

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ALBERTA COURT OF APPEAL)**

B E T W E E N :

ATTORNEY GENERAL OF CANADA

Applicant

- and -

ATTORNEY GENERAL OF ALBERTA

Respondent

- and -

**ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC,
ATTORNEY GENERAL OF NOVA SCOTIA, ATTORNEY GENERAL OF NEW
BRUNSWICK, ATTORNEY GENERAL OF MANITOBA, ATTORNEY GENERAL OF
BRITISH COLUMBIA, ATTORNEY GENERAL OF PRINCE EDWARD ISLAND,
ATTORNEY GENERAL OF SASKATCHEWAN, and ATTORNEY GENERAL OF
NEWFOUNDLAND AND LABRADOR**

Interveners

- and -

CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

Proposed Intervener

MOTION FOR INTERVENTION
(Pursuant to Rules 47, 55 and 56 of the *Supreme Court of Canada* Rules)

UNIVERSITY OF CALGARY
2500 University Drive NW
Calgary, AB T2N 1N4

Shaun Fluker

David V. Wright

T: 403-220-4939

F: 403-282-8325

E: sfluker@ucalgary.ca
david.wright2@ucalgary.ca

**Counsel for the Proposed Intervener,
Canadian Association of Physicians for the
Environment**

CHAMP & ASSOCIATES
43 Florence Street
Ottawa, ON K2P 0W6

Bijon Roy

T: 613-237-4740

F: 613-232-2680

E: broy@champlaw.ca

**Agent for the Proposed Intervener,
Canadian Association of Physicians for
the Environment**

ORIGINAL TO:

THE REGISTRAR

Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

COPIES TO

ATTORNEY GENERAL OF CANADA

500-50 O'Connor Street
Ottawa, ON K1A 0H8

Christopher Rupar
Dayna Anderson
Bruce Hughson
Kerry Boyd
James Elford

T: 613-670-6290

F: 613-954-1920

E: christopher.rupar@justice.gc.ca

**Counsel for the Appellant,
Attorney General of Canada**

BENNETT JONES LLP

4500, 855-2nd Street SW
Calgary, AB T2P 4K7

E. Bruce Mellett
Bradley Gilmour
Sean Assie
Christine Enns

T: 403-298-3319

F: 403-265-7219

E: mellettb@bennettjones.com

**Counsel for the Respondent,
Attorney General of Alberta**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695

F: 613-788-3509

E: lynne.watt@gowlingwlg.com

**Agent for the Respondent,
Attorney General of Alberta**

AND TO:

**ATTORNEY GENERAL OF
SASKATCHEWAN**
Constitutional Law Branch
820 – 1874 Scarth Street
Regina, SK S4P 4B3

**Thomson Irvine
Noah Wernikowski**

T: 306-787-6307
F: 306-787-9111
E: tom.irvine@gov.sk.ca

**Counsel for the Intervener,
Attorney General of Saskatchewan**

ATTORNEY GENERAL OF MANITOBA
Department of Justice
Constitutional Law
1230 – 405 Broadway
Winnipeg, MB R3C 3L6

Charles Murray

T: 204-945-2852
F: 203-945-0054
E: charles.murray@gov.mb.ca

**Counsel for the Intervener,
Attorney General of Manitoba**

**ATTORNEY GENERAL OF NEW
BRUNSWICK**
Constitutional Unit, Legal Services Branch
P.O. Box 6000, Stn. A
Fredericton, NB E3B 5H1

Isabel Lavoie-Daigle

T: 506-453-2222
F: 506-453-3275
E: Isabel.lavoiedaigle@gnb.ca

**Counsel for the Intervener,
Attorney General of New Brunswick**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Saskatchewan**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Manitoba**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of New Brunswick**

ATTORNEY GENERAL OF NOVA SCOTIA

Department of Justice (NS)
1690 Hollis Street, 8th Floor
Halifax, NS B3J 2L6

Edward A. Gores

T: 902-424-4024
F: 902-424-1730
E: Edward.gores@novascotia.ca

**Counsel for the Intervener,
Attorney General of Nova Scotia**

**ATTORNEY GENERAL OF BRITISH
COLUMBIA**

1001 Douglas Street, 6th Floor
P.O. Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7

J. Gareth Morley

T: 250-952-7644
F: 250-356-9155
E: gareth.morley@gov.bc.ca

**Counsel for the Intervener,
Attorney General of British Columbia**

ATTORNEY GENERAL OF QUEBEC

1200, route de l'Église, 4e étage
Québec QC G1V 4M1

Frédéric Perreault

T: 418-503-2178, ext. 20785
F: 418-644-7030
E: frederic.perreault@justice.gouv.qc.ca

**Counsel for the Intervener,
Attorney General of Quebec**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Nova Scotia**

BORDEN LADNER GERVAIS LLP

1300 – 100 Queen Street
Ottawa, ON K1P 1J9

Nadia Effendi

T: 613-787-3562
F: 613-230-8842
E: neffendi@blg.com

**Agent for the Intervener,
Attorney General of British Columbia**

NOËL ET ASSOCIÉS

225 Montée Paiement, 2e étage
Gatineau, QC J8P 6M7

Pierre Landry

T: 819-503-2178
F: 819-771-5397
E: p.landry@noelassociés.com

**Agent for the Intervener,
Attorney General of Quebec**

**ATTORNEY GENERAL OF
NEWFOUNDLAND AND LABRADOR**

4th Floor, East Block, Confederation Bldg.
P.O. Box 8700
St. John's, NL A1B 4J6

Justin S.C. Mellor

T: 709-729-0163
F: 709-729-2129
E: jmellor@gov.nl.ca

**Counsel for the Intervener,
Attorney General of Newfoundland and
Labrador**

**ATTORNEY GENERAL OF PRINCE
EDWARD ISLAND**

Shaw Building, 4th Floor South
95 Rochford Street, P.O. Box 2000
Charlottetown, PEI C1A 7N8

Jessica Gillis

T: 902-368-5064
F: 902-368-4563
E: jessicagillis@gov.pe.ca

**Counsel for the Intervener,
Attorney General of Prince Edward Island**

ATTORNEY GENERAL OF ONTARIO

Constitutional Law Branch
720 Bay Street, 4th Floor
Toronto, ON M7A 2S9

**Joshua Hunter
Yashoda Ranganathan**

T: 416-908-7465
F: 416-326-4015
E: joshua.hunter@ontario.ca

**Counsel for the Intervener,
Attorney General of Ontario**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Newfoundland and
Labrador**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Prince Edward Island**

TABLE OF CONTENTS

TAB	DOCUMENT	PAGE
1.	Notice of Motion for Leave to Intervene, dated September 28, 2022.....	1
2.	Affidavit of Dr Joe Vipond, Affirmed September 22, 2022.....	9
	Exhibit A: Letter to C. McKenna, dated February 9, 2016.....	17
	Exhibit B: Letter to D. Smith and S. Przedziecki, dated October 9, 2018.....	19
	Exhibit C: Recommendations from the Canadian Association of Physicians for the Environment for Amendments to Bill C-12, the Net-Zero Emissions Accountability Act.....	21
	Exhibit D: Submissions of the Canadian Association of Physicians for the Environment to the Impact Assessment Agency of Canada.....	25
	Exhibit E: Letter to the Joint Review Panel for the proposed Grassy Mountain Coal Project et al.....	27
	Exhibit F: Submissions of the Canadian Association of Physicians for the Environment to the Impact Assessment Agency of Canada re Tent Mountain Mine Redevelopment Project.....	29
3.	Memorandum of Argument of the Proposed Intervener, Canadian Association of Physicians for the Environment, dated September 28, 2022.....	30
	PART I: OVERVIEW AND STATEMENT OF FACTS.....	30
	PART II: STATEMENT OF ISSUES.....	31
	PART III: STATEMENT OF ARGUMENT.....	31
	A. CAPE's Interest in this Appeal.....	31
	B. Outline of Proposed Submissions.....	33
	C. Proposed Argument Will be Useful and Different.....	35
	PART IV: SUBMISSION ON COSTS.....	36
	PART V: ORDER REQUESTED.....	36
	PART VI: TABLE OF AUTHORITIES.....	37

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ALBERTA COURT OF APPEAL)**

B E T W E E N :

ATTORNEY GENERAL OF CANADA

Applicant

- and -

ATTORNEY GENERAL OF ALBERTA

Respondent

- and -

**ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF NOVA SCOTIA,
ATTORNEY GENERAL OF NEW BRUNSWICK, ATTORNEY GENERAL OF
MANITOBA, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY
GENERAL OF PRINCE EDWARD ISLAND, ATTORNEY GENERAL OF
SASKATCHEWAN, ATTORNEY GENERAL OF NEWFOUNDLAND AND
LABRADOR, and ATTORNEY GENERAL OF ONTARIO**

Interveners

- and -

CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

Proposed Intervener

NOTICE OF MOTION FOR INTERVENTION

(Pursuant to Rules 47, 55 and 56 of the *Rules of the Supreme Court of Canada*)

TAKE NOTICE that the **Canadian Association of Physicians for the Environment** applies to a judge, under Rules 47 and 55 and 56 of the *Rules of the Supreme Court of Canada*, for an Order granting:

1. leave to intervene in this appeal pursuant to Rule 55 on a without costs basis, including:

- a. leave to file a factum of up to ten (10) pages in length;
- b. leave to present oral argument of up to five (5) minutes in length, or such length as this Honourable Court may deem appropriate; and
- c. such further or other order that this Honourable Court may deem appropriate.

