



Nicholas Hughes

Partner

Vancouver

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t. +1 604-643-7106

Bar Admission

British Columbia 1990

Law School

University of British Columbia

Practices

Litigation and Dispute Resolution
Environmental, Regulatory & Aboriginal
(ERA)

Industries

Global Metals & Mining

Loyal clients appreciate Nick's ability to distill complex technical issues and effectively drive disputes to resolution.

Nick is a seasoned litigator practicing in our Vancouver office, co-chair of our Global Mining Litigation Group and a senior member of our Environmental, Regulatory and Aboriginal group. His practice focuses on litigating science-based disputes in the mining, forestry, industrial and transportation sectors and related aboriginal law issues. He brings to his practice a valuable understanding of scientific principles gleaned from his previous education and career as a mining exploration geologist (BSc in Geology).

MINING, FORESTRY, OIL AND GAS LITIGATION

The mining and forestry sectors have been a dominant focus during Nick's 30 years of practice. His experience in these sectors includes a broad range of industry-specific commercial litigation, tort litigation, regulatory litigation and permitting disputes.

Examples of recent retainers include:

- successfully driving to conclusion the resolution of the civil claims against our engineering client arising out of the Mount Polley Mine tailings facility breach;
- successfully resolving a \$100 million dispute between a mining contractor and a mining major arising out of a large freeze wall construction shaft sinking project. The resolution involved the complete rework of a \$500 million shaft sinking contract to allow the parties to continue with the project to conclusion on mutually beneficial terms;
- achieving a highly successful resolution for a global mining major in a multi-party dispute over the ownership of a mining property in Argentina and the rights under options agreements thereto;
- acting for a coal mining major on an arbitration of a \$40,000,000 construction dispute with a major contractor; and

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- acting for Abitibi-Consolidated Company of Canada in a highly successful arbitration of a long standing fibre supply dispute with Ainsworth Lumber Company.

TRANSPORTATION

Nick acts for two Class 1 National Railways and the Railway Association of Canada in relation to all manner of issues facing the railway sector, including the transportation of dangerous goods, federal regulations and the constitutional limits of provincial powers in relation to federal undertakings. Most recently Nick has been counsel advocating for federal railways on the following constitutional matters:

- the BC Government's Reference to the Court of Appeal in relation to the constitutionality of the province's proposed legislation targeted at the transportation of crude oil by interprovincial pipelines and railways, which is now before the Supreme Court of Canada; and
- challenging an existing provincial law and its application on constitutional grounds in an appeal before the Environmental Appeal Board.

FULL RANGE OF ENVIRONMENTAL LAW

Nick acts for a broad range of clients on a full range of environmental issues, including tort liability claims, contaminated site litigation, permit appeals, regulatory defence, and advice in respect of a broad range of contaminants in air, soil and water.

Nick also provides environmental advisory services on a wide range of subject matter including the transportation of dangerous goods, species at risk, riparian area regulations, recycling programs, and waste disposal facilities.

DEFENCE OF REGULATORY PROCEEDINGS

Nick represents a diverse array of clients facing regulatory prosecution for environmental and related offences in western Canada under both provincial and federal statutes. He has defended prosecutions under:

- the federal *Canadian Environmental Protection Act, Fisheries Act, Migratory Birds Convention Act, Storage Tank System for Petroleum Products and Allied Petroleum Products Regulations* and the *Transportation of Dangerous Goods Act*;

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- the British Columbia *Environmental Management Act, Oil and Gas Activities Act, Mines Act, Water Act* and *Wildfire Act*; and
- the Alberta *Environmental Protection and Enhancement Act*.

Examples of Nick's significant retainers on such files include:

- acting for a national railway company on charges arising from a derailment that resulted in the discharge of caustic soda into the Cheakamus River;
- acting for the operator of a gas plant on charges relating to the release of sulphur dioxide gas that resulted in the hospitalization of a number of workers at an adjacent sawmill; – acting for a national railway company in relation to spill of diesel fuel into the North Saskatchewan River;
- acting for a mall developer on charges resulting from the discharge of a significant quantity of silt into the Fraser River in Prince George, British Columbia; and
- acting for an engineering firm on charges arising the rupture of a Kinder Morgan pipeline that resulted in the discharge of many thousands of litres of crude oil into Burrard Inlet, British Columbia.

CONTAMINATED SITES

Nick has represented clients on many of the most significant contaminated sites in British Columbia and has been involved in litigation touching virtually every aspect of the liability regime embodied in the Environmental Management Act. His contaminated site experience started in 1997, the year the BC contaminated sites regime was brought into force. His more significant retainers in this regard include acting for:

- Canadian Gypsum Corporation in respect of the first remediation order issued in British Columbia;
- Beazer East Inc. in respect of a former wood treatment plant; and
- The Vancouver Fraser Port Authority in respect of a former wood treatment plant on land currently occupied by the Seaspan Shipyard in North Vancouver.

ABORIGINAL LITIGATION

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Nick also acts for proponents of projects in relation to challenges by First Nations of project approvals. Examples of his more significant retainers in this regard include:

- successfully defeating a judicial review challenge brought by the Neskonlith Indian Band seeking to set aside a development permit issued for our client's shopping centre development. This case was won both at the Supreme Court level and on appeal to the Court of Appeal; and
- successfully representing TimberWest on an appeal brought by a First Nation in respect of TimberWest's use of herbicides on privately owned forest lands.

GENERAL COMMERCIAL LITIGATION

In addition to the above, Nick continues to act in a broad range of real property disputes, property tax assessment appeals, intellectual property disputes, contractual disputes, tort claims and breach of fiduciary duty and duty of confidence claims.

Awards & Rankings

Chambers Global

Leading Lawyer: Environment - Canada

Chambers Canada

Leading Lawyer: Environment

Benchmark Litigation Canada

Litigation Star

The Canadian Legal Lexpert Directory

Leading Lawyer: Environmental Law

Lexpert Special Edition: Energy

Leading Lawyer

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Lexpert Special Edition: Mining

Leading Lawyer

The Best Lawyers in Canada

Leading lawyer in the area of environmental law.

Recent Experience

- **Skeena Resources facilitates the creation of a Conservancy over the Ice Mountain Lands in northwestern B.C.**

March 31, 2021

Recent Insights

- **Contaminated Site Update: Unforeseen impact of a Remediation Order on Property Tax Assessments**

January 23, 2023

- **COVID-19: What Could the Taylor Decision Mean for Interprovincial Travel?**

February 2, 2021

Events

- **Constitutional Law Update – Supreme Court of Canada Decision on the Impact Assessment Act**

October 31, 2023

- **Updates to Canada's Environmental Health and Safety Laws and Policies**

October 18, 2022

