

Victory In \$130 Million Wildfire Act Case



McCarthy Tétrault recently achieved a complete victory on behalf of Blue Goose Cattle Company Ltd. and one of its directors in a \$130 million B.C. *Wildfire Act* cost-recovery case. The decision vindicates the respondents and applies multiple *Wildfire Act* defences, including due diligence and lack of causation. As British Columbia brings *Wildfire Act* claims with increasing frequency, the case offers useful guidance to businesses that operate in areas prone to wildfires.

Background

The B.C. *Wildfire Act* and *Wildfire Regulation* create a cost recovery scheme that permits British Columbia to recover certain costs if a person contravenes the *Act* or the *Regulation* in a way that results in a wildfire, subject to various defences.

In early 2024, British Columbia brought a \$130 million claim against Blue Goose and one of its directors in relation to a wildfire near Lillooet, B.C. British Columbia alleged that the respondents contravened the *Regulation* and caused the fire by not doing enough to prevent trees from touching a power line. The respondents had only a few months to prepare a defence given the *Act's* pending three-year limitation period.

Decision

McCarthy Tétrault achieved a complete victory on behalf of the respondents.

The decision-maker determined that the respondents had not contravened the *Regulation* because they had taken reasonable steps to manage vegetation, including by engaging service providers to assess and manage vegetation as necessary. The decision-maker found that these reasonable steps triggered the due diligence defence under s. 29 of the *Act*.

The decision-maker also determined that British Columbia had not meet its burden to prove that the respondents caused the fire. The decision-maker rejected British Columbia's theory of causation based on cross-examination of British Columbia's expert, and the respondents' expert evidence that the power line presented only a negligible risk of causing a fire.

The decision-maker dismissed the case completely and made no order against the respondents.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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