

## New

Ministry

Environment and Protected Areas

**Describe: Basic Job Details**
**Position**

Position ID

Position Name (200 character maximum)

Board Legal Counsel

Requested Class

Legal Counsel

Job Focus

Supervisory Level

00 - No Supervision

Agency (ministry) code

CA09

Cost Centre

606781

Program Code: (enter if required)

**Employee**

Employee Name (or Vacant)

NEW POSITION

**Organizational Structure**

Division, Branch/Unit

 Current organizational chart attached?

Supervisor's Position ID

50017693

Supervisor's Position Name (30 characters)

General Counsel

Supervisor's Current Class

Legal Counsel

**Design: Identify Job Duties and Value**
**Job Purpose and Organizational Context**

Why the job exists:

The Environmental Appeals Board (EAB) is an independent quasi-judicial board that gives Albertans an opportunity to appeal certain decisions made by the Department under the Environmental Protection and Enhancement Act, the Water Act, the Climate Change and Emissions Management Act, and Schedule-s of the Government Organization Act. These decisions include approvals, water licences, preliminary certificates, remediation certificates, administrative penalties, enforcement orders, and environmental protection orders.

The Public Lands Appeal Board (PLAB) is an independent quasi-judicial board that gives Albertans an opportunity to appeal certain decisions made by the Department and the Department of Forestry and Parks under the Public Lands Act and the Public Lands Administration Regulation. These decisions include approvals, refusals, rejections, modifications, cancellations, authorizations, deemed rejections, stop work orders, seizures, administrative penalties, and enforcement orders.

The Board Legal Counsel (Board Counsel) provides specialized legal advice to both the EAB and PLAB.

Board Counsel reports to the Board's General Counsel and Settlement Officer (General Counsel). The Board Counsel provides legal advice to the Chair of the EAB, the Chair of the PLAB, the PLAB Appeal Coordinator, Board Members, the Board Secretary, and the Registrar of Appeals (Registrar). This advice enables the EAB and PLAB to achieve their business goals and objectives, and to provide a fair, impartial, and efficient resolution of the appeals brought before the Boards. Through support provided throughout the mediation process, the Board Counsel works with participants before the Boards, Mediators, and Registrar to promote the settlement of appeals without the need for a hearing. The position also ensures the Board's processes, decisions, and Reports and Recommendations comply with legislation, principles of administrative law, natural justice, and procedural fairness. The Board Counsel advises the Boards in corporate matters and provides other legal services for the Boards. The position assists the Boards in legal proceedings such as hearings and judicial reviews, and represents the Boards in various forums through public speaking and education. The Board Counsel provides training and orientation to new Board Members to ensure they understand their roles and responsibilities, and ensure the Rules of Practice of respective Boards and Codes of Conduct and Ethics are communicated and understood. This position will require experience conducting judicial reviews.

The Board Counsel also provides information and assistance to members of the public, participants appearing before the Boards, representatives of Alberta Environment and Protected Areas, and representatives of business and industry.

## Responsibilities

Job outcomes (4-6 core results), and for each outcome, 4-6 corresponding activities:

Legal advice is provided to the EAB or PLAB to guide processes and operations in line with legislation, and principles of administrative law and natural justice.

- Participate in the development and drafting of Boards business plans and annual reports in alignment with Ministry and government goals
- Provide legal guidance so that all Board processes, including mediation, preliminary hearings and substantive hearings are governed by clear process in compliance with the appropriate legislation, including principles of administrative law, natural justice and procedural fairness
- Provide recommendations and interpretation to the General Counsel and Board Chairs regarding appeal process requirements, which span a range of topics
- Provide legal expertise and advice on procedural and policy matters to respond to complex inquiries by the Board staff or the public (typically referred by the Registrar or the Board Secretary)
- Facilitate training and orientation sessions for Board Members to help them understand and perform their responsibilities in an effective manner
- Mentor and coach Board members

Legal guidance is provided in all mediations to promote the settlement of appeals in a fair, impartial, and efficient manner without the need for a hearing.

- Establish effective working relationships with members of the public, legal counsel for participants, and other participants appearing before the Boards.
- Attend mediations with assigned mediator to assist with the process as a resource and a backup
- Assist with planning and execution of logistics as needed
- Provide legal information and guidance to all participants (e.g., explain next steps for post-mediation or respond to legal questions so that participants can assess their options)
- Ensure agreements and decisions are legally sound (e.g., ensure contracts are legally sound;

identify potential legal or process conflicts)

- Provide advice on the best way forward based on how participants would like to proceed (e.g., provide advice on what agreements and commitments can be made)
- Draft contracts and agreements during mediation so that the documents are ready once the mediation concludes

Provide guidance to all preliminary and substantive hearings to support fair and objective management of appeals.

- Research and develop comprehensive briefings for each appeal
- Brief assigned panel prior to hearings so they are aware of the relevant issues and precedents
- Ensure the process is fair, raising issues and intervening during the hearing, as needed, to remind participants of the appropriate process
- Serve as counsel for the hearing
- Guide the panel as it moves through processes when dealing with preliminary matters or in hearings (e.g., determination of 'legal standing')
- Facilitate decision-making (e.g., ensuring decisions are not contrary to evidence; that decisions are legally sound)

The General Counsel and Board Chair are supported in leading the achievement of EAB and PLAB goals.

