

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ALBERTA COURT OF APPEAL)

IN THE MATTER of An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, SC 2019, c 28 and the Physical Activities Regulations, SOR/2019-285

AND IN THE MATTER of a Reference by the Lieutenant Governor in Council to the Court of Appeal of Alberta under the Judicature Act, RSA 2000, c J-2, s 26

BETWEEN:

ATTORNEY GENERAL OF CANADA

APPELLANT

-and-

ATTORNEY GENERAL OF ALBERTA

RESPONDENT
(Continued)

FACTUM

ATHABASCA CHIPEWYAN FIRST NATION, INTERVENER
(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

WOODWARD & COMPANY
LAWYERS LLP
200-1022 Government Street
Victoria, BC V8W 1X7

Eamon Murphy
Tara McDonald
Tel: 250-383-2356
Fax: 250-380-6560
Email: eamon@woodwardandcompany.com
tmcdonald@woodwardandcompany.com

**Counsel for the Intervener, Athabasca
Chipewyan First Nation**

SUPREME ADVOCACY LLP
340 Gilmour St, Suite 100
Ottawa, ON K2P 0R3

Marie-France Major
Tel: 613-695-8855 ext 102
Fax: 613-695-8580
Email: mfmajor@supremeadvocacy.ca

**Agent for Counsel for the Intervener,
Athabasca Chipewyan First Nation**

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF ALBERTA)**

IN THE MATTER OF An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, SC 2019, c 28 and the Physical Activities Regulations, SOR/2019-285

AND IN THE MATTER OF a Reference by the Lieutenant Governor in Council to the Court of Appeal of Alberta under the Judicature Act, RSA 2000, c J-2, s 26

BETWEEN:

ATTORNEY GENERAL OF CANADA

APPELLANT

-and-

ATTORNEY GENERAL OF ALBERTA

RESPONDENT

-and-

ATTORNEY GENERAL OF SASKATCHEWAN, ATTORNEY GENERAL OF MANITOBA, ATTORNEY GENERAL OF NOVA SCOTIA, ATTORNEY GENERAL OF NEW BRUNSWICK, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF NEWFOUNDLAND AND LABRADOR, ATTORNEY GENERAL OF PRINCE EDWARD ISLAND, ATTORNEY GENERAL OF ONTARIO, INDIAN RESOURCE COUNCIL, FILE HILLS QU'APPELLE TRIBAL COUNCIL AND PASQUA FIRST NATION, WORLD WILDLIFE FUND CANADA, NATURE CANADA AND WEST COAST ENVIRONMENTAL LAW ASSOCIATION, CANADIAN ASSOCIATION OF PETROLEUM PRODUCERS, CANADIAN TAXPAYERS FEDERATION, ATHABASCA CHIPEWYAN FIRST NATION, BUSINESS COUNCIL OF ALBERTA, ECOJUSTICE CANADA SOCIETY, WOODLAND CREE FIRST NATION, MIKISEW CREE FIRST NATION, HYDRO-QUÉBEC, CANADIAN CONSTITUTION FOUNDATION, INDEPENDENT CONTRACTORS AND BUSINESSES ASSOCIATION, AND ALBERTA ENTERPRISE GROUP, CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT, ADVOCATES FOR THE RULE OF LAW, OCEANS NORTH CONSERVATION SOCIETY, CANADIAN ENVIRONMENTAL LAW ASSOCIATION, ENVIRONMENTAL DEFENCE CANADA INC., AND MININGWATCH CANADA INC., EXPLORERS AND PRODUCERS ASSOCIATION OF CANADA, FIRST NATIONS MAJOR PROJECTS COALITION, CENTRE QUÉBÉCOIS DU DROIT DE L'ENVIRONNEMENT, LUMMI NATION

INTERVENERS

ATTORNEY GENERAL OF CANADA

Department of Justice Canada
Civil Litigation Section
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

Christopher Rupar

Dayna Anderson

Bruce Hughson

Kerry Boyd

James Elford

Tel: 613-670-6290

Fax: 613-954-1920

Email: Christopher.Rupar@justice.gc.ca

**Counsel for the Appellant,
Attorney General of Canada**

BENNETT JONES LLP

4500, 855 2nd Street SW
Calgary, AB T2P 4K7

E. Bruce Mellett

Bradley Gilmour

Sean Assie

Tel: (403) 298-3319

Fax: (403) 265-7291

Email: mellettb@bennetjones.com

**JUSTICE AND SOLICITOR
GENERAL**

11th Floor Oxford Tower
10025 – 102 A Avenue
Edmonton, AB T5J 2Z2

Christine Enns

Email: Christine.enns@gov.ab.ca

**Counsel for the Respondent,
Attorney General of Alberta**

GOWLING WLG (CANADA) LLP

Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

Tel: (613) 786-8695

Fax: (613) 788-3509

Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Respondent,
Attorney General of Alberta**

ATTORNEY GENERAL OF ONTARIO

720 Bay Street, 4th Floor
Toronto, ON M7A 2S9

Joshua Hunter

Yashoda Ranganathan

Tel: (416) 908-7465

Fax: (416) 326-4015

Email: joshua.hunter@ontario.ca
yashoda.ranganathan@ontario.ca

**Counsel for the Intervener,
Attorney General Ontario**

**MINISTÈRE DE LA JUSTICE DU
QUÉBEC**

Direction du droit constitutionnel et
autochtone

1200, route de l'Église, 4e étage
Québec, QC G1V 4M1

Frédéric Perreault

Tel: (418) 643-1477 Ext: 20785

Fax: (418) 644-7030

Email: frederic.perreault@justice.gouv.qc.ca

**Counsel for the Intervener,
Attorney General of Québec**

**ATTORNEY GENERAL OF NOVA
SCOTIA**

Department of Justice (NS)
1690 Hollis Street, 8th Floor
Halifax, NS B3J 2L6

Edward A. Gores, K.C.

Tel: (902) 424-4024

Fax: (902) 424-1730

Email: edward.gores@novascotia.ca

**Counsel for the Intervener,
Attorney General Nova Scotia**

NOËL ET ASSOCIÉS, s.e.n.c.r.l.

