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# Federal and Provincial Jurisdiction to Regulate Environmental Issues

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*Federal and Provincial Jurisdiction to Regulate Environmental Issues*  
(Background Paper)

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# FEDERAL AND PROVINCIAL JURISDICTION TO REGULATE ENVIRONMENTAL ISSUES

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## 1 INTRODUCTION

Lawmakers interested in regulating in relation to environmental issues must bear in mind which aspects of the physical environment fall under federal jurisdiction, which are under provincial jurisdiction, and which may be regulated by both levels of government.

In this paper, the word “regulate” is used in its generic sense, meaning control by coercion. It encompasses the enactment of legislation by Parliament or a provincial legislature and the making of regulations by a government, as well as government decision making and management of an issue when backed by the force of law.

Sections 91 and 92 of the *Constitution Act, 1867* list subject matters in relation to which each level of government may regulate.<sup>1</sup> Neither list includes “environment” as a subject matter. Rather, the “environment” is a collective term referring to numerous issues, including some of the various subject matters the Constitution *does* assign to either Parliament or the provincial legislatures.

This paper provides an introductory explanation regarding the constitutional basis for jurisdiction to regulate a subject matter, and then explains which level of government is responsible for regulating various environmental issues.

## 2 CONSTITUTIONAL BASIS OF JURISDICTION TO REGULATE A SUBJECT MATTER

Which level of government has jurisdiction to regulate in relation to a specific environmental issue depends on which subject matter listed in the Constitution best describes the core substance of the regulation, and whether the Constitution has assigned authority for that subject matter to Parliament or to the provincial legislatures.

### 2.1 FEDERAL SUBJECT MATTERS

The following federal subject matters are the basis of most federal jurisdiction over environmental issues:

- public property, which means federally owned property (section 91(1A));<sup>2</sup>
- sea coast and inland fisheries (section 91(12));
- navigation and shipping (section 91(10));
- the criminal law (section 91(27)); and
- Indians and lands reserved for Indians (section 91(24)).

In addition, the opening words of section 91 of the *Constitution Act, 1867* set out a federal residual power. Numerous legal decisions have interpreted this power to conclude that various subject matters not explicitly listed in the Constitution – such as marine pollution and interprovincial water pollution – are nevertheless within federal jurisdiction.

Finally, section 132 of the *Constitution Act, 1867* provides federal jurisdiction over at least two environmental issues: boundary waters and migratory birds.<sup>3</sup> Section 132 gives Parliament and the federal government the powers necessary for meeting Canadian obligations towards foreign countries arising under treaties between the British Empire and foreign countries. Each of these issues – boundary waters and migratory birds – had been the subject of an international agreement between Britain and the United States before Canada gained the autonomy necessary to enter into international treaties on its own behalf.

## **2.2 PROVINCIAL SUBJECT MATTERS**

Provinces have jurisdiction over numerous environmental issues largely thanks to the following four subject matters, expressly assigned under the Constitution to the provinces:<sup>4</sup>

- property and civil rights in the province (section 92(13)), which empowers the provinces to regulate most types of business and industrial activities, including emissions from such activities;
- management of provincial Crown lands (section 92(5)), which empowers the provinces to regulate activities such as mining and lumbering on their substantial landholdings;<sup>5</sup>
- municipal institutions in the province (section 92(8)), under which authority the provinces have delegated to municipalities the power to regulate matters such as zoning, development, waste management and recycling, drinking water and wastewater; and
- generally all matters of a merely local or private nature in the province (section 92(16)).

## **3 FEDERAL AND PROVINCIAL JURISDICTION OVER ENVIRONMENTAL ISSUES**

This section discusses three categories of environmental issues – water, air and land – and explains which level of government is responsible for regulating various issues under each category. The two levels of government share responsibility for some issues. An example of such shared jurisdiction is discussed in the context of shared provincial and federal authority to require that an environmental assessment be carried out for many types of projects.

### **3.1 ENVIRONMENTAL ISSUES RELATING TO WATER**

#### **3.1.1 FISHERIES, SHIPPING AND NAVIGATION**

The federal government has authority to regulate in relation to fisheries, shipping and navigation. Federal jurisdiction over these subject matters applies for all parts of the oceans under Canadian jurisdiction, as well as lakes, rivers and streams within the provinces and territories. Federal jurisdiction over these matters does not vary depending on whether waters are owned by the federal Crown or the provincial Crown or are privately owned.