AND FURTHER TAKE NOTICE that the following documents will be referred to in support of the motion:

1. Affidavit of Joe Vipond, affirmed September 22, 2022;
2. Memorandum of Argument filed herein; and
3. Such further and other material as counsel may advise and this Honourable Court may permit.

AND FURTHER TAKE NOTICE that the motion shall be made on the following grounds:

4. The Canadian Association of Physicians for the Environment (“CAPE”) has a direct and significant interest in the issues raised in this appeal;
5. CAPE is a physician-led non-profit organization whose mission is to better human health by protecting the planet. Climate change and its impacts on human health form a core component of the CAPE’s mandate and it has engaged in a variety of climate change advocacy work directed at the mitigation of greenhouse gas emissions in order to reduce or avoid consequential impacts on human health;
6. CAPE’s submissions in this appeal will focus on legal questions relating to the constitutionality of the federal impact assessment regime, arguing in particular that inclusion of greenhouse gas emissions and climate change in the federal impact assessment process and public interest decision-making is constitutional;
7. CAPE will make submissions that are useful and different from those of other parties in the proceeding.
8. CAPE will take the record as it stands and will not seek to supplement the record.
9. Granting leave to intervene to the CAPE will not cause undue delay or prejudice any party.

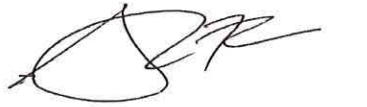
10. CAPE seeks no costs in the intervention and respectfully requests that no costs be awarded against it.
11. CAPE takes no position on the disposition of the appeal.
12. Rules 47, 55, and 56 of the *Rules of the Supreme Court of Canada*.
13. Such further grounds as counsel may advise and this Honourable Court may accept.

DATED at the City of Calgary, in the Province of Alberta, this 28th day of September, 2022.

SIGNED BY



David V. Wright



Shaun Fluker

**Counsel for the Proposed Intervener,
Canadian Association of Physicians for the Environment**

UNIVERSITY OF CALGARY
Public Interest Law Clinic
MFH 3310
2500 University Drive NW
Calgary, AB T2N 1N4

Shaun Fluker
David V. Wright
T: 403-220-4939
F: 403-282-8325
E: sfluker@ucalgary.ca
david.wright2@ucalgary.ca

**Counsel for the Proposed Intervener,
Canadian Association of Physicians for the
Environment**

CHAMP & ASSOCIATES
43 Florence Street
Ottawa, ON K2P 0W6

Bijon Roy
T: 613-237-4740
F: 613-232-2680
E: broy@champlaw.ca

**Agent for the Proposed Intervener,
Canadian Association of Physicians for the
Environment**

ORIGINAL TO:**THE REGISTRAR**

Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

COPIES TO**ATTORNEY GENERAL OF CANADA**

500-50 O'Connor Street
Ottawa, ON K1A 0H8

Christopher Rupar
Dayna Anderson
Bruce Hughson
Kerry Boyd
James Elford

T: 613-670-6290
F: 613-954-1920
E: christopher.rupar@justice.gc.ca

**Counsel for the Appellant,
Attorney General of Canada**

BENNETT JONES LLP
4500, 855-2nd Street SW
Calgary, AB T2P 4K7

E. Bruce Mellett
Bradley Gilmour
Sean Assie
Christine Enns

T: 403-298-3319
F: 403-265-7219
E: mellettb@bennettjones.com

**Counsel for the Respondent,
Attorney General of Alberta**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Respondent,
Attorney General of Alberta**

AND TO:**ATTORNEY GENERAL OF
SASKATCHEWAN**

Constitutional Law Branch
820 – 1874 Scarth Street
Regina, SK S4P 4B3

**Thomson Irvine
Noah Wernikowski**

T: 306-787-6307
F: 306-787-9111
E: tom.irvine@gov.sk.ca

**Counsel for the Intervener,
Attorney General of Saskatchewan**

ATTORNEY GENERAL OF MANITOBA

Department of Justice
Constitutional Law
1230 – 405 Broadway
Winnipeg, MB R3C 3L6

Charles Murray

T: 204-945-2852
F: 203-945-0054
E: charles.murray@gov.mb.ca

**Counsel for the Intervener,
Attorney General of Manitoba**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Saskatchewan**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Manitoba**

**ATTORNEY GENERAL OF NEW
BRUNSWICK**
Constitutional Unit, Legal Services Branch
P.O. Box 6000, Stn. A
Fredericton, NB E3B 5H1

Isabel Lavoie-Daigle

T: 506-453-2222
F: 506-453-3275
E: Isabel.lavoiedaigle@gnb.ca

**Counsel for the Intervener,
Attorney General of New Brunswick**

ATTORNEY GENERAL OF NOVA SCOTIA
Department of Justice (NS)
1690 Hollis Street, 8th Floor
Halifax, NS B3J 2L6

Edward A. Gores

T: 902-424-4024
F: 902-424-1730
E: Edward.gores@novascotia.ca

**Counsel for the Intervener,
Attorney General of Nova Scotia**

**ATTORNEY GENERAL OF BRITISH
COLUMBIA**

1001 Douglas Street, 6th Floor
P.O. Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7

J. Gareth Morley

T: 250-952-7644
F: 250-356-9155
E: gareth.morley@gov.bc.ca

**Counsel for the Intervener,
Attorney General of British Columbia**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of New Brunswick**

GOWLING WLG (CANADA) LLP
2600 - 162 Elgin Street
Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
F: 613-788-3509
E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
Attorney General of Nova Scotia**

BORDEN LADNER GERVAIS LLP

1300 – 100 Queen Street
Ottawa, ON K1P 1J9

Nadia Effendi

T: 613-787-3562
F: 613-230-8842
E: neffendi@blg.com

**Agent for the Intervener,
Attorney General of British Columbia**

ATTORNEY GENERAL OF QUEBEC

1200, route de l'Église, 4e étage
 Québec QC G1V 4M1

Frédéric Perreault

T: 418-503-2178, ext. 20785
 F: 418-644-7030
 E: frederic.perreault@justice.gouv.qc.ca

**Counsel for the Intervener,
 Attorney General of Quebec**

**ATTORNEY GENERAL OF
 NEWFOUNDLAND AND LABRADOR**

4th Floor, East Block, Confederation Bldg.
 P.O. Box 8700
 St. John's, NL A1B 4J6

Justin S.C. Mellor

T: 709-729-0163
 F: 709-729-2129
 E: jmellor@gov.nl.ca

**Counsel for the Intervener,
 Attorney General of Newfoundland and
 Labrador**

**ATTORNEY GENERAL OF PRINCE
 EDWARD ISLAND**

Shaw Building, 4th Floor South
 95 Rochford Street, P.O. Box 2000
 Charlottetown, PEI C1A 7N8

Jessica Gillis

T: 902-368-5064
 F: 902-368-4563
 E: jessicagillis@gov.pe.ca

**Counsel for the Intervener,
 Attorney General of Prince Edward Island**

NOËL ET ASSOCIÉS

225 Montée Paiement, 2e étage
 Gatineau, QC J8P 6M7

Pierre Landry

T: 819-503-2178
 F: 819-771-5397
 E: p.landry@noelassociés.com

**Agent for the Intervener,
 Attorney General of Quebec**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
 Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
 F: 613-788-3509
 E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
 Attorney General of Newfoundland and
 Labrador**

GOWLING WLG (CANADA) LLP

2600 - 162 Elgin Street
 Ottawa, ON K1P 1C3

D. Lynne Watt

T: 613-786-8695
 F: 613-788-3509
 E: lynne.watt@gowlingwlg.com

**Agent for the Intervener,
 Attorney General of Prince Edward Island**

ATTORNEY GENERAL OF ONTARIO

Constitutional Law Branch
720 Bay Street, 4th Floor
Toronto, ON M7A 2S9

Joshua Hunter
Yashoda Ranganathan

T: 416-908-7465

F: 416-326-4015

E: joshua.hunter@ontario.ca

**Counsel for the Intervener,
Attorney General of Ontario**

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE ALBERTA COURT OF APPEAL)**

B E T W E E N :

ATTORNEY GENERAL OF CANADA

Applicant

- and -

ATTORNEY GENERAL OF ALBERTA

Respondent

- and -

**ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF NOVA SCOTIA,
ATTORNEY GENERAL OF NEW BRUNSWICK, ATTORNEY GENERAL OF
MANITOBA, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY
GENERAL OF PRINCE EDWARD ISLAND, ATTORNEY GENERAL OF
SASKATCHEWAN, ATTORNEY GENERAL OF NEWFOUNDLAND AND
LABRADOR, and ATTORNEY GENERAL OF ONTARIO**

Interveners

- and -

CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

Proposed Intervener

AFFIDAVIT OF DR. JOE VIPOND

(Pursuant to Rules 47, 57 and 89 of the *Rules of the Supreme Court of Canada*)

I, Joe Vipond, of the City of Calgary, in the Province of Alberta, AFFIRM AND SAY THAT:

1. I am the President of the Board of Directors of the Canadian Association of Physicians for the Environment (“CAPE”) and have held that position since May 2020, and as such, have personal knowledge of the matters set out in this affidavit, except to such matters based on information and belief.