225, montée Paiement, 2e étage
Gatineau, QC J8P 6M7

Pierre Landry

Tel: (819) 503-2178

Fax: (819) 771-5397

Email: p.landry@noelassociés.com

**Agent for Counsel for the Intervener,
Attorney General of Québec**

GOWLING WLG (CANADA) LLP

Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

Tel: (613) 786-8695

Fax: (613) 788-3509

Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General of Nova Scotia**

ATTORNEY GENERAL OF NEW BRUNSWICK
Constitutional Unit, Legal Services Branch
P.O. Box 6000, Stn. A
Fredericton, NB E3B 5H1

Isabel Lavoie-Daigle
Tel: (506) 453-2222
Fax: (506) 453-3275
Email: isabel.lavoiedaigle@gnb.ca

**Counsel for the Intervener,
Attorney General of New Brunswick**

DEPARTMENT OF JUSTICE
Constitutional Law
1230 - 405 Broadway
Winnipeg, MB R3C 3L6

Charles Murray
Tel: (204) 945-2852
Fax: (203) 945-0054
Email: charles.murray@gov.mb.ca

**Counsel for the Intervener,
Attorney General of Manitoba**

ATTORNEY GENERAL OF BRITISH COLUMBIA
1001 Douglas Street, 6th Floor
PO Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7

J. Gareth Morley
Tel: (250) 952-7644
Fax: (250) 356-9154
Email: gareth.morley@gov.bc.ca

**Counsel for the Intervener,
Attorney General of British Columbia**

GOWLING WLG (CANADA) LLP
Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General of New Brunswick**

GOWLING WLG (CANADA) LLP
Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General Manitoba**

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, suite 1300
Ottawa, ON K1P 1J9

Nadia Effendi
Tel: (613) 787-3562
Fax: (613) 230-8842
Email: neffendi@blg.com

**Agent for Counsel for the Intervener,
Attorney General of British Columbia**

**ATTORNEY GENERAL OF PRINCE
EDWARD ISLAND**

Shaw Building, 4th Floor South
95 Rochford Street, P.O. Box 2000
Charlottetown, PEI C1A 7N8

Jessica Gillis

Tel: (902) 368-5064
Fax: (902) 368-4563
Email: jessicagillis@gov.pe.ca

**Counsel for the Intervener,
Attorney General of Prince Edward Island**

**ATTORNEY GENERAL OF
SASKATCHEWAN**

Constitutional Law
820 – 1874 Scarth Street
Regina, SK S4P 4B3

Thomson Irvine, K.C.

Noah Wernikowski
Tel: (306) 787-6307
Fax: (306) 787-9111
Email: tom.irvine@gov.sk.ca

**Counsel for the Intervener,
Attorney General of Saskatchewan**

**ATTORNEY GENERAL OF
NEWFOUNDLAND AND LABRADOR**

4th Floor, East Block, Confederation Bldg.
P.O. Box 8700
St. John's, NL A1B 4J6

Justin S.C. Mellor

Tel: (709) 729-0163
Fax: (709) 729-2129
Email: jmellor@gov.nl.ca

**Counsel for the Intervener, Attorney
General of Newfoundland & Labrador**

GOWLING WLG (CANADA) LLP

Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General of Prince Edward Island**

GOWLING WLG (CANADA) LLP

Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General of Saskatchewan**

GOWLING WLG (CANADA) LLP

Suite 2600, 160 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Attorney General of Newfoundland &
Labrador**

RAE AND COMPANY
900 - 1000 5th Avenue S.W.
Calgary, AB T2P 4V1

L. Douglas Rae
Brooke Barrett
Tel: (403) 264-8389
Fax: (403) 264-8399
Email: lorddoug@racandcompany.com

**Counsel for the Intervener,
Indian Resource Council**

MAURICE LAW
602 12th Avenue SW, Suite 100
Calgary, AB T2R 1J3

Ryan Lake
Geneviève Boulay
Tel: (403) 266-1201 Ext: 236
Fax: (403) 266-2701
Email: rlake@mauricelaw.com

**Counsel for the Intervener,
File Hills Qu'Appelle Tribal Council and
Pasqua First Nation**

NANDA & COMPANY
10007 - 80 Avenue NW
Edmonton, AB T6E 1T4

Martin Olszynski
Avnish Nanda
Tel: (780) 801-5324
Fax: (587) 318-1391
Email: avnish@nandalaw.ca

**Counsel for the Intervener,
World Wildlife Fund Canada**

GOWLING WLG (CANADA) LLP
2600 - 160 Elgin Street
Ottawa, ON K1P 1C3

Matthew Estabrooks
Tel: (613) 786-0211
Fax: (613) 788-3573
Email: matthew.estabrooks@gowlingwlg.com

**Agent for Counsel for the Intervener,
Indian Resource Council**

**WEST COAST ENVIRONMENTAL
LAW**

700 - 509 Richards Street
Vancouver, BC V6B 2Z6

Anna Johnston

Tel: (604) 601-2508
Fax: (604) 684-1312
Email: ajohnston@wcel.org

**Counsel for the Intervener,
Nature Canada and West Coast
Environmental Law Association**

BURNET, DUCKWORTH & PALMER

2400, 525 - 8 Avenue SW
Calgary, AB T2P 1G1

Robert L. Martz

Tel: (403) 260-0393
Fax: (403) 260-0332
Email: rmartz@bdplaw.com

**Counsel for the Intervener, Canadian
Association of Petroleum Producers**

CREASE HARMAN LLP

1070 Douglas Street, Unit 800
Victoria, BC V8W 2C4

R. Bruce E. Hallsor

Josh A. Bloomenthal

Tel: (250) 388-5421
Fax: (250) 388-4294
Email: Bhallsor@crease.com

**Counsel for the Intervener,
Canadian Taxpayers Federation**

SUPREME ADVOCACY LLP

100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major

Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

**Agent for Counsel for the Intervener,
Canadian Taxpayers Federation**

OSLER, HOSKIN & HARCOURT LLP

Suite 2700, Brookfield Place
225 - 6th Avenue S.W.
Calgary, AB T2P 1N2

Maureen E. Killoran, K.C.