Under the fisheries power, the federal government has jurisdiction to regulate not only fish and fisheries, but also fish habitat and the quality of fish-bearing waters, as well as marine plants and marine mammals, such as whales, walruses and seals.

The federal government's jurisdiction to regulate shipping includes the jurisdiction to regulate emissions from ships and boats, including sewage, oil and ballast water discharges. The federal government may also regulate shipping routes and safety to prevent spills, wrecks and disruption of the marine environment.

With regards to navigation, courts have recognized a public right to navigate Canada's waterways, regardless of who owns the waterways.<sup>6</sup> This applies to vessels of all sizes, from tankers to canoes, as well as to all types of navigable waters, from oceans to rivers, lakes and streams. Because people have an underlying right to navigate waterways, the federal power to regulate navigation means that the federal government is responsible for determining which works that interfere with navigation – such as dams and bridges – will nevertheless be allowed. Since keeping the waterways intact for navigation also results in environmental benefits, some people characterize federal navigation legislation as environmental legislation.<sup>7</sup>

#### **3.1.2 RIVERS AND LAKES IN THE PROVINCES**

Apart from the aspects of water management discussed above, provinces are primarily responsible for managing the water resources within their borders. They have enacted environmental legislation related to water use and watershed management, as well as effluent discharge limits for various industrial sectors.

An exception to this generalization exists in relation to the issue of international or interprovincial pollution, where the impacts of activities carried out in one province are experienced in another province or in another country such as the United States. The federal government is responsible for regulating such international or interprovincial effects.<sup>8</sup>

The federal government is responsible for regulating issues relating to boundary waters.<sup>9</sup> Boundary waters are waters, such as the Great Lakes, along which passes the international border between Canada and the United States.

Finally, the federal government is also responsible for regulating all aspects of rivers and lakes that occur on federal land within the provinces. Examples include rivers and lakes in national parks.

### 3.1.3 RIVERS AND LAKES IN THE TERRITORIES

The federal government is responsible for regulating water resources in the Northwest Territories and Nunavut.<sup>10</sup> It is no longer responsible for Yukon waters: following a 2001 devolution agreement with the Yukon government, Parliament enacted a revised *Yukon Act* in 2002, which gave the Yukon government province-like responsibilities in relation to water management in the territory.

The federal government recently concluded the *Northwest Territories Lands and Resources Devolution Agreement*, which will see federal responsibility for the management of water resources in the territory transferred to the Government of the Northwest Territories on 1 April 2014.<sup>11</sup> Talks whose aim is the devolution of responsibility for the management of natural resources, including water resources, in Nunavut also have been initiated.

### 3.1.4 OCEANS

All portions of the territorial sea<sup>12</sup> outside provincial boundaries fall under federal jurisdiction. In those portions of the territorial sea that fall within provincial boundaries, the federal government nevertheless has jurisdiction to regulate marine pollution.<sup>13</sup> Beyond the territorial sea of Canada, the federal government has jurisdiction over Canada's exclusive economic zone,<sup>14</sup> including the right to exploit mineral resources in the continental shelf. The federal government has chosen to share the management and revenue of offshore resources being exploited in the areas off the coasts of Newfoundland and Labrador and Nova Scotia with those provincial governments.<sup>15</sup>

Marine protected areas, such as marine wildlife areas and national marine conservation areas, also come under federal jurisdiction.<sup>16</sup>

### 3.1.5 DRINKING WATER AND WASTEWATER

In Canada, provincial and territorial governments are generally responsible for ensuring that public drinking water is safe. In most cases, responsibility for the day-to-day operations of treatment facilities has been delegated to municipalities.<sup>17</sup> Exceptions to this general rule include First Nations reserves,<sup>18</sup> federal institutions – such as penitentiaries and federal office buildings – and federal land – such as national parks – where the federal government is responsible for providing safe drinking water.<sup>19</sup> In addition, a branch of Health Canada is responsible for

developing the *Guidelines for Canadian Drinking Water Quality* in partnership with the provinces and territories. These guidelines are used by every jurisdiction in Canada and are the basis for establishing drinking water quality requirements for all Canadians.<sup>20</sup>



As for wastewater, provincial, territorial and municipal governments have primary jurisdiction. The federal government has jurisdiction over wastewater on federal lands and on First Nations reserves. In 2012, the federal government asserted a much larger jurisdiction to regulate wastewater management in Canada when it made the *Wastewater Systems Effluent Regulations*,<sup>21</sup> which apply throughout the provinces and in Yukon.<sup>22</sup> These regulations were made under the *Fisheries Act* on the basis that the federal government has jurisdiction to regulate the quality of fish-bearing waters.

