

FEDERAL COURT WIN STOPS NUCLEAR PROJECT



You helped stop a plan to build new nuclear reactors in Ontario because a federal panel's environmental assessment didn't comply with the law. It took several years and plenty of hard work, but together we set an important precedent.

According to the law, the federal government must review most major industrial projects to ensure they won't endanger you or the environment. But the Court found that the panel that reviewed the nuclear project's environmental effects failed to answer some important questions. And despite flaws in the environmental assessment, the federal government approved the project.

We argued before the Federal Court that the panel didn't examine the environmental effects

of radioactive fuel waste. We pointed out that they ignored the possibility of a Fukushima-type accident. And we explained that the panel didn't adequately consider hazardous emissions. Justice James Russell agreed that, based on these omissions, the review was incomplete and revoked the project's licence.

So what does this mean? Ontario Power Generation won't be building any new nuclear reactors until a thorough review is complete. More importantly, federal authorities know they can no longer take shortcuts when assessing nuclear projects. The respondents have now appealed the Federal Court decision.

On behalf of our clients, and co-counsel at the Canadian Environmental Law Association, thank you. Your support allowed

IN THIS ISSUE

DRINKING WATER
IN HARRIETSFIELD PAGE 3

INVESTIGATING
CANADA'S WATER
STANDARDS PAGE 4-5

PAGE 7 A TALE OF TWO
PIPELINES

us to represent Greenpeace Canada, Lake Ontario Waterkeeper and Northwatch. They share this victory with you.

But the fight to ensure that regulators properly review risky nuclear projects isn't over. In May, we were in court arguing that the environmental review of a plan to refurbish existing nuclear reactors at the Darlington site in Ontario is incomplete. We expect a ruling soon. Your support will allow us to defend our victory before the Federal Court in the nuclear new build case and may secure another important victory regarding the legality of the refurbishment project.

— Justin Duncan, staff lawyer



LETTER FROM THE EXECUTIVE DIRECTOR



At Ecojustice, we practice law differently. Not only do we offer our stellar legal services for free, we make sure that we use our resources to bring the most important cases for the environment at exactly the right moment.

While some of our finest victories have been the result of clients coming to us with a case in mind, routinely, our lawyers hunker down and develop innovative legal solutions to respond to emerging environmental threats.

Consider, for example, Enbridge's Northern Gateway pipeline — a project enabled by the federal government's weakening of environmental laws in 2012. If there was ever advance notice that the

environment was taking a backseat to business interests in decision-making this was it.

Sure enough, after a hearing process that arbitrarily excluded evidence of the risks posed by oilsands expansion, including climate change, the federal Cabinet approved Northern Gateway in June.

Anticipating that the federal government would rely on a flawed assessment (which we're challenging in the Federal Court of Appeal) to approve the project, we were ready. While we waited for Cabinet to announce its decision, we were busy with our clients exploring potential grounds for a second legal challenge. Then,

just a few weeks after the big announcement, we launched a second lawsuit challenging Cabinet's decision.

You are the reason we were ready to spring into action. Unlike industry and governments, the environment does not have a litigation budget. You are what keeps our lawyers and scientists between Canada's rich but fragile environment, and government and industry's bulldozers, chainsaws, smokestacks — and yes, pipelines. Thank you.

EXECUTIVE DIRECTOR

ENVIRONMENTAL PROTECTION LAWS



ecojustice

CONTACT US

214-131 Water Street, Vancouver, B.C., V6B 4M3
1.800.926.7744 x295
info@ecojustice.ca

FEEDBACK

E-mail editor Kimberly Shearon at kshearon@ecojustice.ca or reach her by phone at 1.800.926.7744 x242

Graphic design by Christa Ledding
www.christaledding.com

Charitable Business Number: 13474 8474 RR0001

BOARD OF DIRECTORS

Cathy Wilkinson (President), Stuart Rush, Q.C. (Vice-President), Deborah Curran (Secretary), Ron Pearson (Treasurer), Tricia Barry, Martha Butterfield, Valerie Langer, Murray Duncan McCaig, Judge William A. Newsom, Doug Rae, Madeleine Redfern, Will Roush, Leonard Schein, Trip Van Noppen.

