[OFFICE TRANSLATION]

SUPERIOR COURT
(Civil division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC

No 200-17-032721-219
200-17-033318-221
200-17-028534-188
200-17-033326-224
200-17-029643-194
200-17-033327-222
200-17-031447-204
200-17-033328-220
200-17-034141-226
200-17-034043-224
200-17-034142-224
200-17-034864-231

DATE : January 25, 2024

IN THE PRESENCE OF THE HONOURABLE PHILIPPE CANTIN, j.c.s.

200-17-032721-219

GASPÉ ÉNERGIES INC.
and
RESSOURCES UTICA INC.
and
RESSOURCES UTICA NORD-EST INC.
and
RESSOURCES UTICA SUD-OUEST INC.
and
RESSOURCES UTICA JOLY INC.
and
GESTION BERNARD LEMAIRE INC.
Plaintiffs

JC 0D01

C.
ATTORNEY GENERAL OF QUEBEC
and
MINISTER OF ECONOMY, INNOVATION AND ENERGY
and
THE QUEBEC GOVERNMENT
Defendants
and
CUDA PÉTROLE ET GAZ INC.
and
GASTEM INC.
and
INTRAGAZ EXPLORATION, LIMITED PARTNERSHIP
and
PRAIRIE PROVIDENT RESOURCES CANADA LTD
and
CANADIAN QUANTUM ENERGY CORPORATION

Impleaded parties

200-17-033318-221

TUGLIQ ENERGIE S.A.R.F.
Plaintiff
C.
ATTORNEY GENERAL OF QUEBEC
and
MINISTER OF ECONOMY, INNOVATION AND ENERGY
and
THE QUEBEC GOVERNMENT
Defendants
and
PIERIDAE QUEBEC DEVELOPMENT LIMITED PARTNERSHIP
Impleaded parties

200-17-028534-188

QUESTERRE ENERGY CORPORATION
Plaintiff
C.
ATTORNEY GENERAL OF QUEBEC
Defendant

200-17-033326-224

QUESTERRE ENERGY CORPORATION
Plaintiff
C.
ATTORNEY GENERAL OF QUEBEC
and
MINISTER OF ECONOMY, INNOVATION AND ENERGY
and
THE QUEBEC GOVERNMENT

Defendants

200-17-029643-194

PETROLYMPIA INC.
and
SQUATEX RESOURCES AND ENERGY INC.
Plaintiffs
C.
ATTORNEY GENERAL OF QUEBEC
Defendant

200-17-033327-222

SQUATEX RESOURCES AND ENERGY INC.

and

PETROLYMPIA INC.
and
PETROLYMPIC LTD.
Plaintiffs
C.
ATTORNEY GENERAL OF QUEBEC
and
MINISTER OF ECONOMY, INNOVATION AND ENERGY
and
THE QUEBEC GOVERNMENT
Defendants

200-17-031447-204

DEVELOPMENT PIERIDAE QUÉBEC
and
ENERGY PIERIDAE
Plaintiffs
C

ATTORNEY GENERAL OF QUEBEC
Defendant

200-17-033328-220

DEVELOPMENT PIERIDAE QUEBEC
and
ENERGY PIERIDAE
Plaintiffs
C.
ATTORNEY GENERAL OF QUEBEC
and
MINISTER OF ECONOMY, INNOVATION AND ENERGY
and
THE QUEBEC GOVERNMENT

Defendants

200-17-034141-226

MUNDIREGINA RESOURCES CANADA INC.
and
ABBA QUEBEC RESOURCES INC.
Plaintiffs
C.
MINISTER OF ENERGY AND NATURAL RESOURCES
and
ATTORNEY GENERAL OF QUEBEC
Defendants

200-17-034043-224

ALTAI RESOURCES INC.
Plaintiff
C.
MINISTER OF ENERGY AND NATURAL RESOURCES
and
ATTORNEY GENERAL OF QUEBEC
Defendants

200-17-034142-224

REPSOL OIL AND GAS CANADA INC.
Plaintiff
C.

ATTORNEY GENERAL OF QUEBEC
Defendant

200-17-034864-231

LES MINES J.A.G. LTD
and
OLITRA INC.
Plaintiffs
C.
MINISTER OF ENERGY AND NATURAL RESOURCES
and
THE QUEBEC GOVERNMENT, represented by the ATTORNEY GENERAL OF QUEBEC
and
ATTORNEY GENERAL OF QUEBEC
Defendants

JUDGMENT

OVERVIEW

[1] The plaintiffs are companies engaged in the exploration and exploitation of hydrocarbons.

[2] In 12 court cases that have been joined for joint trial, the plaintiffs question the operability and constitutional validity of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine* ("Act").

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[1] RLRQ, c. R-1.01.

[3] Certain plaintiffs, namely Gaspé Énergies inc, Ressources Utica inc, Ressources Utica nord-est inc, Ressources Utica sud-ouest inc, Ressources Utica Joly inc, Gestion Bernard Lemaire inc, Development Pieridae Quebec, Energy Pieridae, Questerre Energy Corporation, Ressources et Énergie Squatex inc, Petrolympia inc. and Petrolympic Ltd. (hereinafter collectively referred to as "the plaintiffs"), request that a stay of application be granted with respect to articles 7, 10 to 26, 55, 56, 57 (1°) to (4°) and 58 of the Act[2], until judgment is rendered on the merits of the constitutional.

[4] These claims are being contested by the Attorney General of Quebec ("AGQ").

CONTEXT

[5] Historically, hydrocarbon exploration and development activities have been governed by the *Mining Act* ("MA")[3] and the *Petroleum Resources Act* ("PRA")[4], as well as the regulations adopted pursuant to them.

[6] Under these laws and regulations, the plaintiffs have been issued and/or have acquired hydrocarbon exploration or production licenses from third parties.

[7] As of June 2011, the government is passing various pieces of legislation suspending the validity period of licenses[5].

[8] The PRA was assented to on December 10, 2016, and came into force on September 20, 2018. Article 269 of this law provides that petroleum, natural gas or underground reservoir exploration permits issued under the MA are deemed to be exploration licenses issued under the PRA.

[9] Between October 18, 2018, and May 6, 2022, the plaintiffs served their respective Application to Institute Proceedings, seeking declaratory relief, the nullity of certain regulatory provisions and an award of damages against AGQ.

[10] On February 2, 2022, the Government introduced Bill 21, an *An Act mainly to end petroleum exploration and production and the public financing of those activities*. This Bill was adopted on April 12, 2022, and assented to on April 13, 2022. Its effect is to enact the Act, which comes into force on August 22, 2022.