- Provide regular file status updates and reports to the General Counsel and the Chair
- Manage the development of responses to queries from ministry officials
- Develop and deliver stakeholder and public education sessions to help promote the Board's procedures
- and processes and help enhance understanding of the Board's role
- Mentor articling students or Board staff

## Problem Solving

Typical problems solved:

One of the challenges for this position is to provide legal assistance and guidance throughout all appeal Processes without interfering in the panel's decision-making. This draws on comprehensive legal knowledge, tact and diplomacy to bring attention to factors without influencing the panel's decision. The Board Legal Counsel must also be able to justify the decision in writing of the decision document and ensure that it is intelligible, rational and defensible.

The interface of multiple types of law and legislation adds to the complexity of the environment in which the position operates. For example, the incumbent must know which agreements and commitments can be made in mediation; some decisions in mediation might need to be first approved by the Minister before the participants can act; other agreements can be entered into a contract on the day of the mediation. The wording is essential so that intended actions are clearly articulated and understood.

Types of guidance available for problem solving:

In many situations, the legal problems that the Boards faces are without precedent and the position must rely on knowledge and past experience to deal with such situations. The PLAB is relatively new and there are not other PLABs in Canada; there are only a limited number of EABs. If precedent is not available, then the incumbent provides the best analogy and interpretation. This can draw in and intersection with other facets of the law.

Direct or indirect impacts of decisions:

It is not unusual for the position to deal with matters and issues that are very high profile and have significant consequences. This position may deal with matters that have broad reaching, economic, social and political ramifications, as well as with very complex legal problems that cross a wide range of areas of the law, including across multiple jurisdictions. The position must be well versed and current on all of these areas and have a firm understanding of their interactions. The position must be keenly aware of the legal implications of legal advice. The position prepares decisions and report and recommendations as per Board members' instruction, being cognizant of the rules of natural justice, procedural fairness, and the legislated framework. Guidance for problem solving is also available via legislation, legal precedent and support provided by the General Counsel and other Board Counsel.

### Key Relationships

Major stakeholders and purpose of interactions:

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### Required Education, Experience and Technical Competencies

Education Level	Focus/Major	2nd Major/Minor if applicable	Designation
Bachelor's Degree (4 year)	Law		Other

If other, specify:

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Job-specific experience, technical competencies, certification and/or training:

#### Education and Experience

- Bachelor of Laws degree and membership in good standing of the Law Society of Alberta is required
- Minimum of 5 years' experience and extensive related experience in the areas of environmental law;
- Administrative law and advocacy, including practice and procedure before administrative tribunals

#### The Board Legal Counsel requires:

- Extensive knowledge of the legislation that governs EAB and PLAB: Environmental Protection and Enhancement Act, Water Act, Government Organization Act, and Climate Change and Emissions Management Act; Public Lands Act and the Public Lands Administration Regulation; comprehensive knowledge of applicable legislation, regulations, and policies (i.e. Forests Act, Mines and Minerals Act, Irrigation Act, Drainage District Act, Climate \_Change and Emissions Management Act, Municipal Government Act);
- Comprehensive knowledge of multiple types of law (e.g., aboriginal law, constitutional law, municipal law, oil and gas law, sutiace rights law, contract law, corporate law, commercial law, and real property law) in the context of EAB or PLAB legislation;
- specific knowledge of contract law as it intersects with EAB and PLAB legislation;
- extensive knowledge of Government strategic business plan goals and policy directions, accountability processes, issues, programs, resources, and regulatory frame.works particularly as they relate to the Ministries and Boards mandates;
- extensive knowledge of the appeals process, including the rules of natural justice and procedural fairness;
- extensive knowledge of environmental policy, including development and implementation at the

local, provincial, federal and international level;

- extensive knowledge of the environmental regulatory process, including a solid understanding of the interaction and interrelationships between the various entities and regulatory schemes;
- extensive knowledge of remedial and enforcement programs and theories;
- extensive knowledge of alternate dispute resolution, including dispute resolution and negotiation processes and techniques;
- knowledge of the political environment within which the Ministry and Boards operate and decision making processes of the Legislative Assembly, Cabinet, Caucus, Treasury Board, and various Government committees;
- knowledge of the client, partner, and stakeholder community affected by the Boards mandates, including relevant oil and gas industry, agricultural industry, forest industry, water management, potable water and wastewater treatment, committees, advisory groups, and the public;
- extensive understanding of professional ethics, as well as ethical and conflict of interest rules in relation to administrative tribunals; and
- understanding of related sciences including aquatic and terrestrial biology, chemistry, biochemistry,
- environmental risk assessment, human physiology, hydrology, hydrogeology and geology.

### Behavioral Competencies

Pick 4-5 representative behavioral competencies and their level.

Competency	Level					Level Definition	Examples of how this level best represents the job
	A	B	C	D	E		
Systems Thinking	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<p><b>Integrates broader context into planning:</b></p> <ul style="list-style-type: none"> <li>• Plans for how current situation is affected by broader trends</li> <li>• Integrates issues, political environment and risks when considering possible actions</li> <li>• Supports organization vision and goals through strategy</li> <li>• Addresses behaviours that challenge progress</li> </ul>	The position must demonstrate strategic thinking, including the ability to forecast emerging issues, additional appeals that may result from increased industry activity, anticipate impacts on the Boards. The Board Legal Counsel develop plans and presents alternative courses of action to resolve the problems and issues and inform long term direction.
Creative Problem Solving	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<p><b>Engages the community and resources at hand to address issues:</b></p> <ul style="list-style-type: none"> <li>• Engages perspective to seek root causes</li> <li>• Finds ways to improve complex systems</li> <li>• Employs resources from other areas to solve problems</li> <li>• Engages others and</li> </ul>	Strong analytical thinking, and problem-solving skills, including ability to analyze information and risks and exercise pro-active and sound judgment in providing advice and recommendations that the Boards can rely on

