



Court File No. T-2843-20

FEDERAL COURT

IN: **MARIE MALTAIS, SOPHIA MATHUR, SHIRLEY BARNEA,
ENVIRONMENTAL DEFENCE CANADA INC. and CANADIAN
ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT**

Applicants

- and -

**MINISTER OF ENVIRONMENT, CLIMATE CHANGE AND NATURE and
ATTORNEY GENERAL OF CANADA**

Respondents

APPLICATION UNDER SECTION 18.1
of the *Federal Courts Act*, RSC 1985, c F-7

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicants. The relief claimed by the applicants appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard at **Ottawa, Ontario**.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicants' solicitor or, if the applicants are self-represented, on the applicants, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: June 15 2020

Issued by: *Korach* **REGISTRY OFFICER**
(Registry Officer) **AGENT DU GREFFE**

Address of local office: Thomas D'Arcy McGee Building
90 Sparks Street, 5th floor
Ottawa ON K1A 0H9

TO: MINISTER OF ENVIRONMENT, CLIMATE CHANGE AND NATURE

AND TO: ATTORNEY GENERAL OF CANADA
c/o Department of Justice Canada
50 O'Connor Street, 5th Floor
Ottawa, Ontario K1A 0H8

APPLICATION

This is an application for judicial review of the Minister of Environment, Climate Change and Nature's (**Minister**) failure to bring the Emissions Reduction Plan for 2030 (**2030 ERP**) into compliance with mandatory obligations under the *Canadian Net Zero Accountability Act (CNZEAA or the Act)*.

Canada's 2030 greenhouse gas emissions reduction target is to reduce emissions by 40-45% below 2005 levels. When the 2030 ERP was first released in 2022, it described emissions reduction measures which it stated could be capable of meeting 40% reductions. It also stated that Canada would raise ambition for its emissions reduction measures in the coming years. Since then, the Government of Canada has taken numerous steps to repeal, weaken or significantly alter these key emissions reduction measures. The Minister's 2025 Progress Report on the 2030 Target found that measures in place as of December 2025 were on track for only 21% reductions, or 28% if then-announced additional measures were fully implemented.

In 2022, the 2030 ERP set out that it is an "ambitious and achievable roadmap to reach our emissions reduction target under the Paris Agreement." This roadmap is now largely unrecognizable, and its emissions reductions unrealizable, due to significant legal, regulatory and policy changes. These changes render the ERP unlawful as it objectively no longer contains "a description of the key emissions reduction measures the Government of Canada intends to take to achieve the" 2030 target (emphasis added). The Minister's reporting shows that the changes not detailed in the ERP take Canada far off track from achieving the 2030 Target. The Minister's failure to bring the 2030 ERP into compliance with the Act frustrates key purposes of *CNZEAA*, including promoting transparency, accountability and immediate and ambitious action to achieving the 2030 Target, as well as achieving Canada's international commitments in respect of mitigating climate change.

The Applicants wrote to the Minister demanding that she address this unlawful matter by amending the 2030 ERP to bring it into compliance with the Act. Despite this, the Minister has failed to take the required action.

THE APPLICANTS MAKE APPLICATION FOR:

1. An order in the nature of *mandamus* compelling the Minister to bring the 2030 Emissions Reduction Plan into compliance with section 10(1)(b), and/or section 9(1), of *CNZEAA* forthwith by initiating an amendment process under section 11 of *CNZEAA*, or otherwise.
2. In addition, or in the alternative to the relief sought in paragraph 1, an order or orders declaring that
 - a) the Minister's failure to bring the 2030 Emissions Reduction Plan into compliance with the obligation that it describe the key emissions reduction measures the Government of Canada intends to take to achieve the 2030 greenhouse gas emissions target is unlawful under section 10(1)(b) of *CNZEAA*;
 - b) the 2030 Emissions Reduction Plan is not compliant with section 10(1)(b) of *CNZEAA*;
3. In addition, or in the alternative to the relief sought in paragraphs 1 and 2, an order declaring that the Minister's failure to bring the 2030 Emissions Reduction Plan into compliance with the obligation that it be for achieving the 2030 Target is unlawful under section 9(1) of *CNZEAA*.
4. If this application is dismissed, an order that the Applicants shall not be required to pay costs to the Respondents, under Rule 400 of the *Federal Courts Rules*.
5. Costs of this application.
6. Such further and other relief as the applicant may request and this Honourable Court may see fit to order.

