



Henry J. Krupa

Co-Chair, Environmental
Toronto

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education and year of call

- Called to the Ontario bar - 1989
- University of Ottawa, LLB - 1987
- London School of Economics and Political Science - 1990
- University College London - 1991
- University of London, LLM (Distinction) - 1992
- Universities of Dundee and St. Andrews, Centre for Energy, Petroleum and Mineral Law and Policy - 1992

practice areas

environmental regulation

business law

industries

energy

mining

profile

Henry Krupa is counsel in the Environmental, the Energy & Emissions Trading and the Commercial Real Estate Groups in the firm's Toronto office. He is Co-Chair of the firm's Environmental Law Group. He specializes in the areas of environmental, energy, natural resources and mining law and government relations. Henry was the Director of Legal Services for the Ontario Ministries of the Environment and Energy before returning to private practice.

Henry Krupa has significant experience advising both the public and private sectors on a broad range of matters that have environmental, energy-related or natural resources development issues and concerns.

As the Ontario government's senior legal advisor on environment and energy matters, Henry played a leading role in every major environmental and energy issue in the Province, many with national and international significance. He has been involved in developing virtually every provincial policy and law that will govern the environmental and energy sectors for the foreseeable future. He has advised Premiers, Cabinet Ministers, Cabinet Committees, senior civil servants and senior executives of provincially-owned commercial enterprises, crown corporations, agencies and administrative tribunals. His extensive contacts and unique knowledge of the workings of government assist his clients in resolving legal issues effectively and efficiently.

Henry has also advised a wide range of industrial, commercial, institutional and individual clients on compliance and regulatory, transactional, project development and Brownfields redevelopment and litigation matters. His expertise covers a variety of sectors including aggregate resources, agriculture, clean energy and renewable energy technologies, First Nations,

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financial, forestry and natural resources, greenhouse gas control technologies, local utilities, mining and metal smelters, municipal government, petrochemical, receivers and/ trustees-in-bankruptcy, transportation and logistics and waste management.

Henry attained a Master of Laws (LL.M.) with honours in Environment, Energy and Natural Resources Law and Policy. He received his legal education in Canada, England and Scotland, and has taught at law schools in Canada, United States and the United Kingdom. He is a published author on several environmental- and energy-focused topics.

directorships and professional associations

- Canadian Bar Association
- Environmental Law Executive, Ontario Bar Association, (2000 – 2004)
- Canadian Association of Law Teachers
- The Bentham Society (England)

representative matters

Henry Krupa has provided counsel and leadership on a large number of high profile issues, including:

- Electricity Market Opening, energy and electricity consumer protection, energy and electricity supply and cost and rate issues, transmission lines, and inter-provincial power purchases;
- National Energy Board (NEB) and Ontario Energy Board (OEB) applications and appeals;
- OEB performance issues;
- Hydro One (H1) governance and privatization;
- Ontario Power Generation (OPG) governance;
- August 2003 Power Outage;
- Walkerton water contamination incident;
- O'Connor Commission of Inquiry into the Contamination of Water at Walkerton;
- Crown Corporations including the Independent Electricity System Operator (IESO);
- High profile appeals and judicial reviews, including the Richmond Landfill Terms of Reference;
- Class Environmental Assessments (EA) including the Electricity Sector Class EA for a deregulated marketplace (Electricity Projects Regulation O. Reg. 116/01), Class EA for Minor Transmission Facilities, Conservation Ontario Class EA for Remedial Flood and Erosion Control Projects, MNR Class EA for Provincial Parks and Conservation

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Reserves, GO Transit Class EA, and the mandatory review of the Timbre Class EA;

- Individual EAs including the Peterborough Landfill Site Expansion, Niagara People Mover Transit System, KMS Peel Inc. Energy From Waste Facility, Hwy 400 - Hwy 404 Extension Link, West Nipissing Area Waste Management Master Plan, Hwy 404 Extension, Victoria County Landfill, Trail Waste Facility Landfill Optimization Project;
- Aboriginal and other stakeholder/regulated community issues; and
- Class Actions and other civil suits, judicial reviews and statutory appeals to the Minister.

