend by a such a review? How important is this component to a successful soil conservation policy? And finally, how difficult is the job likely to be?

First, what is the intention of the provincial and federal governments in this regard? Government documentation of the Canada-Alberta Soil Conservation Initiative states that,

The purpose of this activity is to review and identify programs and policies that may negatively influence the adoption of soil conservation practices.

It is recognized that federal and provincial policies may significantly and adversely influence the adoption of soil conservation practices. Canada and Alberta will jointly undertake to review and identify such programs and policies. This review will incorporate the participation of local government and producer industry representatives and an initial report will be prepared during the first year of the three year term of this Initiative.¹⁹

The first step to be taken under this part of the Canada-Alberta Initiative is to involve an economic assessment of policy. The object of the assessment is to quantify the impact of government programs and policies on farming practices of significance to soil conservation. The idea is to identify those that have a sufficiently serious impact to warrant change. This exercise, completion of which is scheduled for June of this year, is to be followed in the fall by consultations with producers and the public generally. Then, recommendations for action are to be formulated.²⁰

Fortunately, some moves have already been made in the right direction. For example, in 1984 Alberta adopted a new approach to rural taxation. Through various incentive schemes, land owners had found it advantageous under the old system to maximize their cultivated acreage. They had done so, it is reported, through sometimes environmentally unsound means, such as by,

clearing land of any quality (including muskeg);
converting native rangeland to "improved" pastureland;
dredging and straightening streams;
[and]
draining wetlands ...²¹

Under the new system, "assessments are based upon soil capacity, tree cover and subsequent anticipated net income".²² It has been explained that,

Lower tax rates will automatically apply to marginal land because a lower net income is anticipated from them. Owners will no longer be persuaded by tax advantages to clear or alter marginal areas, and they will have more incentive to reserve marginal land for other productive and environmentally sound uses.²³

Second, how important is assessment of policy to the achievement of an adequate soil conservation policy? The short answer would seem to be **very**. The Sparrow report was uncompromising in its insistence that government policies which conflict with soil conservation constitute a significant disincentive to attainment of that goal. Quotas set by the Canadian Wheat Board were pointed to as a deterrent to conservation practices²⁴ So, too, were the *Western Grain Transportation Act* (WGTA) and the Feed Freight Assistance Program (FFAP):

The ... WGTA, which affects export grain produced on the Prairies, and the ... FFAP, which affects farmers in Eastern Canada and British Columbia, have opposite effects but the same impact.

By subsidizing the transportation of Western grain for export, the WGTA discourages the production of livestock in the West, thus preventing the development of a market for rotation crops of forages and/or grains other than wheat.

By subsidizing the transportation of feed grain into Eastern Canada, the FFAP makes indigenous production of feed grain uneconomical and thus forces farmers into producing a limited number of crops, or using rotation crops that have little economic value.²⁵

Other examples, too, were cited in the Sparrow Report. For one, "policies which encourage the draining of wetlands and sloughs to create marginal cropland".²⁶

One conclusion that emerges from documentation of this kind is that soil conservation policy cannot be set in a vacuum. The farmer's decisions are a function of many

factors, not the least of which are government policy, both that which is explicitly agricultural and that which affects agriculture, but has other matters as its primary object. And if soil conservation is understood as a facet of sustainable development, then this complexity²⁷ comes as no surprise:

Why, more than a decade after a global goal was set to stop [land degradation²⁸] by the year 2000, are we losing more trees, more topsoil, and more grazing land than ever before? ... [A] ... fundamental reason may lie in the very nature of [land degradation] itself. It crosses all traditional disciplinary and bureaucratic boundaries, including agriculture, forestry, ... and water management. [Therefore], lasting solutions are rooted as much in social [including institutional and organizational] and economic reforms as in effective technologies. Telescoping [land degradation] control into a single program or plan of action defies the reality that it is inseparable from the broader notion of sustainable development.²⁹

Another conclusion one can draw is that it would be unfair, as well as probably futile, to rely upon a punitive approach to achieve better soil conservation practices in the farming community. Alberta's *Soil Conservation Act* provides the means through which landowners and occupiers can be legally coerced into adopting "appropriate measures"