THE GROUNDS FOR THIS APPLICATION ARE:

The Parties

1. The Applicants, Marie Maltais, Sophia Mathur, Shirley Barnea, Environmental Defence Canada (**Environmental Defence**) and the Canadian Association of Physicians for the Environment (**CAPE**), are public interest litigants.
2. Marie Maltais, who is from Sainte-Catherine-de-la-Jacques-Cartier, Québec, has a genuine interest in Canada's plans to address climate change, having advocated for action on environmental issues, including climate change, since she was in her early teens. Her advocacy has included helping to form the group Éducation aux changements climatiques (EC2) to push for school curriculum in her province that adequately centers environmental and climate issues, and the perspectives of young people on the environment. She later co-founded the non-profit Réseau E3 to support student-led environmental groups across the province of Québec."
3. Sophia Mathur, who is from Sudbury, Ontario, is a lifelong climate advocate with a genuine interest in Canada's plans to address climate change. She was just 11 years old in 2018 when she became the first youth outside of Europe to join the Fridays for Future movement founded by Greta Thunberg. She has continued her advocacy in the fight against climate change through her active role within the Fridays for Future movement, as an applicant in a *Charter* challenge to the Ontario government's climate change targets, and has appeared as a speaker before Parliamentary committees and at countless public events addressing climate issues.
4. Shirley Barnea, who is from Montréal, Québec, has a genuine interest in Canada's plans to address climate change, having organized roughly thirty marches to push for improved climate action since she was 15 years old. As an organizer at Pour le futur Montréal (Fridays For Future Montréal) and citizen group Écologie populaire, she helped organize student strikes and protests with as many as 15,000 participants. She has also pushed for climate action as a volunteer on the board of directors of the Sierra Club Canada Foundation, an environmental non-profit, and has written several op-eds in various publications on climate issues.

5. Environmental Defence is a registered charity whose mission is to defend clean water, a safe climate, and healthy communities. They have a genuine interest and a longstanding history of advocacy on climate change and with regard to Canada's setting of climate targets and its plans to achieve them.
6. CAPE is a registered charity whose mission is to educate the public and health professionals about health impacts associated with the environment and climate change, as well as to research and inform the public on policies and actions needed to address health environmental change and health issues. As an organization led by physicians concerned with the impacts of climate change on human health, CAPE has a genuine interest in the setting and achievement of Canada's climate targets and plans.
7. The Applicants are all concerned with Canada's plans, or lack thereof, to reduce greenhouse gas emissions for the safeguarding of the climate and a livable future. They are also concerned with ensuring that Canada complies with its international climate obligations. They are all interested parties that intend to make submissions on any amendments made to Canada's 2030 Emissions Reduction Plan.
8. The Respondent Minister of Environment, Climate Change and Nature is responsible for the administration of *CNZEAA*, as set out in the definition of "minister" in s. 2 of the Act.
9. The Attorney General of Canada is responsible for the regulation and conduct of all litigation against the Crown or any department, in respect of any subject within the authority or jurisdiction of Canada, under s. 5(d) of the *Department of Justice Act*, RSC 1985, c J-2 and s. 18(1)(b) of the *Federal Courts Act*, RSC 1985, c F-7. Further or in the alternative, the Attorney General of Canada is named as a respondent under Rule 303(2) of the *Federal Courts Rules*, SOR/98-106.

Climate Change: an Existential Threat to Lives and Livelihoods Requiring Immediate and Ambitious Action

10. Climate change is an existential threat to all Canadians. The Supreme Court of Canada has recognized that "it is a threat of the highest order to the country, and

indeed to the world.” As set out in the preamble of *CNZEAA*, climate change poses significant risks to human health and security, the environment and economic growth. Human caused greenhouse gas emissions in Canada, and in all nations, are driving these unprecedented and dangerous changes to the climate.