2. In my professional capacity, I work as an emergency physician at the Rockyview General Hospital in Calgary, and as a Clinical Assistant Professor in the Department of Emergency Medicine at the Cumming School of Medicine, University of Calgary. I am the co-founder and a board member of the non-profit Calgary Climate Hub, and the co-founder of the COVID advocacy groups Masks4Canada and Protect Our Province Alberta.

3. I am authorized to make this affidavit on behalf of CAPE, in support of its motion to intervene in the appeal being heard by the Supreme Court of Canada relating to the constitutionality of the *Impact Assessment Act*, SC 2019, c 28, s 1, and the *Physical Activities Regulations*, SOR/2019-285.

THE CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

4. Established in 1994, CAPE is a non-profit organization whose mission is to better human health by protecting the planet. Since its inception, CAPE has advocated for policies that protect the health of people and the planet. CAPE's work is supported financially through independent donations, private foundation grants, and its membership.

5. CAPE is currently governed by a national Board of Directors composed of nine medical doctors, one registered nurse, and one Chartered Professional Accountant. It has nine regional committees serving Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec, and Saskatchewan.

6. Historically, CAPE has successfully contributed to the reduction of the use of toxic substances, such as cosmetic pesticides, neonicotinoids, and asbestos, as well as the phasing out of coal-fired electricity. Climate change and its impact on public health have been the focus of much of CAPE's work in recent years.

7. As an organization led by physicians, CAPE's approach to addressing the climate crisis is founded on research, ethics, and sound science. CAPE independently and collaboratively engages

in mobilizing and educating health professionals and the greater public in its mission to protect the health of people and the planet in a range of formats.

INVOLVEMENT IN CLIMATE CHANGE AND HEALTH ADVOCACY GENERALLY

8. CAPE regularly engages in law reform and advocacy at both the federal and provincial levels to address and mitigate climate change to protect human health. As an organization comprised of medical professionals, CAPE has a distinct perspective related to the scientific relationship between greenhouse gas (“GHG”) emissions, climate change, and human health.

9. In 2016, CAPE led a consortium that engaged the Canadian government to commit to a nation-wide coal phase-out by 2030. CAPE’s Letter to Federal Minister of Environment and Climate Change Catherine McKenna regarding revisions to federal regulations on coal-fired power plants is attached as **Exhibit A**.

10. In 2018, CAPE provided a written submission to the Ontario legislature’s Standing Committee on General Government regarding Bill 4, the *Cap and Trade Cancellation Act*. CAPE’s submission urged the Ontario government to maintain and modify the then-existing cap-and-trade program to reduce Ontario’s climate emissions and stressed the health benefits associated with the then-existing program. CAPE’s written submission to the Committee is attached as **Exhibit B**.

11. In 2019, CAPE produced a guide entitled “Climate Change Toolkit for Health Professionals” which is directed at health professionals who want to engage more directly on the issue of climate change as educators with their patients, peers, and communities. One module in this toolkit is directed at helping health professionals engage with decision-makers to advance policies, programs, and practices, directed at mitigating climate change (see: Module 8, page 10). This document is available for free download at <https://cape.ca/wp-content/uploads/2019/05/Climate-Change-Toolkit-for-Health-Professionals-Updated-April-2019-2.pdf>.

12. In 2020, CAPE produced a report entitled “Fractures in the Bridge: Unconventional (Fracked) Natural Gas, Climate Change and Human Health” describing the adverse health outcomes associated with unconventional oil and gas projects. This document is available for free download at <https://cape.ca/wp-content/uploads/2020/01/CAPE-Fracking-Bkg-EN.pdf>.

13. In 2020, CAPE produced a report entitled “Healthy Recovery Plan: For a Safe and Sustainable Future” which made recommendations to direct federal fiscal stimulus spending to reduce GHG emissions, in line with Canada’s emissions reduction commitments (at 2). This 56-page report includes a detailed discussion of the climate-related health risks in different regions across Canada (at 10-17) and the health benefits of climate action and improved air quality (at 18-22). This document is available for free download at https://cape.ca/wp-content/uploads/2020/07/CAPE_Report2020_EN_HealthyRecoveryPlan-1.pdf.

14. In 2021, CAPE appeared as a witness before the House of Commons Standing Committee on Environment and Sustainable Development regarding Bill C-12, *An Act respecting transparency and accountability in Canada’s efforts to achieve net-zero greenhouse gas emissions by the year 2050*. CAPE’s submission supported strengthening and passing Bill C-12 and emphasized the ways in which climate change itself is an urgent public health issue. CAPE’s written submission to the Committee is attached as **Exhibit C**.

15. CAPE also occasionally seeks intervener status before the courts in cases raising important issues relating to the environment, climate change, and public health, which are also of central importance to CAPE’s mandate.

16. CAPE participated as an intervener (as part of the Intergenerational Climate Coalition) in this Court in *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11.

17. CAPE most recently participated as an intervener before the Ontario Superior Court of Justice in *Mathur v Ontario* (Court File No.: CV-19-00631627-0000), proceedings concerned with whether the enactment of the *Cap and Trade Cancellation Act 2018*, SO 2018, c 13, by Ontario violates the rights of Ontario youth under sections 7 and 15 of the *Charter of Rights and Freedoms*.

INVOLVEMENT IN FEDERAL IMPACT ASSESSMENT PROCESSES

18. CAPE has a long history of involvement in federal impact assessment processes, ranging from written comments to full intervenor submissions in relation to proposed major projects across Canada. The following examples are a sample of this involvement to illustrate the breadth of CAPE's engagement with the federal impact assessment process.

19. In 2019, CAPE participated in the planning phase of a federal impact assessment for the proposed Cedar LNG project. This participation was directed at highlighting concerns relating to the climate crisis and the adverse effects associated with climate change being experienced across Canada, together with the associated health and economic consequences. Significantly, the submission called for a federal assessment rather than a provincial one on the basis that the federal project review is more likely to consider human health issues associated with the project. CAPE's submission to the Impact Assessment Agency of Canada is attached as **Exhibit D**.

20. In 2020, CAPE participated in the joint federal-provincial review panel phase of an impact assessment concerning the Grassy Mountain Coal Project in Alberta. This participation was directed at ensuring the impacts of a large-scale, open-pit coal mine on the atmosphere, surface water, vegetation and wildlife were considered as impacts on human health. CAPE's submission pointed specifically to the failure of the proponent to consider climate change impacts in its local and regional modeling and highlighted the need to consider the project's effect on Canada's ability to meet its environmental and climate change commitments. CAPE's submission to the Joint Review Panel is attached as **Exhibit E**.

21. In 2021, CAPE participated in the planning phase of a federal impact assessment concerning the Tent Mountain Mine Redevelopment Project in Alberta. This participation was directed at ensuring the impacts of the re-opening of a large-scale, open-pit coal mine on human health were considered. The submission highlighted the climate emergency and the impacts of the

project on Canada's long-term climate policy objective of achieving net-zero emissions. It also identified the emissions associated with the project, and the profound climate change related risks associated with fire and drought that Alberta is already facing, amongst the key concerns. CAPE's submission to the Impact Assessment Agency of Canada is attached as **Exhibit F**.

INTEREST AND EXPERTISE IN THE APPEAL

22. CAPE's central purpose as a physician-led organization is the promotion of health by focusing on the ways in which environmental harms impact humans. This includes a sustained focus on the implications of climate change on the health and wellbeing of individuals across Canada. CAPE identifies climate change and its impacts on human health as a core component of its mandate, a major focus area of its supporters, and an issue that it has worked on extensively during the past decade.

23. CAPE has a direct institutional interest in ensuring that decision-makers understand and appreciate the causal relationship between GHG emissions, global climate change, and the impacts on human health.

24. CAPE has been active and involved in federal impact assessments to encourage decision-makers to consider the interrelationship between human health and climate change in their project assessments.

25. This Appeal concerns the constitutionality of federal legislative authority to include climate impacts in federal impact assessment processes under the *Impact Assessment Act*, SC 2019, c 28, s 1, and the *Physical Activities Regulations*, SOR/2019-285.

26. CAPE is specifically concerned with ensuring that federal legislative authority exists to assess GHG emissions intensive projects and consider the adverse impacts of climate change to the full extent of its jurisdiction. It is important to clarify the extent of this federal jurisdiction, both because human health impacts may then be considered during the federal impact assessment process and also because the adverse effects of GHG emissions and failure to meet climate change

commitments more generally, have attendant effects on human health. As climate change is a collective action problem, CAPE believes that all levels of government in Canada have important roles to play in addressing climate change, in order to mitigate and avoid adverse effects on human health.

27. I have been informed by CAPE's legal counsel, and I believe to be true, that other parties seeking leave to intervene in this Appeal have been consulted and CAPE is the only party which has a primary focus on climate change and its impacts on human health. If granted leave to intervene, it intends to provide this perspective, which will be distinct and unique from the parties and other proposed interveners.

