

# TO CANADIAN DEFENDANTS

SOME POINTS TO ARGUE:

## ARGUE DESTRUCTIVE ACTIVITY

On page 1, point 2 it says "The seismic testing is non-invasive, non destructive testing"

1. you have indications that seismic testing in new brunswick has been invasive as well as destructive "One couple, living on the outskirts of Moncton, saw the sudden appearance of coliform bacteria in their well water after SWN's thumper trucks rumbled across their front door. Near Rogersville, a senior citizen, in his 70s, discovered water bubbling up through a seismic testing shot-hole in the bush behind his property."  
<http://aptn.ca/news/2013/11/18/nb-residents-turn-mikmaq-environmental-concerns-bubble-surface-wake-shale-gas-exploration/>
2. here's an overview of seismic testing, scroll down and you'll find examples of destruction related to the activity  
<http://kolonialq.wordpress.com/hydraulic-fracturing-intensive-review/the-process/3-well-injection-part-i/>

## ARGUE LAWFUL OPPOSITION

On page 1, point 4 it says "Opposition to SWN's testing has been, characteristically, unlawful".

1. The examples they give are examples of vandalism which are not condoned by the peaceful protestors.
2. the protest has been peaceful,
3. opposition before protests has been peaceful (include information about petitions, letters, and other activities)
4. show that property owners have consented to their lands being used for opposition, show their letters of solidarity and permission

## ARGUE BAD SWN & RCMP CONDUCT

The entire part b) Respondants conduct outlines all the acts of vandalism and such which they could think of, including things from 2011.

1. The SWN employees were seen provoking Warriors
2. picture of SWN workers giving protestors the bird

3. RCMP acted provocatively, esp on the raid of oct 17.
4. Bruises and pictures of abuse by RCMP
5. Argue that "respondents" they are referring to include over 200 people (who showed up to Saturday's protest) including media, and anyone using the highway
6. Note that RCMP have been stopping and harassing ppl in their cars.
7. Note that the injunction has been applied to media, include the tweet by CBC
8. Argue irrelevance of events of previous protests (2011??)
9. Demonstrate the peacefulness of protestors, unarmed, within the law, children
10. Argue that social media statements cannot be taken so easily out of context as legally binding statements
11. Demonstrate that users on social media include a range of ppl from all over the world
12. - i have no idea what the "radical elements" are that the band were referring to...maybe ask them cause no one knows what that is, and SWN are using it as their argument. protestors have been peaceful. only radical elements are the RCMP.
13. show that SWN has not given property owners fair warning of their activities

### **ARGUE INJUNCTION IS NOT APPLICABLE**

On page 12 it says "at the heart of the injunctive process is the prohibition, permanently or temporarily, of wrongful conduct or conduct which would interfere with the rights of another"

1. your peaceful protests are within the law and within your rights, therefore is not wrongful conduct
2. you are not interfering with the rights of SWN by protesting. they are still testing, you are making your presence known.
3. ARGUE that your rights will be trampled on if the injunction is in place.

### **ARGUE FAILURE OF THREE-STAGE TEST**

On page 13 it says NB applied the use of a three stage test to approve prohibitive interlocutory injunctions

1. (page 14) A serious issue to be tried: THIS IS EASY TO ARGUE AGAINST!! the threshold is a low one, so show that SWN's complaints do not apply to protestors, and their undelayed testing is not a serious issue.
2. Irreparable harm: you guys are not the vandals, and you are not putting equipment or workers in situations of irreparable harm.... in fact you are suffering more harm in your inability to get your point across. You water is already suffering irreparable harm from testing and there is indication that the seismic testing is done for the purpose of fracking, which would cause you irreparable harm.
3. Balance of convenience: this is arguing which party will suffer the greatest harm.... you guys should show your bruises, show your arrests, and damage to water and property. show that is anything there should be an injunction against SWN because YOU are suffering greater harm...

just some things to think about.....there are others.... of course  
copy of swn injunction

<http://s3.documentcloud.org/documents/838648/0151-001.pdf>

### **MORE POINTS TO BRING UP:**

via Eliza Knockwood

Also here are some written points that are a bit raw and were built into the previous list we just provided.

some arguments against SWN injunction being extended  
How is suing hundreds of people and/or arresting just as many people working in the best interest of the residents of this province? SWN and the Gov't are pulling families into poverty, forcing them to sell their homes, small business etc.

How is an injunction a fair approach for concerned citizens of this province? It is not just a First Nations Issue, it is a peoples issue. We all stand together for the same purpose.

We have learned about the oppression enforced on our First Nations brothers and sisters and through this stand to assert

ourselves, we see and understand more now than ever before how the gov't and law enforcement officers are taking their positions for granted and are using unprecedented force and oppression on thousands of us concerned peoples.

Another argument is.. many personal land owners have been granting the protectors permission to use their land as a safe space so they can continue to make their peaceful presence known, and so that their efforts to protect the water and land continues on because they to value the land they own and live from. (Also include the letters of permission from land owners).

Additionally, many land owners received letters of notice from SWN only days to a week at most before they were scheduled to begin exploration on/around their property.

## **TO NATIVE DEFENDANTS**

via Dan Wallace it should be submitted with the opening as case law and how that conflicts with the injunction:

S.25 AND S.35 OF THE CONSTITUTION ACT, 1982

GENERAL

S.25. THE GUARANTEE IN THIS CHARTER OF CERTAIN RIGHTS AND FREEDOMS SHALL NOT BE CONSTRUED SO AS TO ABROGATE OR DEROGATE FROM ANY ABORIGINAL, TREATY OR OTHER RIGHTS OR FREEDOMS THAT PERTAIN TO THE ABORIGINAL PEOPLES OF CANADA INCLUDING:

(a) ANY RIGHTS OR FREEDOMS THAT HAVE BEEN RECOGNIZED BY THE ROYAL PROCLAMATION OF OCTOBER 7, 1763; AND

(b) ANY RIGHTS OR FREEDOMS THAT MAY BE ACQUIRED BY THE ABORIGINAL PEOPLES OF CANADA BY WAY OF LAND CLAIMS SETTLEMENT."

PART II  
RIGHTS OF THE ABORIGINAL PEOPLES OF  
CANADA

S.35.

(1) THE EXISTING ABORIGINAL AND TREATY RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA ARE HEREBY RECOGNIZED AND AFFIRMED.

(2) IN THIS ACT, 'ABORIGINAL PEOPLES OF CANADA' INCLUDES THE INDIAN, INUIT AND METIS PEOPLES OF CANADA."

<http://indigenousfoundations.arts.ubc.ca/home/government-policy/constitution-act-1982-section-35.html>

**OTHER OPTION:**

DECLARE YOU DENOUNCE THEIR REGISTRY to canadian and provincial govt; give only traditional names and state they are from whatever their nation territory is

**ARGUE THAT YOU WERE NOT PROPERLY CONSULTED**