11. The Minister and the Government of Canada have repeatedly acknowledged the severe threats posed by climate change.
12. Climate change is not an abstract, future problem for Canadians – it is already threatening their lives and livelihoods. Canada is currently warming at twice the global average, with Canada’s North warming three times as fast.
13. Canadians are feeling these impacts in the form of more frequent and severe weather events such wildfires, floods, drought, melting permafrost and other damaging weather events.
14. Entire communities have been displaced and livelihoods upended by climate fueled disasters, such as the wildfires that devastated Lytton, British Columbia in 2021 and Jasper, Alberta in 2024. Prolonged drought conditions across the Prairies and in other agricultural regions have reduced crop yields, stressed livestock operations, and increased food prices.
15. The economic cost of climate change for Canadians is mounting. On average, Canada now experiences more than \$3 billion in annual insured losses due to severe weather. In 2024 insured losses reach a new record of \$8.5 billion, with uninsured losses at more than three times that amount. These major impacts are just the beginning. The economic impacts of climate change are expected to continue to escalate significantly, with government estimates suggesting climate change will have a negative impact on GDP through this century.
16. To mitigate the worst impacts of climate change, greenhouse gas emissions must be drastically reduced. The United Nations Intergovernmental Panel on Climate Change has identified that achieving net-zero emissions by 2050 and reducing global emissions by 45% below 2010 levels by 2030 are key to limiting warming to the Paris Agreement goal of 1.5°C globally.

17. This is why Canada and nearly all other signatory nations to the United Nations Framework Convention on Climate Change signed the Paris Agreement in 2015, which Canada subsequently ratified in 2016. The Supreme Court of Canada has recognized that Canada, and states around the world, undertook the Paris Agreement to drastically reduce their greenhouse gas emissions to mitigate climate change.
18. The preamble of *CNZEAA* recognizes that under the Paris Agreement, Canada committed to setting and communicating ambitious national greenhouse gas emissions reductions objectives, including Canada's 2030 target, and to undertake ambitious national measures to mitigate climate change. The Minister has acknowledged that the "Paris Agreement is a legally binding international treaty."
19. Canada has also formally recognized its obligations under international law to address climate change.
20. As a UN member state, Canada has been party to the *Statute of the International Court of Justice* since the ratification of the *UN Charter* on November 9, 1945. On July 23, 2025, the International Court of Justice's Advisory Opinion on the Obligations of States in Respect of Climate Change (**ICJ Advisory Opinion**) unanimously found that:
- a) 1.5°C is the scientifically based consensus global temperature target under the Paris Agreement;
 - b) States are under an obligation to prepare, communicate and maintain successive Nationally Determined Contributions that they intend to achieve under the Paris Agreement, such as for Canada's 2030 40-45% Target;
 - c) Nationally Determined Contributions must reflect a State's "highest possible ambition", and must aim to hold the increase in the global average temperature to below 1.5°C;
 - d) Non-compliance with emission reduction commitments by a State may constitute an internationally wrongful act. Further, a State that does not exercise due diligence in the performance of its primary obligation to prevent significant

harm to the environment, including to the climate system, commits an internationally wrongful act.

21. On May 27, 2026, Canada voted in support of UN General Assembly Resolution A/80/L.65, affirming that the ICJ Advisory Opinion is an authoritative contribution to the clarification of existing international law. The resolution also calls upon all States to act in accordance with their respective international obligations, any breach of which constitutes an internationally wrongful act.

The Minister Obligations under *CNZEAA* to set Targets and make Plans to Achieve Canada’s Climate Change Commitments

22. In June 2021, Canada passed *CNZEAA* to implement its obligations under the Paris Agreement. The preamble to *CNZEAA*, its purpose and numerous provisions speak directly to Canada’s international commitments under the Paris Agreement.

23. The purpose of *CNZEAA* is set out in s. 4 of the Act:

The purpose of this Act is to require the setting of national targets for the reduction of greenhouse gas emissions based on the best scientific information available and to promote transparency, accountability and immediate and ambitious action in relation to achieving those targets, in support of achieving net-zero emissions in Canada by 2050 and Canada’s international commitments in respect of mitigating climate change.

24. In fulfilling this purpose, the Act delegates certain powers and mandatory duties to the Minister to set and amend emissions reduction targets and plans. According to the Government of Canada and the Minister’s predecessor, *CNZEAA* creates a “legally binding” process for the setting of emissions reductions targets and plans. The Government of Canada has also stated that the transparent and consultative process for the setting and amending of targets and plans required by *CNZEAA* is to ensure accountability, a key purpose of the Act.

25. Section 7(1) of *CNZEAA* requires the Minister to set national greenhouse gas emissions target for each “milestone year” before 2050, which the Act defines as

2030, 2035, 2040 and 2045. Consistent with the non-regression principle enshrined in the Paris Agreement, s. 7(3) requires that each successive target must be at least as ambitious as the prior target. Section 7(2) states that the 2030 greenhouse gas emissions target is Canada's nationally determined contribution as communicated under the Paris Agreement, as amended from time to time, which is 40-45% reductions below 2005 levels by 2030 (**2030 Target**).