## 3.2 ENVIRONMENTAL ISSUES RELATING TO AIR

### 3.2.1 INDUSTRIAL EMISSIONS

The provinces have jurisdiction over most types of industries, including mining and manufacturing, and therefore they also have jurisdiction to regulate emissions from these industries. The federal government, in turn, regulates emissions from those industries that come under its jurisdiction, including several that may have a significant environmental impact, such as aviation and interprovincial and international transportation.

### 3.2.2 TOXIC SUBSTANCES

Parliament has asserted federal jurisdiction to identify and regulate the release of toxic substances, such as mercury and asbestos, into the air, land and water. This jurisdiction was confirmed in 1997 when the Supreme Court of Canada ruled that controlling toxic substances is a valid exercise of federal jurisdiction to make criminal laws.<sup>23</sup> Federal provisions for controlling toxic substances are now contained within the *Canadian Environmental Protection Act, 1999*, which includes a process for determining which substances are toxic, as well as a regulatory regime for controlling or eliminating toxic substances.<sup>24</sup>

### 3.2.3 INTERNATIONAL AIR POLLUTION

The federal government has jurisdiction to regulate air pollution that is released from a source in Canada and experienced in a country outside Canada. Under the *Canadian Environmental Protection Act, 1999*, the federal Minister of the Environment must first offer an opportunity for the government responsible for the area in which the source is situated to prevent, control or correct the air pollution, before acting.<sup>25</sup>

### 3.2.4 GREENHOUSE GASES AND CLIMATE CHANGE

Means of addressing the problem of climate change might be grouped into two broad categories: those that seek to limit greenhouse gas emissions from specific industries or other identifiable sources, and those that establish an overarching strategy or regime to motivate people to make choices that result in reduced emissions.

With regard to the first category, provinces have jurisdiction to regulate most types of buildings, businesses, industries and intraprovincial transportation, and therefore they also have jurisdiction to control the greenhouse gas emissions related to these matters. While the federal government has jurisdiction over certain industries, as noted earlier in this paper, its jurisdiction to regulate the emission of greenhouse gases is based in its power to regulate toxic substances as an aspect of criminal law. In 2005, the government added six greenhouse gases<sup>26</sup> to the List of Toxic Substances set out in Schedule 1 of the *Canadian Environmental Protection Act, 1999*, and therefore it now, arguably, has jurisdiction to regulate the emissions of these greenhouse gases.<sup>27</sup>

The federal government used this jurisdiction in 2012 when it made regulations to reduce the emission of carbon dioxide from coal-fired generation of electricity.<sup>28</sup> Since no court has ruled on the constitutionality of this exercise of federal jurisdiction – which some people might characterize as relating to electricity generation, a subject matter of exclusive provincial jurisdiction – the regulations remain in effect.

In 2013, the federal government again made regulations under the *Canadian Environmental Protection Act, 1999* to reduce greenhouse gas emissions, this time in relation to emissions from heavy-duty vehicles and engines.<sup>29</sup> However, this exercise of federal jurisdiction was not based on the federal power to regulate toxic substances as an aspect of criminal law. Rather, it relied on the federal government's power to regulate international and interprovincial trade and commerce,<sup>30</sup> since the regulations set emissions standards that heavy-duty vehicles and engines must meet in order to be imported or transported across a provincial border. Accordingly, while the most obvious means for the federal government to regulate the emission of greenhouse gases might be by using its power to regulate toxic substances as an aspect of the criminal law, other federal powers might also be used, depending on how a regulation is structured.

With regard to addressing climate change by establishing an overarching strategy or regime, note that both Parliament and the provincial legislatures have broad jurisdiction to impose taxes.<sup>31</sup> Therefore, either or both levels of government could institute a carbon tax.

