



THE PUNCH LINE...

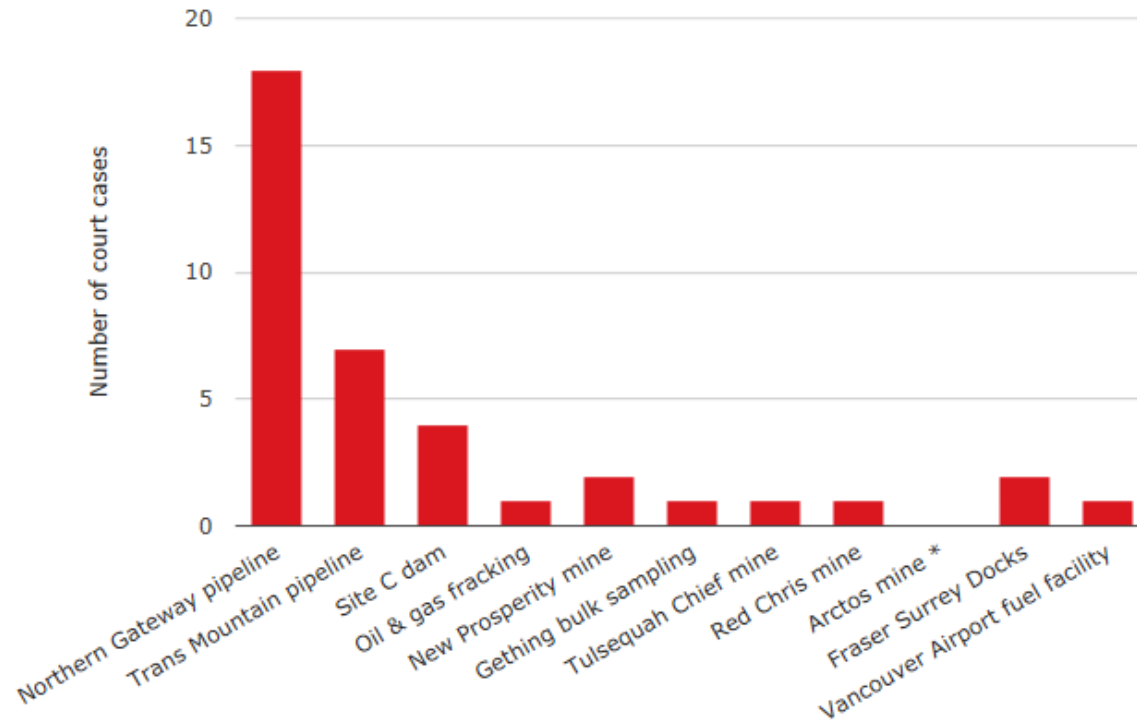
Key message for today: A new way of doing business is required to get to “yes” in a post-*Tsilhqot’in* world



EXISTING PROCESSES GETTING US TO “NO”

B.C. resource projects subject to court cases

There have been 38 legal interventions related to these projects – so far



* No court cases, but one threatened

Source: Globe and Mail, “Eleven BC Resource Projects and the Court Cases They Inspired”







Partnering with Indigenous Communities

HOW ARE PARTNERSHIPS DEVELOPED?

- **Principles which apply to partnering with any community:**
 - Engage early and often
 - Treat communities as true partners, rather than risks to be managed
 - Develop respect, trust, and co-operation
 - Develop meaningful, long-term relationships
 - Recognize and apply Indigenous laws and values wherever possible; communities are a true third order of government!

HOW ARE PARTNERSHIPS DEVELOPED?

- **Never a “one size fits” all approach:**
 - Literally hundreds of communities in Canada – take steps to understand the community
 - Every project will have aspects which may or may not appeal to a particular community
 - Different communities will have different capacity, concerns and aspirations for involvement
 - Each project will have different opportunities and challenges to ensure communities are meaningfully involved

WHAT BUSINESS MODELS CAN BE USED?

- **How to partner with communities:**
 - Equity position
 - Joint ownership/operation of projects
 - Full project, or key components (e.g. transmission line associated with mining operation)
 - Impact-Benefit Agreements



WHAT BUSINESS MODELS CAN BE USED?

- **Equity position or joint ownership by communities:**
 - Powerful tool, as they result in communities becoming “co-proponents”
 - Advantages include smoother EA and regulatory processes; ensuring duty to consult is satisfied or consent obtained
 - Access to capital sometimes a challenge
 - The appropriate business vehicle may include JVs, partnerships, corporation, etc

WHAT BUSINESS MODELS CAN BE USED?

- **Impact-Benefit Agreements**
 - Have been in use for a very long time
 - Typically has “chapters”: contracting, financial benefits, environmental stewardship, employment
 - Consent may be documented within
 - May not be suited to address all aspects of a community’s concerns; does not serve to displace review processes/regulatory requirements
 - May have to be disclosed to the Crown



CONTACT



Scott A. Smith



scott.smith@gowlingwlg.com



604-891-2764





GOWLING WLG