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2 Following changes to the conclusions sought on October 24, 2023.
3 RLRQ, c. M-13.1.
4 RLRQ, c. H-4.2.
5 *An Act to limit oil and gas activities,* L.Q. 2011, c. 13; *An Act to amend the Act to limit oil and gas activities and other legislative provisions,* L.Q. 2014, c. 6.

[11] The Act provides for:

- That the exploration and production of hydrocarbons and the exploitation of brine are prohibited[6];
- Revocation of hydrocarbon exploration licenses, production licenses and brine permits issued under the PRA[7];
- The obligation for the holder of a revoked license to proceed with the definitive shutdown of wells drilled under the license[8];
- A compensation program for revoked licenses[9].

[12] In support of their claims, the plaintiffs allege, inter alia:

- That the Act infringes on their right to peaceful enjoyment and free disposal of their property, guaranteed by section 6 of the *Charter of* Human *Rights and Freedoms*[10] (the"*Charter*");
- That they are victims of a disguised expropriation contrary to article 952 of the French *Civil Code of Quebec ("*C.C.Q.").

[13] On June 21, 2022[11], August 7, 2022[12], and December 22, 2022[13], the plaintiffs amended their Statement of Claim to include requests for a stay of application of the Act.

ANALYSIS AND DECISION

- **General principles applicable to applications for a stay of execution**

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6 *Act*, article 6.
7 *Act*, article 7.
8 *Act*, articles 10 and 13-26.
9 *Act*, articles 31-41.
10 RLRQ, c. C-12.
11 In the case of the plaintiffs Gaspé Énergies inc, Ressources Utica inc, Ressources Utica Nord-Est inc, Ressources Utica Sud-Ouest inc, Ressources Utica Joly inc, Gestion Bernard Lemaire inc.
12 In the case of the plaintiffs Developpement Pieridae Quebec, Energie Pieridae, Ressources and Squatex Energy Inc., Petrolympia Inc. and Petrolympic Ltd.
13 In the case of the plaintiff Questerre Energy Corporation.

[14] The framework for analyzing stay applications has been established and reiterated by the Supreme Court of Canada, notably in *Metropolitan Stores Ltd*.[14], *RJR-Macdonald inc.*[15] and *Harper*[16]. The criteria to be considered are:

- The appearance of right or the existence of a serious question;
- Serious or irreparable harm if the request for a stay is refused;
- The balance of convenience, i.e. which of the two parties will suffer the greatest prejudice if the request for a stay is granted or refused.

[15] These criteria are cumulative, and it is up to the applicant to demonstrate that they have been met.

[16] The decision to order a stay is discretionary [17] . In exercising this discretion, the criteria are examined in a global manner, one in relation to the other, none being decisive in itself[18]. That being said, it is not for the courts to rule on whether or not a law should be adopted, nor on the wisdom of a legislative act. Courts do, however, have the power to assess the content of a law in the light of the guarantees conferred by the Constitution and the Charters[19]. Staying the application of a law is a exceptional measure[20].

[17] The purpose of the "appearance of right" test is to determine whether there is a serious issue to be decided, as opposed to a frivolous or vexatious one[21]. The analysis consists of an extremely limited preliminary examination of the merits of the case[22]. This criterion is not demanding[23].

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14 *Manitoba (procureur général)* v. *Metropolitan Stores Ltd,* [1987] 1 S.C.R. 110.
15 *RJR-Macdonald inc.* v. *Canada (Procureur générale),* [1994] 1 S.C.R. 311.
16 *Harper* v. *Canada (Procureur générale),* 2000 SCC. 57.
17 *Procureur général du Quebec* v. *Quebec English School Board Association,* 2020 QCCA 1171.
18 *FLS Transportation Services Limited* v. *Fuze Logistics Services lnc,* 2020 QCCA 1637; *Société canadienne pour la prévention de la cruauté envers les animaux* v. *Ville de Longueuil,* 2022 QCCA 1690.
19 *Reference re Motor Vehicle Act (B.C.),* (1985) 2 S.C.R. 486; *Quebec (Procureur général)* v. *Canada (Procureur général),* 2015 SCC 14; *Association Canadienne pour les armes à feu* v. *Procureure générale du Québec,* 2018 QCCA 179.
20 *A.B. v. Procureur général du Quebec,* 2023 QCCA 999; *Hak* v. *Procureur générale Quebec,* 2019 QCCA 2145, motion for leave to appeal dismissed (Can. Sup. Ct., 2020-04-09), 39016.
21 *Manitoba (Procureur général)* v. *Metropolitan Stores Ltd,* supra, note 14.
22 *RJR-Macdonald inc.* v. *Canada (Procureur général),* supra. note 15.
23 *Karounis* v.*Procureur général du Québec,* 2020 QCCS 2817.

[18] Under the serious or irreparable harm test, we must determine whether, in the absence of a stay, the party requesting it would suffer harm that is not likely to be compensated by damages, or that would be difficult to compensate by damages[24]. The aim is to assess the consequences of applying the provisions for which a stay is requested, in order to determine whether or not the final judgment, which would be favorable to the party requesting the stay, could remedy them[25]

[19] The damage must be real, certain and unavoidable. It cannot be based on hypothetical considerations[26].

[20] In the case of an infringement of a fundamental right guaranteed by the Charters, the analysis of serious or irreparable harm must take into account the fact that compensation through monetary compensation is uncertain due to the nature of the harm suffered [27].

[21] Finally, the balance of convenience requires weighing up which of the parties would suffer the greatest prejudice depending on whether or not the stay of enforcement is granted, and this is limited to the prejudice suffered up to the judgment deciding the merits of the dispute[28].

[22] In litigation questioning the constitutional validity of a law, the public interest must be taken into consideration [29]. At the stage of an application for a stay of a law, there is a presumption that the legislative measure is to the public's advantage[30].However, the public interest must not be given undue weight in the analysis[31].

[23] These are the principles that apply to the plaintiffs' request for a stay.

- **The provisions covered by the request for suspension**

[24] As a result of the amendments made to applications to institute proceedings, applications for a stay of proceedings now concern the following provisions of the Act:

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24 *Manitoba (Procureur général)* v. *Metropolitan Stores Ltd,* supra, note 14.

25 *Conseil de la magistrature* v. *Procureur général du Quebec,* 2023 QCCS 151, aff'd 2023 QCCA 676; *English Montreal School Board* v. *Procureur générale du Quebec,* 2019 QCCS 2682.

26 *Association générale des étudiants de la Faculté des lettres et sciences humaines de l'Université de Sherbrooke* v. *Roy Grenier,* 2016 QCCA 86; *Karounis* v. *Procureur général du Québec,* supra, note 23.