Sean Sutherland

Brodie Noga

Tel: (403) 260-7000

Fax: (403) 260-7024

Email: mkilloran@osler.com

**Counsel for the Intervener,
Business Council of Alberta**

ECOJUSTICE CANADA SOCIETY

216 - 1 Stewart Street
Ottawa, ON K1N 7M9

Joshua Ginsberg

Anna McIntosh

Tel: (613) 903-5898 Ext: 700

Fax: (613) 916-6150

Email: jginsberg@ecojustice.ca

**Counsel for the Intervener,
Ecojustice Canada Society**

OSLER, HOSKIN & HARCOURT LLP

340 Albert Street, Suite 1900
Ottawa, ON K1R 7Y6

Geoffrey Langen

Tel: (613) 787-1015

Fax: (613) 235-2867

Email: glangen@osler.com

**Agent for Counsel for the Intervener,
Business Council of Alberta**

ALBERTA COUNSEL
800, 9707-110 Street, NW
Edmonton, AB T5K 2L9

Robert Reynolds, K.C.
Tel: (780) 652-1282
Fax: (780) 652-1312
Email: r.reynolds@albertacounsel.com

**Counsel for the Intervener,
Woodland Cree First Nation**

JFK LAW CORPORATION
340-1122 Mainland Street
Vancouver, BC V6B 5L1

Tim Dickson
Mae Price
Tel: (604) 687-0549
Fax: (607) 687-2696
Email: tdickson@jfkclaw.ca

**Counsel for the Intervener,
Mikisew Cree First Nation**

**MCCARTHY TÉTRAULT, s.e.n.c.r.l.,
s.r.l.**
1000 rue de la Gauchetière Ouest, Bureau
2500
Montréal, QC H3B 0A2

Dominique Amyot-Bilodeau
Jean Lortie
Mathieu Bernier-Trudeau
Simon Bouthillier
Tel: (514) 397-4100
Fax: (514) 875-6246
Email: damyotbilodeau@mccarthy.ca

**Counsel for the Intervener,
Hydro-Québec**

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3

D. Lynne Watt
Tel: (613) 786-8695
Fax: (613) 788-3509
Email: lynne.watt@gowlingwlg.com

**Agent for Counsel for the Intervener,
Woodland Cree First Nation**

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON K2P 0R3

Marie-France Major
Tel: (613) 695-8855 Ext: 102
Fax: (613) 695-8580
Email: mfmajor@supremeadvocacy.ca

**Agent for Counsel for the Intervener,
Mikisew Cree First Nation**

BORDEN LADNER GERVAIS LLP

Centennial Place, East Tower
1900-520 3rd Ave SW
Calgary, AB T2P 0R3

Brett R. Carlson

Aidan N. Paul

Peter Banks

Tel: (403) 232-9500

Fax: (403) 266-1395

Email: bcarlson@blg.com

**Counsel for the Intervener,
Canadian Constitution Foundation**

GALL LEGGE GRANT ZWACK LLP

1199 West Hastings Street, Suite 1000
Vancouver, BC V6E 3T5

Peter A. Gall, K.C.

Tel: (604) 891-1152

Fax: (604) 669-5101

Email: pgall@glgzlaw.com

**Counsel for the Intervener, Independent
Contractors and Businesses Association,
and Alberta Enterprise Group**

UNIVERSITY OF CALGARY

2500 University Drive NW
Calgary, AB T2N 1N4

Shaun Fluker

David V. Wright

Tel: (403) 220-4939

Fax: (403) 282-8325

Email: sfluker@ucalgary.ca

**Counsel for the Intervener,
Canadian Association of Physicians for the
Environment**

CAZASAIKALEY LLP

350-220 Laurier Ave West
Ottawa, ON K1P 5Z9

Albert Brunet

Tel: (613) 565-2292 Ext: 214

Fax: (613) 565-2087

Email: abrunet@plaideurs.ca

**Agent for Counsel for the Intervener,
Independent Contractors and Businesses
Association, and Alberta Enterprise Group**

CHAMP AND ASSOCIATES

43 Florence Street
Ottawa, ON K2P 0W6

Bijon Roy

Tel: (613) 237-4740

Fax: (613) 232-2680

Email: broy@champlaw.ca

**Agent for Counsel for the Intervener,
Canadian Association of Physicians for the
Environment**

MCCARTHY TÉTRAULT LLP
Suite 5300, Toronto Dominion Bank Tower
Toronto, ON M5K 1E6

Brandon Kain
Holly Kallmeyer
Asher Honickman
Tel: (416) 601-7821
Fax: (416) 868-0673
Email: bkain@mccarthy.ca

**Counsel for the Intervener,
Advocates for the Rule of Law**

ARVAY FINLAY LLP
360 - 1070 Douglas Street
Victoria, BC V8W 2C4

David W.L. Wu
Tel: (604) 696-9828
Fax: (888) 575-3281
Email: dwu@arvayfinlay.ca

**Counsel for the Intervener,
Oceans North Conservation Society**

**CANADIAN ENVIRONMENTAL LAW
ASSOCIATION**
130 Spadina, Suite 301
Toronto, ON M5V 2L4

Richard D. Lindgren
Joseph F. Castrilli
Tel: (416) 960-2284
Fax: (416) 960-9392
Email: lindgrer@lao.on.ca

**Counsel for the Intervener, Canadian
Environmental Law Association,
Environmental Defence Canada inc., and
Miningwatch Canada Inc.**

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 563-9869
Email: jeff.beedell@gowlingwlg.com

**Agent for Counsel for the Intervener,
Oceans North Conservation Society**

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, ON K1P 1C3

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 563-9869
Email: jeff.beedell@gowlingwlg.com

**Agent for Counsel for the Intervener,
Canadian Environmental Law Association,
Environmental Defence Canada inc., and
Miningwatch Canada Inc.**

