



SUPREME COURT OF CANADA

CITATION: British Columbia Hydro and Power Authority v.
British Columbia (Environmental Appeal Board),
[2005] 1 S.C.R. 3, 2005 SCC 1

DATE: 20050120
DOCKET: 29971

BETWEEN:

**North Fraser Harbour Commission and
General Chemical Canada Ltd.**

Appellants

v.

**Attorney General of British Columbia,
Canadian Pacific Railway, Deputy Director
of Waste Management and British Columbia
Hydro and Power Authority**

Respondents

- and -

**Friends of the Earth, Georgia Strait Alliance,
T. Buck Suzuki Environmental Foundation
and West Coast Environmental Law Association**

Intervenors

CORAM: McLachlin C.J. and Major, Bastarache, Binnie, LeBel, Deschamps, Fish, Abella and Charron JJ.

REASONS FOR JUDGMENT:
(para. 1)

McLachlin C.J. (Major, Bastarache, Binnie, LeBel,
Deschamps, Fish, Abella and Charron JJ. concurring)

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(Environmental Appeal Board)**

Neutral citation: 2005 SCC 1.

File No.: 29971.

2005: January 20.

Present: McLachlin C.J. and Major, Bastarache, Binnie, LeBel, Deschamps, Fish, Abella
and Charron JJ.

on appeal from the british columbia court of appeal

Corporations — Amalgamation — Liability for remediation of contaminated sites — Public utilities — Amalgamation agreement providing that amalgamated corporation assumed all duties, liabilities and obligations to which predecessor corporations subject “immediately before the amalgamation” — Amalgamated corporation not immune from responsibility for remediation of contamination caused by pre-amalgamation activities of one of its predecessor corporations — Wording of amalgamation agreement not limiting liability of amalgamated corporation.

Environmental law — Remediation of contaminated sites — Liability — Public utilities — Amalgamation agreement providing that amalgamated corporation assumed all duties, liabilities and obligations to which predecessor corporations subject “immediately before the amalgamation” — Amalgamated corporation not immune from responsibility for remediation of contamination caused by pre-amalgamation activities of one of its predecessor corporations — Wording of amalgamation agreement not limiting liability of amalgamated corporation.

APPEAL from a judgment of the British Columbia Court of Appeal (Rowles, Prowse and Newbury JJ.A.) (2003), 229 D.L.R. (4th) 1, [2003] 10 W.W.R. 194, 185 B.C.A.C. 94, 303 W.A.C. 94, 17 B.C.L.R. (4th) 201, 2 C.E.L.R. (3d) 165, [2003] B.C.J. No. 1773 (QL), 2003 BCCA 436, reversing a judgment of Low J. (2000), 33 C.E.L.R. (N.S.) 301, [2000] B.C.J. No. 1012 (QL), 2000 BCSC 638, dismissing an application for judicial review of a decision of the Environmental Appeal Board, [1999] B.C.E.A. No. 57 (QL). Appeal allowed.

Michael P. Carroll, Q.C., and Monika B. Gehlen, for the appellants.

Elizabeth J. Rowbotham and Nancy Brown, for the respondent the Attorney General of British Columbia.

John R. Singleton, Q.C., and David G. Perry, for the respondent British Columbia Hydro and Power Authority.

Margot A. Venton and Robert V. Wright, for the interveners.

The judgment of the Court was delivered orally by

1 THE CHIEF JUSTICE — The appeal is allowed for the reasons of Rowles J.A., dissenting in the Court of Appeal, with costs.

Appeal allowed with costs.

Solicitors for the appellants: Davis & Company, Vancouver.

Solicitor for the respondent the Attorney General of British Columbia: Ministry of the Attorney General, Vancouver.

Solicitors for the respondent British Columbia Hydro and Power Authority: Singleton Urquhart, Vancouver.

Solicitor for the interveners: Sierra Legal Defence Fund, Toronto.