27 *143471 Canada inc.* v. *Quebec (Procureur général); Tabah v. Quebec (Procureur général),* [1994] 2 R.C.S. 339; *Astral Media Affichage* v. Ville *de Montreal,* 2022 QCCS 4476.

28 *Canadian Society for the Prevention of Cruelty to Animals* v. *Ville de Longueuil,* supra, note 18.

29 *RJR-Macdonald inc.* v. *Canada (Procureur général),* supra, note 15.

30 *Harper* v. *Canada (Procureur général),* supra, note 16.

31 *Société canadienne pour la prévention de la cruauté envers les animaux* v. *Ville de Longueuil,* supra, note 18; *Procureur général du Quebec* v. *Quebec English School Board Association,* supra, note 17.

7. Petroleum exploration licences, petroleum production licences and authorizations to produce brine issued or deemed issued under the Petroleum Resources Act (chapter H-4.2), as it read on 12 April 2022, are revoked.

[…]

10. Holders of a revoked licence must permanently close the wells drilled under their licence and restore the sites in compliance with this Act.

The obligation provided for in the first paragraph includes the obligation to seal off stratigraphic surveys.

The first paragraph does not apply to wells used under a storage licence within the meaning of the Act respecting natural gas storage and natural gas and oil pipelines (chapter S-34.1).

11. Holders of a revoked licence subject to the obligation provided for in section 10 must send to the Minister, not later than 120 days after the coming into force of that section and in the form determined by the Minister, the following items:

(1) the annual inspection worksheet prescribed by government regulation;

(2) the demonstration that the planned work will be performed according to generally recognized best practices to ensure the safety of persons and property and the protection of the environment;

(3) an emergency response plan; and

(4) a plan for communication with the local communities.

12. Holders of a revoked licence must send to the Minister, at the Minister's request and within the time and in the manner determined by the Minister, the following items:

(1) the results of cement tests carried out in a laboratory in compliance with the Industry Recommended Practice, IRP #: 25, Primary Cementing, published by the Drilling and Completions Committee;

(2) any information, documents or samples of a geological or geophysical nature or relating to drilling; and

(3) any information, documents or samples the Minister considers necessary for the purposes of this Act.

13. Each of the wells referred to in section 10 must be the subject of a permanent well closure and site restoration plan, approved by the Minister under section 105 of the Petroleum Resources Act (chapter H-4.2), as it read on 12 April 2022.

The Minister must carry out a hydrogeological study aimed in particular at characterizing the groundwater for the sites of wells drilled before 14 August 2014. The results of the study must be sent to the Minister of Sustainable Development, Environment and Parks and to the holder of the revoked licence within 18 months after the coming into force of section 10.

The Minister or the person authorized by the Minister for that purpose has access to the territory that was subject to the revoked licence to carry out the study.

14. The Minister may require that the holder of a revoked licence subject to the obligation provided for in section 10 submit for approval, within the time specified by the Minister, a revision of their permanent well closure and site restoration plan.

The plan specifies the work to be performed upon closing the well and provides an estimate of the projected costs of the work. It contains, in particular, the items prescribed by government regulation.

The plan must be signed and sealed by an engineer.

15. The Minister approves the revised permanent well closure and site restoration plan after obtaining a favourable opinion from the Minister of Sustainable Development, Environment and Parks.

The Minister may subject the approval of the plan to any condition or to any obligation the Minister determines.

16. The Minister notifies a notice of permanent well closure to the holder of a revoked licence subject to the obligation provided for in section 10, before the latest of the following dates:

(1) the 120th day after receipt by the Minister of the items sent under sections 11 and 12;

(2) the 120th day after the sending, by the Minister, of the results of the hydrogeological study provided for in section 13 to the Minister of Sustainable Development, Environment and Parks; or

(3) the 90th day after the approval, under section 15, of the revised permanent well closure and site restoration plan, if applicable.

17. The holder of the revoked licence may begin the work provided for by the permanent well closure and site restoration plan once the following conditions are met:

(1) the holder has received the notice of permanent well closure notified by the Minister;

(2) the holder has informed in writing the owner or lessee, the local municipality and the regional county municipality, as applicable, at least 30 days before the work begins if the site concerned is located in whole or in part on private land or land leased by the State or in the territory of a local municipality; and

(3) the holder has informed the Minister in writing, at least seven days before the work begins, of the work start date.

18. The Government determines, by regulation, the obligations of the holder of a revoked licence subject to the obligation provided for in section 10 with regard to permanent well closure and site restoration work, as well as the terms and conditions according to which that work is to be performed.

19. Permanent well closure and site restoration work must be completed not later than, as the case may be,

(1) 12 months after notification of the notice of permanent well closure under section 16, in the case of a well that poses a risk; or

(2) 36 months after notification of the notice of permanent well closure under section 16, in the case of a well that does not pose a risk.

The Minister may, if the Minister considers it necessary, grant an extension of up to 12 months for the performance of the permanent well closure and site restoration work.

For the purposes of the first paragraph, a well is considered as posing a risk if one of the situations provided for by government regulation is detected.

The holder of the revoked licence must inform the Minister, as soon as possible, whenever they detect one of the situations referred to in the third paragraph.

20. If the holder of the revoked licence fails to perform the permanent well closure and site restoration work within the applicable time, the Minister may, in addition to seeking any civil, administrative or penal remedy or measure, cause the work specified by the plan to be performed at the holder's expense.

21. The holder of the revoked licence or the person who performs the work at the Minister's request has access, for the purposes of planning and performing the permanent well closure and site restoration work, to the territory that was subject to the revoked licence until the Minister declares being satisfied with the work.

22. No one may move, disturb or damage equipment or material used or a facility erected under this division, unless they have written authorization from the Minister or the holder of the revoked licence.

23. The holder of the revoked licence must, within 60 days after completing the permanent well closure and site restoration work, remove from the territory that was subject to the revoked licence all the property, except for the property used under a natural gas storage licence provided for by the Act respecting natural gas storage and natural gas and oil pipelines (chapter S-34.1).

The Minister may, on request, grant an extension subject to the conditions the Minister determines.

Once the time has expired, the property remaining on lands in the domain of the State forms part of that domain of right and may be removed by the Minister at the expense of the holder of the revoked licence.

24. The holder of the revoked licence must send to the Minister, within 90 days after the end of the work specified by the permanent well closure and site restoration plan,

(1) an end of activities report signed by an engineer including, in particular, the items prescribed by government regulation;

(2) a confirmation that all the property has been removed from the territory that was subject to the revoked licence; and

(3) a report signed by a professional within the meaning of section 31.42 of the Environment Quality Act (chapter Q-2) establishing that the restoration work has been performed in accordance with the permanent well closure and site restoration plan.