BURNET, DUCKWORTH & PALMER
2400, 525 - 8th Avenue SW
Calgary, AB T2P 1G1

Kylan Kidd

Tel: (403) 260-0109

Email: kkidd@bdplaw.com

**Counsel for the Intervener,
Explorers and Producers Association of
Canada**

JURISTES POWER

401 West Georgia Street, Suite1660
Vancouver, BC V6B 5A1

Ryan Beaton

Tel: (604) 260-4462

Fax: (604) 259-6007

Email: rbeaton@juristespower.ca

**Counsel for the Intervener,
First Nations Major Projects Coalition**

**CENTRE QUÉBÉCOIS DU DROIT DE
L'ENVIRONNEMENT**

454, avenue Laurier Est
Montréal, QC H2J 1E7

David Robitaille

Marc Bishai

Tel: (514) 991-9005

Fax: (514) 844-7009

Email: david.robitaille@uottawa.ca

**Counsel for the Intervener,
Centre québécois du droit de
l'environnement**

POWER LAW

50 rue O'Connor, Bureau 1313
Ottawa, ON K1P 6L2

Jonathan Laxer

Tel: (613) 907-5652

Fax: (613) 907-5652

Email: jlaxer@powerlaw.ca

**Agent for Counsel for the Intervener,
First Nations Major Projects Coalition**

POWER LAW

50 rue O'Connor, Bureau 1313
Ottawa, ON K1P 6L2

Jonathan Laxer

Tel: (613) 907-5652

Fax: (613) 907-5652

Email: jlaxer@powerlaw.ca

**Agent for Counsel for the Intervener,
Centre québécois du droit de
l'environnement**

DGW LAW CORPORATION
2nd Floor, 736 Broughton Street
Victoria, BC V8W 1E1

John W. Gailus
Courtenay Jacklin
Tel: (250) 361-9469
Fax: (250) 361-9429
Email: john@dgwlaw.ca

**Counsel for the Intervener,
Lummi Nation**

SUPREME LAW GROUP
1800 - 275 Slater Street
Ottawa, ON K1P 5H9

Moira Dillon
Tel: (613) 691-1224
Fax: (613) 691-1338
Email: mdillon@supremelawgroup.ca

**Agent for Counsel for the Intervener,
Lummi Nation**

TABLE OF CONTENTS

PART I – OVERVIEW.....	1
PART II – ACFN’s POSITION ON THE QUESTIONS ON APPEAL	2
PART III – CONCISE STATEMENT OF ARGUMENT.....	2
A. Step One: Determining the Pith and Substance of the Scheme	2
1) The pith and substance of the Scheme is not an effective federal “veto”	2
2) JRPs are a legal effect fostering joint decision-making and cooperative federalism	3
B. Step Two: Classifying the Scheme in relation to federal powers	5
1) Areas of federal jurisdiction capable of being listed in the Act support the Scheme’s constitutionality	6
2) The Scheme is supported by established federal authority over navigation.....	7
3) The Scheme is supported by established federal authority over species at risk	8
C. Conclusion	9
PART IV – SUBMISSIONS ON COSTS	10
PART V – REQUEST TO PRESENT ORAL ARGUMENT	10
PART VI - TABLE OF AUTHORITIES	11

PART I – OVERVIEW

1. As a matter of law, the environment is a diffuse subject matter that various jurisdictions may legitimately and concurrently exercise their constitutional powers over.¹ As a matter of fact, the climate crisis and the protection of Aboriginal rights demands no less. The *Impact Assessment Act* (“*Act*”) and the *Physical Activities Regulations* (collectively, “Scheme”) reflect this reality while respecting the legal constraints imposed by the division of powers.²
2. Joint Review Panels (“JRP”) are a key legal effect of the *Act* revealing that the pith and substance of the Scheme is not a federal “veto”, as characterized by the Majority.³ The pith and substance of the Scheme is to establish a federal environmental assessment (“EA”) process to protect against adverse environmental effects on matters within federal jurisdiction. The Scheme is also supported by multiple federal powers, including those not expressly listed in s. 7 of the *Act*, such as navigation and species at risk.
3. Athabasca Chipewyan First Nation (“ACFN”) is a signatory to Treaty 8 and has rights under that treaty to hunt, fish, and trap, as affirmed by s. 35 of the *Constitution Act, 1982*.⁴ ACFN’s territory centres on the delta of the Peace and Athabasca Rivers in Alberta, where ACFN members continue to exercise their s. 35 rights.⁵
4. ACFN consistently participates in JRPs for oil sands projects in northeastern Alberta as a means of protecting its s. 35 rights.⁶ ACFN relies on the federal government to regulate adverse environmental effects falling within federal jurisdiction, including navigation and species at risk.

¹ *Friends of the Oldman River Society v. Canada (Minister of Transport)*, [1992] 1 S.C.R. 3 at 63-65 [*Oldman River*].

² S.C. 2019, c. 28, s. 1 [*Act*]; S.O.R./2019-285.

³ *Reference re Impact Assessment Act*, 2022 ABCA 165 at paras. 24, 245 [*Reasons*].

⁴ *Constitution Act, 1982*, s. 35, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.

⁵ Athabasca Chipewyan First Nation, “History”, online: *ACFN Athabasca Chipewyan First Nation* <<https://www.acfn.com/history>>.

⁶ ACFN participated in JRPs for the Teck Frontier Project and the Shell Jackpine Project: see Alberta Energy Regulator & Canadian Environmental Assessment Agency, Decision 2019 ABAER 008, CEAA Reference No 65505: *Teck Resources Limited, Frontier Oil Sands Mine Project* (Report), by the Joint Review Panel Established by the Federal Minister of Environment and Climate Change and the Alberta Energy Regulator (25 July 2019) [Teck Decision] at 954, Appendix 1; Alberta Energy Regulator & Canadian Environmental Assessment Agency, Decision 2013 ABAER 011, CEAA Reference No. 59540: *Shell Canada Energy, Jackpine Mine Expansion Project* (Report), by the Joint Review Panel Established by the Federal Minister of Environment

PART II – ACFN’s POSITION ON THE QUESTIONS ON APPEAL

5. ACFN submits that the Scheme is wholly *intra vires* the federal government.

PART III – CONCISE STATEMENT OF ARGUMENT

6. When assessing whether legislation is supported by a federal or provincial head of power Courts begin by characterizing the law’s pith and substance and then classify the pith and substance with reference to the heads of power in ss. 91 and 92 of the *Constitution Act, 1867*.⁷

A. Step One: Determining the Pith and Substance of the Scheme

1) The pith and substance of the Scheme is not an effective federal “veto”

7. As argued by Canada, the pith and substance of the Scheme, as reflected in its dominant purpose and effects, is to establish a federal EA process to protect against adverse environmental effects on matters within federal jurisdiction.⁸

8. The Majority concluded that the pith and substance of the *Act* is “the establishment of a federal impact assessment and regulatory regime that subjects all activities designated by the federal executive to an assessment of all their effects and federal oversight and approval.”⁹ In other words, for the Majority, the pith and substance of the *Act* amounts to federal “veto.” Indeed, throughout its reasons, the Majority refers to the Scheme as a “veto” thirty times.