Henry has provided successful senior leadership on policy, governance, management and operational issues involving provincially-owned enterprises, including OPG and H1; tribunals, including the ERT and the OEB; agencies, including the Ontario Clean Water Agency; trusts, including the Clean Water Trust; and national associations, including the Council of Ministers of the Environment.

He has also provided counsel and leadership for the implementation of a wide variety of policies, programs and initiatives, including:

- Energy/Electricity market initiatives, such as the Energy Competition Act, 1998, Electricity Act, 1998, Ontario Energy Board Act, 1998; Ontario's Electricity Market Rules, Reliable Energy and Consumer Protection Act, 2002, Electricity Pricing, Conservation and Supply Act, 2002, Hydro One Inc. Directors and Officers Act, 2002, Ontario Energy Board Consumer Protection and Governance Act, 2003, Ontario Energy Board Act and Ontario Energy Board Amendment Act (Electricity Pricing), 2003, Electricity Restructuring Act, 2004 and numerous associated regulations; and
- Environmental initiatives, including emissions trading and numerous other air emissions initiatives, Brownfields Law Statute Amendment Act and regulations, Nutrient Management Act, source protection and clean water legislation, Sustainable Water and Sewage Systems Act, Safe Drinking Water Act, Ontario Water Resources Act amendments and regulations, Waste Management Act, 1992 amendments, Waste Diversion Act, 2002 and waste management and land disposal restrictions regulations, Pesticides Act amendments, Oak Ridges Moraine Conservation Act and greenbelt protection legislation, Adams Mine Lake Act, 2004 Environmental enforcement and administrative penalties legislation such as the Toughest Environmental Penalties Act and environmental penalties,

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implementation of Environmental Statute Law Amendment Act, 1998 ("superpowers"), compliance guidelines, approval process review, environmental approval and assessment procedures and numerous associated regulations, Environmental Review Tribunal Act amendments, coal-fired electricity generation plant closures, i.e. Lakeview Generating Station O.Reg. 396/01, new and clean/alternative energy supplies, Kyoto/climate change initiatives, implementation of the O'Connor Commission's recommendations, and the Drive Clean Program (North America's largest emissions testing program with 3000+ providers and C\$400+ million/year sales).

Henry successfully led and advised on an extremely demanding program delivery stratagem involving an unprecedented number of RFI/RFQ/RFP/Bid solicitations, contract negotiations and approvals and commercial transactions; and a variety of national and sub-national agreements.

Henry's compliance and regulatory experience includes being responsible for a number of significant prosecutions, administrative hearings and actions before the Environmental Review Tribunal (ERT), Provincial Court, Divisional Court, the Court of Appeal, the Supreme Court of Canada and the U.S. Federal and Supreme Courts.

He has led an extremely aggressive and unprecedented compliance and regulatory stratagems. An inventory of compliance and enforcement activities for one year provides the following approximate numbers: the Crown's Charge Screening assessment of 400 Crown Prosecution Briefs, 300 prosecutions under Part III of the Ontario Provincial Offences Act (POA), 2600 POA Part I prosecutions and 200 administrative hearings, and the successful defence of a noteworthy Crown v. Crown prosecution [*R. v. Ontario (Ministry of the Environment)*].

Henry has extensive involvement as environment counsel on remediations, decommissionings and the purchase of Brownfields and other lands for re-development for industrial, commercial, office, residential and recreational uses. His expertise in these matters includes due diligence investigations and assistance in the preparation and negotiation of offering documents, structuring, conceptual remediation plans, development plans and legal documents and legal opinions, Records of Site Condition (full-depth generic, background and risk-based), and zoning and official plan amendments and site plan approvals.

He has had significant involvement with a number of complex development projects, including representing the Canadian-based subsidiary of a major North American commercial real estate development and construction services company on offers the purchase and the remediation plans of lands from a U.S.-

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based steel company, a former automotive plant of a U.S car company, the Ontario operations of a global manufacturing and technology company and the historic production site for a global consumer products manufacture; the remediation of Tudhope Transport properties and the Seaboard/Harmac Transportation purchase of Tudhope and the subsequent development of the property for an institutional; the decommissioning of the McCoy Foundries' landfill; numerous and the development of a resource-based production facility.