POTENTIAL FOR PREJUDICE SUFFERED BY CAPE

28. The matter of the constitutionality of the *Impact Assessment Act*, SC 2019, c 28, s 1, and the *Physical Activities Regulations*, SOR/2019-285 raises important questions about the role and legal authority of the federal government to address the adverse impacts of climate change on human health.

29. I am informed by CAPE's legal counsel, and I believe to be true, that one of the significant issues that is likely to arise in this Application relates to the question of whether there is federal legislative authority to include GHG emissions in the federal impact assessment regime as a basis for reviewing major projects and deciding whether they are in the public interest in light of potential effects on areas of federal jurisdiction. I am also informed by CAPE's legal counsel that once the federal impact assessment regime is triggered, the positive and negative consequences of changes to health are defined as effects properly considered during the assessment process.

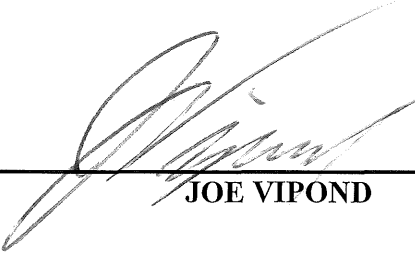
30. I am further informed by CAPE's legal counsel, and I believe to be true, that some provincial impact assessment regimes, such as the legal framework in Alberta governing impact assessment, restrict opportunities for public involvement in the assessment of major project impacts by imposing strict tests for standing, such as a "directly affected" test, or failing to legally require a transparent assessment process at all.

31. If this Court rules to limit federal authority to consider the effects of a proposed project on climate change to specific parameters, or alternatively rules such effects are not within federal legislative authority at all, it will significantly impair the ability of CAPE to pursue its mandate of encouraging decision-makers to consider the interrelationship between human health and climate change in their major project assessments.

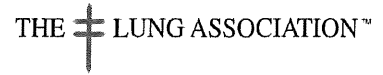
AFFIRMED BEFORE ME at Calgary,)
Alberta, this 22nd of September 2022.)
day)
)
)
)
)
)
)



SHAUN FLUKER
Barrister & Solicitor

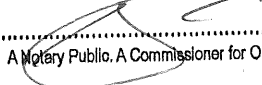


JOE VIPOND



February 9, 2016

The Honourable Catherine McKenna, P.C., M.P.
Minister of Environment and Climate Change
House of Commons
Ottawa, Ontario
Canada K1A 0A6

This is Exhibit " A " referred to in the
Affidavit of
Joe Vipond
Sworn before me this 22 day
of September A.D. 2022

A Notary Public, A Commissioner for Oaths in and for Alberta

SHAUN FLUKER
Barrister & Solicitor

Dear Minister McKenna:

We are writing to you as a consortium of health groups who are mindful of the importance of optimizing the health of Canadians, while protecting the environment that our children will inherit. As you know, the World Health Organization (WHO) has declared climate change to be the greatest public health threat of the 21st century.¹ As the Government of Canada works to develop a plan to meet commitments made at the Conference of Paris in 2015, we strongly recommend that you place a high priority on reducing one source of emissions: coal.

We urge you to revise the federal regulations on coal-fired power plants to phase out coal plants across the country within a 10-year time frame. This is a time frame supported by all members of our consortium and is consistent with a resolution passed by the Canadian Medical Association (CMA).² Taking this action will create health benefits for Canadians, while also substantially reducing Canada's greenhouse gas emissions.

Some provinces have already made great advances on this front. Between 2004 and 2014, the Province of Ontario closed down all six of its coal-fired power plants. In so doing, it cut Ontario's emissions of greenhouse gases by 20%. At the same time, it reduced the province's emissions of sulphur dioxide, nitrogen oxides and mercury by 23%, 14%, and 23% respectively.³ The coal phase-out in Ontario has contributed to significant improvements in air quality and human health in Ontario. Smog alert days have steadily declined from 53 days in 2005 to zero days in 2014 and 2015. In 2014, Toronto Public Health reported that Ontario's improved air quality was preventing 400 premature deaths and 2,450 hospitalizations in Toronto each year.⁴

In November of 2015, the Alberta government announced that it will phase out the six coal-fired power plants in Alberta by 2030. With this decision, Alberta will be reducing its greenhouse gas emissions by 17%, while significantly reducing emissions of air pollutants, improving human health, and producing health benefits worth at least \$300 million per year.⁵

We know that all provinces want the best health for their citizens, but Saskatchewan, New Brunswick, and Nova Scotia currently intend to have power plants burning coal well into the 2040s. By tightening federal regulations on coal-fired power plants, the Government of Canada would be taking an important step towards creating the healthy energy environment that will keep Canadian kids with asthma out of emergency rooms today, while providing them with the stable climate they require to thrive into the future. This would also help the Federal Government to achieve commitments made in Paris.

We would very much like the opportunity to discuss this with you in person at your earliest convenience. We look forward to your response and to the prospect of a major win for Canadian's health and climate safety.

Yours Sincerely,



Kim Perrotta, Executive Director, Canadian Association of Physicians for the Environment



Ian Culbert, Executive Director, Canadian Public Health Association



Debra Lynkowski, President and Chief Executive Officer, The Canadian Lung Association



Noah Farber, Acting President & CAO, Asthma Society of Canada

References:

1. World Health Organization. WHO calls for urgent action to protect health from climate change <http://www.who.int/globalchange/global-campaign/cop21/en/>
2. CMA. 2014 Resolutions Passed By CMA General Council. URL?
3. Ontario Public Health Association. 2002. Beyond Coal: Power, Public Health and the Environment. <http://cape.ca/wp-content/uploads/2015/10/Beyond Coal - Power Public Health and the Environment.pdf>
4. Toronto Public Health. 2014. Path To Healthier Air: Toronto Air Pollution Burden of Illness Update. <http://www1.toronto.ca/City%20of%20Toronto/Toronto%20Public%20Health/Healthy%20Public%20Policy/Report%20Library/PDF%20Reports%20Repository/2014%20Air%20Pollution%20Burden%20of%20Illness%20Tech%20RPT%20final.pdf>
5. Pembina Institute, Canadian Association of Physicians for the Environment (CAPE), The Asthma Society of Canada, and the Lung Association of Alberta and the Northwest Territories. 2013. A Costly Diagnosis: Subsidizing coal power with Albertans' Health. <http://www.pembina.org/pub/2424>

Copies to:

The Right Honourable Justin Trudeau, P.C., M.P., Prime Minister of Canada

The Honourable Dr. Jane Philpott, P.C., M.P., Minister of Health



Dave Smith, MPP, Chair
Sylwia Przezdziecki, Clerk
Room 1405, Whitney Block
Queen's Park, Toronto, ON M7A 1A2
E-mail: comm-generalgov@ola.org

This is Exhibit " B " referred to in the

Affidavit of

..... Joe Vipond

Sworn before me this 22, day

of September A.D. 2022

.....
A Notary Public, A Commissioner for Oaths in and for Alberta

October 9, 2018

Dear Chair & Clerk:

Re: **Bill 4, Cap and Trade Cancellation Act, 2018**

SHAUN FLUKER
Barrister & Solicitor

I am writing on behalf of the Canadian Association of Physicians for the Environment (CAPE) to express our organization's concern about the government's proposal to repeal the *Climate Change Mitigation and Low-carbon Economy Act, 2016*.

CAPE is a non-profit organization that is funded primarily by thousands of donor/members. Founded 25 years ago, CAPE is directed by a Board currently composed of 10 physicians and one lawyer. Our mission is to improve human health by protecting the planet. **For several years, CAPE has focused its attention on climate change because we agree with the World Health Organization that climate change is the greatest public health threat of this century.**

We just experienced a blistering hot summer in Ontario and all around the world - one of the hottest four summers in recorded history, a trend attributed by experts to climate change. Over the last four months, the temperature at Toronto's International airport exceeded 28 degrees C on more than 40 days. In Quebec, the only province in Canada that tracks heat-related deaths in real time, July's heat wave claimed the lives of over 90 people in only one week.

Wildfires, fuelled by climate-driven droughts and heat, threatened the lives, health, livelihood and wellbeing of millions of Canadians this summer. Ontario had 1312 wildfires this year; up from a 10-year average of 716. These fires were fought by about 1000 firefighters, forced evacuations on thousands of people in several northern communities, and exposed tens of thousands of residents to elevated levels of toxic air pollution.

Many people are describing this weather as the "new normal" but climate experts disagree. The National Academy of Science published a study which suggests that we are approaching a tipping point with climate change; a point from which there may be no return. This study found that we are quickly approaching a global temperature that could trigger feedback cycles that drive global temperature to 4 or 5 degrees above pre-industrial temperatures. These are temperatures that would, in the words of the researchers, make Earth uninhabitable.

It is in this context that we recommend that Bill 4 not be supported; that the Government maintain, and modify where needed, Ontario's existing cap-and-trade program and the many programs that it supports.