9. The JRP process provided for in the Scheme is but one legal effect illustrating that the Scheme is not a federal “veto.”¹⁰

and Climate Change and the Energy Resources Conservation Board (9 July 2013) [Jackpine Decision] at 317, Appendix 1.

⁷ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at paras. 47, 114 [GGPPA]; *Constitution Act, 1867* (UK), 30 & 31 Vict., c. 3, ss. 91-92, reprinted R.S.C. 1985, Appendix II, No. 5. [Constitution Act, 1867].

⁸ Factum of the Attorney General of Canada at paras. 47, 61, 78-114 [AGC Factum].

⁹ *Reasons* at para. 372.

¹⁰ For a discussion on other aspects of the Scheme that foster cooperative federalism, see *Reasons* at paras. 710-730 per Greckol J.

2) JRPs are a legal effect fostering joint decision-making and cooperative federalism

10. When determining the pith and substance of the Scheme, the Court must consider the Scheme's purpose and effects. Effects include both the legal effects and practical effects.¹¹ Courts discern a law's legal effects from its provisions by considering "how the legislation as a whole affects the rights and liabilities of those subject to its terms."¹²

11. Under subsection 36(1) of the *Act*, the Minister may refer the impact assessment to a JRP if, in their opinion, doing so is in the public interest. In making that decision, the Minister must consider "opportunities for cooperation" with provinces.¹³

12. After referring the impact assessment to a JRP, the Minister may enter agreements with provinces to jointly establish a JRP and determine "the manner in which the impact assessment of the designated project is to be conducted by that panel."¹⁴ The Minister must also establish the JRP's terms of reference and the Agency must collaborate with the province to appoint JRP members.¹⁵

13. Under subsection 51(1), the JRP is responsible for, "in accordance with its terms of reference", conducting the impact assessment; holding public hearings; and preparing and submitting a report to the Minister summarizing the effects of the project, how the JRP considered Indigenous knowledge, comments received by the public, and the JRP's conclusions and recommendations (the "Report"). Subsection 51(1) demonstrates that in practice, the creation of JRPs enables provinces to actively engage in information gathering and decision-making as part of the federal EA process.

¹¹ *GGPPA* at para. 51.

¹² *GGPPA* at para. 70 citing *R. v. Morgentaler*, [1993] 3 S.C.R. 463 at 482.

¹³ *Act*, s. 36(2)(c).

¹⁴ *Act*, s. 39(1).

¹⁵ *Act*, ss. 41(1), 41(2)(a), 42(a), 42(c). Section 42(c) provides that the Agency must appoint "the chairperson, or a co-chair person, and at least one other member of the review panel." In practice, provinces appoint remaining members: see e.g., *Teck Decision* at 965, Appendix 2, ss. 3.1-3.2.

14. Through the JRP, provinces play a critical decision-making role in identifying the likely effects, including “adverse federal effects” of a designated project within the Report.¹⁶ Although the Governor in Council decides, after considering the Report, whether “adverse federal effects” are in the public interest,¹⁷ it is the JRP – not the Governor in Council – that determines the designated project’s “adverse federal effects.”¹⁸ A JRP’s decision-making role is also reflected in its powers to collect information,¹⁹ summon witnesses,²⁰ compel witnesses to give evidence or produce records,²¹ and its obligation to adhere to rules of procedural fairness and natural justice.²² Overall, the legal effect of the above noted JRP provisions is to ensure provincial participation in, and decision-making throughout, the federal EA process.

15. The *Act*’s predecessor, the *Canadian Environmental Assessment Act, 2012* (“*CEAA 2012*”), had very similar provisions.²³ ACFN participated in the Teck Frontier JRP²⁴ and the Shell Jackpine JRP,²⁵ which were ultimately carried out under relevant Alberta statutes and *CEAA 2012*.²⁶ For both, Canada and Alberta entered agreements containing terms of reference respecting the conduct of the impact assessment pursuant to their respective statutes (“Agreements”).²⁷ The Agreements recognize both jurisdictions’ statutory responsibilities and that both projects require concurrent authorizations under their respective laws.²⁸ They also require the JRP report to “take into account

¹⁶ *Act*, s. 51(1)(d)(i)-(ii).

¹⁷ *Act*, s. 61(1).

¹⁸ *Act*, s. 51(1)(d)(i)-(ii).

¹⁹ *Act*, s. 52(2).

²⁰ *Act*, s. 53(1).

²¹ *Act*, s. 53(2).

²² *Act*, s. 54.

²³ *Canadian Environmental Assessment Act, 2012*, S.C. 2012, c. 19, s. 52, ss. 38(1), 38(2), 40(1), 40(2), 42(1), 42(2)(a), 42(2)(c), 43(1), 44, 45 [*CEAA 2012*].

²⁴ Teck Decision at 954, Appendix 1.

²⁵ Jackpine Decision at 317, Appendix 1.

²⁶ The Teck Frontier JRP was established under Alberta’s *Responsible Energy Development Act*, S.A. 2012, c. R-17.3 [*REDA*]. The Shell Jackpine JRP was established under Alberta’s *Energy Resources Conservation Act*, R.S.A. 2000, c. E-10, which was the predecessor legislation to *REDA*. Both JRPs were established under the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37, but were continued under *CEAA 2012* pursuant to *CEAA 2012*, s. 126(1).

²⁷ Teck Decision at 963, Appendix 2; Jackpine Decision at 346, Appendix 3.

²⁸ Teck Decision at 963, Appendix 2; Jackpine Decision at 346, Appendix 3.

and reflect the views of all the [JRP] members.”²⁹ The Agreements illustrate that provincial and federal authorities cooperate to make decisions and issue statutory approvals within their respective jurisdictions.

