



firm profile

McMillan is a modern and ambitious business law firm serving public, private and not-for-profit clients across key industries in Canada, the United States and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan's commitment to serve our clients, our local communities and the legal profession. For more information, please visit our website at www.mcmillan.ca.

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aboriginal law

overview

In Canada, natural resource and infrastructure projects that impact land and resource rights can be made all the more complex when they involve aboriginal and treaty rights or claims.

Successful development of these important projects requires a thorough understanding of the law regarding aboriginal rights, and constructive relationships with aboriginal groups. While the law imposes certain requirements on the government to consult aboriginal groups, companies often assist with this consultation and frequently go one step further to directly negotiate economic benefits arrangements.

This requires experienced legal counsel that can ensure such agreements provide mutual benefit to the parties. They must also make certain that timely and defensible permits can be issued irrespective of whether or when an economic benefits agreement is reached.

McMillan's Government and Public Policy Group has deep experience in these areas. Our lawyers work closely with our environmental, energy, real estate, capital markets and tax law groups, and have represented clients on matters at all levels of court including the Supreme Court of Canada.

Members of our team have served as legal advisor to the Congress of Aboriginal Peoples, chief treaty negotiator, head of the British Columbia Environmental Assessment Office, deputy minister of Energy, Mines and Petroleum Resources, and chief of staff to a former Prime Minister.

McMillan professionals help clients lead by:

- Advising and representing aboriginal groups invested as partners in major projects
- Counseling on issues with commercial deals involving Indian Act bands and aboriginal corporations
- Negotiating engagement agreements, exploration agreements and impact benefit agreements with aboriginal groups
- Advising on working with federal and provincial governments concerning aboriginal consultation
- Advising on the impact of Canada's anti-corruption laws

representative transactions

- Represented a First Nation in connection with their equity investment in a major hydroelectric facility to add 450 mw of



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capacity through the renewal and expansion of four hydro-electric generating stations

- Advised major project developers on consultation with aboriginal groups and related permitting and environmental assessment processes
- Defended a First Nation consultation process performed by a Crown agent on behalf of the Government of Ontario
- Represented an educational institution in a matter involving the custody and handling of aboriginal remains
- Provided strategic advice in relation to a major financing of a commercial mining venture with significant aboriginal consultation and accommodation and land claims issues
- Acted for an international mining company to obtain injunctive relief to dismantle an illegal blockade of its operations
- Acted for a forest company in defending judicial review proceedings brought by a First Nation alleging that the Crown had failed to adequately consult with them in connection with Crown granted tenures
- Acted for a mining company in defending an Environmental Appeal Board challenge to Crown granted permits
- Acted for an international mining company in defending judicial review proceedings in the Federal Court relating to the issuance of various federal permits and authorizations
- Provided consultation and accommodation advice to a Crown agency in connection with the renewal of various Crown licenses and authorizations to private industry
- Represented a mining company in negotiation of benefit agreement with a First Nation in relation to a mine in British Columbia
- Advised an international mining company on negotiation of early engagement agreements with various First Nations

reported cases

- Attorney General of Canada v. Rose Lameman, Francis Saulteaux, Nora Alook, Samuel Waskewitch, and Elsie Gladue on their own behalf and on behalf of all descendants of the Papaschase Indian Band No. 136, Her Majesty the Queen in Right of Alberta (SCC File No. 31871)
- Aboriginal people and limitation of actions
- Kapp [2008] s. 15(2) Charter validity of commercial fishing license privileges to Aboriginal people in pilot program on Fraser River
- Weyerhaeuser [2004] duty to consult Haida Nation by a private company under a Crown forestry license



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