In recent years, environmental considerations have emerged as a key issue in corporate, political and social decision-making. Climate change litigation has traditionally focused on regulatory approvals for proposed projects and ongoing reporting requirements to manage site-specific and aggregate carbon emissions. More recently, however, a new wave of climate change litigation has arrived in Canada: climate change class actions.

There are two broad categories for climate change class actions: lawsuits against the government and lawsuits against private entities. While environmental actions relating to contamination are not new, class actions seeking recovery for climate change – what commentators describe as a global crisis – represent a new reality for all stakeholders. For environmental professionals that are engaged by the government or the industry in the ordinary course, or by potential plaintiffs and defendants in these actions, these actions present new business opportunities and risk areas for their clients.

This presentation considers recent climate change class actions, including examples from Canada, the United States and Europe, and some potential issues that may arise in asserting or resisting these actions. We also consider implications for environmental professionals in anticipation of this new era of environmental litigation. Among other implications, environmental professionals should be live to the connection between their work products and the evidentiary record and legal tests for climate change class actions. Environmental professionals may also occupy a significant role in assisting their clients with mitigating litigation risk.

Matti Lemmens, BA, LLB
Matti Lemmens is a partner in our Commercial Litigation Group, and the Environmental Group Leader in our Calgary office. Matti practices in all areas of commercial litigation. In particular, she has experience representing Canadian and international clients in litigation and alternative dispute resolution, including both domestic and international arbitrations, involving:

- insolvency and banking litigation;
- environmental disputes;
- intellectual property disputes;
- oil & gas matters; and
- advising on environmental aspects of commercial transactions.  
Matti has appeared before the Provincial Court of Alberta, the Court of Queen’s Bench of Alberta, the Nova Scotia Supreme Court, the Ontario Superior Court of Justice, the Supreme Court of the Falkland Islands, the Federal Court (Canada), the Alberta Court of Appeal, and the Supreme Court of Canada.