25. The Minister declares being satisfied with the permanent well closure and site restoration work if

(1) the Minister is of the opinion, following an inspection carried out under Chapter VIII, that the work has been performed in accordance with the permanent well closure and site restoration plan approved by the Minister and with the provisions applicable under section 18 and if no sum is owing to the Minister with respect to the performance of the work;

(2) the Minister has obtained a favourable opinion from the Minister of Sustainable Development, Environment and Parks, in particular regarding groundwater quality; and

(3) the Minister has received the documents and information mentioned in section 24.

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The Minister issues a declaration of satisfaction to the holder of a revoked licence.

26. The holder of the revoked licence must enter the declaration of satisfaction in the land register within 30 days after the Minister issues it. The declaration is entered in the register of real rights of State resource development and, as applicable, in the file relating to the immovable affected by the well, either in the index of immovables or in the register of public service networks and immovables situated in territory without a cadastral survey.

The holder must send to the Minister a certified copy of the certified statement of registration of the declaration of satisfaction within 30 days of it being entered in the register. The holder must also, within the same time, send a copy to the owner or lessee, to the local municipality and to the regional county municipality, as applicable, if the site of the well is located in whole or in part on private land or land leased by the State or in the territory of a local municipality.

[…]

55. Anyone who, in contravention of a provision of this Act, of the regulations or of a pilot project implemented under Chapter VII, fails to

(1) communicate any information, document or sample required under this Act or the regulations;

(2) keep any information they are required to keep; or

(3) enter the declaration of satisfaction in the land register, in accordance with the first paragraph of section 26;

commits an offence and is liable to a fine of $1,000 to $100,000 in the case of a natural person and $3,000 to $600,000 in any other case.

56. Anyone who

(1) prevents the holder of a revoked licence or a person performing permanent well closure work or site restoration work from having access to the territory that was subject to the licence or the authorization, in contravention of section 21; or

(2) moves, disturbs or damages equipment or material used or a facility erected, in contravention of section 22;

commits an offence and is liable to a fine of $2,500 to $250,000 in the case of a natural person and $7,500 to $1,500,000 in any other case.

57. Anyone who

(1) fails to revise a permanent well closure and site restoration plan in accordance with section 14;
(2) fails to perform the permanent well closure and site restoration work in accordance with sections 17 to 19;

(3) fails to inform the Minister, as soon as possible, when they detect any of the situations referred to in the fourth paragraph of section 19;

(4) fails to remove all property from the territory that was subject to their revoked licence, in contravention of section 23;

commits an offence and is liable to a fine of $5,000 to $500,000 in the case of a natural person and $15,000 to $3,000,000 in any other case.

58. Anyone who contravenes the provisions of section 6 or fails to perform the permanent well closure and site restoration provided for in section 10 or in the order authorizing a pilot project commits an offence and is liable to a fine of $10,000 to $1,000,000 in the case of a natural person and $30,000 to $6,000,000 in any other case.

[25] The requests for a stay of execution initially also concerned articles 67 and 70 of the Act.

[26] At the hearing, the AGQ announced, without any admission, that it consented to the stay of application of article 67, paragraph 1 of the Act, with respect to the plaintiffs, until the judgment deciding the merits[32].

[27] The applications for a stay of execution of article 70 of the Act were withdrawn following an agreement, without admission, between the parties[33].

- **The appearance of right**

[28] The plaintiffs collectively allege that they hold 101 exploration and production licenses[34]. They collectively own 54 wells allegedly drilled under these licenses[35].

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[32] Following the oral representations on October 19, 2023, and as confirmed by Me Poulin's e-mail on October 25, 2023.

[33] As confirmed by Me Dorion's e-mail on November 10, 2023.

[34] Exhibit P-27; Amended appeal for judicial review dated June 5, 2023 in file 200-17-032721-. 219, par. 59; Amended Statement of Claim dated August 7, 2023, in file 200-17-.033328-220, par. 26; Amended Statement of Claim dated August 7, 2023, in file 200- 17-033326-224, par. 17; Amended Statement of Claim dated August 7, 2023 in file 200-17-033327-222, par. 15 and 19.

[35] Amended affidavit of Mr. Mario Levesque dated July 26, 2023, par. 12; Affidavit of Ms. Jacinthe Legare-Laganiere dated September 11, 2023, par. 6, 54 and 61.

[29] The purpose of the Act is to put an end to hydrocarbon exploration and production, and to prevent the exploitation of brine[36]. To achieve this objective, the legislator has chosen to revoke exploration and production licenses and to oblige holders of revoked licenses to permanently shut down their wells and proceed with site restoration.

[30] According to the plaintiffs, these measures violate section 6 of the *Charter of Human Rights and Freedoms.* This article provides for :

> **6.** Everyone has the right to the peaceful enjoyment and free disposal of his property, except to the extent provided by law.

[31] The plaintiffs plead that their licenses confer real rights in immovables[38] benefiting from the protection offered by article 6 of the *Charter.*

[32] Thus, according to their position, the unilateral revocation of their exploration licenses - and consequently of their real property rights deriving therefrom - would violate their right to the peaceful enjoyment and free disposal of their property.

[33] In addition, the plaintiffs allege that the Act would have the effect of illegally expropriating them. They argue that the Act contravenes article 952 C.C.Q. by stripping them of their property without cause of public utility and without fair and prior compensation. Article 952 C.c.Q. provides:

> **952.** The owner may not be compelled to surrender his property, except by expropriation in accordance with the law for a cause of public utility and in return for fair and prior compensation.

[34] According to the plaintiffs, the components of the right to expropriation, as codified in article 952 C.C.Q., are immutable and included in the protection conferred by article 6 of the *Charter.* In this respect, the plaintiffs rely in particular on Judge Yergeau's analysis of the essential components of the right to expropriation in *8811571 Canada inc.* v. *Procureure générale du Quebec*[39].

[35] For the plaintiffs, the determination of their rights under article 6 of the *Charter* and article 952 C.C.Q. constitute serious questions that satisfy the first criterion for obtaining a stay of application of the provisions of the Act.

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36 *Act,* articles 1 and 6.

37 *Act*, article 7.

38 *Act*, article 15.

39 2018 QCCS 4554.

[36] The AGQ recognizes, for the purposes of the debate on the application for a stay, that the revoked exploration and exploitation licenses constitute property within the meaning of article 6 of the *Charter.*

[37] The question is therefore to determine whether the Act contains a limitation on the right to peaceful enjoyment and disposition of property that would be permitted by article 6 of the *Charter.* For AGQ, this is a pure question of law, opening the door at this stage to an in-depth examination of the merits of the case rather than a preliminary analysis[40].