Similarly, Parliament and the provincial legislatures also likely share jurisdiction to enact greenhouse gas reduction strategies or emission allowances trading regimes. Depending on how such a system were structured, provincial jurisdiction might be based in the power to regulate property and civil rights; federal jurisdiction might be based in the federal residuary power, if climate change were deemed a matter of national concern.<sup>32</sup>

### **3.3 ENVIRONMENTAL ISSUES RELATING TO LAND**

#### **3.3.1 TERRESTRIAL PROTECTED AREAS**

Both the federal and provincial governments have authority to establish protected areas. Jurisdiction is based on which level of government owns the lands – including the beds of rivers and lakes – to be protected.

The federal government has established several different types of protected areas on its lands, including national parks and national wildlife areas. In contrast, federal migratory bird sanctuaries may be established on federal, provincial or private land, because the federal government has jurisdiction over migratory birds, if not the lands that comprise a sanctuary.

### 3.3.2 WILDLIFE AND SPECIES AT RISK

The provinces have jurisdiction over most wildlife within their borders. There are three principal exceptions to this. The federal government has primary jurisdiction over:

- wildlife on federal lands, such as in national parks and national wildlife areas;
- aquatic species, including marine mammals, such as whales, walruses and seals; and
- migratory birds.

Federal jurisdiction over migratory birds was recently confirmed by the New Brunswick Provincial Court, which stated that federal jurisdiction is based in the federal power to implement international treaties under section 132 of the *Constitution Act, 1867*.<sup>33</sup> The relevant international treaty in this case is the 1916 convention between the United Kingdom and the United States for the protection of migratory birds in Canada and the United States. The court also found that federal jurisdiction could be based in the federal residuary power on the grounds that migratory birds are a matter of national concern.<sup>34</sup>

Also, the federal government has jurisdiction to regulate the international and interprovincial trade of wildlife under the federal *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*.

### 3.3.3 WASTE MANAGEMENT

Waste management and recycling are primarily matters of municipal, provincial and territorial concern. As expressed by Environment Canada,

municipal governments are responsible for collecting and managing waste from homes for recycling, composting, and disposal, while provincial and territorial authorities are responsible for the approval, licensing and monitoring of waste management operations.<sup>35</sup>

However, there are at least four aspects of waste management that fall within federal jurisdiction.

First, as discussed earlier in this paper, the federal government has jurisdiction to regulate the release of toxic substances under its constitutional power to make criminal laws. Numerous regulations made under the *Canadian Environmental Protection Act, 1999* regulate the release of toxic substances, listed in Schedule 1 of the Act, to the land, air and water.

Second, the federal government has jurisdiction to regulate the international and interprovincial movements of hazardous waste and hazardous recyclable materials. Waste and recyclable materials that qualify as “hazardous” are identified in various federal regulations.<sup>36</sup>

Third, the federal government is responsible for waste management and recycling on federal land – such as in national parks – as well as on First Nations reserves.

Fourth, the federal government is responsible for the management and cleanup of federal contaminated sites. These sites are located either on federal land – in the territories, for example – or on First Nations reserves, or their contamination has been caused by federal government operations.<sup>37</sup>

### 3.3.4 NUCLEAR ACTIVITIES

Parliament has declared that it has jurisdiction over

[a]ny work or undertaking constructed for the development, production or use of nuclear energy or for the mining, production, refinement, conversion, enrichment, processing, reprocessing, possession or use of a nuclear substance or for the production, possession or use of prescribed equipment or prescribed information.<sup>38</sup>

Declaring federal jurisdiction over a work or undertaking in this manner is authorized under the *Constitution Act, 1867*.<sup>39</sup>

## 3.4 JURISDICTION TO REQUIRE AN ENVIRONMENTAL ASSESSMENT

Under both federal law and provincial law, many types of projects – such as the construction of a mine, pipeline or factory – must undergo an environmental assessment to ensure that environmental factors are taken into account throughout the planning stages of the project.

