

Indigenous Peoples

A complex and growing body of law governs the rights and responsibilities of government, indigenous and corporate actors in projects where the interests of Indigenous peoples are engaged. Indigenous peoples may need to be consulted and have their interests accommodated. Governments and companies that develop land, natural resources or infrastructure in Canada must be attuned to the interests, rights and claims of affected aboriginal groups. The interests of Indigenous peoples can be engaged in any range of business ventures, including real estate, utilities, energy, pipelines, forestry and transportation projects. A failure to understand and fulfill one's obligations from the outset can be fatal to a project's success, leading to negotiation breakdown, litigation or protests. It is therefore essential to be guided by aboriginal law experts at every step.

WeirFoulds has extensive expertise advising clients on their Indigenous peoples law obligations and facilitating productive engagement with indigenous groups. We have acted as chief negotiators for federal and provincial governments on the negotiation and implementation of agreements with indigenous communities, as well as for private sector and indigenous clients. We have also been involved in seminal indigenous law litigation at all levels of court, including the Supreme Court of Canada.

We partner with our clients in land use planning, mining, energy, and environmental matters. Our private and public sector clients rely on WeirFoulds for a complete scope of legal services related to the challenges and issues related to indigenous relations, including: ancestral and treaty rights, land titles and land use planning, public policy issues, government and private sector relations, comprehensive and specific territorial claims, duty to consult, negotiation and drafting of Impact and Benefits Agreements (IBAs), joint venture, acquisition and royalty agreements, negotiation and drafting environmental agreements, and the evaluation and review of environmental impacts and environmental compliance audits, and due diligence processes related to Indigenous peoples issues.

Lawyers and professionals in this area



Jeff Cowan

Counsel

416.947.5007

jcowan@weirfoulds.com



Jill Dougherty

Partner

416.947.5058

jdougherty@weirfoulds.com



Albert Formosa

Partner

416.947.5012

aformosa@weirfoulds.com



W. A. Derry Millar

Counsel

416.947.5021

dmillar@weirfoulds.com



Gregory Richards

Counsel

416.947.5031

grichards@weirfoulds.com

Areas of Expertise

- Aboriginal rights
- Acquisition and royalty agreements
- Consultation
- Environmental agreements
- Environmental compliance audits
- Government relations
- Impact Benefit Agreements
- Joint ventures
- Litigation
- Negotiation
- Policy advice
- Treaty and title claims

Representative Experience

Our lawyers have acted on significant cases involving land claims and other Indigenous peoples issues. These cases include the following:

- Derry Millar acted as Lead Commission Counsel on The Ipperwash Inquiry, which was established by the Government of Ontario on November 12, 2003, under the **Public Inquiries Act**. Its mandate was to inquire and report on events surrounding the death of Dudley George, who was shot in 1995 during a protest by First Nations representatives at Ipperwash Provincial Park and later died. The Inquiry was also asked to make recommendations that would avoid violence in similar circumstances in the future. The Commission delivered its final [report](#) containing its findings, conclusions and recommendations to the Attorney General of Ontario and the Report was made public on May 31, 2007.
- We acted in the Supreme Court of Canada in a landmark case concerning the constitutionality of a commercial salmon fishery in coastal British Columbia waters that was restricted by the federal government to members of three Indigenous peoples, to the exclusion of other members of the public. The decision restates the requirements for an equality rights claim under section 15(1) of the Charter and is the first case to formulate a legal test for the validity of affirmative action programs under section 15(2). *R. v. Kapp*, 2008 SCC 41.
- We acted for one of the successful parties in important land claims cases involving remedies in the Indigenous peoples law context: *Chippewas of Kettle and Stony Point v. Canada (Attorney General)*, [1998] 1 S.C.R. 756 and *Chippewas of Sarnia v. Canada* (2000), 51 O.R. (3d) 641 (C.A.), leave denied (2001), 158 O.A.C. 199 (S.C.C.).

WeirFoulds^{LLP}

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035