- (a) to prevent soil loss or deterioration from taking place, or
- (b) if soil loss or deterioration is taking place, to stop the loss or deterioration from continuing.³⁰

Although, according to provincial officials, the Act has been used to "encourage good husbandry" of the resource, the standard of "appropriateness" has been one set by "common practice" not research on, for example, conservation tillage. Thus, it is the farmer who has repeatedly over-worked summer fallow lands who will receive a visit from a soil conservation officer; the use of

summer fallow practices themselves would not precipitate such action even though their contribution to soil erosion is increasingly well recognized in the scientific community. Such visits it is reported, are usually all that is required to stop the offending practice. Thus, the opportunity presented by the Act to impose large fines for infractions has gone largely unused.

Whatever the precise motivation of this approach to enforcement, the approach itself seems to make sense. Canadian farmers have been severely pressed financially over recent years. With many policies still pointing in non-sustainable directions, it would be unfair now to expect farmers acting unilaterally to change their ways, at least where those ways have significant financial consequences. In other words, until the appropriate kind and degree of institutional support is in place, farmers cannot be expected to adopt fully sustainable practices. Hence, the importance of the overall policy review to achievement of a successful soil conservation policy.

Third, and finally, the task is likely to be a very difficult one. As noted above, a great many policy instruments impinge on farm decision-making. They may number well over 100.³¹ But more ominously, one fears that some anti-conservationist policies may be very difficult to dislodge. For example, the obsession with increased agricultural production noted in the Sparrow report is likely to die a hard death. The question, then, for soil conservation, as for the achievement of sustainable development more generally, is whether planning for long-term viability is going to triumph over, not succumb to, the pursuit of short-term gain.

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NOTES

1. Senate Standing Committee on Agriculture, Fisheries, and Forestry (Chair: Hon. H. O. Sparrow), *Soil at Risk, Canada's Eroding Future* (Ottawa: The Senate of Canada, 1984).
2. *Id.*, at 3.
3. *Id.*, at 11.
4. *Id.*, at 3.
5. *Id.*, at 3.
6. "Aging and the environment" (1989), 10 *Au Courant* 8.
7. Sandra Postel, "Halting Land Degradation" in *State of the World 1989* (New York: W. W. Norton & Co., 1989), at 21.
8. For examples, see C. F. Bentley and L. A. Leskiw, "Sustainability of Farmed Lands: Current Trends and Thinking" (Ottawa: Canadian Environmental Advisory Council, 1985) and Rural Environment Sub-Committee, Public Advisory Committees to the Environment Council of Alberta, "Agricultural Considerations for Today and Tomorrow" (Edmonton: Environment Council of Alberta, 1988, ECA88-PA/CS-S6).
9. The federal and provincial governments have concurrent jurisdiction over agriculture. Where laws enacted by the two levels conflict, the federal legislation prevails. See the *Constitution Act, 1867*, s. 95.
10. A National Agricultural Strategy, Report on Challenges Facing Agriculture, Submitted by the Ministers Responsible for Agriculture to the Annual Conference of First Ministers, Vancouver, November 20-21, 1986.
11. *Id.*, at i.
12. *Id.*, at ii.
13. It appears that there exists no document setting out the overall program. Information on its scope can be obtained from the Communications Branch of Agriculture Canada. As of January 23, 1990, accords had been negotiated with all of the provinces except British Columbia (where negotiations were still on-going) and Newfoundland (where a somewhat anomalous agreement seems to be in effect).
14. The Accord was signed on July 24, 1989, by the federal and Alberta Ministers of Agriculture.
15. Section 2.1, Canada-Alberta Accord on Soil and Water Conservation and Development.
16. Section 3, *id.*
17. See the pamphlet published by Agriculture Canada and Alberta Agriculture entitled "CASCI, Canada - Alberta Soil Conservation Initiative, September 1989, at 4 and 6.
18. Section 2.3 of the Work Plan.
19. Pamphlet entitled "CASCI, Canada-Alberta Soil Conservation Initiative", dated September 1989, at 11-12. See also section 2.3 of the Canada-Alberta Soil Conservation Work Plan, which is Schedule "A" to the Canada-Alberta Agreement on Soil Conservation entered into pursuant to the Canada-Alberta Accord on Soil and Water Conservation and Development.

