LEGAL CHALLENGES VS. THE

TMX PIPELINE

This infographic briefly describes some of the key legal challenges to the TMX pipeline's approvals in **provincial** and **federal** courts.

JANUARY 2017

BC government issues environmental assessment certificate approving TMX

NOVEMBER 2017

Squamish Nation v. British Columbia
Case against BC government heard
in BC Supreme Court (BCSC)

Brought by: Squamish Nation Intervening: Various industry unions Grounds: Failure of BC government to consult Squamish Nation prior to approval of pipeline

MAY 2018

BCSC rejects Squamish Nation challenge

MAY 2019

Squamish Nation v. British Columbia
Case heard in BC Court of Appeal (BCCA)
Appealing the BCSC decision re: BC's approval

SEPTEMBER 2019

Squamish Nation v. British Columbia decision
BCCA finds in favour of Squamish Nation
challenge of BC approval as it relied on the
"fundamentally flawed" NEB report. BC must
start the review process over again

The **Trans Mountain Pipeline** has transported oil from Alberta to British Columbia since 1953.

The **Trans Mountain Expansion (TMX)** project will add a new 980-km pipeline & triple the volume of diluted bitumen in the pipeline system to almost 1 million barrels per day.

DECEMBER 2013

Application filed by Kinder Morgan to National Energy Board (NEB) to build an additional pipeline (TMX), tripling the capacity of the existing pipeline

NOVEMBER 2016

Federal government **approves Trans Mountain expansion** subject to conditions, based on NEB recommendation

OCTOBER 2017

Tsleil-Waututh Nation v. Canada

Cases against TMX, Attorney General of Canada & NEB heard in Federal Court of Appeal (FCA)

Brought by: Six First Nations, City of Vancouver & Burnaby, two environmental groups

Intervening: British Columbia & Alberta Grounds: (1) NEB report was so flawed it cannot be relied upon, and

(2) Canada's failure to consult Indigenous peoples

MAY 2018

Federal government announces **purchase of pipeline** & expansion project for \$4.5 billion

AUGUST 2018

Tsleil-Waututh Nation v. Canada decision
FCA overturns federal approval of the project:
(1) NEB report was too flawed to be relied upon
(2) Indigenous consultation "fell well short of the mark"

SEPTEMBER 2018

Federal government doesn't appeal FCA decision and orders NEB to reconsider recommendation

FEBRUARY 2019

NEB recommends federal approval of project again – reusing much of its old report

JUNE 2019

Federal government approves project again on new NEB recommendation

SEPTEMBER 2019

FCA gives six First Nations leave to appeal new approval, on basis of inadequate consultation only. Court won't hear arguments re: environmental risks, including impacts to endangered killer whales. Applicants appeal to Supreme Court re: decision to narrow the grounds to exclude certain parties.

DECEMBER 2019

Coldwater First Nation v. Canada
Cases against TMX & Attorney General of
Canada heard in FCA

Brought by: Four Indigenous parties

Intervening: Alberta, Saskatchewan, Canadian

Energy Regulator

Grounds: (1) Failure to 'meaningfully' consult with First Nations

FEBRUARY 2020

Coldwater First Nation v. Canada decision FCA upholds federal approval of the project,

finding that the Canadian government had remedied earlier failures to engage in meaningful consultation

MARCH 2020

SCC refuses to hear appeal of September leave decision that limited the scope of the FCA hearing

APRIL 2020

Four First Nations appeal *Coldwater* FCA decision to the Supreme Court of Canada

