

ecobrief: Making the Case for a **Better Earth.**



With the warmer weather making it easier to get outdoors, I hope you're able to enjoy the breathtaking environment that you are helping us protect.

For many people living in Canada, summer includes hiking, camping, and visiting this land's beautiful beaches. There are few places in this world where you can run your toes in the sand alongside multiple oceans.

It's both a privilege and a responsibility to border three oceans. We are fortunate to experience this beautiful part of nature at home, and we must do our best to protect our coasts and the marine life beyond them.

This is why I am particularly concerned about the Bay du Nord project off the coast of Newfoundland and Labrador. This Spring, the Minister of Environment and Climate Change Canada approved Equinor's \$12 billion deep-water oil and gas project, Bay du Nord.

This project will drill to a depth of 1200 meters, becoming the deepest facility in Eastern Canada. This project has major risks such as a devastating well failure and further contribution to concerning marine pollution.

The beautiful beaches you visit this summer might also be toxic environments for the animals swimming in the water. From endangered cod to corals and sponges to humpback whales, further polluting our oceans will be catastrophic to wildlife.

In its lifetime, this project is expected to produce 300 million to one billion

barrels of oil, which could subsequently become 400 million tonnes of carbon – equal to about 7-10 million cars per year. After the forest fires and heat waves we witnessed last summer, we cannot afford more emissions projects that make the climate crisis worse.

Canadian governments are working on every piece of news to pitch this decision to Canadians as a 'green fossil fuel development' – but we know there's no such thing. Our lawyers are determined to challenge this problematic decision, and have filed a lawsuit on behalf of Équiterre and Sierra Club Canada Foundation against Minister Guilbeault in Federal Court.

Additionally, we are working on the ground with Indigenous communities concerned about the impacts of this project on their lives, their communities, and their culture, and we are seeking avenues to ensure this case upholds their rights.

The swift and bold action of the Ecojustice team gives me hope. When we see the environment under attack, I know we will work tirelessly to protect it. I hope this brings you hope too.

On the next couple of pages are some other stories of hope, where we are fighting for the environment despite lies and pushback. I hope these stories give you the same inspiration to keep up the fight as they do for me.



Devon Page

EXECUTIVE DIRECTOR

PROTECTING OUR OLD-GROWTH FORESTS

Vancouver Island is home to rare old-growth forest ecosystems such as the Fairy Creek Watershed. This site is at the heart of an international outcry against the logging of old-growth forests on the island. The region includes peatlands and watersheds that provide vital habitat for many of British Columbia’s species at risk including threatened migratory birds.

These crucial habitats were put at risk by Teal Cedar Products LTD’s tree farm license 46 (“TFL 46”), and further endangered when the Ministry of Forests, Lands, Resource Operations and Rural Development approved several road closures. This enabled Teal Cedar to install gates and private security to “protect logging operations”.

These closures meant that citizen scientists, including Ecojustice client Dr. Royann Petrell, Associate Professor Emerita, were stopped from documenting species and habitats in the area threatened by logging operations. Without this work and oversight from citizen scientists, endangered species are at even higher risk since Teal Cedar has no obligation to seek out at-risk species and migratory birds’ nests prior to logging.

Before the closure, Dr. Petrell helped establish a group of citizen scientists that has documented 329 species, including 29 vulnerable ones, in the Fairy Creek Watershed area. Dr. Petrell has made several detections of Western Screech Owls and Marbled Murrelets in the area, both of which are listed under the Species at Risk Act.

Since the closures were approved, Dr. Petrell has been denied access on multiple occasions, despite demonstrating that she was not connected to the ongoing blockades and posed no threat.

In response, Ecojustice filed a judicial review (JR) on behalf of Dr. Petrell on February 25, 2022, to protect

public access to the Fairy Creek Watershed. Our JR application in the Supreme Court of British Columbia challenged eight road closure approvals throughout TFL 46 surrounding the watershed.

In May 2022, the judge decided in favour of Teal Cedar’s application to strike our JR on the basis that the Forest Practices Board represents an adequate alternative remedy to a JR. However, the Board can only make non-binding recommendations, which we do not believe is an adequate remedy. Further, if we disagreed with the Board’s recommendation, it is not clear whether we could have the original decision judicially reviewed. This would insulate the Minister from review of certain forestry decisions by a court, which we argue is unacceptable.

We have appealed the B.C. Supreme Court’s decision to the B.C. Court of Appeal, arguing our client does not need to go to the Forest Practices Board before going to the court.

If successful, Ecojustice will prevent further road closures without compelling need; closures that could create wide-ranging exclusion zones where there’s opposition to resource development.