[38] In *RJR Macdonald,* the Supreme Court of Canada reiterated that cases opening the door to an in-depth analysis of a constitutional question at a preliminary stage are rare and fall within very narrow limits.

[39] In this case, the AGQ argues that "the very terms of article 6 of the *Charter of Human Rights and Freedoms* exclude any possibility that a legislative provision could be declared invalid or inoperative by virtue of the latter"[41].

[40] Thus, for the AGQ, the use of the words "except to the extent provided by law" in article 6 of the *Charter* incorporates a reservation allowing the legislator to modulate the right of any person to the peaceful enjoyment and free disposition of his or her property without it being possible to invoke an infringement of the right of ownership provided by the *Charter.*

[41] At first glance, this argument may seem circular, in that the *Charter* would enshrine the attributes of the right to property - and thus protect anyone against an infringement of this right by a legislative act - while at the same time shielding from any possible legal challenge a law that infringes this same right to property.

[42] The issue merits in-depth analysis on the merits of the case, rather than at the preliminary stage of stay applications.

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[40] *Manitoba (Procureur général)* v. *Metropolitan Stores Ltd,* supra, note 14.

[41] AGQ Plan of Argument, par. 35.

[43] On the other hand, if the AGQ were wrong in its contention, it would then be necessary to determine whether the limitation on the right to property arising from the Act is incompatible with article 6 of the *Charter.* This would involve examining, in their factual context, the plaintiffs' claims of disguised expropriation, particularly in light of the principle that the legislator is sovereign and can modify, modulate or revoke legislative measures it has adopted in the past. This would also raise the AGQ's arguments that article 952 C.C.Q. would not apply in this case, and that the Act would not operate an illegal expropriation since it provides for a compensation program.

[44] Admittedly, the right to property is not absolute, and the rules governing it, notably those contained in the *Civil Code of Quebec,* have the effect of limiting and framing it. However, this dispute concerns the courts' power to assess the limitations to the rights guaranteed by the *Charter* that would result from the adoption of the law.

[45] In short, considering that the appearance of right criterion is not very demanding, the plaintiffs demonstrate that there is a serious question to be decided.

- **Serious or irreparable harm**

[46] In order to argue that they are exposed to serious or irreparable harm in the absence of a stay of application of the provisions of the Act, the plaintiffs allege:

- That they will have to shut down their wells permanently. In their point of view, this will entail considerable costs, especially since they believe it would be technically impossible to meet the requirements of the Act and its regulations requiring demonstration that there are no emanations from the surface casing or gas migration around the wells. As a result, they would have to spend considerable sums of money to meet standards they describe as unattainable;

- Should they succeed on the merits of the case, the plaintiffs would be forced to disburse additional sums to re-drill or re-open wells that they would have been forced to close in the absence of the Act stay;

- They would have to hand over to the government their confidential data and trade secrets, which would have been obtained following considerable private investment;

- Third parties may undertake pilot projects in their wells or be granted rights in relation to the geological potential of the territories covered by their licenses.

[47] AGQ denies that the plaintiffs would suffer serious or irreparable harm in the absence of a stay of application of the relevant provisions of the Act. It maintains that:

- The plaintiffs had already undertaken to close seven wells before the Act came into force;

- The plaintiffs will have a compensation program for the costs associated with shutting down the wells;

- The Act and its regulations do not impose any additional requirements relating to surface casing emanation or gas migration around wells that the plaintiffs were not already required to meet under the MA or PRA;

- Under the previous legislative and regulatory regime, the plaintiffs were already subject to the obligation to transmit their data;

- Finally, licenses do not confer a right of ownership and would not prevent other activities on the territory concerned. No pilot project has yet been authorized, making the alleged injury conjectural.

[48] What is the situation in this case?

Well closure

[49] The parties have opposing positions on the costs of shutting down existing wells.

[50] In the plaintiffs' view, although these costs are difficult to quantify, they would be considerable. In their cost estimate, the plaintiffs take into account the costs that would have to be incurred to meet the technical requirements for closure. In this respect, the plaintiffs consider that it will be impossible to meet the requirements of the Act and the regulatory provisions, which would require the absence of gas or fluid emissions and the absence of groundwater contamination.

[51] The plaintiffs produce two expert reports prepared by Professor Maurice B. Dusseault[42]. In his first report, Professor Dusseault opines that it is impossible to meet the criteria of no gas release or migration to groundwater. In his second report, Professor Dusseault estimates that closure costs would average several million dollars per well, with some cases reaching as high as $5 to $10 million per well.

[52] In support of their position regarding closure costs, the plaintiffs cite the example of two orphan wells under Government's responsibility, for which closure work has been undertaken. According to Jacinthe Legare-Laganiere, coordinator of engineering and environment at the Ministry of the Economy, innovation and Energy ("MEIE"), the closure costs for these two wells are between $5 and $6 million each[43]. Despite this shutdown work, Ms Legare-Laganiere confirms that gas and brine still emanate from one of the two wells[44].

[53] For its part, AGQ argues that under the legislative and regulatory regime prior to the Act, the plaintiffs were obliged to submit definitive well closure plans prior to obtaining authorization to drill[45]. These plans, signed and sealed by engineers, included a method for demonstrating that there would be no emanation or migration of gases after closure[46].

[54] However, the closure plans put forward by the plaintiffs[47] costs ranging from $18,533 to $1,030,226 per well.

[55] AGQ also submits that the Act[48] provides for a compensation program for a maximum of 75% of the costs related to final well closure and site restoration. AGQ adds that under the previous legislative and regulatory regime, no compensation program existed, so holders remained liable for 100% of well closure costs.

[56] Considering these elements, AGQ argues that the costs of closure do not measure up to those invoked by the plaintiffs to support the existence of serious or irreparable harm.

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42 Exhibit P-88 and P-88.1.

43 Examination for discovery of Jacinthe Legare-Laganiere, October 3, 2023, exhibit DSSML-9, p. 19-21.

44 *Id., p.* 42 and 51.

45 *PRA*, article 101.

46 Affidavit of Jacinthe Legare-Laganiere dated September 11, 2023, par. 48.

47 Exhibit PG-29 to PG-81.

48 *Act,* articles 31 and 34 al. 3 (3).

[57] To this, the plaintiffs retort that the plans they provided prior to drilling were designed with a view to shutting down the wells after they were in operation, and not when the resource had not yet been tapped. In their view, this different context will result in higher costs than those provided for in the closure plans referred to in the AGQ.