In Ontario, where the greatest sources of climate emissions are the [transportation sector \(33%\), buildings \(22%\), and industry \(18%\)](#), we need policies and programs that cut emissions deeply and quickly from these sources. Ontario's [cap-and-trade program](#) has been encouraging the industrial sector to cut emissions in a cost-effective way, while collecting [\\$2.8 billion in funds](#) that were being used to fund public transit, the electrification of the transportation sector, cycling infrastructure, and energy efficiency projects and renewable energy projects for farms, hospitals, schools, businesses and residences. In other words, these funds were being used to encourage reductions in climate emissions from the other sectors responsible for a significant percentage of Ontario's emissions.

In fact, many of the programs supported by Ontario's existing cap and trade program can produce immediate and long-term benefits for human health, the cost of living, and the economy. Investments in public transit reduce air pollution, save commuters money, and decrease traffic congestion. Investments in energy efficiency for homes, schools, hospitals and low-income housing reduce air pollution, save consumers money, and save tax dollars, while creating local jobs. Investments in renewable energy and the electrification of the transportation sector can reduce air pollution and health care costs while encouraging innovation, new economic opportunities, and new jobs.

Should the government proceed with Bill 4 and repeal the *Climate Change Mitigation and Low-carbon Economy Act, 2016*, it must be replaced quickly with a plan that commits Ontario to:

- Meet the long-term hard emission target needed to meet Canada's international commitments to limit warming to 1.5 degrees C (i.e. reducing Ontario's climate emissions to 80% below 1990 levels by 2050);
- Meet the benchmark targets needed to ensure we meet our long-term target (i.e. 15% below 1990 levels by 2020 and 37% below 1990 levels by 2030);
- Review its progress on climate reductions on an annual basis and review its plan at least every 5 years;
- Establish policies and programs for the transportation, industry and buildings sectors that have been shown with modelling to be capable of reducing climate emissions to the degree needed to meet our benchmarks and target; and
- Prioritize those climate action policies and programs which provide health and social co-benefits by reducing air pollution, increasing access to jobs and services, increasing levels of physical activity, reducing traffic congestion, producing local jobs and/or reducing consumer costs and taxes.

As health professionals deeply concerned about the health impacts of climate change, we believe that we cannot afford the time to develop a brand new Climate Action Plan for Ontario; that the current plan should be maintained and modified where needed. On October 8th, the International Panel on Climate Change (IPCC) released its newest report which says that we must keep the global temperature increase below 1.5 degrees C if we are to avoid catastrophic climate change that would make the world uninhabitable. **We are running out of time to preserve a stable world for our children and grand-children.**

Yours truly,



Kim Perrotta, MHSc
Executive Director

Affidavit of

Joe Vipard

Sworn before me this 22 day

of September A.D. 2022

A Notary Public, A Commissioner for Oaths In and for Alberta



CAPE
Canadian Association
of Physicians
for the Environment
Association Canadienne
des Médecins
pour l'Environnement
ACME

SHAUN FLUKER
Barrister & Solicitor

**Recommendations from the Canadian Association of Physicians for the
Environment for Amendments to Bill C-12, the Net-Zero Emissions
Accountability Act**

The World Health Organization calls climate change the greatest global health threat of the 21st century¹, and at the Canadian Association of Physicians for the Environment (CAPE) our members are already seeing the impacts of climate change on the health of people in Canada. It is crucial that Canada pass strong climate accountability legislation.

Summary Recommendations

Bill C-12 has some of the key components that have enabled climate accountability legislation to be successful internationally. However, without the following amendments this legislation will not succeed in holding governments accountable to ambitious emissions targets:

1. A 2025 emissions target;
2. An independent body of scientific experts with their own secretariat and climate modelling ability reporting to Parliament, not to the Minister of the Environment; and,
3. Explicit alignment with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Climate change is the greatest health challenge of the 21st century.

Climate change is worsening asthma and evacuations from wildfires, increasing deaths from heat waves, making allergy seasons longer and more severe, posing challenges to food security, hastening the spread of Lyme Disease, and raising the potential for new pandemics. Impacts are being felt first and worst in Canada's far North, and by women, children, racialized individuals, and Indigenous peoples^{2,3}. A recent study out of Harvard University estimated that 18% of premature deaths globally are due to fossil-fuel related air pollution⁴, and Health Canada recently reported that 15,300 people in Canada died in 2016 of air pollution⁵. Canada will

¹World Health Organization (WHO), "WHO calls for urgent action to protect health from climate change," in *Climate change and human health*, World Health Organization (WHO), accessed May 14, 2021, <https://www.who.int/globalchange/global-campaign/cop21/en/>.

²Canadian Public Health Association (CPHA), "Position Statement: Climate Change and Human Health," *Canadian Public Health Association*. (2019), <https://www.cpha.ca/sites/default/files/uploads/policy/positionstatements/climatechange-positionstatement-e.pdf>.

³Balgis Osman-Elasha, "Women...In The Shadow of Climate Change," in *UN Chronicle*, United Nations, accessed May 14, 2021, <https://www.un.org/en/chronicle/article/women-in-shadow-climate-change>.

⁴Karn Vohra, Alina Vodonos, Joel Schwartz, Eloise A. Marais, Melissa P. Sulprizio, Loretta J. Mickley, "Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem," *Environmental Research*, Volume 195 (2021) doi.org/10.1016/j.envres.2021.110754, <https://www.sciencedirect.com/science/article/abs/pii/S0013935121000487#>.

⁵Health Canada, "Health Impacts of Air Pollution in Canada: Estimates of morbidity and premature mortality outcomes – 2021 Report," *Health Canada/Public Health Agency of Canada*, (2021) Cat.: H144-51/2021E-PDF, ISBN: 978-0-660-37331-7, Pub.: 200423, <https://www.canada.ca/en/health-canada/services/publications/healthy-living/2021-health-effects-indoor-air-pollution.html>.



continue to warm to mid-century regardless of current emissions, and if the world continues along its current high-emissions pathway impacts on health and health systems are expected to be catastrophic by the time today's infants are in their sixties⁶. Disruptions to infrastructure, supply chains, and staffing pose risks to the stability of healthcare systems themselves⁷.

Because of this, the Paris Agreement on Climate Change is viewed as the world's most important health treaty⁸.

Accountability legislation has proven successful elsewhere in the world in enabling countries to achieve a healthy response to climate change. To use a best-practices example from the health sphere, in the United Kingdom binding carbon budgets established in their 2008 Climate Change Act spurred world-leading improvements in health sector efficiency: emissions from the National Health Service decreased by 18.5% between 2007 and 2017, while clinical activity levels increased⁹.

In 2020, the Climate Change Committee, the independent scientific advisory body that reports to Parliament, convened the UK Health Expert Advisory Group to advise on developing an approach to assessing the health impacts of setting the Sixth Carbon Budget. This group has produced a report looking at ways in which present-day health and equity can be optimized through measures that also reduce greenhouse gas emissions, looking in detail at the health co-benefits of such items as a just energy transition that saves lives from air pollution, a transport system that promotes chronic disease-reducing active travel, and a sustainable, resilient and healthy food system¹⁰.

Flattening the greenhouse gas emissions curve must be viewed as being as critical to a healthy population as is bending the curve on COVID-19 infections.

Canada has failed to meet every international climate target set and we are the only G7 country whose emissions have risen since the Paris Agreement came into force in 2016. This is not representative of the ethic of shared care for wellbeing that we have put into action during the COVID-19 pandemic. Children have stayed home from school and activities for much of the past year to protect adults who are comparatively more impacted by COVID-19. It is time to say

⁶ Courtney Howard, Chris Buse, Caren Rose, Andrea MacNeill, and Margot Parkes. "The 2019 Lancet Countdown on Health and Climate Change: Policy brief for Canada," Canadian Medical Association, (2019), <https://www.cma.ca/2019-lancet-countdown-health-and-climate-change-policy-brief-canada>.

⁷ Courtney Howard, Chris Buse, Caren Rose, Andrea MacNeill, and Margot Parkes. "The 2019 Lancet Countdown on Health and Climate Change: Policy brief for Canada," Canadian Medical Association, (2019), <https://www.cma.ca/2019-lancet-countdown-health-and-climate-change-policy-brief-canada>.

⁸ "The Paris Agreement Is a Health Agreement - WHO," unfccc.int (United Nations - Climate Change, May 3, 2018), <https://unfccc.int/news/the-paris-agreement-is-a-health-agreement-who>.

⁹ Sustainable Development Unit, "Reducing the use of natural resources in health and social care: 2018 report," https://networks.sustainablehealthcare.org.uk/sites/default/files/resources/20180912_Health_and_Social_Care_NRF_web.pdf.

¹⁰ Alice Munro, Tammy Boyce, Michael Marmot. "Sustainable Health Equity: Achieving a Net-Zero UK," Institute of Health Equity (October 2020) <https://www.theccc.org.uk/publication/ucl-sustainable-health-equity-achieving-a-net-zero-uk/>.



thank you to them by meeting and exceeding Canada's climate goals in order to protect child health.

It is well-known that what gets measured, gets managed.

Bill C-12 has some of the key components that have enabled climate accountability legislation to be successful internationally:

1. Establishing a climate accountability framework;
2. Requiring national climate targets; and,
3. Creation of an emissions reduction plan and reports on progress.

However, we are missing the opportunity to bring key components of other successful efforts into our Made-in-Canada approach to climate accountability. Without these components, this legislation will not succeed in holding governments accountable to emissions targets for decades to come.

