



Ottawa, September 4, 2019 – Today, the Federal Court of Appeal (*per* Stratas J.A.) released twelve orders and supporting reasons in [*Raincoast Conservation Foundation et al. v. Attorney General of Canada et al.*, 2019 FCA 224](#). The following is an unofficial summary. Only the orders and reasons are authoritative.

On June 18, 2019, for the second time, the Governor in Council (often described as the federal Cabinet), approved the Trans Mountain Pipeline expansion project.

By statute, parties who wish to challenge the approval have to get the permission of the Court. The Court gives permission only if the parties meet a meaningful test that is applied rigorously.

The Court received twelve requests for permission. The respondents—those representing the Government of Canada and the proponent of the project—took no position and filed no evidence on eleven of the twelve requests.

The Court granted only six of the requests. These parties may now start legal challenges to the approval of the project.

Their challenges are limited to the narrow issue of the adequacy of the Government of Canada's further consultation with Indigenous peoples and First Nations between August 30, 2018 (the date of the Court's earlier decision in *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018 FCA 153) and June 18, 2019 (the Governor in Council's approval), and related issues.

The Court has ordered that the challenges proceed on an expedited basis. Short and strict deadlines for the steps in the litigation will be set.

The reasons are presently available only in the English language. The *National Energy Board Act* requires the Court to decide “without delay and in a summary way”. It is also in the public interest that the Court's decision be released immediately so any challenges can proceed right away without delay. The French language version of the reasons will be available shortly.