

Environmental escalation

Willms & Shier Environmental Lawyers LLP has grown apace with the rapid expansion of environmental law and the mainstreaming of environmentalism in society

MIRRORED IN the cultural shift of enhanced environmental consciousness, Willms & Shier continues to grow, having added a Yellowknife office this May to expand the firm's northern Canadian business.

Environmental law has exploded, moving from the margins to become an important aspect of the legal profession, says Donna Shier, a partner at Willms & Shier Environmental Lawyers LLP and a certified specialist in environmental law.

"Now, environmental law is a real discipline with a panoply of legislation," Shier says. "When I started with [John] Willms, there were two of us. And now . . . after 40 years, we have 20 highly specialized lawyers."

Over her 40-year practice, there has been a transformation in how people relate to the environment, Shier says. The evolution has resulted in a practice that looks much different than that in which she began.

"Everybody is an environmentalist now," she says. "Everyone is environmentally conscious now."

Gone are the "midnight dumpers" with whom Shier dealt, earlier in her career, who would unload drums of toxic waste in ditches and commit other similar large-scale littering. Shier says she hasn't seen those types of intentional acts of environmental degradation in decades.

Environmentalism has become mainstream within the industries whose pollution prompted the need for environmental regulation, with companies now having environmental policies, programs and environmental managers, she says.

"Environmental protection and compliance with environmental laws is mainstream now. It is absolutely mainstream. And that's one of the big differences in my 40 years of practice," she says.

"Everybody is an environmentalist now."

Donna Shier, Willms & Shier Environmental Lawyers LLP

Environmental lawyer jobs are in high demand, with a practice such as Shier's increasingly attractive to law students and new lawyers. "It's a mainstream discipline now. There are all sorts of programs and, yes, we have a number of applicants always. . . . There's no dearth of people applying," she says.

The firm's growth has shifted its relationship with the competition. In 2007, John Willms told *Canadian Lawyer* that it was a challenge for a relatively small firm like his — 12 lawyers at the time — to keep up with larger firms that had economies of scale. More than a decade later, Shier says

the firm's growth has given it an edge on the competition.

"Things have changed a lot for us because our firm size is as large or larger than any big firm's environmental group," she says. "I'd be hard pressed to think of even a large Canadian law firm with 20 environmental lawyers."

The firm practises in environment, Indigenous and energy law and Shier says Indigenous law has expanded as

well. The firms' Indigenous practice consists of consultation, negotiation and accommodation for natural resource development and energy projects and is led by Julie Abouchar.

Shier was called to the bar in 1978, began working with Willms in 1977, part-time, doing research and writing. The firm's environmental practice grew out of the work the firm did in rural municipalities, primarily landfill site work, Shier says. Shier was fascinated by every aspect of industrial processes, which drew her to the type of work the firm was doing. "I still love to go to a new factory and see how somebody is going to

WILLMS & SHIER ENVIRONMENTAL LAWYERS LLP



LAWYERS:
20



OFFICES:
Toronto
Ottawa
Calgary
Yellowknife

PRACTICE AREAS:
Indigenous Law
Energy Law
Environmental Law
Litigation
Northern Canada

DONNA SHIER

1977: Hired by John Willms for part-time research and writing work

1978: Called to bar



manufacture something,” she says.

In her 40-year practice, Shier has seen environmental law become much more complicated, with multiplying rules and regulations. Because of the complexity, she now finds herself explaining to clients that they can expect “different outcomes depending on the nature of the legal forum

you’re in front of.”

In one case, Willms & Shier’s client Control Chem Canada was charged with five offences after an employee mistakenly dumped, into a storm drain, 3,000 litres of liquid containing aluminum chloride hydroxide sulphate.

The company successfully defended itself by pleading due diligence, Shier says.

Established from the 1978 Supreme Court of Canada case *R. v. Sault Ste. Marie*, according to the due diligence defence, a company is protected from liability if it can show it did everything in its power to prevent the occurrence. Shier contrasts the Control Chem case with another client, which appealed an order from the provincial government to clean up a contamination that occurred on a property on which it was a tenant. Though that party was not responsible for the contamination, the Court of Appeal affirmed the order because the due diligence does not apply to an order from the provincial environment ministry. **CL**