Three aspects essential for accountability and ambition are:

1. A 2025 emissions target;
2. An independent body of scientific experts with their own secretariat and climate modelling ability reporting to Parliament, not to the Minister of the Environment; and,
3. Explicit alignment with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Recommendation 1: A 2025 target

Bill C-12 needs to be amended to align with our Nationally Determined Commitments to the Paris agreement. Our 2025 reporting requirement under Paris is not a substitute for including 2025 as the first year within this accountability legislation. Addressing climate change has been systematically delayed for decades and a 2025 target and reporting requirement provides us with appropriate urgency to make the changes today that are necessary to substantially reduce emissions by 2030. Without a 2025 target, we are less likely to make the investments now that will enable us reach our 2030 target and targets into the future¹¹.

¹¹Carl Meyer, "Chair of France's climate council says Canada needs a stronger 2025 target, stronger net-zero advisory body," National Observer (March 3, 2021). <https://www.nationalobserver.com/2021/03/03/news/chair-frances-climate-council-says-canada-needs-2025-target-stronger-net>.



Recommendation 2: Independent Advisory Committee of Experts

The current Advisory Body proposed by Bill C-12 lacks the mandate, structure, and budget needed to enable it to effectively hold the government to account - necessary for any accountability efforts. The Advisory Body needs to be comprised of scientific experts including health experts, with their own secretariat and climate modelling ability; and must report to Parliament, not to the Minister of the Environment, to ensure independence. The Body must be able to publicly applaud *or* critique government approaches without concern of reprisal. The Body also requires a substantial budget in order to have the analytical capacity necessary to determine whether Canada's climate policy will achieve stated goals. Finally, the Body must be able to produce its own reports that both assess climate policy and assess climate risk in order to enable planning for needed adaptation.

The current Net-Zero Advisory Body is comprised of experts from diverse fields, including some with the scientific and policy expertise to serve on the type of independent body that is necessary; however, the current Body does not have the structure, resources, mandate, or independence needed to achieve accountability.

Recommendation 3: Explicit alignment with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Climate accountability legislation must align explicitly with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Indigenous knowledge is expertise. The health of Indigenous peoples is deeply impacted by a changing climate, which changes the relationship of people to land¹², and will also be impacted by the needed energy transition^{13,14}. Any assessment of climate accountability must align with Indigenous peoples' rights and the regional diversity of Indigenous perspectives.

The work we undertake at CAPE is rooted in research, ethics, and sound science. As a physician organization, this approach is foundational to our work as health care professionals and informs our approach to the change needed to address the climate crisis.

¹² United Nations Department of Economic and Social Affairs: Indigenous Peoples, "Climate Change," Accessed May 14, 2021 <https://www.un.org/development/desa/indigenouspeoples/climate-change.html>.

¹³ Dave Lovekin, "Unlocking clean energy opportunities for Indigenous communities," Pembina Institute (Feb 24, 2017), <https://www.pembina.org/blog/unlocking-clean-energy-opportunities-indigenous-communities>.

¹⁴ Rhett A. Butler, "Melina Laboucan-Massimo: Catalyzing an Indigenous-led just energy transition," Mongabay: News and Inspiration from Nature's Frontline (March 27, 2021) <https://news.mongabay.com/2021/03/catalyzing-an-indigenous-led-just-energy-transition-qa-with-melina-laboucan-massimo/>.

This is Exhibit "D" referred to in the
Affidavit of

Joe Vipond
Sworn before me this *23* day
of *September* A.D. 20*22*

A Notary Public, A Commissioner for Oaths in and for Alberta

SHAUN FLUKER
Barrister & Solicitor



Home > [Impact Assessment Agency of Canada](#)

> [Canadian Impact Assessment Registry](#) > [Cedar LNG Project](#) > [Comments](#)

> [Canadian Association of Physicians for the Environment - BC chapter](#)

Menu

Sign-in

Search

Canadian Association of Physicians for the Environment - BC chapter

Reference Number

20

Text

As physicians dealing with the interaction between the environment and peoples' health, we are seriously concerned about the proposed Cedar LNG project.

First, we think that the assessment should have a federal review rather than a provincial review. We feel that a project of this size requires the more comprehensive federal review, especially since the federal review is more likely to consider human health issues. We believe any review that does not take human health impacts into consideration is deeply flawed.

Secondly, we are very concerned about existing health patterns affecting people in the Peace Region, the region from which most of the fracked gas will originate. Recent studies show higher incidences of respiratory disease, cancers and ill-effects on newborn babies in that region of BC, compared to averages for the province, strongly suggesting a connection to the fracking industry there.

Most important, we are concerned about the climate crisis. Canada has

26

not reduced its carbon footprint at all during the last 20 years, and current projections suggest that our per capita GHG production -- already one of the highest in the world -- is scarcely declining at all. In line with international agreements, we need to reduce our emissions by 30% by 2030. Building more LNG facilities will make this goal impossible.

Also, we wish to point out that an anomaly in GHG attribution has led many to underestimate the climate impact of projects in BC or Canada as a whole. This anomaly is the custom of attributing GHGs produced by fossil fuels extracted in one country, but burned offshore, to the latter setting -- the country where their use takes place. But climate warming has a global impact, and affects all parts of the planet. This custom is therefore naive and unscientific, and should not be used in the assessment of this project. Instead, the total life-cycle GHG production of this project should be the metric by which its climate impact should be judged.

Climate change is already affecting Canadians in multiple ways. Extreme weather events -- intensified wildfires, rain and wind events, and flooding in particular -- are causing human deaths and costing our governments increasingly large monetary and material resources. How much longer will we continue to suffer these effects before we start to act?

Please ensure that an environmental review actually works to protect the environment and human health.

Sincerely,

Larry Barzelai and Warren Bell, on behalf of the BC branch of CAPE
(Canadian Association of Physicians for the Environment)

Submitted by

Larry Barzelai



This is Exhibit "E" referred to in the

Affidavit of

Joe Vipond

Sworn before me this 22 day
of September A.D. 2022

A Notary Public, A Commissioner for Oaths in and for Alberta

SHAUN FLUKER
Barrister & Solicitor

Oct 6, 2020

To: The Joint Review Panel for the proposed Grassy Mountain Coal Project
and The Honorable Jonathan Wilkinson, Government of Canada, Minister of Environment and
Climate Change

CC: Jason Kenney, Premier of Alberta
Jason Nixon, Government of Alberta Minister of Environment and Parks
Sonya Savage, Government of Alberta Minister of Energy
Marlin Schmidt, Alberta's Official Opposition Environment Critic
Bernadette Jordan, Government of Canada, Minister of Fisheries, Oceans and the Canadian
Coast Guard

We are writing to you on behalf of our over 90 Albertan members comprised of health care professionals concerned about the environment. For over thirty years, the Canadian Association of Physicians for the Environment (CAPE) has advocated for healthy public policy, recognizing that our ecosystem is the foundation of our health care system. In Alberta, CAPE has been at the forefront of efforts to phase out coal-powered electricity, and to support community mitigation and adaptation to climate change.

CAPE recognizes the intrinsic value of our mountain wilderness - its importance as a wildlife habitat and clean water source, and its benefits for recreation, physical activity, and mental health. As such, we maintain that any development posing threats to these valued ecosystem components must be stopped.

Without a doubt, the socio-economic and human health impacts of the Grassy Mountain Open Pit Metallurgical Coal Mine are bigger than those considered within the 10 km by 15 km local study area and 30 km by 35 km regional study area of Benga Mining's environmental impact assessment (EIA).

From a human health risk assessment perspective, we are extremely concerned that large-scale open pit mining disturbance will open atmospheric, surface water, vegetation, and wildlife pathways for contamination by chemicals of potential concern in unanticipated ways. In coming decades, climate change in the Crowsnest Pass will shift weather and rainfall patterns to modify these pathways, as well as increasing the threat of intense wildfires. Benga Mining does not appear to have considered climate change impacts in its local and regional EIA modelling.



Despite documented engagement with Indigenous peoples, we are further concerned that Benga Mining does not appear to have sufficiently consulted with other neighboring landholders, or recreational and wilderness stakeholders across the province. Approximately one quarter of Grassy Mountain's 1500 hectare footprint will disturb previously untouched mountain wilderness, resulting in loss of access to preserved nature and recreational space for residents and visitors to the Crowsnest Pass, alike. Benga Mining has not detailed how it plans to mitigate the loss of recreation access, nor restoration of the project footprint for recreational and wilderness access post-closure.

Boom and bust cycles of extractive development can have extensive effects on communities, affecting employment and income, services and infrastructure, food security, mental health, and domestic violence. Beyond the construction and operation phases of Grassy Mountain, there does not appear to be a post-closure plan for socio-economic transition in the Crowsnest Pass and surrounding communities. Without anticipating closure and periods of downturn, it will be difficult to mitigate the risks of relying on the coal industry for community prosperity over the long term.