HONORARY DIRECTORS: Margaret Atwood, Robert Bateman, Doug Chapman, Honourable Claire L'Heureux-Dubé, Gregory J. McDade, Q.C.; Buck Parker, John Rich, Clayton Ruby, Dr. David Suzuki, Terri-Lynn Williams-Davidson.

ENVIRONMENTAL RESPONSIBILITY

By choosing 100 per cent post-consumer recycled fibre instead of virgin paper for this printed material, the following natural resources will be saved or reduced this year: 41 trees; 10,698 kg of wood; 131,312 litres of water; 1,668 kg of landfill; 3,236 kg of net greenhouse emissions; 47 million Btu energy.

SOURCE: UNISOURCE.CA

STANDING UP FOR CANADIANS' ACCESS TO CLEAN DRINKING WATER

For years, Marlene Brown, Melissa King and Jonathan Andrews have travelled to the homes of family and friends to shower and do laundry. Melissa and Jonathan's son has never had a bath in his own home. These residents of Harrietsfield, N.S., even have to gather their drinking water by filling up jugs at their local church.

They live near a defunct construction and demolition facility where, over the years, operations have resulted in contamination of groundwater with substances like boron, cadmium, uranium and arsenic. But even though the facility is now closed, Marlene, Melissa and Jonathan's water is still unsafe for human use.

Years ago, Nova Scotia ordered companies that owned or operated the facility to clean up the site and monitor the groundwater. Despite this cleanup order, the level of toxic chemicals in wells near our clients' homes has, in many instances, significantly exceeded the limits set in the Canadian Drinking Water Quality Guidelines.

And now, one of the companies has asked the government to remove its name from the clean-up order. Our clients fear that if the company succeeds in having its name removed from the order, the cleanup and monitoring that would make their water drinkable may not happen.

But Marlene, Melissa and Jonathan won't have to fight to protect their drinking water alone.

Ecojustice lawyers are working with Dalhousie Legal Aid in this case. With your support, we're taking an important stand for every Canadian resident's right to access safe, clean drinking water.



Melissa King and her son, Emmett.

**SEE THE ENCLOSED
NOTECARD** TO SEND A
MESSAGE OF SUPPORT TO OUR
CLIENTS MARLENE, MELISSA AND
JONATHAN ENCOURAGING THEM TO
STAY STRONG IN THEIR FIGHT TO
CLEAN UP THEIR DRINKING WATER.

Government enforcement of strong environmental laws would ensure that in Canada, no one would need to drive to their local church or the homes of friends and family to get safe drinking water.

And thanks to you, we'll ask the court to uphold the government's order requiring the contamination to be monitored and cleaned up.

— *Kaitlyn Mitchell, staff lawyer*



WATERPROOF: HOW STRONG ARE CANADA'S WATER STANDARDS?

THE UGLY

189

substances for which **CANADA HAS NO STANDARD** or guideline but at least one other country does

105

are **APPROVED FOR USE IN CANADA** or likely present in the Canadian environment

78

are **NOT** in use

6

are **BANNED**

THE GOOD

24

substances for which **CANADA HAS OR IS TIED FOR STRONGEST STANDARD** or guideline of comparison group

THE BAD

27

substances for which **CANADA HAS OR IS TIED FOR WEAKEST STANDARD** or guideline of comparison group

13

substances for which **AT LEAST ONE OTHER MEMBER** of the comparison group **HAS A STANDARD OR GUIDELINE STRONGER THAN CANADA**

46

substances for which **CANADA HAS A STANDARD** or guideline and at least one member of comparison group doesn't

Ecojustice has examined the **Guidelines for Canadian Drinking Water Quality** and compared them with corresponding frameworks in the **United States, European Union, and Australia**, as well as guidelines recommended by the **World Health Organization**.

What we found is troubling: In dozens of instances, Canada's guidelines are weaker than those in other jurisdictions and are falling ever behind. **Here are our findings.**

How can Canada improve its drinking water standards?

For the rest of this special investigative report and to see our recommendations on how to improve Canada's water standards, please visit us online at:

ecojustice.ca/waterproof-standards



THE GOOD

24 substances for which Canada has or is tied for strongest standard

46 substances for which Canada has a standard and at least one other country doesn't

THE BAD

27 substances for which Canada has or is tied for weakest standard of the countries that have standards

THE UGLY

105 substances approved for use in Canada or likely present in the Canadian environment and unregulated in Canada, but regulated in at least one other country

To put it simply, deficiencies and weaknesses in the Canadian Guidelines matter.