20. Information in this paragraph was obtained from Brian Colgan, Director of Irrigation and Resource Management, Alberta Agriculture, January 8, 1990.
21. "New Rural Tax System to Benefit Habitat, in ACS [Alberta Conservation Strategy] Update, December 1989, at 1. For other measures the implementation of which is also already underway, see note 26, *infra*.
22. *Id.*
23. *Id.*
24. See the Sparrow report, at 22. See also Aniko E.M. Szojka, *Ending Alberta's Soil Degradation Tradition* (Calgary: University of Calgary, A Masters Degree Project, Faculty of Environmental Design, September 1989), at 111-112.
25. *Id.*, at 22-23.
26. *Id.*, at 23. For recent policy developments regarding the preservation of wetlands see news releases from Environment Canada, dated November 15, 1989, entitled "Canada to Spend \$30 Million to Restore Waterfowl Habitat" and "Wildlife Ministers Sign Agreement to Protect Waterfowl".
27. At p. 9 of the Brundtland report (*Our Common Future*, The Report of the World Commission on Environment and Development, Chaired by Gro Harlem Brundtland (New York: Oxford University Press, 1987)) the following is said: "... in the end, sustainable development is not a fixed state of harmony, but rather a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development, and institutional change are made consistent with future as well as present needs. We do not pretend that the process is easy or straightforward. Painful choices have to be made. Thus, in the final analysis, sustainable development must rest on political will".
28. Sandra Postel, *supra*, note 7, is of the opinion that the terms "desertification", which she uses in this quote, and "land degradation" can be used interchangeably. "Land degradation" seems to be the more appropriate term for present purposes.
29. Sandra Postel, *supra*, note 7, at 37.
30. *Soil Conservation Act*, S.A. 1988, c. S-19.1, s.3.
31. See, for example; Rural Environment Sub-Committee of the Public Advisory Committees to the Environment Council of Alberta, *Agricultural Considerations for Today and Tomorrow* (Edmonton: Environment Council of Alberta, June 1988), at 10.

Correction

In Issue #28, Fall 1989, in the article entitled "Federal Environmental Impact Assessment and the Courts", in the left hand column on page 5, a line was omitted. In line 9 of the paragraph beginning "Cullen J.", the following words should be inserted between "for" and "responsibility" - "which the Government of Canada has a decision-making".

Le Projet de loi C-23 et l'Accord de libre-échange: des conséquences inattendues pour la participation canadienne?

by André Gareau

Introduction

Le projet de loi C-23¹ modifiant la loi sur l'Office national de l'énergie apporterait d'importantes modifications à la réglementation par l'Office national de l'énergie (l'Office) des lignes internationales de transport d'électricité. Un des changements prévus qui a attiré certaines critiques² exigerait que l'Office délivre sur demande et sans audiences publiques, les permis autorisant la construction et l'exploitation des lignes internationales.³ Une autre disposition controversée permettrait la réglementation par des "autorités régulatrices provinciales"⁴ de l'emplacement et de la construction de ces lignes internationales.

On semble d'autre part avoir négligé l'effet du projet de loi sur la réglementation de la participation canadienne aux projets énergétiques, dans le contexte du

récent Accord de libre-échange conclu avec les États-Unis d'Amérique.⁵ Ce manque d'intérêt pour la réglementation de la participation canadienne aux lignes électriques internationales s'explique assez facilement par le nombre et l'ampleur limités de ce type de projet au cours des dernières années.⁶ Néanmoins, les implications du projet de loi C-23 pour les mesures préservant la participation canadienne illustrent le sort probable d'autres lois semblables, à moins que ces types de modifications législatives ne soient envisagés en tenant compte également de l'Accord de libre-échange.

L'effet de l'Accord de libre-échange sur la participation canadienne aux lignes électriques internationales.