We urge the provincial government and the Joint Review Panel to consider our points in light of the emerging standard for impact assessments in Canada. It is important to weigh the environmental, economic, social, and health impacts of Grassy Mountain, and other proposed coal developments across Alberta. Further consultation and consideration are needed on whether this project will affect Canada's ability to meet its environmental and climate change commitments, and whether this project will make a positive contribution to sustainability. In this regard, CAPE feels strongly that an open pit coal mine in the Crowsnest Pass will have negative health and social impacts for Albertans that far outweigh any short-term economic gain.

Sincerely,
Dr. Andrea Hull and Dr. Aimee Bouka
Co-chairs of the Regional Committee for CAPE Alberta

Concerned citizen - response to Tent Mountain Mine Redevelopment Project

Reference Number

88

Text

To whom it may concern,

I'm writing to oppose the Tent Mountain Mine Redevelopment Project and to express my disappointment in this government for considering this project in the first place. I am fundamentally opposed to the idea that Canada would reopen an open pit coal mine that will release 1.8 million tonnes of raw coal into the supply chain when we are in the midst of a climate emergency. This mine is not in the interest of achieving our commitment to Net Zero and doing our best to limit global warming to a survivable limit of 1.5 degrees Celsius. Please see below for a list of further concerns.

1. Climate change - the project description estimates 100,000 tonnes of CO2 emissions annually, or 1.5 million tonnes of CO2 over the operating life of the project. This doesn't include the much greater emissions from burning the 1.8 million tonnes of raw coal extract annually. According to the US Energy Information Administration complete combustion of 1.8 million tonnes of coal can produce 5 million tonnes of CO2 annually. Coal has high carbon intensity of any fossil fuel. Alberta is already the highest GHG emitter in Canada and among the world's top per capita emitter. Of that, 70% of emissions are from fossil fuels. Limiting further production of fossil fuels is absolutely necessary to meeting our climate commitments and, more importantly, ensuring the survival of Alberta as an agricultural hub and habitable region. Alberta is at profound risk of drought and wild fires resulting from loss of glacial ice and snow pack as well as extreme heat events. We have already experienced drought this summer that resulted in culling Alberta beef and feed bailouts from other provinces. The financial fallout of anthropogenic climate change is measured in billions of dollars and far outweighs \$1.5 million in property tax revenue over 21 years.

2. Water Quality - there is sufficient evidence of selenium contamination and its impact on fish populations from existing literature. The initial project summary itself cites "downstream effects" on water quality and endangered aquatic species as a result of existing mine activities and land disturbance. These will only be exacerbated by further coal extraction.

3. Water Diversion Licenses - the Old Man River watershed is already stressed and there is no water left for other uses. Southern Alberta's agriculture is threatened by the additional water use from washing coal, dust suppression, and other mining related water use. The economic benefits from coal mining cannot preempt the agricultural sector. This mine is opposed by farmers and ranchers across Alberta including: The Canadian Cattlemen Association, Livingstone Landowners Group, National Farmers Union, and Western Stock Growers Association.

4. Air Pollution and Health Effects - communities downwind of this mining project (many that are Indigenous communities) will be negatively impacted by mining dust. Effective dust suppression will be difficult as this region is semi-arid and frequently encounters high winds. Air pollution contributes to over 7 million premature deaths worldwide and over 14 000 per year in Canada. Particulate matter, such as the particles created by coal mining, are linked to ischemic heart disease, chronic lung disease and lung cancer - all of which place a significant burden on Canada's health system. As an Internal Medicine specialist and member of CAPE, I am particularly concerned about the local and global health effects of ongoing coal production.

6. Questionable economic benefit - the project description estimates 175 long term jobs and \$1.5million in annual property taxes. Note that the Kananaskis Park Pass raised over \$9 million dollars in its first year. The provincial "occupations in Alberta" website shows there are currently 8,100 Albertans employed as solar panel installers. A new provincial or national park in this area could potentially provide a much greater economic benefit and investing in zero carbon energy such as solar will provide far more jobs.

7. Destruction of ecosystems and wildlife habitat - exploration and mining roads are extremely destructive to ecosystems. See "Running Dry: Alberta's Shrinking Rivers" <https://www.youtube.com/watch?v=V5eGTImo8a4> ([https://l.facebook.com/l.php?u=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3D%2FV5eGTImo8a4%26fbclid%3DIwAR0Hmj5VPhkipo03rxqS7iqwV6Ffg7F3vM46K1Rh2hFKQIA8uWYYH0x1Hc&h=AT3fqYIIPMpk31LWC1e0nxmybsLUxUBSOYN_4S1OwQeaOWPLzWBLnVoxqPG85yO-PbSKOvj-xfCksXvg11sO24Gxi4DXTMTECy90jksII4GyKJo0nVcsqm09fK1CEGesg2jqDyRqir-dNGzu2E&_tr_=_UK-R&c\[0\]=AT3REcggNsFHKRkUG3w4ti711JzcMgsx_YTVJHNA7LmyIQUJa8F3IHfVm7EUskWFZDux53UZZzS0NRDIPXVhI2JNdZZclOwcZR5eCGFD3eZZ77gG2bPhtbzLdNF23P0Sgomcyh0IRtNjkiHikxv-n6bhD76WHaTMkIRp30QJ1Aw5caUQ-X4TZqaaQwTrV2JUFUZHvInc2MHxskKVQ](https://l.facebook.com/l.php?u=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3D%2FV5eGTImo8a4%26fbclid%3DIwAR0Hmj5VPhkipo03rxqS7iqwV6Ffg7F3vM46K1Rh2hFKQIA8uWYYH0x1Hc&h=AT3fqYIIPMpk31LWC1e0nxmybsLUxUBSOYN_4S1OwQeaOWPLzWBLnVoxqPG85yO-PbSKOvj-xfCksXvg11sO24Gxi4DXTMTECy90jksII4GyKJo0nVcsqm09fK1CEGesg2jqDyRqir-dNGzu2E&_tr_=_UK-R&c[0]=AT3REcggNsFHKRkUG3w4ti711JzcMgsx_YTVJHNA7LmyIQUJa8F3IHfVm7EUskWFZDux53UZZzS0NRDIPXVhI2JNdZZclOwcZR5eCGFD3eZZ77gG2bPhtbzLdNF23P0Sgomcyh0IRtNjkiHikxv-n6bhD76WHaTMkIRp30QJ1Aw5caUQ-X4TZqaaQwTrV2JUFUZHvInc2MHxskKVQ)) to see the expected impact of these roads. Deforestation for logging roads and mine expansion, noise from operating heavy equipment and blasting, and high traffic on the mining roads will negatively affect wildlife habitats. The project summary itself admits that there will be a negative effect on migratory birds due to "related to direct and indirect loss and/or alteration of habitat" and "increases in ambient concentrations of criteria air contaminants, or accidental spills of deleterious substances". The report also acknowledges directly that "several wildlife, aquatic and vegetation species at risk have been identified in the area of the TMM Project". According to the Species At Risk Act (SARA), there are 187 species at risk in Alberta and 441 in BC, many of which exist in the ecosystem threatened by this mine. I urge the Federal Government to review this project critically through the lens of SARA and consider the impact on Canadian wildlife.

When the Grassy Mountain Coal Mine permit was denied in August of 2021 Minister Jonathan Wilkinson stated, "It is in Canada's best interests to safeguard our water ways for healthy fish populations like the westslope cutthroat trout, respect Indigenous peoples' culture and way of life, and protect the environment for future generations." I would hope that this project will also not go forward based on Canada's best interests. We are a stronger, better country if we are able to lead the way in sustainability rather than surrender to short-term corporate interests.

Submitted by

Canadian Association of Physicians for the Environment (CAPE)

Phase

Planning

Public Notice

Public Notice - Public Comments Invited on a Summary of the Initial Project Description

Attachment(s)

N/A

Date Submitted

2021-12-01 - 2:53 PM

Date modified: 2022-09-20

This is Exhibit " F " referred to in the

Affidavit of

Joe Vipond

Sworn before me this 22 day

of September A.D. 2022

A Notary Public, A Commissioner for Oaths in and for Alberta

SHAUN FLUKER Barrister & Solicitor

PART I: OVERVIEW AND STATEMENTS OF FACTS

1. In this motion, the Canadian Association of Physicians for the Environment (“CAPE”) seeks leave to intervene in this appeal pursuant to Rule 55 of the *Rules of the Supreme Court of Canada*.
2. The appeal raises the questions of whether Part 1 of *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, SC 2019, c 28 and the *Physical Activities Regulations*, SOR/2019-285 (“**Regulations**”) are *intra vires* the legislative authority of the Parliament of Canada under the *Constitution Act, 1867*, 30 & 31 Vict, c 3 (“**Constitution Act, 1867**”). Part I of the legislation consists only of the *Impact Assessment Act*, SC 2019, c 28, s 1 (“**IAA**”). These questions raise, in turn, questions relating to the characterization and classification of the *IAA* and its Regulations.
3. CAPE is a non-profit organization that engages in community and political organizing, training, and research in Alberta, with a focus on ensuring that governments commit to addressing the urgency around climate change in Canada. The organization is specifically concerned with whether the constitutional framework in Canada allows for a pragmatic, robust, and multi-jurisdictional response to climate change to reduce carbon emissions.
4. CAPE seeks leave to provide its unique perspective on the matters at issue in this appeal as a national organization that is focused on the nexus between human health and climate change. Allowing this intervention will enable this Court to hear argument focused specifically on issues relating to federal jurisdiction over greenhouse gas (“**GHG**”) emissions and consideration of Canada’s climate commitments under the *IAA* from a party with unique evidence-based perspectives relating to impacts to human health and the health of ecosystems.

