

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150316

Dockets: A-437-14 (lead file), A-56-14, A-59-14,  
A-63-14, A-64-14; A-67-14, A-439-14,  
A-440-14, A-442-14, A-443-14, A-445-14,  
A-446-14, A-447-14, A-448-14, A-514-14,  
A-517-14, A-520-14, A-522-14

Ottawa, Ontario, March 16, 2015

Present: STRATAS J.A.

**BETWEEN:**

**GITXAALA NATION, GITGA'AT FIRST NATION,  
HAISLA NATION, THE COUNCIL OF THE HAIDA NATION  
and PETER LANTIN suing on his own behalf and on  
behalf of all citizens of the Haida Nation,  
KITASOO XAI'XAIS BAND COUNCIL on behalf of  
all members of the Kitasoo Xai'Xais Nation and  
HEILTSUK TRIBAL COUNCIL on behalf of all  
members of the Hailtsuk Nation, MARTIN LOUIE,  
on his own behalf, and on behalf of Nadleh Whut'en and on  
behalf of the Nadleh Whut'en Band, FRED SAM, on his  
own behalf, on behalf of all Nak'azdli Whut'en, and on  
behalf of the Nak'azdli Band, UNIFOR, FORESTETHICS  
ADVOCACY ASSOCIATION, LIVING OCEANS SOCIETY,  
RAINCOAST CONSERVATION FOUNDATION,  
FEDERATION OF BRITISH COLUMBIA NATURALISTS  
carrying on business as BC NATURE**

**Applicants and Appellants**

**and**

**HER MAJESTY THE QUEEN, ATTORNEY GENERAL  
OF CANADA, MINISTER OF THE ENVIRONMENT,  
NORTHERN GATEWAY PIPELINES INC.,  
NORTHERN GATEWAY PIPELINES LIMITED PARTNERSHIP  
and NATIONAL ENERGY BOARD**

**Respondents**

and

**THE ATTORNEY GENERAL OF BRITISH COLUMBIA,  
AMNESTY INTERNATIONAL and  
THE CANADIAN ASSOCIATION OF PETROLEUM PRODUCERS**

**Interveners**

**ORDER**

**WHEREAS** Amnesty International and the Canadian Association of Petroleum Producers move for leave to intervene;

**AND WHEREAS**, this Court has read and considered all of the submissions of the proposed interveners, the applicants/appellants and the respondents; to this end, this Court allowed the sur-reply of the Federation of B.C. Naturalists and all responses to it, and considered all of those submissions too;

**AND WHEREAS** the Attorney General of British Columbia has signalled its intention to intervene and file a memorandum of fact and law as an intervener, as is its right under subsection 57(4) of the *Federal Courts Act*, R.S.C. 1985, c. F-7;

**THIS COURT ORDERS** for reasons released concurrently with this Order:

1. The Attorney General of British Columbia is added as an intervener and may file a memorandum of fact and law under Rule 70(4) by the deadline set for the respondents to file their memorandum of fact and law.

2. The motions for leave to intervene by Amnesty International and the Canadian Association of Petroleum Producers are granted on the terms set out below.
  
3. The style of cause is hereby amended and this Order shall reflect the new style of cause to be used on all future filings.
  
4. In the case of Amnesty International:
  - (a) it may file a memorandum of fact and law of no more than 15 pages by the deadline set for the applicants/appellants to file their memoranda;
  
  - (b) that memorandum shall be limited to submissions concerning international law issues insofar as they bear upon the issues in these consolidated matters;
  
  - (c) in particular, it must explain, in legal terms, how and why the particular international law submission is relevant and necessary to the determination of a specific issue, with specific reference to the law set out in the reasons released concurrently with this Order or to other law bearing on the point, or both;
  
  - (d) it may make oral submissions on the matters raised in its memorandum for a length to be determined by the panel hearing these consolidated matters;
  
  - (e) it may not add to the evidentiary record before the Court; and

(f) it shall neither be liable for costs nor receive costs.

5. As a term of Amnesty International's intervention, the respondents may move for an extension of the length of their memoranda by way of informal letter faxed to the Judicial Administrator. In that letter, they shall set out why the extension is necessary. Such letter shall be faxed within three days of being served with all of the memoranda of the applicants/appellants and Amnesty International. Within three days of being served with any request by the respondents for an extension, the applicants/appellants may respond by fax to the Judicial Administrator.

6. In the case of the Canadian Association of Petroleum Producers:

(a) it may file a memorandum of fact and law of no more than 15 pages by the deadline set for the respondents to file their memoranda;

(b) that memorandum shall be limited to submissions on the public interest considerations that come to bear on this Court's assessment of the correctness or reasonableness of the decisions under review, as described in paragraph 39 of the reasons released concurrently with this Order.

(c) it may make oral submissions on the matters raised in its memorandum for a length to be determined by the panel hearing these consolidated matters;

- (d) it may not add to the evidentiary record before the Court; and
  - (e) it shall neither be liable for costs nor receive costs.
7. There shall be no costs on these motions.

"David Stratas"

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J.A.