The Canadian Guidelines deal with microbiological, chemical and radiological contaminants. Long-term exposure to these substances above safe levels could lead to cancers; neurological, reproductive or developmental disorders; harm to organs such as the liver and kidneys; and, other maladies.

While Ecojustice is calling for a review of the overall deficiencies in the way Canada regulates drinking water, a few of these standards require immediate attention:

2,4 D or 2,4-Dichlorophenoxyacetic acid *(Canada has weakest guideline)*

2-4-D (short for 2,4-Dichlorophenoxyacetic acid) is a common herbicide and has been frequently detected in surface water across Canada.

Long-term exposure can damage the nervous system, liver and kidneys and it is considered a possible human carcinogen. The standard for this substance is 1.5 to 3 times stronger in other countries than it is in Canada.

Styrene

(Canada has no standard)

Styrene is classified as a possible human carcinogen by the International Agency for Research on Cancer and is used in Canada to make polystyrene, synthetic rubber and latex. According to the U.S. Environmental Protection Agency: "Some people who drink water containing styrene well in excess of the maximum contaminant level for many years could have problems with their liver, kidney, or circulatory system problems."

Canada has no goal, guideline or standard for styrene, but the United States, Australia and the World Health Organization have set a maximum allowable limit for this substance in drinking water.

Microbiological treatment standards

(Canada has no standard)

There is a general consensus among health, medical, and scientific experts that the greatest threat to drinking water in industrialized nations is posed by waterborne pathogens.

Waterborne pathogens pose a greater threat than chemical contaminants because they can have immediate and severe health effects; infected persons can transmit the illness to others who may not have been exposed to the pathogen; and, because harm may come from exposure at much lower concentrations or duration of exposure.

To address this threat, the U.S. now requires advanced filtration (or equivalent technology) of its drinking water — a practice Canada should consider adopting.

Waterproof: Standards is authored by Ecojustice's Randy Christensen and Dr. Elaine MacDonald.

STAFF PROFILE: KAITLYN MITCHELL

On Earth Day, Manitoba's government announced it would restrict the use of certain pesticides that pose serious health and environmental risks. But did you know that you played a role?

In June, the bill passed its third and final reading in the Legislature, paving the way for a ban on cosmetic pesticides — chemicals used on lawns and gardens to improve their appearance — to take effect in 2015.

I work at Ecojustice because I want to protect humans, animals and the environment they need to survive. As a lawyer, I work to strengthen environmental laws and governments' enforcement of those laws. And for the past several years, your support means I've been able to help groups campaigning for a cosmetic pesticide ban in Manitoba.

I live in Toronto, but I grew up in Manitoba. As a kid, I spent a lot of time gardening, climbing trees and playing with my friends on lawns and in parks. Unfortunately, the chemical industry has convinced many people that that we need to spray pesticides to rid our green spaces of weeds.

The cost of using many of these pesticides for cosmetic purposes is too high. Research says that some pesticides may harm animals or humans, especially children. Risks include cancer, as well as reproductive and respiratory problems.

In 2011, I discovered that Manitoba's government was considering a ban. I started working with local groups and national organizations. Together, we called for a precautionary approach to cosmetic pesticide use in Manitoba.

Since then, we've dispelled myths surrounding cosmetic pesticide bans. And we've shown the Manitoba government how bans in other provinces have succeeded.

That's why I felt a great sense of pride on Earth Day. I was proud of what you and I achieved together.

Manitoba will now join seven other Canadian provinces that have banned or restricted the use of cosmetic pesticides.

But our work isn't done. I'll continue working with our partners and the Manitoba government. And I'll look forward to that day in 2015 when the ban is law.

Thank you for making that possible.



A TALE OF TWO PIPELINES

It was only two years ago that the federal government rewrote key parts of the *National Energy Board Act* in an effort to speed up the regulatory review process and fast-track major pipeline projects.

As a result, the review process for Kinder Morgan's Trans Mountain pipeline expansion project has been compressed to a mere 15 months — less than half the time devoted to reviewing Enbridge's Northern Gateway pipeline.

