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# Environmental Law: Key Strategies for Everyday Practice

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# Introduction to Environmental Law

*Environmental Law: Key Strategies for Everyday Practice*

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Environmental Law is an area that has been developed and expanded substantially since the early 1980's. Rachel Carson's book, Silent Spring is often referenced as a point from which environmental law became a serious area of study and practice. Regardless of its origins, with the publication of the Rio Declaration in 1988 and the Brundtland Commission Report issued at the same time, the concept of sustainable development and environmental awareness came to the fore.

For the purposes of this course, environmental law will reflect on those laws that specifically are focused on the use and protection of the air, land and water and wildlife in Alberta and Canada. The goal of this course is not to create environmental law experts, but rather to provide an outline and basis for understanding and responding to environmental law issues that may arise in practice.

### **THE CONSTITUTION:**

From a constitutional perspective, you can see that elements of the environment are found in sections 91 and 92, but there is no provision dealing with "the environment". Beginning with the Supreme Court of Canada's decision on the Old-Man Dam<sup>1</sup>, the Court has recognized that the environment is a shared area of jurisdiction. This is not a wholly satisfactory explanation of jurisdiction, but is obvious that there are various elements both found in sections 91 and 92 that clearly touch on the environment. The challenge is the interaction and the complementarity of the various elements of the environment that need to be considered.

### **FEDERAL AREAS OF JURISDICTION:**

While there are many discrete areas of federal jurisdiction, the areas that most commonly arise in Alberta are:

- *Fisheries Act*;
- *Navigable Waters Act*;
- *Species at Risk Act*;
- *Canadian Environmental Protection Act*; and
- *Canadian Environmental Assessment Act*.

The federal government is currently making substantial changes to all of these Acts, including adjusting their names. Assuming the legislation proceeds as it is currently tabled, there will be changes to the *Fisheries Act*, the *Navigable Waters Act* will become again the *Navigable Waters*

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