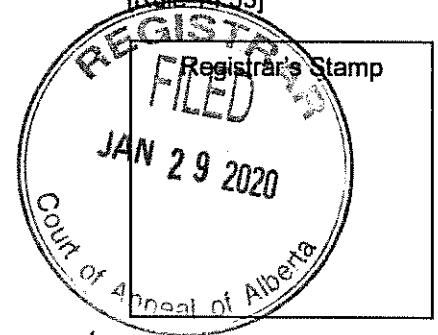


COURT OF APPEAL OF ALBERTA

Form AP-3
[Rule 14.53]

COURT OF APPEAL FILE NUMBER: 1901-0276 AC

REGISTRY OFFICE: CALGARY



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

DOCUMENT:

**APPLICATION OF CANADIAN ENVIRONMENTAL LAW ASSOCIATION, ENVIRONMENTAL DEFENCE CANADA INC., and MININGWATCH CANADA INC.
(PROPOSED INTERVENERS)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:

CANADIAN ENVIRONMENTAL LAW ASSOCIATION
55 University Avenue, 15th Floor
Toronto, Ontario M5J 2H7

Attention: Richard Lindgren/Joseph Castrilli
Tel: 416-960-2284, ext. 7214/7218
Fax: 416-960-9392
Email: r.lindgren@sympatico.ca

and

CONTACT INFORMATION OF ALL
OTHER PARTIES:

BENNETT JONES LLP
Barristers & Solicitors
4500, 855 – 2nd Street SW
Calgary, AB T2P 4K7

E. Bruce Mellett/Bradley S. Gilmour/
Sean R. Assie
Tel: 403-298-3319, ext. 3319/3382/3362
Fax: 403-265-7291

Counsel for the Attorney General of Alberta

DEPARTMENT OF JUSTICE CANADA
300, 10423 – 101 Street
Edmonton, AB T5J 0E7

Bruce F. Hughson/Kerry Boyd
Tel: 780-495-2035
Fax: 780-495-8491
Counsel for the Attorney General of Canada

NOTICE TO RESPONDENT(S):

**Attorney General of Alberta
Attorney General of Canada**

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (Rule 14.41 and 14.43)

NOTICE TO RESPONDENT(S):

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard at the date, time and place to be set by the Case Management Officer, in accordance with paragraph 8 of the Reasons for Decision of Madam Justice Rowbotham dated November 12, 2019.

Before: single judge of the court (Rule 14.37)

DATE: March 11, 2020

TIME: 9:30 AM

If the Respondents do not object to the proposed intervention, then the Applicants propose that this application be heard in writing only (without oral submissions).

Nature of Application and Relief Sought:

1. The Canadian Environmental Law Association ("CELA"), Environmental Defence Canada Inc. ("EDC"), and MiningWatch Canada, Inc. ("MWC") (collectively "the Proposed Interveners") hereby apply for an Order granting them permission to intervene in this reference on the following terms:
 - (i) that the Proposed Interveners be permitted to serve and file a factum, not exceeding 20 pages;
 - (ii) that the Proposed Interveners be permitted to make oral submissions at the hearing of the reference not exceeding 15 minutes (or such other duration as the Court may deem appropriate);
 - (iii) that, in the alternative, the Proposed Interveners be permitted to appear through counsel at the hearing of the reference for the purposes of answering questions the Court may have with respect to their factum;
 - (iv) that the Proposed Interveners shall not supplement the record, file additional affidavits, or raise new issues in the reference; and
 - (v) that costs of this application and the reference hearing shall not be awarded to or against the Proposed Interveners.

Grounds for making this application:

2. The constitutional questions in this reference (i.e. whether the *Impact Assessment Act* and the *Physical Activities Regulations* are *ultra vires* of Parliament, in whole or in part) raise broad issues of national significance and considerable public interest.
3. The Proposed Interveners are incorporated public interest organizations that have unique perspectives, many decades of experience, and demonstrated knowledge and substantial interest in the constitutional and environmental assessment issues that arise in this reference.
4. The Proposed Interveners have a lengthy history of involvement in federal environmental assessment processes, and were extensively engaged in the development of the *Impact Assessment Act* and *Physical Activities Regulations*.
5. The Proposed Interveners' position is that the *Impact Assessment Act* and *Physical Activities Regulations* are *intra vires* of Parliament, and their written and

oral submissions in support of this position will provide a fresh perspective on the constitutional questions and make an insightful, useful and unique contribution to the reference.

6. The Proposed Interveners intend to coordinate with other aligned intervenors in order to avoid unnecessary overlap or duplication.
7. The Proposed Interveners do not intend to supplement the records filed by the Respondents or by other intervenors that are permitted by this Honourable Court to file records.
8. The participation of the Proposed Interveners in the reference will not cause any delay, prejudice or injustice to the Respondents or other intervenors.
9. The Reasons for Decision and Directions of Madam Justice Rowbotham dated November 12, 2019.
10. Such further or other grounds as counsel may advise and this Honourable Court may allow.

Material or evidence to be relied on:

11. Affidavit of Theresa McClenaghan (CELA) sworn January 28, 2020.
12. Affidavit of Timothy Gray (EDC) affirmed January 28, 2020.
13. Affidavit of Jamie Kneen (MWC) affirmed January 24, 2020.
14. Such further or other evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts, regulations and rules:

15. Rules 14.37(2)(e), 14.40, and 14.58 of the *Alberta Rules of Court*, Alta Reg 124/2010.
16. Such other rules, Acts and regulations as counsel may advise and this Honourable Court may allow.