Province Can’t Abdicate Environmental Duties to Federal Government



Because an interprovincial pipeline project disproportionately impacted BC, the province and the federal NEB agreed to a coordinated approach to assessing the proposed project. BC agreed to defer to the NEB’s environmental assessment instead of conducting its own assessment and issuing its own environmental assessment certificate, as was required under the province’s environmental law. The federal government approved the pipeline. But the Gitga’at First Nations argued that by agreeing to waive its discretion to issue an environmental assessment certificate, BC violated its duty to consult and accommodate First Nations. The court agreed, ruling that a province can’t rely on federal efforts to satisfy its duty to consult with First Nations, although it may rely on federal environmental assessments to make its decisions. However, the province can’t abdicate its decision-making authority completely. So the court ordered BC to consult with the Gitga’at on the potential impacts of the pipeline on areas of provincial jurisdiction [*Coastal First Nations v. BC (Environment)*, [2016] BCSC 34 (CanLII), Jan. 13, 2016].