16. The Agreements were entered into under a bilateral agreement, the *Canada-Alberta Agreement on Environmental Assessment Cooperation (2005)*,³⁰ which continues to be used by Canada and Alberta to establish JRPs.³¹ As noted by Justice Greckol, “[n]othing presented in this Reference suggests that the bilateral agreement does not apply now under the *IAA*.”³² Justice Greckol concluded that s. 39 of the *Act* is one of the “junctures” where federal and provincial EA processes intersect and that JRPs show that the Scheme is designed to facilitate cooperation.³³

17. The Majority pointed out, as does Alberta, that cooperative federalism “cannot be used to make an otherwise unconstitutional law a valid one.”³⁴ While this is true, the Scheme at hand is constitutional because, as argued below and by Canada,³⁵ it seeks to regulate adverse effects that are connected to federal powers. Additionally, tools to promote cooperative federalism, such as JRPs, are clearly relevant to the pith and substance analysis as a legal effect. The Majority erred by failing to adequately consider JRPs as an effect within its pith and substance analysis.

B. Step Two: Classifying the Scheme in relation to federal powers

18. When either level of government legislates with respect to the environment, “that legislation must be linked to a specific head of power within its jurisdiction.”³⁶ Parliament’s jurisdiction over navigation and species at risk support the constitutionality of the Scheme because these components of the environment are capable of being listed in Schedule 3 of the *Act* as matters that may cause adverse federal effects.

²⁹ Teck Decision at 976, Appendix 2, Terms of Reference, para 21; Jackpine Decision at 362, Appendix 3, Terms of Reference, para 14.

³⁰ Teck Decision at 963, Appendix 2; Jackpine Decision at 346, Appendix 3.

³¹ *Reasons* at para. 724 per Greckol J.

³² *Reasons* at para. 724 per Greckol J.

³³ *Reasons* at para. 702 per Greckol J.

³⁴ *Reasons* at para. 187 citing *Rogers Communications Inc. v. Châteauguay (City)*, 2016 SCC 23 at para. 39; Factum of the Attorney General of Alberta at para. 21 [AGA Factum].

³⁵ AGC Factum at paras. 120-142.

³⁶ *Reasons* at para. 9.

1) Areas of federal jurisdiction capable of being listed in the *Act* support the Scheme’s constitutionality

19. When assessing the constitutionality *Act*, the Court must consider all areas of federal jurisdiction to which the Scheme could apply. If the Scheme is supported by a federal power enumerated in s. 7, or a federal power yet to be added to Schedule 3, the Scheme cannot be wholly struck down.

20. As Canada explains, s. 7 or s. 8 trigger the application of the *Act*.³⁷ Under subsection 7(1), the *Act* applies if a designated project has certain effects within federal jurisdiction, including changes to “components of the environment that are within the legislative authority of Parliament” such as fish and fish habitat, aquatic species, and migratory birds.³⁸ However, the *Act* also applies if a designated project changes “any other component of the environment that is set out in Schedule 3”³⁹ or creates changes “to a health, social or economic matter within the legislative authority of Parliament that is set out in Schedule 3.”⁴⁰ Under subsection 7(2) the Governor in Council may amend Schedule 3 “to add or remove a component of the environment or a health, social, or economic matter.”

21. Throughout its factum, Alberta claims that on Canada’s interpretation, any matter could be an “effect within federal jurisdiction” that may trigger the application of the *Act*.⁴¹ Likewise, with respect to subsection 7(2), the Majority expressed similar concerns stating that the “potential scope of this legislative delegation is immense...”.⁴²

22. It is true that Canada’s ability to legislate over the environment is broad – but that does not mean that the exercise of that power is unconstitutional. Parliament may enact legislation under multiple heads of power.⁴³ The ability to add a component of the environment or a health, social, or economic matter to Schedule 3 is responsive to the unique nature and scope of the environment; the multiplicity of projects falling within the federal EA process; and the potential magnitude of

³⁷ AGC Factum at paras. 13-16.

³⁸ *Act*, s. 7(1)(a).

³⁹ *Act*, s. 7(1)(a)(iv).

⁴⁰ *Act*, s. 7(1)(e).

⁴¹ AGA Factum at paras. 30, 67, 71.

⁴² *Reasons* at para. 317.

⁴³ *Oldman River* at 73.

those projects' diverse effects. Any single project may engage different federal heads of power and the structure of the *Act*, including Schedule 3, accounts for this reality.

23. Most importantly, as pointed out by Justice Greckol, any matter added to Schedule 3 is limited to a matter or component of the environment that is “*within the legislative authority of Parliament.*”⁴⁴ Thus, the constitutionality of the Scheme may be supported by components of the environment that are tied to federal powers that are not yet listed in the *Act*, such as navigable waters and species at risk.

2) The Scheme is supported by established federal authority over navigation

24. The Scheme is constitutional because it is tied to the federal government's exclusive jurisdiction over shipping and navigation.⁴⁵

25. Parliament's jurisdiction over navigation and shipping must be widely construed and is capable of constricting provincial jurisdiction over property.⁴⁶ Navigable waters are spatially, functionally, temporally, and contextually connected to navigation itself.⁴⁷ In *Oldman River*, the Court upheld a regime that assessed impacts to navigation as a valid exercise of s. 91(10) – one capable of binding provinces.⁴⁸ As such, s. 91(10) does not need to be re-interpreted in this case.

26. Navigation and navigable waters must be regulated functionally as a uniform, integrated whole. The head of power in s. 91(10) operates territorially, coextensively with navigable inland waterways and maritime law in general.⁴⁹ It would be illogical if the rights and obligations of those engaged in navigation and shipping arbitrarily changed due to geographical changes.⁵⁰ If provinces interfered with the regulation of navigable waters, and created geographical anomalies impacting

⁴⁴ *Reasons* at para. 631, per Greckol J. Emphasis in original.

⁴⁵ *Constitution Act, 1867*, s. 91(10).

⁴⁶ *Montreal (City) v. Montreal Harbour Commissioners*, [1926] 1 D.L.R. 840 (PC) at para. 19. See also *British Columbia (Attorney General) v. Lafarge Canada Inc.*, 2007 SCC 23 at para. 62; *Desgagnés Transport Inc. v. Wärtsilä*, 2019 SCC 58 at paras. 43-44 [*Wärtsilä*].