[58] Finally, to estimate the order of magnitude of the costs of closing the wells, the plaintiffs point out that the Government has estimated the cost of the compensation program at $18 million, to which a contingency reserve of $25 million has been added[49].

[59] The evidence currently available does not make it possible to establish precisely the value of the work required to permanently close the wells in their current state, i.e. when they have not yet been operated.

[60] However, based on the information available, the overall costs would be in the tens of millions of dollars. The plaintiffs would still be required to assume 25% of these costs, since the compensation program is capped at 75%.

[61] That said, the prejudice to which the plaintiffs are exposed is not limited to the costs they would have to assume for the closure work. As already indicated, at this stage of the analysis, it is necessary to consider the consequences that would flow from the application of the ACT, to see if a final judgment, favorable to the plaintiffs, could remedy them.

[62] If, on the merits, the plaintiffs position were to prevail, when they should already have shut down their wells, they would have to incur costs to re-open or re-drill them. According to the MEIE representative, drilling costs would be between $4 and $7 million per well[50]. Re-opening costs would be between $1 and $2 million per well[51] .

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49 Examination for discovery of Mr. Nicolas Juneau, October 2, 2023, exhibit DSSML-10, p. 87-88.

50 Examination for discovery of Jacinthe Legare-Laganiere, October 3, 2023, exhibit DSSML-9, p. 96-97.

51 *Id.,* p. 98-99.

[63] It should be remembered that 54[52] wells have been drilled under licenses held by the plaintiffs. Even considering the option of reopening the wells, which is less expensive than drilling, this represents $68 million. However, in its written representations, "AGQ has already announced that, in the event of a declaration of unconstitutionality, it intends to invoke that no damages could be claimed from it in view (sic) of the legislator's immunity"[54]

[64] Moreover, in the absence of wrongful conduct or bad faith, the mere fact of enforcing an Act subsequently declared unconstitutional is generally not considered a fault giving rise to damages.

[65] Thus, even if the prejudice to which the plaintiffs are exposed in the absence of a stay is potentially quantifiable, the fact remains that it is substantial and not likely to be compensated by damages.

[66] Consequently, the plaintiffs demonstrate that they would suffer serious or irreparable harm in the absence of a stay of application of the provisions of the Act requiring the closure of the wells and the restoration of the sites.

Communicating data to the Ministry

[67] On Augus 24,2022, the Minister of Natural Resources requested that the plaintiffs provide, within 120 days, the information required by articles 11 and 12 (1°) of the Act[55].

[68] On February 23, 2023, the MEIE requested that the plaintiffs provide the information required under article 12 (2°) and (3°) within 30 days.

[69j For the plaintiffs, the information requested is confidential data that was acquired following considerable effort and investment, and whose market value would be several million doIlars[56]. They point out that, in return, the government is offering only symbolic compensation after the data has been disclosed.

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[52] Amended affidavit of Mr. Mario Levesque dated July 26, 2023, par. 12; Affidavit of Ms. Jacinthe Legare-Lagariiere dated September 11, 2023, par. 46, 54 and 61.

[53] AGQ Plan of Argument, par. 120.

[54] *Kosoian v. Société de transport de Montreal,* 2019 SCC 59, par. 71.

[55] Exhibit PG-2.

[56] Amended affidavit of Mr. Mario Levesque dated July 26, 2023, par. 22-25.

[70] The plaintiffs also allege that the purpose of the obligation to transmit data under articles 11 and 12 of the Act is for use subsequent to well closure.

[71] Finally, the plaintiffs add that, if they transmit the requested information to MEIE, the data could be used, without compensation, by third parties[57].

[72] According to the AGQ, the plaintiffs would not suffer any prejudice from the transmission of the data, since it is information that they were already required to transmit to the government under the former legislative and regulatory regime[58].

[73] Indeed, the provisions of the former legislative and regulatory regime[59] include provisions obliging permit or license holders to communicate to the government information that appears to be identical or of the same nature as that provided for in articles 11 and 12 of the Act[60].

[74] Admittedly, there could be no prejudice to the plaintiffs if they were already required to provide the MEIE with the information currently requested of them under the Act. It is important, however, to place in context the information disclosure obligations incumbent on the plaintiffs under the former legislative and regulatory regime and under the Act.

[75] Under the MA, the PRA and their regulations, the disclosure of information fell within one of the following specific frameworks:

- Voluntary closure of wells [61]
- A trial period of oil or gas extraction[62]
- Within one year of completion of a well[63]
- The application for a well completion permit[64]

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57 *Id.,* par. 53-54.23.

58 Affidavit of Jacinthe Legare-Laganiere dated September 11, 2023, par. 77-80.

59 PRA, MA, *Règlement sur les activités d'exploration, de production et de stockage d'hydrocarbures en milieu hydrique,* RLRQ, c. S-34.1, r. 2 ("Water Regulations") and, *Règlement sur le pétrole, le gaz naturel et les réservoirs souterrains,* RLRQ, c. M-13.1, r. 1 ("Land Regulations").
Article 100 PRA, article 62 MA, articles 27, 29 (3°), 29 (4), 168, 188, 291 (13°), 292 (1°), 295 and 296

59 *Land Regulations;* articles 43, 48 and 49 *Water Regulations.*

61 Article 100 PRA; articles 168, 188, 291, 292, 295 and 296 *Land Regulations.*

62 Article 49, *Petroleum regulations.*

63 Article 73 *Petroleum regulations.*

64 Article 162 MA; article 48 *Petroleum Regulation.*

[76] Under the Act, the disclosure of information is part of the revocation of exploration or production licenses, which implies the permanent shutdown of wells[65].

[77] However, it has not been demonstrated that the circumstances in which the transmission of information could have been required under the former legislative and regulatory regime existed with respect to the plaintiffs on August 24, 2022, and February 23, 2023, when the Government made its requests to obtain the data.

[78] In other words, AGQ fails to demonstrate that, but for the revocation of their licenses imposed by the Act and the corollary obligation to shut down their wells permanently, the plaintiffs would have had to disclose the data at the required time under the old legislative regime, and therefore would not be prejudiced by transmitting it under the Act.

[79] In fact, the prejudice suffered by the plaintiffs as a result of the refusal to grant the requested stay lies in the hasty, even premature, disclosure of their data, compared to the previous regime, when they were not required to shut down their wells, this having instead been imposed by the Act, the constitutional validity of which they challenge.

[80] In fact, MEIE representatives acknowledge that the information requested will be useful to the government with regard to the definitive closure of the wells[66].

