

## **Trans Mountain pipeline project background**

Ecojustice, Living Oceans Society and Raincoast Conservation Foundation

Ecojustice, Living Oceans Society and Raincoast Conservation Foundation have worked for years to protect Southern Resident killer whales through the courts from the threats posed by the Trans Mountain pipeline project.

### **Timeline**

**January 2016** – The groups appear before the National Energy Board (NEB) panel charged with reviewing the Trans Mountain Expansion Project, which at the time is owned by Kinder Morgan.

**December 2016** – The groups launch a lawsuit challenging Cabinet’s approval of the expansion in the Federal Court of Appeal.

**October 2017** – The groups appear in court as part of a landmark hearing in which environmental groups, First Nations, communities and local governments make the case for why the project’s approval was unlawful. On behalf of their clients, Ecojustice lawyers argue the government’s approval of the project violated its responsibility to protect endangered Southern Resident killer whales.

**August 2018** – The groups win a major victory when the Federal Court of Appeal strikes down Cabinet’s approval of the Trans Mountain project. The court rules that the approval failed to comply with the *Species at Risk Act* and that the government failed to properly consult with First Nations.

**September 2018** – The Canadian government orders the NEB to conduct a reconsideration hearing for the marine shipping associated with the Trans Mountain project under the *Canadian Environmental Assessment Act 2012* and the *Species at Risk Act*.

**January 2019** – The groups make another round of submissions to the NEB in its reconsideration of the marine shipping aspect of the Trans Mountain project. Ecojustice lawyers present updated evidence on how project-related marine shipping would impact endangered Southern Resident killer whales.

**July 2019** – After the federal government approves the project for a second time in June 2019, Ecojustice launches a case challenging the re-approval on behalf of Living Oceans Society and Raincoast Conservation Foundation.

**September 2019** – The Federal Court of Appeal declines to hear the conservation groups’ challenge of the Trans Mountain approval. In the same decision, the court announces it will not hear any environmental law arguments on the project.

**November 2019** – Ecojustice lawyers ask the Supreme Court of Canada for leave to appeal the Federal Court of Appeal’s decision.

## **Quick facts**

### Southern Resident killer whales and the Trans Mountain pipeline project

- Southern Resident killer whales are a genetically and culturally distinct population of endangered orcas. Only 73 remain, as of 2019.
- If built, the Trans Mountain pipeline project would lead to a sevenfold increase in tanker traffic — for a total of 408 trips (more than 800 inbound and outbound transits) per year — through critical Southern Resident habitat.
- Evidence submitted to the NEB showed that the increased noise associated with the increase in shipping traffic increased the risk of extinction for Southern Residents, by lowering their feeding success.
- Increased oil tanker traffic through critical Southern Resident habitat would also increase the risk of a catastrophic oil spill.
- In its project reconsideration report, the National Energy Board concluded “Project-related marine shipping is likely to cause significant adverse environmental effects on the Southern Resident killer whale and on Indigenous cultural use associated with the Southern Resident killer whale.”