26. In addition to setting a target, the Minister is required by s. 9(1) of *CNZEAA* to establish a greenhouse gas emissions reduction plan "for achieving" any target set under the Act.

27. The contents of an emissions reduction plan for achieving a target are divided by *CNZEAA* into two categories. Section 10(1) enumerates a list of mandatory elements the Minister is required to include in an emissions reduction plan. Section 10(3) permits, but does not require, the Minister to include other information relating to other measures undertaken by other parties (e.g. provinces) that may contribute to achieving the target.

28. As set out under s. 10(1)(b), a requisite element of an emissions reduction plan is that it must describe "the key emissions reduction measures the Government of Canada intends to take to achieve" a given greenhouse gas emissions target.

29. *CNZEAA* creates a process in sections 11-13 for the Minister to amend a target or an emissions reduction plan to reflect changes to either. When the Minister makes amendments, they must provide interested persons, Indigenous peoples of Canada and others the opportunity to make submissions. Any amendments to emissions reduction targets or plans must be consistent with the purposes of the Act.

Canada Does Not Intend to Take Measures Currently Described in the 2030 ERP

30. On March 29, 2022, the Minister's predecessor released the 2030 Emissions Reduction Plan (**2030 ERP**). The 2030 ERP provided a description of the key emissions reduction measures that the Government of Canada intended to take to achieve the 2030 Target. The 2030 ERP also states that according to the key

measures described, Canada’s existing and announced policies could reduce emissions to 40% below 2005 levels by 2030 which the Minister stated would achieve the lower-bound of the 2030 Target (40-45%). The Minister stated that the 2030 ERP was Canada’s “ambitious and achievable roadmap to reach our emissions reduction target under the Paris Agreement.”

31. Since the 2030 ERP was established, the Government of Canada has eliminated, weakened and/or significantly altered the key measures described in the 2030 ERP.

32. The changes to these key measures include, but are not limited to the following:

a. Elimination of Consumer Carbon Pricing and Weakening of Industrial Carbon Pricing:

The 2030 ERP stated that “without a strong price on pollution, achieving Canada’s environmental goals would require additional actions.” However, the consumer carbon price has been eliminated, and the industrial price has been severely weakened:

i. *Consumer pricing “fuel charge” eliminated:* On March 15, 2025, Canada passed the *Regulations Amending Schedule 2 to the Greenhouse Gas Pollution Pricing Act and the Fuel Charge Regulations* under sections 166 and 168 of the *Greenhouse Gas Pollution Pricing Act* that ceased the application of the consumer federal fuel charge. The complete repeal of the federal fuel charge was deemed to have come into force under Bill C-4 later in 2025.

ii. *Industrial Output-Based Pricing System weakened:* In the 2030 ERP, Canada committed to a schedule that would bring the federal “benchmark” industrial carbon price up to \$170 per tonne of CO₂ equivalent (CO₂e – the standard measure of greenhouse gas emissions) by 2030. On May 15, 2026, Canada weakened the industrial carbon pricing benchmark to only reach \$115/tonne in 2030, rising in 2040 to an effective price “target” of \$130/tonne with a price floor of \$110/tonne.

- b. Repealed and Weakened Electric Vehicle Availability Standard: the 2030 ERP described a sales mandate to ensure at least 20% of new light-vehicle sales would be zero-emission vehicles by 2026, at least 60% by 2030 and 100% by 2035. This policy was implemented into law as the “Electric Vehicle Availability Standard” via the *Amending the Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations* published on December 20, 2023. On February 5, 2026, the Prime Minister announced that the Government of Canada would repeal this mandate and replace it with a less ambitious objective to “put Canada on a path to achieve a goal of 75% EV sales by 2035 and 90% EV sales by 2040.”
- c. Cancelled Oil and Gas Emissions Cap: the 2030 ERP set out a plan to cap emissions from Canada’s most emitting sector – oil and gas – at current levels. In line with this policy, the Government of Canada had proposed *Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations* which were published in the *Gazette* on November 9, 2024. On November 27, 2025, the Prime Minister announced that Canada will not implement the Oil and Gas Emissions Cap.
- d. Delayed Application of Methane Regulations in Alberta: The 2030 ERP described Canada’s commitment “to reducing methane emissions in the oil and gas sector by at least 75% below 2012 levels by 2030.” On March 25, 2025, the Prime Minister announced a new agreement that delayed the 75% objective applicable in Alberta by 5 years to 2035, and amended the baseline year from 2012 to 2014 which reduced the level of methane emissions reductions required. Canada has committed to developing an equivalency agreement with Alberta to implement this altered regulatory commitment.
- e. Changed Application of the “Clean Electricity Standard”: the 2030 ERP described Canada’s commitment to require net-zero electricity by 2035 through a “Clean Electricity Standard.” This commitment was implemented through the *Clean Electricity Regulations* published in the *Gazette* on December 18, 2024. However, Canada has subsequently significantly weakened their application and rigour. On November 27, 2025, the Prime Minister suspended the