PART II: STATEMENT OF ISSUES

5. The sole question in issue on this motion is whether CAPE should be granted leave to intervene in this appeal.

PART III: STATEMENT OF ARGUMENT

6. CAPE submits that it meets the test for leave to intervene. CAPE has a strong and real interest in the subject matter of this appeal, and CAPE will provide useful and different submissions to this Honourable Court.¹
7. This appeal will determine the extent of federal jurisdiction to conduct federal impact assessments of major projects that have the potential to significantly affect human and environmental health across Canada. In particular, this appeal will determine the extent of federal jurisdiction over GHG emissions and the consideration of climate change in the three phases of the federal impact assessment process under the *IAA*: triggering the federal impact assessment process; during the federal impact assessment process; and when making a public interest determination as to whether a project is in the public interest.
8. The extent of federal jurisdiction over GHG emissions and climate considerations in federal assessment and approval of major projects is a material point of law for CAPE.

A. CAPE's Interest in this Appeal

9. CAPE is a national non-profit organization whose mission is to better human health by protecting the planet. Since its inception, CAPE has advocated for policies that protect the health of people and the planet.²

¹ *Reference re Workers' Compensation Act, 1983 (Nfld.) (Application to intervene)*, [1989] 2 SCR 335 at paras 7-8.

² Affidavit of Joe Vipond, sworn September 22, 2022 at para 4, Motion Record of Canadian Association of Physicians for the Environment.

10. Given its significant implications for the regulation of environmental effects in Canada, this appeal has a strong connection to CAPE's mandate as a physician-led organization that advocates for healthier environments and ecosystems. Clarification from this Court that the federal government has jurisdiction to assess major emissions-intensive projects under the federal impact assessment regime and to consider the adverse effects of a project's GHG emissions on Canada's climate commitments when making a public interest determination is tied directly to CAPE's mandate in this regard.
11. Climate change and its impact on public health are the focus of much of CAPE's work. As an organization led by physicians, CAPE's approach to addressing the climate crisis is founded on research, ethics, and sound science. CAPE independently and collaboratively engages in mobilizing and educating health professionals and the greater public in its mission to protect the health of people and the planet.³
12. CAPE regularly engages in law reform and advocacy at both the federal and provincial levels to address and mitigate climate change to protect human health. As an organization comprised of medical professionals, CAPE has a distinct perspective related to the scientific relationship between GHG emissions, climate change, and human health.⁴
13. CAPE has done a variety of climate change advocacy work to further its mandate, including the following examples:
 - a. CAPE led a consortium that engaged the Canadian government to commit to a nation-wide coal phase-out by 2030;⁵
 - b. CAPE has made written and oral submissions to provincial and federal governments urging them to pass legislation adopting evidence-based climate change mitigation responses to avoid consequential health risks;⁶

³ *Ibid* at paras 4, 7.

⁴ *Ibid* at para 8.

⁵ *Ibid* at para 9.

⁶ *Ibid* at paras 10, 14.

- c. CAPE has produced a guide directed at health professionals who want to engage more directly on the issue of climate change, which includes a section directed at engaging with decision-makers;⁷
- d. CAPE has appeared as an intervener before the courts in cases that raise issues relating to the regulation of GHG emissions and the responsibilities owed by governments to their citizens in relation to climate change and its consequential health impacts;⁸
- e. CAPE has been involved in various capacities in federal impact assessment processes relating to proposed major projects across Canada, including by raising concerns relating to GHG emissions and Canada's long-term climate objectives with a view to mitigating climate-related health impacts.⁹

B. Outline of Proposed Submissions

- 14. If granted intervener status, CAPE's submissions will focus exclusively on the climate change provisions of the *IAA* and federal jurisdiction over GHG emissions in the *IAA* regime. Specifically, CAPE will submit that the effects of a project's potential GHG emissions is a constitutionally valid basis for triggering the federal assessment regime and that consideration of these effects and the implications for Canada's climate considerations, in the assessment report and when making a public interest determination under the *IAA* is also constitutionally valid.
- 15. CAPE will make the following submissions to assist this Court in its consideration of the issues on appeal:
 - a. The "matter" of the *IAA* and its Regulations is to establish a federal impact assessment process to safeguard against adverse effects on matters within federal

⁷ *Ibid* at para 11.

⁸ *Ibid* at paras 16, 17.

⁹ *Ibid* at paras 18 - 21.

jurisdiction under the *Constitution Act, 1867*, including the adverse effects associated with additional GHG emissions and anthropogenic climate change on matters within federal jurisdiction;

- b. Because GHG emissions from emissions-intensive projects contribute to climate change, which is causing adverse effects on several aspects of the environment falling within the enumerated heads of federal power under section 91 of the *Constitution Act, 1867*, such as fish and fish habitat, migratory birds, federal lands, and “Indians, and Lands reserved for the Indians”, federal jurisdiction to trigger an assessment and to make a public interest determination that takes into consideration GHG emissions falls squarely *within* these heads of power;
- c. Because effects from GHG emissions from major projects are a type of inter-provincial pollution which is inescapably transboundary, causing both extra-provincial effects and effects outside Canada, federal jurisdiction to trigger an assessment under the *IAA* and to make a public interest determination that takes into consideration GHG emissions is based on the national concern branch of the federal government’s peace, order, and good government (“**POGG**”) power in the residual portion of section 91 of the *Constitution Act, 1867*;¹⁰
- d. Alternatively, the GHG emissions aspect of the *IAA* and Regulations is, *itself*, within federal jurisdiction based on the national concern branch of the federal government’s POGG power in the residual portion of section 91 of the *Constitution Act, 1867*;
- e. A proper application of the principle of cooperative federalism reveals the *IAA* and its Regulations to be paradigmatic examples of cooperative federalism in action, and that inclusion of potential *effects* of GHG emissions on areas of federal jurisdiction in the *IAA* regime represents a circumscribed and constitutionally rooted feature of the *IAA* regime.

¹⁰ *Interprovincial Co-operatives Ltd. et al. v. R.*, [1976] 1 SCR 477; *R. v. Crown Zellerbach Canada Ltd.*, [1988] 1 SCR 401 at 445-446, per La Forest J (in dissent but not on this point).

C. Proposed Argument Will be Useful and Different

16. Based on CAPE's review of the arguments made at the Alberta Court of Appeal, in addition to discussions with other parties proposing to intervene in this appeal, CAPE's proposed submissions present legal arguments that are distinct from those advanced by the parties in the references and on this appeal.

17. CAPE will make these submissions from the perspective of Canadian physicians who are concerned about the health impacts of climate change on all Canadians and whether the Constitution permits a multi-jurisdictional response, which includes the federal government assessing the effects of additional GHG emissions from proposed major projects in an inclusive, open, and transparent assessment process which encourages and welcomes science-based input and participation.

18. CAPE's submissions will adopt a unique focus in arguing that GHGs are within federal jurisdiction under the *IAA* based on the effects of GHGs on existing enumerated heads of federal power under section 91, or as an aspect that itself is within federal jurisdiction based on the national concern branch of the POGG power.

PART IV: SUBMISSION ON COSTS

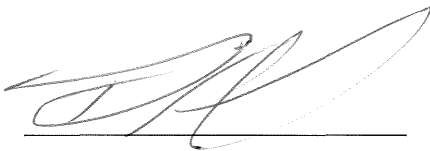
19. The CAPE asks for no costs, and it respectfully requests this Court award none against it.

PART V - ORDER REQUESTED

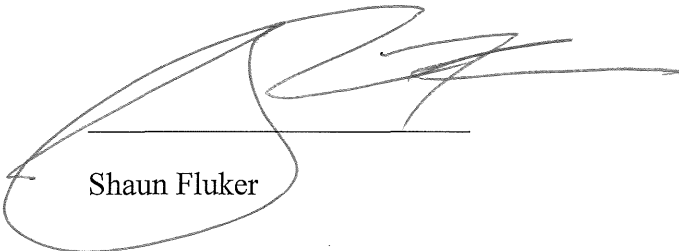
20. The CAPE respectfully requests that it be granted:

- a. leave to intervene in the within appeal;
- b. leave to file a factum in accordance with Rules 37 and 42 of the *Rules of the Supreme Court of Canada* and to make oral argument at the hearing of this appeal; and
- c. such further and other orders as this Court may deem just.

All of which is respectfully submitted, this 28th day of September, 2022.



David V. Wright



Shaun Fluker

Counsel for the Canadian Association of Physicians for the Environment

PART VI: TABLE OF AUTHORITIES**PARA****Cases**

<i>Reference re Workers' Compensation Act, 1983 (Nfld.) (Application to intervene),</i> [1989] 2 SCR 335	6
<i>Interprovincial Co-operatives Ltd. et al. v. R.,</i> [1976] 1 SCR 477	15.c
<i>R. v. Crown Zellerbach Canada Ltd.,</i> [1988] 1 SCR 401.....	15.c