La loi sur l'Office national de l'énergie qui est actuellement en

Abstract

Bill C-23, which passed the third reading stage in the House of Commons on December 14, 1989, would affect the National Energy Board's (NEB) mandate in a number of ways. One controversial change includes a greater scope to allow certificates of construction for international power lines without public hearings; another change would allow the option of following a provincial approval process for such lines. One change which seems to have received little attention, however, is the removal of the NEB's power to consider Canadian participation in the financing, engineering and construction of international power lines. At present the NEB has the

power to regulate Canadian content as a result of a special exemption allowed under the Canada-U.S. Free Trade Agreement (FTA) for existing measures or their prompt renewal. This capacity would be permanently lost as a result of C-23. Although the regulation of international power lines is now a very minor part of the NEB's role, and although there may be political and economic benefits in deregulation of Canadian content, the combined effects of Bill C-23 and the FTA illustrate the need for systematic scrutiny of legislative changes which may trigger more lasting changes than might have been anticipated.

vigueur permet à l'Office de tenir compte du niveau de participation canadienne (dans le "financement, l'ingénierie, et la construction") lors de l'examen des demandes de permis d'autorisation de construction des lignes électriques internationales.⁷ Or l'article général de l'Accord de libre-échange (l'Accord) régissant le commerce des services inclut les services de constructeurs généraux et spécialisés, les services de génie et d'architecture, et les services scientifiques et techniques.⁸ Cet article exige que le Canada accorde aux Américains un traitement "non moins favorable"⁹ que le traitement accordé aux Canadiens. Cette mesure aurait pour effet d'annuler les considérations par l'Office de la participation canadienne à la planification et la construction des projets énergétiques. Cependant, une exemption est prévue par l'Accord pour les mesures existantes, leur prorogation, leur prompt renouvellement, ou leur modification, pourvu que ces modifications ne les rendent pas moins conformes aux mesures remplacées.¹⁰ Par conséquent, la capacité de l'Office d'exiger une certaine participation canadienne à la construction des projets énergétiques dépendra de la vigilance des canadiens à maintenir en place des dispositions qui préservent ce droit.

En ce qui concerne le financement des lignes internationales, le chapitre de l'Accord portant sur l'investissement défend au Canada d'imposer une réglementation qui prescrit un niveau ou un pourcentage donné de "contenu national". Comme pour les services, l'Accord prévoit une exemption pour les mesures existantes non-conformes, et pour leur prorogation ou leur prompt renouvellement.¹²

L'effet du projet de loi C-23 sur les mesures de "contenu canadien".

L'exemption prévue par l'Accord permettant la réglementation du contenu canadien ne survivrait pas

au passage du projet de loi C-23. En effet, ce projet de loi enlève à l'Office le pouvoir qu'il possède maintenant de tenir compte de "la mesure dans laquelle les Canadiens auront la possibilité de participer au financement, à l'ingénierie et à la construction ... de la ligne internationale."¹³

L'Office conserverait ce pouvoir vis-à-vis la construction des pipelines¹⁴, mais pas dans le cas des lignes électriques internationales. Dans ce dernier cas, le projet de loi ne contient qu'un article général autorisant l'Office à "tenir compte de tous les facteurs qu'il estime pertinents."¹⁵

Étant donné que l'Office perdrait le pouvoir explicite de considérer le contenu canadien des lignes électriques internationales, il est peu probable que l'article lui permettant de "tenir compte des facteurs qu'il estime pertinents" constituerait une mesure de "prorogation" ou de "prompt renouvellement", au sens prévu par l'Accord. Il paraît très probable que l'adoption du projet C-23 marquerait la fin de la réglementation du contenu canadien des lignes électriques internationales.

Conclusion

Même si le projet de loi C-23 ne permet plus à l'Office de réglementer le contenu canadien des lignes électriques, il est à noter que ce projet de loi lui permettrait encore d'exiger un niveau minimum de participation canadienne au financement, aux services de génie, et à la construction des pipelines, ce qui constitue un champ d'action beaucoup plus important. Cependant, cet exemple du sort des lignes électriques illustre la nécessité d'étudier attentivement tout projet de loi dont l'entrée en vigueur pourrait éliminer un avantage ou une marge de manoeuvre que le Canada possède maintenant en vertu des dispositions d'exception prévues par l'Accord de libre-échange. Il est possible que ces avantages deviennent désuets ou

politiquement indésirables, mais une décision de ce genre devrait être prise après un examen approfondi de ses répercussions.