application of the *Clean Electricity Regulations* to Alberta pending a new carbon pricing agreement. Canada subsequently committed to negotiate an equivalency agreement with Alberta and to “stand down” the Clean Electricity Regulations in Alberta. In May of 2026, Canada released the Clean Electricity Strategy, which also announced planned amendments to the nationally applicable *Clean Electricity Regulations* that would allow certain greenhouse gas emitting fossil fuel fired units to more easily continue operations.

33. The eliminated, weakened or significantly altered measures collectively represent a significant portion of the emissions reductions necessary for Canada to achieve the 2030 Target. Since these changes were announced and/or implemented, the 2030 ERP has not been amended. The original measures are still depicted as key measures the government intends to take to achieve the 2030 Target in the ERP, despite the government having no intention to implement them as described (or even at all) and, in some cases, actively repealing their implementation.
34. The Minister has never amended the ERP to reflect these, or any, changes to key measures the government intends to take to achieve the 2030 Target, despite the description of those key measures being a requirement of a lawful emissions reduction plan under s. 10(1)(b) of *CNZEAA*.

Canada’s Current Climate Policies Cannot Achieve the 2030 Target

35. The above-described changes to the Government of Canada’s key measures described in the 2030 ERP mean that Canada’s actual intended emissions reduction measures, which are not reasonably reflected in the 2030 ERP, cannot achieve the 2030 Target of reducing emissions 40-45% below 2005 levels. Given the known changes to key measures, there is no viable path to the 2030 Target based on existing or announced measures.
36. The Minister’s own reporting confirms this. Under *CNZEAA*, the Minister is required to prepare three Progress Reports on, among other things, progress that has been made towards achieving the 2030 Target and an update on the implementation of the federal measures set out in the 2030 ERP. These reports are

required in 2023, 2025, and 2027. If a Progress Report indicates that a given target will not be met, the Minister must set out any measures that can be taken in addition to those set out in the 2030 ERP to increase the probability of achieving the target.

37. In December of 2023, the first 2030 Target Progress Report (**2023 Progress Report**) found that 40% reductions from 2005 levels could still be reached by 2030 if all modeled measures, additional actions and new measures were fully implemented.
38. In December of 2025, the second 2030 Target Progress Report (**2025 Progress Report**) projected that based on current measures (as they were at that time) Canada was on track to reduce emissions by only 21% below 2005 levels, barely halfway towards the lower end of its 40-45% reduction target. Even if Canada implemented all announced but not fully implemented measures, emissions would only be reduced by up to 28%. Achieving only 21% or 28% reductions compared to the lower range of the target – 40% reductions – would result in roughly 140 MT or 89 MT CO₂e of additional emissions in 2030, respectively. Achieving only 21% or 28% reductions compared to the upper range of the target – 45% reductions – would result in roughly 177 MT or 125 MT CO₂e of additional emissions in 2030, respectively.
39. Despite being far off track from meeting the 2030 Target when the 2025 Progress Report was released, several additional changes have been announced to the key emissions reductions measures described in the 2030 ERP since that time which further weaken Canada's ability to meet the 2030 Target. These include the repeal of the Electric Vehicle Availability Standard, the proposed changes to the content and application of the *Clean Electricity Regulations*, and the weakening and delay in the industrial carbon price and methane regulations, as described above.
40. Accordingly, the December 2025 estimate that Canada will reduce emissions by 21%-28% is likely an overestimate. Canada has no clear plan to achieve either the 21% or the 28% reductions predicted only months ago given that these emissions reductions were dependent on key measures that have been subsequently eliminate

or weakened. The Minister has not provided any updated projections on Canada's emissions trajectory in light of these subsequent changes.