This so-called efficiency comes at a heavy cost. Intervenors, including municipal governments, affected citizens, First Nations and environmental and community groups, will not have the opportunity to ask questions in person. Instead, the National Energy Board (NEB) will rely on an information request process — essentially an exercise in paperwork — to test evidence.

During the Northern Gateway pipeline hearings, we cross-examined Enbridge, probing serious gaps in the company's spill response plans and questioning its weak safety record. Now, Northern Gateway must meet 209 conditions before the pipeline can go ahead. Had there been no cross-examina-

Enbridge Northern Gateway Pipeline
Bruderheim, Alta. → Kitimat, B.C.

PROJECT COST: \$6.5 billion
525,000 BPD
220 tankers / year



31-months from hearing order to final report
100 days of technical hearings (cross-examination)
72 days of community hearings
220 intervenors

Neither review process considers the environmental impacts of oilsands expansion or climate change associated with the oil transported through those pipelines

Kinder Morgan Trans Mountain Expansion
Hinton, Alta. → Burnaby, B.C.

PROJECT COST: \$5.4 billion
590,000 more BPD (current capacity = 300,000 BPD)
400 tankers/year



15-months from hearing order to final report
NO cross-examination
NO community hearings
400 intervenors

tion, major environmental and safety concerns may have simply been swept under the rug.

WHAT ABOUT CLIMATE CHANGE?

With your support, Ecojustice remains committed to ensuring that major projects are held to the highest possible environmental standard. That said, there is a fundamental failing in the way Canada reviews major pipeline projects: The environmental impacts of climate change and continued oilsands expansion associated with those projects are not considered at all.

Upstream and downstream impacts are explicitly excluded from the review process even

though more and more Canadians recognize the links between climate change, increased oilsands production and pipelines.

Unfortunately, rather than empower an increasingly savvy public to be part of the decision-making process, the federal government has changed policy to suit industry needs and shut down public debate. In doing so, it has crippled the NEB's ability to regulate in the public interest, and undermined its credibility with a Canadian public reluctant to give these major pipeline projects any social licence.

— Karen Campbell and Barry Robison, staff lawyers

DONOR SPOTLIGHT: BARBARA HOLMBERG

For Barbara Holmberg, growing up in Alberta meant lots of time spent outdoors and heading into nature with her family.

It also meant a close connection to the oil industry. Barbara's grandfather passed on mineral rights and royalties from oil extraction at the family's farm. Over the years Barbara also inherited a variety of shares in oil and gas companies. None of this sat well with a woman worried about how the expansion of fossil fuel industries contributes to climate change.

That's why Barbara decided to follow a path that fit with her beliefs and donated her shares in oil and gas companies to Ecojustice. In the process of aligning her personal values with her approach to investment, she also avoided capital gains taxes. Ecojustice sold the shares immediately and is put-



Barbara's daughter Kare Cathro (pictured) is one of the many reasons she is deeply committed to protecting Canada's environment.

ting the proceeds toward the work Barbara cares the most about: Slowing harmful energy projects.

Now retired and living on a small farm in rural B.C., Barbara believes her that grandchildren — and her grandchildren's grandchildren — should inherit a healthy environment. She said she wants governments at all levels to place more value on the environment. And when they don't, she trusts Ecojustice to defend these values, using the law and legislation as a "force for good."

— John Keller, philanthropy manager



How green is your portfolio?



Greening your investments is one way to make a tax-effective donation that reflects your values and makes you part of Ecojustice's fight for Canada's environment.

Like many Canadians you may own stocks, bonds, and mutual funds in companies and industries that do not align with your personal values. If you are one of these people and want to take action, here are three easy steps:

1 Talk to your investment and tax advisor and identify which companies you own that you may not want to. What is their value when donated to Ecojustice, and what did they cost you when you bought them?

2 Donate investments which have increased in value to Ecojustice. You will avoid the capital gain and we will sell them immediately and strategically put the funds towards fighting Canada's most pressing environmental concerns.

3 Get great tax advantages for doing the right thing. Visit us online at ecojustice.ca/support or contact Janice Loomer Margolis 1.800.926.7744 x224 for more information.

 **Donate now**