À une époque où la déréglementation semble à l'ordre du jour, ces constatations ne recueilleront certes pas l'approbation de toutes les parties intéressées. Toutefois, si les Canadiens veulent conserver toutes leurs options de participation au développement énergétique de leur pays, ils devraient trouver des moyens d'examiner de près les projets de loi tels que le C-23, dans le contexte nouveau de l'Accord de libre-échange.

André Gareau est chercheur à contrat à l'Institut canadien du droit des ressources.

Notes

1. Projet de loi C-23. Loi modifiant la loi sur l'Office national de l'énergie et abrogeant certaines lois en conséquence. 2^e session, 34 législature, 1989 (3^e lecture par la chambre des communes le 14 décembre 1989).
2. Voir par exemple les débats aux Communes, du 16 au 26 juin, 1989.
3. *Supra*, note 1, a. 23 insérant a. 58.11.
4. *Id.*, a. 23 insérant a. 58.17.
5. Accord de libre-échange entre le Canada et les États-Unis d'Amérique, conclu le 30 décembre, 1987. (Annexe à la Loi de mise en oeuvre de l'Accord de libre-échange Canada - États-Unis, L.C. 1988, ch.65.)
6. Canada. Rapport annuels de l'Office national de l'énergie, 1986-88. Durant ces trois années l'Office n'a pas délivré de certificats à l'égard de la construction de lignes électriques internationales; durant cette période l'Office n'a autorisé par décret que cinq petites lignes internationales (moins de 50 kilovolts).
7. *Loi sur l'Office national de l'énergie*, S.R.C. 1985, ch.N-7, a. 52 (d).
8. *Supra*, note 5, Annexe 1408.
9. *Id.*, a. 1402 (1).
10. *Id.*, a. 1402 (5).
11. *Id.*, a. 1603 (1)(b).
12. *Id.*, a. 1607 (1).
13. *Supra*, note 7.
14. *Supra*, note 1, a. 18 modifiant a. 52 d).
15. *Supra*, note 1, a. 23 insérant a. 58.16(2).

Institute News

J. Owen Saunders Appointed Executive Director

J. Owen Saunders has been appointed Executive Director of the Canadian Institute of Resources Law, effective January 1, 1990.

Owen Saunders has been a Research Associate with the Institute since 1980, and an Adjunct Associate Professor of Law at The University of Calgary since 1984, where he currently teaches International Law. He was Acting Executive Director of the Institute from July 1, to December 31, 1989. He holds a B.A. (Hon.) from St. Francis Xavier University, an LL.B. from Dalhousie University, and an LL.M. from the London School of Economics and Political Science. His main areas of interest include natural resources policy, international economic law, the law of international institutions, and environmental and administrative law.

New Board Members

The Institute has three new Board members effective November 15, 1989.

Dennis Thomas, Q.C. was appointed to the Institute's Board as the representative of The Law Society of Alberta. Mr. Thomas is a partner of the Alberta law firm of Milner & Steer. His practice is primarily in the areas of environmental regulation, land use planning, development and expropriation matters. He is a member of boards of directors of a variety of other community and legal organizations.

Alan W. Scarth, Q.C. is a partner of the legal firm of Thompson Dorfman Sweatman of Winnipeg, specializing in environmental law and the legal aspects of sustainable development. He is a member of the Great Plains Partnership for Sustainable Development, and Chairman of the Fort Whyte Centre for Environmental Education.

Gordon Clark is Vice-President, General Counsel and Secretary of Fletcher Challenge Canada Limited and Crown Forest Industries Limited and a number of related business corporations in Canada engaged in the forest industry. Mr. Clark is a Director of The Society for Educational Visits and Exchanges in Canada (SEVEC) at Ottawa and is a member of a number of professional organizations.

Recent Visitors

Marcus Haward, Department of Political Science, University of Tasmania

Louise Mantha, Policy, Planning and International Forestry, Forestry Canada

Donald Rothwell, Faculty of Law, University of Sydney, Australia. Professor Rothwell presented a seminar on "A World Park for Antarctica?".

