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### ENVIRONMENT DESERVES GOVERNMENT PROTECTION



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Just last month, Harry Wruck and Kegan Pepper-Smith appeared in the Supreme Court of Canada (SCC).

We argued that British Columbia has a right — and a constitutional duty — to protect communities and the environment from toxic diluted bitumen spills.

While the outcome of this case has the potential to impact the future of the Trans Mountain pipeline, it is about so much more than a single project. When dilbit spills into the environment, as it did in the 2010 Kalamazoo River oil spill, it seriously harms wildlife and communities. And it's almost impossible to fully clean up.

We say governments at all levels, provincial and federal, must be able to pass

laws that protect the environment and communities from hazardous dilbit disasters.

To support this, Harry and Kegan made a novel argument when we appeared before the court. We argued that, even though it isn't explicitly written into the Constitution of Canada, environmental protection is an underlying constitutional principle.

In other words, the Constitution may not use the words “environmental protection,” but governments still have a constitutional duty to protect our air, water, and land.

We know what we're saying is outside the box — but we live in unprecedented times. If we're going to use the full power of the law to defend your right to a healthy environment, combat climate change, and protect nature, we must be prepared to stand in front of the country's highest court and make bold arguments.

This type of innovative legal approach is only possible thanks to donors like you who stand up for the environment and allow Ecojustice to work for all Canadians.

# LETTER FROM THE EXECUTIVE DIRECTOR

The Jumbo Valley, a stunning watershed in British Columbia's Purcell Mountains, is safe from a proposed ski development — for good. Last weekend, the Ktunaxa Nation announced a new agreement to create an Indigenous Protected and Conserved Area in the region. Managed by the Ktunaxa, the Qat'muk Indigenous Protected and Conserved Area will cover the Jumbo Valley and 700 kilometres' worth of the surrounding area, including important grizzly habitat. This historic announcement puts an end to a decades-long fight to protect an environmentally, culturally, and spiritually important site.

As you may know, Ecojustice lawyers spent more than two decades working to protect Jumbo Valley. The Jumbo file first landed on my desk back in 2002, when I was as staff lawyer here at Ecojustice. That summer, I hiked to the Jumbo Pass as part of my research. I can say, with certainty, that it is one of the most spectacular locations I've ever visited.

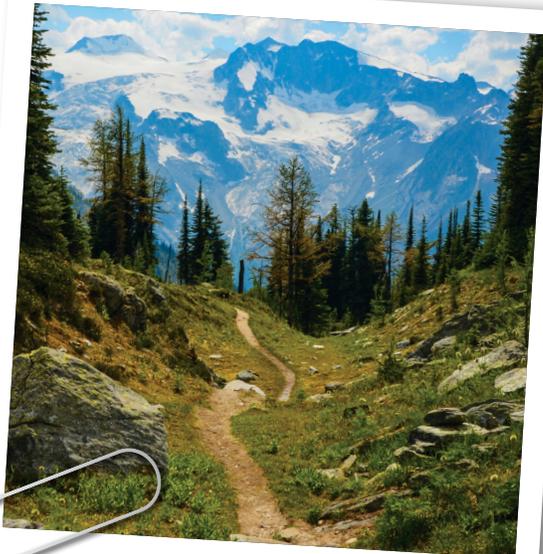
Nearly 18 years later, I returned to the region when the Ktunaxa invited me to be there in person as they announced the agreement to create the Qat'muk conservation area.

Standing at the media event in Cranbrook, B.C., alongside clients from Wildsight and the Jumbo Creek Conservation Society, I felt honoured and proud of the part Ecojustice, and you, played in protecting the Jumbo Valley. The creation of the Qat'muk Indigenous Protected and Conserved Area is a testament to the Ktunaxa's leadership, and to the determination and grit that local communities, individuals, and organizations like Ecojustice's clients showed when it came to fighting to keep Jumbo wild.



*Devon Page*

EXECUTIVE DIRECTOR



*Jumbo Pass hiking trail,  
British Columbia*



*Purcell Mountains landscape,  
British Columbia*

# QUEBEC FIRST NATION DEMANDS SAY IN PROJECTS THAT IMPACT LAND

This January — in partnership with the Centre québécois du droit de l'environnement — Ecojustice launched a constitutional challenge on behalf of the Mitchikanibikok Inik First Nation.

For years, the Quebec government has relied on a legislative loophole in the province's archaic Mining Act to ignore its constitutional duty to consult the Mitchikanibikok Inik about mining on their ancestral lands. Adding insult to injury, mining claims in their territories continue to be renewed without their input.

This, our case argues, is a clear violation of their constitutional rights.

Governments in Canada have a constitutional duty to consult and accommodate Indigenous communities in decisions — including mineral claims — that impact them, their lands and their cultures.

This isn't the first time we've helped the Mitchikanibikok Inik's defend their rights. And until the province updates its mining law and implements it in a way that respects the rights and self-determination of Indigenous communities, this likely won't be the last.

The social and environmental scars mining activity can leave on a community and the land last for generations. The Mitchikanibikok Inik say they are unwilling to endure those harms — certainly not when they are cut out of the decision-making process for what happens within their own territories.





# VOLKSWAGEN CUTS SWEETHEART DEAL TO AVOID LARGER PENALTIES

The government's secret deal let's Volkswagen off easy for its emissions fraud.

Four years after “Diesel-gate” became headline news (and two Ecojustice lawsuits later), the Canadian government has finally laid charges against Volkswagen for selling some 128,000 diesel cars — each equipped with a secret cheat device that allowed the vehicles to pollute up to 35 times the legal limit of toxic nitrogen oxides — to unsuspecting Canadians.

But don't start cheering just yet.

We learned last week that federal government had secretly negotiated a sweetheart deal with Volkswagen before the company had been charged. Unlike any normal criminal who is charged by police and has no say in it, federal prosecutors secretly negotiated with Volkswagen about which crimes it agreed to be charged with.

As a result, law enforcement officers were only able to charge the company with two previously-agreed criminal counts of misleading regulators and 58 counts of criminal importation, rather than the 128,000 counts Volkswagen could have been charged with for each illegal car it sold.

The federal government is willing to let Volkswagen get away with its environmental crime spree —

duping tens of thousands of Canadians into buying cars that emitted many times the legal limit of dangerous pollution — with a secretly negotiated slap on the wrist. This, when scientists say pollution from Volkswagen's diesel cars hurt, even killed, many people.

Adding insult to injury is the fact that despite our best efforts, Volkswagen's victims will not be guaranteed the opportunity to speak out in court about how the company's crimes impacted them.

The United States and Germany have both held Volkswagen and its subsidiaries to account for their environmental crimes, including paying civil and criminal penalties of about \$20 billion in the U.S. But in Canada, the record fine for pollution crimes is barely 0.01% of that. It's time for Canada to do better.

While we're disappointed that the court might not have the opportunity to hear victim impact statements, Ecojustice remains as committed as ever to using the power of the law to hold government accountable for its duty to protect Canadians — this includes busily preparing to go before the Supreme Court of Canada to ensure governments, at every level, take steps to address the climate emergency.

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