Henry has extensive experience negotiating agreements with governments and obtaining regulatory approvals. He has negotiated timber privileges and agreements for the supply of Crown timber and he has obtained forestry mill licenses. He has also taken on a senior leadership role and has had extensive involvement as environment counsel on a wide assortment of permit approval matters ranging over all media and a variety of sectors. These include environmental assessments and regulatory approvals, such as air emissions, waste management systems, transport and disposal, landfills and landfill closers, permits to take and to de-water, sewage systems, drinking water systems, aggregate extraction and risk-based Records of Site Condition for the industrial, energy/electricity, waste management, transportation, mining and aggregate and property development sectors, including:

- Acting for an international retailer in regards environmental and occupational health and safety matters arising from the operations, development, closure and decommissioning of facilities across Canada.
- Acting for a large international resource-based corporation in the lengthy mediation and settlement negotiations with Ball Corporation, Tembec Inc. and the Ontario Ministry of the Environment and Environment Canada regarding the historic contamination of the former Marathon Pulp Mill and Peninsula Harbour, Lake Superior and landfill closures near Marathon, Ontario.
- Advised Teck Resources Limited in debt offerings in the United States under MJDS of US\$1.75 billion in aggregate principal amount of senior unsecured notes in August 2012, US\$1.0 billion in aggregate principal amount of senior unsecured notes in February 2012, US\$2.0 billion in aggregate principal amount of senior unsecured notes in July 2011, US\$1.45 billion in aggregate principal amount of senior unsecured notes in August and September 2010 and in a private placement financing in the U.S. and Canada of US\$4.225 billion in aggregate principal amount of senior secured notes in 2009.
- Acting for Georgia-Pacific LLC's in its acquisition of Grant Forest Products Inc.'s oriented strand board (OSB) facilities

in Canada and the U.S. Responsibilities including the negotiation of a Supply Agreement with the Province of Ontario for Crown timber, obtaining a forest resource processing facility license and numerous forest resource licenses, rationalizing and obtaining all air and landfill approvals, and developing a strategy to ensure that the operations are in full compliance with environmental laws and regulations.

- Acting for McCoy Foundries in its land fill closure application and Clublink in its application for acceptance into the Ontario Environmental Leadership Program. Responsibilities included devising a strategy for dealing with the Ministry of the Environment and municipalities and stakeholder groups, interacting with and advising professional consultants, drafting of application documents and negotiating with the Ministry.
- Acting for Clublink at a number of its facilities including the C\$220 million Wyndance Golf and Country Club and condominiums project by Clublink and Empire Communities and the Rocky Crest Golf Club and Lakeside at Rocky Crest condominiums and time-share development. Responsibilities included municipal and environmental approvals including assistance in the negotiation and drafting of a sewage/water responsibility agreements.
- Henry has comprehensive experience dealing with the development and regulation of energy projects. He has advised on approvals and applications, rates and IESO markets and compliance. As the province's senior energy counsel, he advised on legislation and regulations that govern all aspects of the energy sector and on NEB applications and appeals, aboriginal consultations and on the procurement of energy through the RFP process. He has acted for a number of alternative and renewable energy generators in the wind, solar, geothermal and biomass sectors, and has been involved in the development, construction, financing, real estate, power purchase and regulatory processes. This includes the development of a number of wind-farm projects and solar energy sources.

Henry advises across a range of climate-change-related matters including alternative ways of addressing carbon dioxide emissions such as Carbon Capture and Storage. His climate change law and policy practice assists clients with the challenges and opportunities emerging from regulatory and corporate responses to climate change. He advises both regulated entities and companies that are not subject to emission reduction obligations that are seeking to gain experience and other benefits from reducing or offsetting their greenhouse gas emissions.

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teaching engagements

- Henry Krupa was an Adjunct Professor at the University of Western Ontario and has lectured at the Professional Development and part-time LL.M. programs at Osgoode Hall Law School.

publications

February 2018

Carbon Capture and Storage: Emerging Legal and Regulatory Issues, 2nd edition
Contributing Author Henry Krupa, Hart Publishing, Bloomsbury Professional, Oxford, Editors: Ian Havercroft, Richard Macrory, Richard Stewart

May 2012

Minerals and Mining – Canada Chapter
Globe Law and Business
Co-authored by Robin Junger, Henry Krupa, Laurel Petryk and Darrell Podowski

