# Alberta asks court whether environmental assessment process is constitutional

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The Alberta government has asked the province's Appeal Court to rule on whether Ottawa's new way of handling environmental assessments for major construction projects such as pipelines is constitutional.

The government filed its challenge with the court on Tuesday. It questions whether the federal government was acting within its authority when it passed a bill earlier this year that established the procedure.

Alberta Premier Jason Kenney argues that Bill C-69 infringes on the rights of provinces to control their own natural resources and that it will kill what is left of Alberta's oil-and-gas sector.

When the bill became law last month, the province's justice and energy ministers said they would challenge its constitutionality.

"I know that perhaps some of my political adversaries will say this is some kind of political theatre. Nothing could be further from the truth," Kenney told an audience at an oil and gas show in Fort McMurray, Alta., on Tuesday.

He said the move is about more than protecting jobs.

"It is about the rule of law. It's about the dream of an economic union. It's about respect for the fundamental law of the land, the Constitution of Canada."

Federal Environment Minister Catherine McKenna has said the new review format for projects such as pipelines, mines and highways will be clear and timely.

She said it will allow for as many as 100 new resource projects worth $500 billion to be proposed and examined over the next 10 years.

Kenney said provinces have the exclusive authority to regulate production of resources within their boundaries as set out in Section 92 (a) of the Constitution.

"The exclusive authority — this is not a matter of grey," Kenney said.

Eric Adams, a law professor at the University of Alberta, said it's not so black and white.

Adams, who is an expert in Canadian constitutional law, said even though provinces have jurisdiction over production of their natural resources, that doesn't mean the federal government can't pass laws on environmental matters that will affect the oil and gas sector.

He said it comes down to what the law is really about. If Ottawa can persuade the court that it is about the environment, criminal law, inter-provincial projects or anything else it has jurisdiction over, then the question of whether it also has impacts on oil and gas won't matter.

"I'm certainly far from saying the case is a hopeless one. (Kenney) may well win his day in court," Adams said. "But there are strong and compelling arguments that the federal government will be making, and to suggest otherwise is to only be looking with one eye."

Kenney said constructive amendments made to Bill C-69 by the Senate were stripped out by Prime Minister Justin Trudeau's government.

He said he's confident the province will win and that other provinces will join in fighting Ottawa to protect their jurisdiction.