Upcoming Seminars/Courses

Seminar on Resource Development and Aboriginal Land Rights

Professor Richard Bartlett, the 1990 holder of the Chair of Natural Resources Law in the Faculty of Law at the University of Calgary, will be presenting a seminar on *Resource Development and Aboriginal Land Rights* on May 3, 1990. The seminar, jointly sponsored by the Faculty and the Institute, will be held at The University of Calgary, Faculty of Law, Biological Sciences Building, Moot Court Room from 1:30 - 4:30 p.m. A reception will be held after the seminar.

Environmental Law Course

The Institute in conjunction with the The University of Calgary, Faculty of Law, will be holding an Environmental Law course from June 4 - 9, 1990. The course will be of interest to practising lawyers across Canada in private and corporate practice who must be aware of the legal implications of the environment in their practice, and for those lawyers who are themselves interested in developing a practice in environmental law.

For further information, or to register for these courses, please contact Pat Albrecht at 220-3974.

Recent Presentations and Appointments

- Barry Barton and Nigel Bankes participated in a DIAND sponsored workshop for participants in the Dene/Metis land claim negotiations, which focused on resource management boards.

- Barry Barton was recently appointed as a member of the Research Advisory Committee for the Centre for Resource Studies, Queen's University.

- Owen Saunders will be speaking on the *Free Trade Agreement: Canadian/American Energy Transactions* at the Washburn Law School in Topeka, Kansas on March 16, 1990.

New Publication

The Legal Challenge of Sustainable Development,
J. Owen Saunders, ed.
ISBN 0-919269-32-X 404 pages.
\$75.00.

This book of essays arises out of the fourth biennial conference on natural resources law jointly sponsored by the Canadian Institute of Resources Law and the University of Ottawa, Faculty of Law, held in May, 1989. The essays, by legal and non-legal scholars, introduce the concept of sustainable development, with special emphasis on its legal implications.

The essays are arranged thematically under five major headings. The first group of essays presents an overview of the concept of sustainable development from the legal, scientific and economic perspectives. The second section deals with the challenge of implementing sustainable development, both domestically and internationally. The third and fourth parts of the volume address the question of sustainable development in the context of two specific areas where it has been of special importance - energy policy and northern development. Finally, the last section deals with the question of international economic relations, which comprises both foreign aid and international trade.

How to Order

To order publications please send a cheque payable to "The University of Calgary". Orders from outside Canada please add \$2.00 per book. Please send orders to:
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430 Bio Sciences Building
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Globe 90

A major challenge facing nations today is how to effectively manage the environment and sustain economic growth. This challenge was clearly defined in the 1987 report of the World Commission on Environment and Development (the Brundtland Commission).

Globe '90 is an international conference and trade fair on business and the environment taking place in Vancouver, British Columbia, March 19-23, 1990. The Institute is a sponsor of Globe 90.

The trade show portion will exhibit products, services, research and technology from six environmental sectors: air management, land management, information systems and consulting, water/waste water, solid waste and recycling, and hazardous and toxic materials management.

Some of the keynote speakers at the conference include: the Honourable Lucien Bouchard, Minister of the Environment, Canada; Professor Her Royal Highness Princess Chulabhorn Mahidol, Director, Chulabhorn Research Institute, Thailand; and Maurice Strong, Senior Environmental Advisor to the Administrator of the United Nations Centre for Development Program. A special session at the Conference will feature country profiles where representatives will describe their country's contribution to sustainable development and the problems encountered.

Globe '90 is the first in a series of biennial events at which governments, the international environment industry and its clients can seek solutions to environmental and economic challenges.

Constance Hunt, Dean of the Faculty of Law at The University of Calgary, will be attending the Conference as the representative of the Canadian Institute of Resources Law.

Resources No. 29 Winter 1990

Resources is the newsletter of the Canadian Institute of Resources Law. Published quarterly, the newsletter's purpose is to provide timely comments on current resources law issues and to give information about Institute publications and programs. The opinions presented are those of the authors and do not necessarily reflect the views of the Institute. Resources is mailed free of charge to more than 6,000 subscribers throughout the world. (International Standard Serial Number 0714-5918) *Editor: Nancy Money*

Canadian Institute of Resources Law
Executive Director: J. Owen Saunders
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