⁴⁷ See *Wärtsilä* at para. 56 for the integral connection test.

⁴⁸ *Oldman River* at 50-76.

⁴⁹ *Whitbread v. Walley*, [1990] 3 S.C.R. 1273 at 1293 [*Whitbread*].

⁵⁰ *Whitbread* at 1295.

navigation rights, the entirety of a navigational network would be jeopardized and the federal government's jurisdiction over navigation would be rendered absurd.⁵¹

27. For this reason, courts have consistently held that the federal government, and the federal government alone, can extinguish navigation rights or authorize physical obstructions, intrusions, or nuisances to navigation. Provinces are “constitutionally incapable” of doing so.⁵²

28. Even if the province seeks to regulate areas of the environment within its jurisdiction, it cannot intrude into the federal government's exclusive jurisdiction over navigation.⁵³ Therefore, the constitutionality of the Scheme is supported by Parliament's ability to add navigable waters listed in the *Canadian Navigable Waters Act*,⁵⁴ such as the Athabasca River, to Schedule 3 of the *Act*. This jurisdiction must be respected, particularly as climate change threatens Indigenous communities' ability to sustain themselves and maintain their traditional ways of life,⁵⁵ which may depend on safe navigation of waters within their traditional territories.

3) The Scheme is supported by established federal authority over species at risk

29. Although protection of species at risk is a shared federal and provincial responsibility, the federal government's power to legislate over species at risk nevertheless supports the constitutionality of the Scheme.

30. *SARA* was “the first comprehensive federal legislation seeking (a) to prevent wildlife species from being extirpated or becoming extinct and (b) to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity.”⁵⁶

31. Parliament has exercised legislative jurisdiction to protect species at risk in Canada for twenty years now. Under *SARA*, the federal Minister of Environment has discretion to order

⁵¹ *Oldman River* at 60-61.

⁵² *Oldman River* at 54-56. See also *Whitbread* at 1298-1299; *R. v. "Woldingham" (The)*, [1925] Ex. C.R. 85 at 86-88; *Queddy River Driving Boom Co. v. Davidson*, (1883) 10 S.C.R. 222 at 232-234; *St-Denis de Brompton (Municipalité) c. Filteau* (1986), 59 D.L.R. (4th) 84 (QC CA) at para. 40.

⁵³ *R. v. Kupchanko*, 2002 BCCA 63 at paras. 40, 43.

⁵⁴ R.S.C., 1985, c. N-22.

⁵⁵ *GGPPA* at para. 11.

⁵⁶ *Canada (Fisheries and Oceans) v. David Suzuki Foundation*, 2012 FCA 40 at para. 12.

protections for endangered species and their critical habitat, including on provincial lands. This power has been referred to as the federal “safety net,” permitting federal intrusion into the provincial sphere in narrowly defined circumstances such as emergencies.⁵⁷ Furthermore, under s. 11 of *SARA*, federal ministers may enter into conservation agreements with any government (including First Nations), organization, or person to benefit a species at risk or enhance its survival in the wild.

32. Under s. 7 of the *Act*, the Scheme integrates with existing federal legislation addressing components of the environment, including *SARA*.⁵⁸ This integration reflects the “interacting natural systems” that comprise the components of the environment to which the Scheme applies.⁵⁹

33. For example, given its jurisdiction under *SARA*, the federal government could give special consideration to endangered species and their habitat, which Indigenous nations rely on, during EAs. The Scheme facilitates this by allowing the federal government to add matters relating to the protection of species to Schedule 3 of the *Act* if those matters fall within Parliament’s legislative authority.

C. Conclusion

34. The Majority correctly noted that climate change is an “existential threat to Canada” but erred in concluding that the Scheme is a “danger” to the Constitution and the country itself.⁶⁰

35. The Scheme is constitutional because it seeks to regulate adverse environmental effects that impinge on federal jurisdiction. The federal government’s jurisdiction to lawfully regulate the environment is broad, but such breadth does not amount to a ‘veto.’ Under the Scheme, the provinces may still exercise their jurisdiction to regulate the environment. An analysis of the *Act*’s JRP provisions and recent regulatory decisions under the *CEAA 2012*, which contains similar JRP provisions to those in the *Act*, illustrates how the *Act* encourages the concurrent exercise of both federal and provincial jurisdiction. Combatting the climate crisis will require teamwork between

⁵⁷ *Groupe Maison Candiac Inc. v. Canada (Attorney General)*, 2018 FC 643 at paras. 104-105, 127, 132, 181.

⁵⁸ The *Act* also integrates with the *Fisheries Act*, R.S.C. 1985, c. F-14 and the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22.

⁵⁹ See *Act*, s. 2 for the definition of “environment.”

⁶⁰ *Reasons* at para 6.

all governments in Canada, whether federal, provincial, or Indigenous. The Scheme achieves this. The Majority erred in concluding that the Scheme is a veto and overlooked the JRP process as a key legal effect within its pith and substance analysis.

36. In addition to the triggers explicitly set out in s. 7 of the *Act*, Parliament's jurisdiction over navigation and species at risk support the constitutionality of the Scheme because components of the environment or a health, social, or economic matter related to these federal powers may be listed in Schedule 3 of the *Act*. The ability to do so is responsive to the *sui generis* nature of the environment. Most importantly, and as noted by Justice Greckol, the federal government's exercise of this power will always be limited to effects falling within federal jurisdiction.

37. For all of these reasons, ACFN submits that the Court should uphold the Scheme.

PART IV – SUBMISSIONS ON COSTS

38. ACFN does not seek costs and asks that costs not be awarded against it in this proceeding.

PART V – REQUEST TO PRESENT ORAL ARGUMENT

39. ACFN respectfully seeks an order from this Court granting ACFN leave to make oral submissions not exceeding 5 minutes. ACFN is the only party that has made fulsome submissions on Schedule 3, navigation, species at risk, and the relationship between JRPs and cooperative federalism. Additionally, the Court should allow ACFN to fully participate in this proceeding, because the constitutionality of the Scheme will directly affect ACFN's s. 35 rights. ACFN respectfully submits that its presence is required to resolve the issues on appeal in a manner that takes Indigenous perspectives and experiences into account.