41. The House of Commons Standing Committee on Environment and Sustainable Development recently published a report on the 2030 ERP that concluded "that Canada is not on track to meet its greenhouse gas reduction targets and has no plan to meet them."

The Minister has Unlawfully Failed to Bring the 2030 ERP into Compliance With the Mandatory Obligations Under *CNZEAA*

42. The Minister has failed to bring the 2030 ERP into compliance with the obligation under s. 10(1)(b) of *CNZEAA* that an ERP must contain a description of the key measures that the Government of Canada intends to take to achieve the 2030 Target.
43. The 2030 ERP objectively no longer lists the key measures the government *intends* to take. A significant number of the key measures described in the 2030 ERP have been weakened or outright repealed.
44. The 2030 ERP also no longer indicates how key measures can achieve the 2030 Target. As of December 2025, the Minister admitted that Canada was not on track to meet the 2030 Target and could at best achieve 21-28% emissions reduction. Since then, that gap has only widened with further repeals or amendments to key measures.
45. Despite the Minister's admission that the key measures detailed in the 2030 ERP no longer reflect the government's intentions, and that these changes have compromised the ability of the Government of Canada to achieve the 2030 Target, the Minister has not initiated an amendment process under s. 11 of *CNZEAA* to bring the 2030 ERP into compliance with s. 10(1)(b).
46. Additionally, or in the alternative, the Minister has failed to bring the 2030 ERP into compliance with the mandatory duty that it be "for achieving the target" as required under s. 9(1) of the Act. The Minister's reporting shows that the key measures the government now intends to take, which no longer resemble those detailed in the 2030 ERP and almost halve projected emissions cuts by 2030, cannot

achieve the 2030 Target. The Minister's approach to 'set and forget' the 2030 ERP does not comply with the language or intent of s. 9(1).

47. "Accountability" is a core purpose of *CNZEAA* and is directly in the name of the Act. A transparent and accurate emissions reduction plan is an integral tool for the public to be able to hold their government to account on climate change, as intended by this Act. However, the Minister's failure to bring the ERP into compliance with these mandatory obligations to accurately reflect the government's plans and path to achieving the 2030 Target frustrates that core purpose of the Act.

It is Necessary to Amend the 2030 ERP to Comply with *CNZEAA*

48. In this context, the Minister must amend an emissions reduction plan under s. 11 of *CNZEAA*, in a manner consistent with the purposes of the Act, to rectify the unlawful failure to comply with s. 10(1)(b), and/or s. 9(1), of *CNZEAA*.

49. In mandating that amendments to an emissions reduction plan require public and Indigenous consultation, Parliament has embedded public accountability within *CNZEAA*. The inclusion of an amendment mechanism, coupled with public consultation process, indicates that Parliament did not intend for the government's emissions reduction plans to be significantly altered without triggering the obligation to amend the plan and consult the public.

50. Despite the 2030 ERP being out of compliance with the Act's mandatory obligations, the Minister has failed to initiate an amendment process. Rather than instigating a public process to amend the 2030 Target or 2030 ERP, the Minister has bypassed *CNZEAA*'s accountability mechanism and failed to consult the public. In addition, where Parliament has provided a clear mechanism within the Minister's jurisdiction to rectify this unlawful situation, the Minister must use her jurisdiction to initiate that amendment process to bring the ERP into compliance.

51. The ERP amendment process is necessary to allow the Applicants, who are interested persons under s. 13 of *CNZEAA*, an opportunity to make submissions on changes to the ERP. This procedural right is also owed to, among others, Indigenous peoples of Canada and any other interested persons. Section 13 also

requires the Minister to allow submissions from governments of the provinces and the expert advisory body established under s. 20 of *CNZEAA*, any expert the Minister considers appropriate to consult. Despite this procedural right, the Minister's failure to initiate an amendment process has denied Applicants and others the opportunity to make submissions on the many changes to the key measures the government intends to take in its emissions planning regarding the 2030 Target.

52. The Minister's failure to amend the 2030 ERP also evades the substantive constraint under s. 11 that any amendment be "consistent with the purpose of this Act." The Act's purpose includes "accountability and immediate and ambitious action in relation to achieving [emission reduction] targets" and does not contemplate weakening either targets or plans.

The Applicants are Entitled to a *Mandamus* Order

53. The Applicants meet the requirements to seek *mandamus* to compel the Minister to amend the 2030 ERP to bring it into compliance with the mandatory requirements of *CNZEAA*.