Honouring our commitments to reconciliation, Ecojustice is refraining from taking a position on the blockades or undermining First Nations’ leadership. Fairy Creek overlays Pacheedaht and Ditidaht territories and chiefs of both nations have publicly renounced efforts to impede logging operations in their territories.



CLEAN UP CANADA



This past April, the team at Cove Continuity Advisors organized *Clean Up Canada*, an online fundraiser for Ecojustice. The family-run insurance company based in North Vancouver, B.C., invited their network of suppliers, customers, partners, and friends to hear Devon and Alan introduce our new corporate climate accountability program – and offered to match any donations made by attendees.

“Cove is really just a reflection of the people who work here, and we all care about what’s happening in the world with respect to the environment,” says founder Bernie Geiss. “Cove has a louder voice than each of us individually, so we decided to use the company as our vehicle to effect positive change.” The entire Cove team – which includes Bernie’s wife, daughter, niece, and niece’s husband – is passionate about environmental issues ranging from climate change to habitat preservation, and they give to Ecojustice and other environmental charities as part of their 1% for the Planet commitment.

“I am certainly proud to work at a company that places a real value on more than just profit,” says Alex Liber, a Continuity Planner at Cove. “There are many ways to support environmental causes, but we all believe in the work of Ecojustice.”

“I would say that you cannot go wrong supporting Ecojustice. They are fighting on all fronts, and you can get a lot done in many areas when you support them. They are dedicated and have been successful in their bids to make our government accountable. They are crucial to meeting our environmental goals.”

CHRISTIE GEISS *Advisor and Co-owner*

BILL S-5, CEPA, AND TOXICS REFORM

Ecojustice is working with our federal government to modernize and strengthen the Canadian Environmental Protection Act (CEPA). We first pushed for Bill C-28 when it was tabled in April 2021 as it contained most of our key priority reforms, specifically, Canadians’ right to a healthy environment. Unfortunately, due to the September 2021 election, this bill died on the order paper before passing into law.

During the election campaign, we advocated that all parties include CEPA modernization in their platforms, and the Greens, the NDP, and the re-elected Liberals did so. Post-election, our head of law reform wrote a letter to Prime Minister Trudeau urging his government to act ambitiously and pass CEPA reform by summer 2022. This was then reflected in the government’s mandate letters in December 2021, committing to CEPA modernization.

February 2022 saw some action on this commitment with the introduction of Bill S-5 in the Senate. Although exciting to see this progress, unfortunately, it contains the same weaknesses as Bill C-28. Specifically, Bill S-5 balances the right to a healthy environment against ‘relevant economic factors’, undermining its strength.

Since then, our government relations team, working closely with our Healthy Communities Director Dr. Elaine MacDonald, is engaging with the legislative process. They are connecting with senators and their staff to educate on important changes to strengthen this legislation and to build support for a swift passage. Ecojustice is advocating for our priority amendments at the committee level and using strategic communications to ensure a timely legislative process.

TAKING POLLUTERS TO COURT



In 2014, Goldboro LNG, Pieridae's Liquefied Natural Gas facility, was approved under Nova Scotia's Environment Act. However, this provincial assessment did not include impacts from rerouting a highway around the facility to enable its construction.

Thus, in March 2021, Pieridae registered a separate assessment for the highway, and our clients then filed a joint submission in the public comment period. This submission focussed on the GHG emissions enabled by the road and the risks from building a highway over abandoned gold mine shafts, workings, and tailings containing mercury and other toxins.

Disappointingly, in April 2021 the Minister approved the highway but failed to provide reasons or findings of fact supporting this decision. When our clients requested these, per their right to this information, the Minister gave no response, and Nova Scotia Environment directed us back to the original statement.

So, on July 12, 2021, we filed an application for judicial review challenging the failure to provide our clients with a written statement of the decision with reasons and findings, as mandated under the Environment Act. On April 13, 2022, Judge Jamieson ruled in our favour that our clients could challenge this.

We also challenged the highway approval, given the minister's failure to consider our clients' submission and provide reasoning, as required. Unfortunately, the judge found that our clients do not have public interest standing to challenge this because it does not constitute a "serious issue". We argue it does.

Ecojustice and our clients, Ecology Action Centre and New Brunswick Anti-Shale Gas Alliance, are appealing this decision which as it stands sets a negative and restrictive precedent and could have significant impacts on the health and safety of workers, local residents, Nova Scotians, and the environment more broadly.

If successful, our appeal will maintain a broad interpretation of public interest standing, which will allow us and our partners to continue to take polluters to court and prevent the government and companies from creating harmful environmental and human impacts of projects to secure approvals.

Climate change is caused by the sum of many project approvals, including smaller aspects of such projects like the highway realignment in our case. Without the highway, the LNG project can't move forward, and we hope to persuade the court that all the impacts of this highway should be considered, including the GHG emissions it will enable.



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