All of which is respectfully submitted this 16th day of December 2022.



Eamon Murphy
Tara McDonald
Counsel for Athabasca Chipewyan First Nation

PART VI - TABLE OF AUTHORITIES

Jurisprudence		Paragraph Ref.
1.	<i>British Columbia (Attorney General) v. Lafarge Canada Inc.</i>, 2007 SCC 23	25
2.	<i>Canada (Fisheries and Oceans) v. David Suzuki Foundation</i>, 2012 FCA 40	30
3.	<i>Desgagnés Transport Inc. v. Wärtsilä</i>, 2019 SCC 58	25
4.	<i>Friends of the Oldman River Society v. Canada (Minister of Transport)</i>, [1992] 1 S.C.R. 3	1, 22, 25-27
5.	<i>Groupe Maison Candiac Inc. v. Canada (Attorney General)</i>, 2018 FC 643	31
6.	<i>Montreal (City) v. Montreal Harbour Commissioners</i>, [1926] 1 D.L.R. 840 (PC)	25
7.	<i>Queddy River Driving Boom Co. v. Davidson</i>, (1883) 10 S.C.R. 222	27
9.	<i>R. v. Kupchanko</i>, 2002 BCCA 63	28
9.	<i>R. v. Morgentaler</i>, [1993] 3 S.C.R. 463	10
10.	<i>R. v. "Woldingham" (The)</i>, [1925] Ex. C.R. 85	27
11.	<i>Reference re Impact Assessment Act</i>, 2022 ABCA 165	2, 8-9, 16-18, 21, 23, 34
12.	<i>References re Greenhouse Gas Pollution Pricing Act</i>, 2021 SCC 11	6, 10, 28
13.	<i>Rogers Communications Inc. v. Châteauguay (City)</i>, 2016 SCC 23	17
14.	<i>St-Denis de Brompton (Municipalité) c. Filteau</i> (1986), 59 D.L.R. (4th) 84 (QC CA)	27
15.	<i>Whitbread v. Walley</i>, [1990] 3 S.C.R. 1273	26-27

Legislative Authorities		Language		Paragraph Ref.
16.	<i>Canadian Environmental Assessment Act</i> , SC 1992, c 37	English	French	15
17.	<i>Canadian Environmental Assessment Act, 2012</i> , S.C. 2012, c. 19	English	French	15, 35
	a) s. 38(1)	English	French	
	b) s. 38(2)	English	French	
	c) s. 40(1)	English	French	
	d) s. 40(2)	English	French	
	e) s. 42(1)	English	French	
	f) s. 42(2)(c)	English	French	
	g) s. 43(1)	English	French	
	h) s. 44	English	French	
	i) s. 45	English	French	
	j) s. 126(1)	English	French	
18.	<i>Canadian Navigable Waters Act</i> , R.S.C., 1985, c. N-22	English	French	28
19.	<i>Constitution Act, 1867</i> (UK), 30 & 31 Vict., c. 3, reprinted R.S.C. 1985, Appendix II, No. 5	English	French	6, 24-26
	a) s. 91	English	French	
	b) s. 91(10)	English	French	
	c) s. 92	English	French	
20.	<i>Constitution Act, 1982</i> , being Schedule B to the Canada Act 1982 (UK), 1982 c. 11	English	French	3, 39
	a) s. 35	English	French	
21.	<i>Energy Resources Conservation Act</i> , RSA 2000, c E-10	English		15

22.	<i>Fisheries Act</i> , R.S.C. 1985, c. F-14	English	French	32
23.	<i>Impact Assessment Act</i> , S.C. 2019, c. 28, s. 1	English	French	1-2, 11-14, 18-22, 28, 32-33, 35- 36
	a) s. 2	English	French	
	b) s. 7	English	French	
	c) s. 7(1)(a)	English	French	
	d) s. 7(1)(a)(iv)	English	French	
	e) s.7(1)(e)	English	French	
	f) s. 7(2)	English	French	
	g) s. 8	English	French	
	h) s. 36(1)	English	French	
	i) s. 36(2)(c)	English	French	
	j) s. 39(1)	English	French	
	k) s. 41(1)	English	French	
	l) s. 41(2)(a)	English	French	
	m) s. 42(a)	English	French	
	n) s. 42(c)	English	French	
	o) s. 51(1)	English	French	
	p) s. 51(1)(d)(i)	English	French	
	q) s. 51(1)(d)(ii)	English	French	
	r) s. 52(2)	English	French	
	s) s. 53(1)	English	French	
	t) s. 53(2)	English	French	
	u) s. 54	English	French	

	v) s. 61(1)	English	French	
	w) Schedule 3	English	French	
24.	<i>Migratory Birds Convention Act, 1994</i> , S.C. 1994, c. 22	English	French	32
25.	<i>Physical Activities Regulations</i> , S.O.R./2019-285	English	French	1
26.	<i>Responsible Energy Development Act</i> , SA 2012, c R-17.3	English		151
27.	<i>Species at Risk Act</i> , S.C. 2002, c. 29	English	French	30-33
	a) s. 11	English	French	

Other Sources		Paragraph Ref.
28.	Alberta Energy Regulator & Canadian Environmental Assessment Agency, Decision 2013 ABAER 011, CEAA Reference No. 59540: Shell Canada Energy, Jackpine Mine Expansion Project (Report) , by the Joint Review Panel Established by the Federal Minister of Environment and Climate Change and the Energy Resources Conservation Board (9 July 2013)	4, 15-16
29.	Alberta Energy Regulator & Canadian Environmental Assessment Agency, Decision 2019 ABAER 008, CEAA Reference No 65505: Teck Resources Limited, Frontier Oil Sands Mine Project (Report) , by the Joint Review Panel Established by the Federal Minister of Environment and Climate Change and the Alberta Energy Regulator (25 July 2019)	4, 12, 15-16
30.	Athabasca Chipewyan First Nation, “History”, online: <i>ACFN Athabasca Chipewyan First Nation</i> < https://www.acfn.com/history >	3