August 2011

Carbon Capture and Storage: Emerging Legal and Regulatory Issues
Contributing Author Henry Krupa, Hart Publishing, Oxford, Editors Richard Macrory, Ian Havercroft, and Richard B Stewart

April 2006

Brownfields' Development
The Fine Print, Burlington, Ontario

2003

The Legislative Approach to Drinking Water in Canada
An International Forum - Rethinking on Water - Global Best Practices, ORTECH Inc. & Process Research Management Inc., Toronto

January 2001

Regulatory Offences: Evolving Concepts at the Professional Development Program
Continuing Legal Education, Osgoode Hall Law School of York University

September 2000

Aids to Inspections and Investigations: Use of the EPA's 'Super-Powers'
Inspection, Investigation and Enforcement Conference, Ministry of the Environment, Rice Lake, Ontario

January 1995

Environmental Law
(revised edition published annually 1995-2001) The University of Western Ontario Press

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December 1993

Management Strategies for the Abatement of Industrial Pollution in Canada
Abatement of Industrial Pollution, Arizona State University, Tempe, Arizona, U.S.A.

1991

A Fifth Geneva Convention on the Protection of the Environment in time of Armed Conflict
The Centre for Defence Studies, King's College London, England

presentations

September 2010

Insurance Implications of Climate Change
Toronto Insurance Conference

June 2010

Understanding Emissions Allowances and Carbon Offsets
Lang Michener Seminar, Greenhouse Gas Emissions – Issues Every User of Real Estate Will Need to Face

March 15, 2010

Legal Issues Associated with Carbon Capture Technologies
Carbon Capture & Storage Global Legal Symposium presented by New York University School of Law and University College London, New York University School of Law, New York

January 2010

Operations Integration conference
Ministry of the Environment Operations Division Operations, Toronto

January 26, 2010

Understanding the New Paradigm in Renewable Energy Infrastructure to Successfully Balance Energy Projects
Renewable Energy Infrastructure Conference, INFONEX, Toronto

November 26, 2008

Transportation of Dangerous Goods and Hazardous Waste Management in Ontario and Canada
Hazardous Waste Management Conference, CRA Institute, Mississauga, Ontario

November 2008

Hazardous Waste Management in Canada
Hazardous Waste Management Conference, Ottawa, Ontario

September 16, 2008

Compliance and Enforcement of Transportation of Dangerous Goods and Hazardous Waste Management Laws
Transportation of Dangerous Goods Conference, Conestoga-Rovers Associates Ltd. and Warsash Group, Mississauga,

Ontario

June 2008

Urban and Industrial Land Development
Multimodal 2008: Gateway to the World Conference, Hamilton
Port Authority, Hamilton, Ontario

May 21, 2008

Understanding and complying with Hazardous Waste Legislation
and Regulations
Hazardous Waste Management and Land Disposal Restrictions
Conference, Warsash Group and Maxxam Analytics Inc.,
Mississauga, Ontario

March 2008

Waste Management Regulations
Waste Disposal and Land Disposal Restrictions Symposium,
Conestoga-Rovers Associates Ltd and Warsash Group ,
Mississauga, Ontario

March 2008

Policy and Legislative Decision-Making in Government and The
Anatomy of an Inspection – Obligations and Consequences of
Inspections and Enforcement Actions
Ontario Ground Water Associate Regional Conferences

December 12, 2007

Governance and Rules of Order for Source Protection
Committees
Source Water Protection Training Symposium, Ontario Farming
Environmental Coalition and the University of Guelph, Ontario

November 2007

A Framework for Compliance
Land Disposal Restrictions Seminar and Workshop, Conestoga-
Rovers Associates Ltd., Mississauga, Ontario

April 2007

The Clean Water Act and the Regulated Community
Environment First - Managing Risk Symposium, Region of York,
Markham

April 2007

Proposed Amendments to Regulation 903: Cause, Effect and
Impact
Ontario Ground Water Association, Fergus, Ontario

2003

Rules and Procedures
Working Group of National Energy Board, Calgary, Alberta

September 2001

Water Strategies in Ontario
Environmental Lawyers in Government, Province of New
Brunswick, University of New Brunswick, Fredericton, New



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Brunswick

Spring 2001

Crimes and Regulatory Offences

Part-time LL.M. Program, Continuing Legal Education, Osgoode
Hall Law School of York University, Ontario