Provincial jurisdiction to require that a proposed project undergo an environmental assessment is broad, since the provinces have jurisdiction over “property and civil rights in the province,”<sup>40</sup> which gives them jurisdiction over most types of projects. Provincial jurisdiction over environmental assessment may also be based in provincial jurisdiction over provincial Crown lands and generally all matters of a merely local or private nature in the province.<sup>41</sup>

However, in some cases the federal government also has jurisdiction to require that a project undergo an environmental assessment, even if the project is predominantly under provincial jurisdiction. Federal jurisdiction is based in the possibility of a project having an effect on any matter under federal jurisdiction.<sup>42</sup> Accordingly, the *Canadian Environmental Assessment Act, 2012* specifies that the environmental effects that are to be taken into account during a federal environmental assessment are those under federal jurisdiction, including:

- a change that may be caused to fish and fish habitat, aquatic species and migratory birds;

- a change that may be caused to the environment that would occur on federal lands, in a province other than the province where the project is being carried out, or outside Canada; and
- an effect that may be caused to the environment on various factors relating to Aboriginal peoples.<sup>43</sup>

## 4 CONCLUSION

When the *British North America Act* (as the *Constitution Act, 1867* was originally entitled) was enacted, the environment was not identified as a subject matter requiring government protection. As environmental issues have emerged over the last half century, the original constitutional framework distributing legislative powers to Parliament and the provincial legislatures has been interpreted to assign authority over these new issues to one or both levels of government. Oftentimes this distribution of powers is complex and overlapping. Therefore, the federal government and the provinces have worked together to harmonize the application of regulations in respect of all aspects of the environment – water, air, land and environmental assessment.

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## NOTES

1. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), ss. 91–92. Sections 92A–95 also assign subject matters to one or both levels of government. The subject matters mostly likely to be related to the environment are concentrated in sections 91, 92 and 92A.
2. Unless otherwise noted, all section numbers in this paper refer to sections of the *Constitution Act, 1867*.
3. These two topics are discussed in more detail in section 3 of this paper.
4. The *Constitution Act, 1867* does not give the territories jurisdiction over any subject matters. Rather, the territories come under the authority of Parliament, which has delegated substantial authority to the territorial legislatures to make laws. See the [Yukon Act](#), S.C. 2002, c. 7, the [Northwest Territories Act](#), R.S.C., 1985, c. N-27 and the [Nunavut Act](#), S.C. 1993, c. 28.
5. The provinces, collectively, are the biggest landholder in Canada. However, the extent of provincial land ownership varies significantly from province to province. See V.P. Neimanis, "[Crown Land](#)," *The Canadian Encyclopedia*.
6. *Wood v. Esson*, [1884] 9 S.C.R. 239; *Stephens v. MacMillan*, [1954] O.R. 133 (H.C.J.) and *Friends of the Oldman River Society v. Canada*, [1992] 1 S.C.R. 3.
7. Currently, federal navigation legislation is the [Navigable Waters Protection Act](#), R.S.C., 1985, c. N-22. Upon the coming into force of 2012 amendments to the Act, it will be renamed the *Navigation Protection Act*. For a discussion about the *Navigable Waters Protection Act* serving as environmental legislation, see Ecojustice, "[Bill C-45 and the Navigable Waters Protection Act \(RSC 1985, C N-22\)](#)," *Legal background*, October 2012.
8. See [Interprovincial Co-operatives Ltd. et al. v. R.](#), [1976] 1 S.C.R. 477.