[81] Insofar as the plaintiffs have demonstrated that they would suffer serious prejudice in the absence of a stay of application of the provisions of the Act requiring the closure of the wells, the same applies to the communication of the information required at this stage. The communication and immediate use of this data may be difficult to compensate and remedy if the contested provisions of the Act are declared unconstitutional.

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65 *Act*, articles 11 and 12.

66 Affidavit of Jacinthe Legare-Laganiere dated September 11, 2023, par. 79-80; examination on discovery of Mr. Nicolas Juneau, October 2, 2023, exhibit DSSML-10, p. 282-285.

The possibility o f authorizing pilot projects

[82] Articles 42 to 47 of the Act allow the Minister to implement pilot projects for wells that are to be closed. These pilot projects must enable the acquisition of geoscientific knowledge, particularly with regard to carbon dioxide sequestration or hydrogen storage[67].

[83] Anyone can apply for authorization to implement a pilot project.

[84] The plaintiffs Questerre Energy Corporation and Squatex Resources and Energy Inc. have confirmed to MEIE their interest in proposing a pilot project[68].

[85] The plaintiffs are not seeking a stay of application for articles 42 to 47 of the Act governing the implementation of pilot projects. On the contrary, the conclusions sought by the stay applications seek to prevent third parties from implementing pilot projects in relation to the plaintiffs' wells:

> **SUSPEND** during these proceedings the application of articles 7, 10 to 26 and 55 to 58 of the Act, including
>
> i. the revocation of exploration licenses, hydrocarbon production licenses and authorizations to exploit brine issued or deemed to have been issued pursuant to the *Petroleum Resources Act* RLRQ c. H -4.2 ("PRA") and the authorization of third parties to implement a pilot project involving the use of wells drilled pursuant to such licenses;
>
> [...][69]
>
> **ORDER** the defendants to suspend any adjudication or authorization of rights under the Act in favor of third parties, in connection with the geological potential of the territories covered by the plaintiffs' exploration licenses described in paragraph 26 of the motion to institute proceedings[70];
>
> **ORDER** the defendants to suspend any adjudication or authorization of rights under the Act in favor of third parties, in connection with the geological potential of the territories covered by the Plaintiff's exploration licenses described in paragraph 17 of the Statement of Claim[71];

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67 *Act*, Article 43.

68 PG-11 and PG-13 parts.

69 Conclusions sought by Gaspé Énergies inc, Ressources Utica inc, Ressources Utica nord-est inc, Ressources Utica sud-ouest inc, Ressources Utica Joly inc and Gestion Bernard Lemaire inc.

70 Conclusions sought by Developpement Pieridae Quebec and Energie Pieridae.

71 Conclusions sought by Questerre Energy Corporation.

> **ORDER** the defendants to suspend any adjudication or authorization of rights under the Act in favor of third parties, in connection with the geological potential of the territories covered by the Plaintiffs' exploration licences described in paragraphs 15 and 19 of the Statement of Claim[72].

[86] The effect sought by these conclusions is equivalent to an application for a stay of article 43 of the Act, which gives the Minister the power to authorize the implementation of a pilot project.

[87] To argue that they are exposing themselves to serious or irreparable harm, the plaintiffs allege that a third party, Deep Sky Corporation, has approached the MEIE to carry out a carbon dioxide sequestration pilot project in connection with their wells[73].

[88] However, the plaintiffs maintain that they exclusively hold the rights to research underground storage facilities in the territories covered by their licenses. They also claim to have a project to evaluate carbon dioxide storage capacities with a view to developing expertise in sequestration.

[89] Thus, according to the plaintiffs, if the MEIE were to authorize third parties to implement carbon dioxide sequestration pilot projects in connection with their sinks, they would suffer irreparable harm.

[90] AGQ responds that the plaintiffs' licenses do not confer on them a right of ownership over the territories in question or exclusive rights to activities related to geological potential[74].

[91] Furthermore, AGQ argues that the MEIE has not authorized any pilot project under the Act, nor promised to authorize such pilot projects, with respect to anyone, including Deep Sky Corporation. Moreover, Deep Sky Corporation has not applied to MEIE for authorization[75].

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[72] Conclusions requested by Ressources et Energie Squatex inc., Petrolympia inc. and Petrolympic LTD.

[73] Amended affidavit of Mr. Mario Levesque dated of July 26, 2023, par. 54-54.

[74] Amended affidavit of Mr. Nicolas Juneau dated of September 29, 2023, par. 26-30.

[7'] *Id.* par. 48-57.

[92] The onus was on the plaintiffs to establish a real likelihood of serious or irreparable harm in connection with the provisions permitting the implementation of pilot projects, which they failed to do in the circumstances. The evidence shows that Deep Sky Corporation has taken steps to carry out a projet[76] without, however, establishing that it would be at the stage where it would cause serious or irreparable harm to the plaintiffs. In the absence of a demonstration that a pilot project has been authorized in relation to the plaintiffs' wells and that its completion is imminent, the alleged harm is hypothetical and uncertain.

- **The preponderance of disadvantages**

[93] Given the constitutional nature of the debate, the public interest must be taken into consideration. As already indicated, there is a presumption that a validly adopted legislative measure is to the public's advantage. The public interest must not, however, be given undue weight, especially when, as in this case, the criteria of appearance of right and serious prejudice are favorable to the party requesting the stay[77]. The public interest must also be taken into account in the determination of the merits of the case.

[94] Here, the preponderance of inconveniences favors the plaintiffs. Here's why.

[95] Despite the postponement of the well closure and data transmission provisions, the fundamental purpose of the Act will remain in force. Article 1 of the Act states that it purpose is to put an end to the exploration for hydrocarbons or underground reservoirs, the production of hydrocarbons and the exploitation of brine.

[96] Article 6 of the Act expressly states:

> **6.** Petroleum exploration and production and brine production are prohibited.
>
> Exploration for underground reservoirs is prohibited if it is intended for exploring for, storing or producing petroleum or brine.

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[76] Amended affidavit of Mr. Mario Levesque dated July 26, 2023, par. 54.1 to 54.23; parts DSSML-4, DSSML-5, DSSML-6, DSSML-7 and DSSML-8.
[77] *Harper* v. *Canada (Procureur général),* supra, note 16.
[78] *Société Canadienne pour la prévention de la cruauté envers les animaux* v. *Ville de Longueuil,* supra, note 18.

[97j However, the requests for a stay do not concern either Article 1 or Article 6. The purpose and effect of the stay applications is neither to allow the plaintiffs to continue the hydrocarbon exploration and/or exploitation activities that would result from their licenses. Aside the stay of execution, the plaintiffs remain subject to the prohibitions set out in article 6 of the Act.

[98j Furthermore, according to the MEIE representative, the government's objective in adopting the Act is for all wells to be closed by 2027[79]. This necessarily implies that some wells will remain open until then.

