



SUPREME COURT OF CANADA

CITATION: Reference re Environmental Management Act, 2020 SCC 1

APPEAL HEARD: January 16, 2020

JUDGMENT RENDERED: January 16, 2020

DOCKET: 38682

IN THE MATTER OF a Reference by the Lieutenant Governor in Council set out in Order in Council No. 211/18 dated April 25, 2018, concerning the constitutionality of amendments to provisions in the *Environmental Management Act*, S.B.C. 2003, c. 53, regarding the impacts of releases of certain hazardous substances

BETWEEN:

Attorney General of British Columbia
Appellant

and

Attorney General of Canada
Respondent

- and -

Attorney General of Ontario, Attorney General of Quebec, Attorney General of Saskatchewan, Attorney General of Alberta, Ecojustice Canada Society, Canadian Energy Pipeline Association, Assembly of First Nations, Heiltsuk Tribal Council, City of Burnaby, Trans Mountain Pipeline ULC, Enbridge Inc., Railway Association of Canada, Explorers and Producers Association of Canada, Canadian Fuels Association, Council of The Haida Nation, Little Shuswap Lake Indian Band, City of Vancouver, Suncor Energy Inc., Imperial Oil Limited, Husky Oil Operations Limited, Cenovus Energy Inc., Canadian Natural Resources Limited, Beecher Bay First Nation, Songhees Nation, T'Sou-ke Nation and Canadian Association of Petroleum Producers
Intervenors

CORAM: Wagner C.J. and Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ.

REASONS FOR JUDGMENT:
(para. 1)

Wagner C.J. (Abella, Moldaver, Karakatsanis, Côté, Brown, Rowe, Martin and Kasirer JJ. concurring)

COUNSEL:

Joseph J. Arvay, Q.C., Catherine Boies Parker, Q.C., and Derek Ball, for the appellant.

Jan Brongers and B.J. Wray, for the respondent.

Josh Hunter and Aud Ranalli, for the intervener the Attorney General of Ontario.

Frédéric Perreault and Jean-François Beaupré, for the intervener the Attorney General of Québec.

Thomson Irvine, Q.C., and Noah Wernikowski, for the intervener the Attorney General of Saskatchewan.

Peter A. Gall, Q.C., Margaret Unsworth, Q.C., and Andrea L. Zwack, for the intervener the Attorney General of Alberta.

Harry Wruck, Q.C., and Kegan Pepper-Smith, for the intervener the Ecojustice Canada Society.

Michael A. Marion, Alan L. Ross and Brett R. Carlson, for the intervener the Canadian Energy Pipeline Association.

Julie McGregor and Stuart Wuttke, for the intervener the Assembly of First Nations.

Lisa C. Fong, Q.C., for the intervener the Heiltsuk Tribal Council.

Michelle L. Bradley, for the intervener the City of Burnaby.

Maureen E. Killoran, Q.C., and Olivia Dixon, for the intervener Trans Mountain Pipeline ULC.

Maureen E. Killoran, Q.C., Sean Sutherland and Robert Rooney, Q.C., for the intervener Enbridge Inc.

Nicholas R. Hughes and Kevan Hanowski, for the intervener the Railway Association of Canada.

Paul Chiswell, Robert Martz and Brendan Downey, for the intervener the Explorers and Producers Association of Canada.

Geoffrey G. Cowper, Q.C., and Daniel Byma, for the intervener the Canadian Fuels Association.

G.L. Terri-Lynn Williams-Davidson, David Paterson and Elizabeth Bulbrook, for the intervener the Council of The Haida Nation.

Arthur M. Grant and Roderick B. McLennan, for the intervener the Little Shuswap Lake Indian Band.

Susan Horne and Kevin Nakanishi, for the intervener the City of Vancouver.

Catherine Beagan Flood and Laura Cundari, for the interveners Suncor Energy Inc., Imperial Oil Limited, Husky Oil Operations Limited, Cenovus Energy Inc. and Canadian Natural Resources Limited.

Robert Janes, Q.C., and Aria Laskin, for the interveners the Beecher Bay First Nation, the Songhees Nation, the T'Sou-ke Nation.

Brad Armstrong, Q.C., Keith B. Bergner and Toby Kruger, for the intervener the Canadian Association of Petroleum Producers.

NOTE: This document is subject to editorial revision before its reproduction in final form in the *Canada Supreme Court Reports*.

January 20, 2020

Le 20 janvier 2020

Coram: Wagner C.J. and Abella,
Moldaver, Karakatsanis, Côté, Brown,
Rowe, Martin and Kasirer JJ.

Coram : Le juge en chef Wagner et les juges
Abella, Moldaver, Karakatsanis, Côté,
Brown, Rowe, Martin et Kasirer

BETWEEN:

ENTRE :

Attorney General of British Columbia

**Procureur général de la Colombie-
Britannique**

Appellant

Appelant

- and -

- et -

Attorney General of Canada

Procureur général du Canada

Respondent

Intimé

- and -

- et -

**Attorney General of Ontario, Attorney
General of Quebec, Attorney General of
Saskatchewan, Attorney General of
Alberta, Ecojustice Canada Society,
Canadian Energy Pipeline Association,
Assembly of First Nations, Heiltsuk
Tribal Council, City of Burnaby, Trans
Mountain Pipeline ULC, Enbridge Inc.,
Railway Association of Canada,
Explorers and Producers Association of
Canada, Canadian Fuels Association,
Council of The Haida Nation, Little
Shuswap Lake Indian Band, City of
Vancouver, Suncor Energy Inc.,
Imperial Oil Limited, Husky Oil
Operations Limited, Cenovus Energy
Inc., Canadian Natural Resources
Limited, Beecher Bay First Nation,
Songhees Nation, T'Sou-ke Nation and
Canadian Association of Petroleum
Producers**

**Procureur général de l'Ontario,
procureure générale du Québec,
procureur général de la Saskatchewan,
procureur général de l'Alberta,
Ecojustice Canada Society, Association
canadienne de pipelines d'énergie,
Assemblée des Premières Nations,
Heiltsuk Tribal Council, City of Burnaby,
Trans Mountain Pipeline ULC, Enbridge
Inc., Association des chemins de fer du
Canada, Explorers and Producers
Association of Canada, Canadian Fuels
Association, Council of The Haida Nation,
Little Shuswap Lake Indian Band, City of
Vancouver, Suncor Énergie Inc.,
Compagnie Pétrolière Impériale Ltée,
Husky Oil Operations Limited, Cenovus
Energy Inc., Canadian Natural Resources
Limited, Beecher Bay First Nation,
Songhees Nation, T'Sou-ke Nation et
Association canadienne des producteurs
pétroliers**

Intervenors

JUDGMENT

The appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA45253, 2019 BCCA 181, dated May 24, 2019, was heard on January 16, 2020 and the Court on that day delivered the following judgment orally:

THE CHIEF JUSTICE — We are all of the view to dismiss the appeal for the unanimous reasons of the Court of Appeal for British Columbia.

Intervenants

JUGEMENT

L'appel interjeté contre l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA45253, 2019 BCCA 181, daté du 24 mai 2019, a été entendu le 16 janvier 2020 et la Cour a prononcé oralement le même jour le jugement suivant :

[TRADUCTION]

LE JUGE EN CHEF — Nous sommes toutes et tous d'avis de rejeter l'appel pour les motifs unanimes exposés par la Cour d'appel de la Colombie-Britannique.

C.J.C.
J.C.C.