9. Under the 1909 [Boundary Waters Treaty](#) between the King of the United Kingdom (on behalf of Canada) and the United States, the International Joint Commission [IJC] was created to prevent and resolve disputes relating to boundary waters. For more information about the IJC and its mandate, which has expanded beyond boundary waters to other international matters such as air quality, see IJC, [About the IJC](#).
10. See Aboriginal Affairs and Northern Development Canada, [Water Management](#).
11. Government of the Northwest Territories, "[About Devolution](#)," *Devolution of Lands and Resources in the Northwest Territories*.
12. The territorial sea is, roughly, a 12-nautical-mile band of sea around the coast of Canada that is considered to be part of Canada. The exact definition may be found in the [Oceans Act](#), S.C. 1996, c. 31, s. 4.
13. This principle was established by the Supreme Court of Canada on the grounds that marine pollution is a matter of national concern under the "Peace, Order and Good Government" provision of the *Constitution Act, 1867*. See [R. v. Crown Zellerbach](#), [1988] 1 S.C.R. 401.
14. The exclusive economic zone is defined in the *Oceans Act*, s. 13. Roughly, it is a band of sea adjacent to, and which extends beyond, the territorial sea to a distance of 200 nautical miles or more off the coast of Canada.
15. See the [Atlantic Accord](#) (1985) between Canada and Newfoundland and Labrador and the [Canada–Nova Scotia Offshore Petroleum Resources Accord](#) (1986).
16. See Fisheries and Oceans Canada, [Federal Marine Protected Areas Strategy](#).
17. Health Canada, "[Drinking water](#)," *Environmental and Workplace Health*. Also see Health Canada, "[Drinking Water and Wastewater](#)," *First Nations and Inuit Health*.
18. The responsibility to provide safe drinking water on reserves is shared between First Nations and the federal government. See Environment Canada, "[Federal Policy and Legislation](#)," *Water Governance and Legislation*.
19. See Tonina Simeone, [Safe Drinking Water in First Nations Communities](#), Publication no. 08-43-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 28 May 2010.
20. Health Canada, "Drinking water," *Environmental and Workplace Health*.
21. [Wastewater Systems Effluent Regulations](#), SOR/2012-139.
22. The *Wastewater Systems Effluent Regulations* also do not apply north of the 54<sup>th</sup> parallel in Quebec and Newfoundland and Labrador. *Ibid.*, s. 2(3).
23. See [R. v. Hydro-Québec](#), [1997] 3 S.C.R. 213.
24. See [Canadian Environmental Protection Act, 1999](#), S.C. 1999, c. 33, Part 5, and [regulations](#) made under the Act.
25. *Canadian Environmental Protection Act, 1999*, s. 166.
26. Greenhouse gases added to the List of Toxic Substances are those specified in the *Kyoto Protocol to the United Nations Framework Convention on Climate Change*: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

27. [Order Adding Toxic Substances to Schedule 1 to the Canadian Environmental Protection Act, 1999](#), SOR/2005-345. However, see Alastair R. Lucas and Jenette Yearsley, [The Constitutionality of Federal Climate Change Legislation](#), The University of Calgary School of Public Policy Research Papers, Vol. 4, Issue 15, December 2011, for an example of arguments that the federal government may not have jurisdiction to regulate the emission of greenhouse gases, depending on how regulations are structured.
28. [Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations](#), SOR/2012-167. These regulations were made under the *Canadian Environmental Protection Act, 1999*.
29. [Heavy-duty Vehicle and Engine Greenhouse Gas Emission Regulations](#), SOR/2013-24.
30. *Constitution Act, 1867*, s. 91(2).
31. *Constitution Act, 1867*, ss. 91(3) and 92(2).
32. For example, see Thomas Posyniak, "[A constitutional foundation for a greenhouse gas reduction policy](#)," *Policy Options*, November 2010; and Theresa A. McClenaghan and Joseph F. Castrilli, [Testimony Before the House of Commons of Canada Standing Committee on the Environment and Sustainable Development on the Constitutionality of Bill C-377, the Climate Change Accountability Act](#), Canadian Environmental Law Association, Publication no. 602, February 2008.
33. *R. v. J.D. Irving Ltd.* (2008), 37 C.E.L.R. (3d) 200 (N.B. Prov. Ct.).
34. *Ibid.*
35. Environment Canada, [Managing and Reducing Waste](#).
36. See [Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations](#), SOR/2005-149, ss. 1–2.
37. For more information, see Auditor General of Canada, "[Chapter 3 – Federal Contaminated Sites and Their Impacts](#)," *2012 Spring Report of the Commissioner of the Environment and Sustainable Development*.
38. [Nuclear Safety and Control Act](#), S.C. 1997, c. 9, s. 71.
39. *Constitution Act, 1867*, ss. 91(29) and 92(10)(c).
40. *Ibid.*, s. 92(13).
41. *Ibid.*, ss. 92(5) and 92(16).
42. This matter was decided in the case of [Friends of Oldman River Society v. Canada \(Minister of Transport\)](#), [1992] 1 S.C.R. 3. For a discussion of what happens when the final decisions following provincial and federal environmental assessments conflict, see Penny Becklumb, [Provincial Jurisdiction over Interprovincial Pipelines](#), Publication no. 2013-13-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 20 March 2013.
43. See section 5 of the [Canadian Environmental Assessment Act, 2012](#), S.C. 2012, c. 19, s. 52.