[99] However, there is no evidence that the plaintiffs' wells currently present any problem that poses a risk to the environment or the protection of the public[80].

[100] The plaintiffs further undertake, during the stay period, to maintain the maintenance of their wells and to carry out inspections in accordance with what prevailed under the PRA regime.

[101] It is reasonable to expect that a judgment on the merits of the applications could be made before 2027. Thus, keeping the plaintiffs' wells open, when they currently pose no problem, does not constitute a significant disadvantage for AGQ. Admittedly, this could delay the eventual closure of the plaintiffs' wells, should AGQ's position prevail on the merits. However, given the current situation of the wells, this inconvenience is less than the inconvenience that the plaintiffs would suffer if they had to re-open their wells or drill new ones.

[102] Lastly, since the information required by MEIE under articles 11 and 12 of the Act is intended for use after the wells have been closed, AGQ has no objection to not obtaining it now.

- **Late applications for a stay of execution**

[103] AGQ argues that the stay requests should be rejected as they were submitted late.

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[79] Examination on discovery of Mr. Nicolas Juneau, October 2, 2023, exhibit DSSML-10, p. 149-155.
[80] *Id.* p. 163-165.

[104] The Act came into force on August 22, 2022. By this date, all legal claims had been filed, some as early as October 2018. By June 2022[81], August 2022[82] and December2022[83] , pleadings seeking a stay of the law had been added to the proceedings.

[105] An application for a stay of execution of a legislative measure must be made within a reasonable time.

[106] In the present case, it is difficult to conclude that the plaintiffs have been slow to introduce into their proceeding's requests seeking a stay of application of the law. Admittedly, the applications were submitted after the Act had been in force for 14 months. However, this is largely due to the scale and complexity of the case, which now involves 12 judicial authorities, and has necessitated a change of judicial district for certain authorities, in which special management has been ordered and preliminary pleas have been submitted.

[107] To illustrate the complexity of the case, the parties jointly submitted no less than 25,000 pages of documents to the Tribunal, in addition to several elaborate procedures, notes and authorities.

[108] Consequently, this plea is rejected.

- **Articles of the LMF covered by the stay of application**

[109] The stay of execution must be limited to what is strictly necessary to preserve the rights of the parties pending final judgment.

[110] In view of the above analysis of the applicable criteria, a stay of application is ordered in respect of the provisions relating to the closure of wells and site restoration, as well as those relating to the transmission of information. This corresponds to articles 10 to 26 of the Act. In addition to these provisions, article 67, paragraph 1 has also been added, for which the parties have agreed to a stay of application.

[111] The plaintiffs are also seeking a stay of execution of article 7 of the Act. This provision provides for the revocation of hydrocarbon exploration and production licenses. The challenge to the validity of article 7 of the Act, at the merits of the case, is linked to the plaintiffs' claims that they would suffer a violation of their rights guaranteed by article 6 of the *Charter* and/or that they would be the object of a disguised expropriation. At this stage of the case, these claims have not yet been decided.

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[81] 200-17-032721-219.
[82] 200-17-033328-220 and 200-17-033327-222.
[83] 200-17-033326-224.

[112] In support of the application for a stay of execution of article 7 of the Act, the plaintiffs wish to prevent others from carrying out pilot projects on their wells, or third parties from acquiring rights in respect of the real rights they would hold[84]. However, these claims have not been accepted at this stage of the proceedings, as they are hypothetical.

[113] Furthermore, it is not necessary to suspend the application of article 7 of the Act in order to suspend the obligations to close wells, restore sites or provide information.

[114] Lastly, even if the plaintiffs were to recover their licenses revoked by the stay of execution of article 7 of the Act, they would not be able to exercise the rights deriving therefrom, since they would remain subject to the prohibition on exploring for and exploiting hydrocarbons under article 6 of the Act.

[115] As for the criminal provisions covered by requests for a stay of execution[85], the offences set out therein are not limited in scope to breaches of well closure obligations, site restoration or the provision of information. Accordingly, the system will be adapted so that a stay of execution of the penal provisions can only be ordered in relation to an offence arising from the application of articles 10 to 26 of the Act.

- **Provisional execution despite appeal**

[116] The plaintiffs request that the judgment be enforceable withstanding the appeal. Provisional execution despite appeal is an exceptional measure. According to article 661 C.p.c. it can be ordered when appealing the case would cause serious or irreparable harm to a party.

[117j In the present case, the plaintiffs run the risk of serious or irreparable harm in the absence of an order for provisional execution. Should the judgment be appealed, the provisions of the Act would apply and oblige the plaintiffs to shut down their wells and transmit their data.

[118] Consequently, provisional execution is ordered despite the appeal.

FOR THESE REASONS, THE COURT :

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84 Amended affidavit of Mr. Mario Levesque on July 26, 2023, par. 48-53.

85 *Act*, articles 55, 56, 57 (1°) to (4°) and 58.

[119] **PRONOUNCES** the present conclusions to apply only to the plaintiffs Gaspé Énergies inc, Ressources Utica inc, Ressources Utica nord-est inc, Ressources Utica sud-ouest inc, Ressources Utica Joly inc, Gestion Bernard Lemaire inc, Developpement Pieridae Quebec, Energie Pieridae, Questerre Energy Corporation, Ressources et Energie Squatex inc, Petrolympia inc and Petrolympic Ltd;

[120] **GRANTS** the applications for a stay of application of articles 10 to 26 and 67, paragraph 1 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01;'.

[121] **SUSPENDS** during the proceedings the application of articles 10 to 26 and 67, paragraph 1 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01;

[122] **GRANTS** applications for a stay of execution of articles 55, 56, 57 (1°) to (4°) and 58 of *the Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01, but only in respect of offences arising from the application of sections 10 to 26 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine ,* RLRQ, c. R-1.01;

[123] **SUSPENDS** during the proceedings the application of articles 55, 56, 57 (1°) to (4°) and 58 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01, but only in respect of offences arising from the application of articles 10 to 26 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01;

[124] **ORDERS** the plaintiffs to maintain well maintenance and inspections in the same manner as they were carried out under the *Petroleum Resources Act,* RLRQ, c. H-4.2, and the regulations adopted thereunder, as they read on April 12, 2022, in addition to the obligations arising from article 72 of the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine,* RLRQ, c. R-1.01.

[125] **ORDERS** provisional execution notwithstanding the appeal of the

present judgment;

[126] ALL OF WICH, with legal costs in favor of the plaintiffs.

PHILIPPE CANTIN, j.c.s.

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Hearing dates: October 19 and 20, 2023