

**Attachment:** NR Law 392 Exam Pack (42 Pages)

THIS EXAMINATION CONSISTS OF 3 PAGES (PLUS ATTACHMENT)  
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2023

LAW 392  
Natural Resources

Section 1  
Professor J. Griffith

**TOTAL MARKS:** 90

**TIME ALLOWED:** 3 HOURS 15 MINUTES

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- NOTE:**
1. THIS IS A CLOSED BOOK EXAM.
  2. ANSWER ALL QUESTIONS.

THIS EXAMINATION CONSISTS OF 3 QUESTIONS, SOME WITH SEVERAL PARTS  
EACH

Total Marks	Marks	
30		<b>1. Jurisdiction and Decision-Making</b>
	5	<b>1.1</b> List the provisions of the <i>Constitution Act, 1867</i> which are relevant to the division of powers in relation to natural resource management and decision making.
	15	<b>1.2</b> Discuss the SCC <i>Reference Re Greenhouse Gas Pollution Pricing Act</i> decision and explain its relevance to the division of powers in relation to natural resource management and decision making.
	10	<b>1.3</b> How have the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and UNDRIP implementation legislation impacted or have the potential to impact natural resource decision making in Canada and in British Columbia. Provide examples where appropriate.
30		<b>2. Environmental Assessment / Project Development</b>
	10	<p><b>2.1</b> Your client is seeking to develop a new mineral ore mine in British Columbia. It will be situated on un-developed, forested Crown land which is located within Treaty 8 Territory. The Mine will have a production capacity of 6,500 tonnes/day. The Mine proposes to use a tailings pond with treated water to be discharged to a salmon bearing river. The Mine also proposes to construct a run of river hydroelectric generating facility on the river to power its operations. That facility would have a nameplate capacity of 40 MW of electricity. Finally, the Mine proposes to divert and use water from the river for mining operations in the amount of 100,000m<sup>3</sup> per year. The estimated footprint of ground disturbance is 4,000ha. A new access road of 50 km will be required. The tailings pond would occupy less than 20ha.</p> <p>Your client has asked you whether the project will require an environmental assessment.</p> <p>a) Will it require a provincial Environmental Assessment?</p> <p>b) If yes, why?</p> <p>c) Will it require a federal Environmental Assessment?</p> <p>d) If yes, why?</p> <p>e) Could the project be modified to avoid a federal Environmental Assessment?</p>

<u>Question 2, continued</u>		
	5	<b>2.2</b> What are the options for coordinating environmental assessments where both federal and provincial assessments are required?
	5	<b>2.3</b> What options does your client have for engaging with potentially affected Treaty 8 Nations?
	10	<b>2.4</b> If the project receives an environmental assessment certificate and, if applicable, federal approval, what other major tenures, permits or authorizations, if any, are likely to be required for the project and which legislation governs these?
30		<b>3. Incorporating Indigenous Rights into Natural Resource Decision Making</b>
	30	<b>3.1</b> Identify three key case which address Indigenous Nations' rights in the context of natural resources and explain their significance for affecting how Indigenous Nations' rights are considered in or integrated into natural resource decision making.

**END OF EXAMINATION**