54. The Minister has a public legal duty to ensure the 2030 ERP complies with the mandatory requirements of *CNZEAA*, including the requirement that it describe the key emissions reduction measures the Government of Canada intends to take to achieve the 2030 Target. Where the 2030 ERP is not in compliance with this mandatory obligation, *CNZEAA* provides the Minister a mechanism to correct the unlawful status of the ERP: amendment under s. 11 of *CNZEAA*.

55. The duty is owed to the Applicants as public interest litigants with a genuine and longstanding interest in Canada implementing climate change plans and targets.

56. The Applicants made a demand for performance of the Minister's duty on May 15, 2026. It has been apparent since at least December 2025 that the 2030 ERP does not comply with s. 10(1)(b), and/or s. 9(1), and that those duties have not been fulfilled. The Applicants have provided a reasonable amount of time to comply.

Parliament intended *CNZEAA* to promote immediate and ambitious action in relation to achieving targets. Despite this, the Minister has refused to act.

57. In this instance the Minister owes a duty to exercise her discretion to amend the 2030 ERP because:

- a) The Minister's failure to amend the non-compliant 2030 ERP deprives the Applicants, and others of their statutory right to make submissions. The Minister has admitted that the 2030 ERP cannot achieve the 2030 Target. Accordingly, failing to amend the 2030 ERP should be considered unfair and in bad faith.
- b) The Minister's discretion to amend the 2030 ERP is not unqualified or unfettered. Where an emissions reduction plan is non-compliant with the obligatory statutory language, it is unlawful and the only remedy under *CNZEAA* is for the Minister to amend it "in a manner that is consistent with the purpose of" *CNZEAA*.
- c) As the amendment provision is not unfettered, the Minister must act upon relevant, rather than irrelevant considerations. The relevant consideration is that the 2030 ERP does not meet the statutory requirement that it set out the key measures the government intends to take to achieve the 2030 Target, and that only the Minister can rectify this unlawful situation through amendments to the 2030 ERP.
- d) The Applicants do not seek to compel the Minister to exercise her discretion in a particular way – they seek only that the Minister initiate an amendment process so that the Minister can remedy this defect in the 2030 ERP. The Minister would retain discretion in how to meet the obligations, provided the amendments objectively describe the key measures the government is intending to take to achieve the target, and/or be for achieving the target, and so long as the process allows for the exercise of procedural rights to make submissions on proposed amendments, including whether they are consistent with the purpose of the Act.

e) The Minister's discretion is spent – the government has already made changes in law, regulation and policy that have rendered the 2030 ERP non-compliant with *CNZEAA*. The Applicants also have a vested interest in the performance of the duty, as they have requested that the Minister rectify the 2030 ERP through amendment, and seek to provide submissions in an amendment process pursuant to their procedural rights to do so as interested parties under s. 13 of *CNZEAA*.

58. No other adequate remedy is available to the Applicants.

59. The order sought would have practical effect. Compelling the Minister to initiate an ERP amendment process will ensure the Minister complies with her mandatory statutory obligation under s. 10(1)(b) and/or s. 9(1) of *CNZEAA*, and ensure the substantive constraint that amendments must be consistent with the purpose of *CNZEAA* is respected. The order would also have the practical effect of protecting the procedural rights of these Applicants who are owed the opportunity to make submissions on amendments to the 2030 ERP under s. 13 of *CNZEAA*.

60. There is no equitable bar to the order sought.

61. The balance of convenience favors *mandamus*.

General Grounds for the Application

62. The Applicants rely on: ss. 18 and 18.1, 18.4.(1) of the *Federal Courts Act*, RSC 1985, c F-7; the *Federal Court Rules*, SOR/98-106; the *Canadian Net-Zero Emissions Accountability Act*, SC 2021, c 22; the *Paris Agreement*, U.N. Doc. FCCC/CP/2015/10/Add.1, December 12, 2015; and such additional grounds as counsel may identify and this Honourable Court may consider.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

1. The affidavit of Marie Maltais, to be served;
2. The affidavit of Sophia Mathur, to be served;
3. The affidavit of Shirley Barnea, to be served;

4. The affidavit of Julia Levin, on behalf of Environmental Defence, to be served;
5. The affidavit of Robb Barnes, on behalf of CAPE, to be served;
6. The affidavit of Danielle Anderson, on behalf of the Applicants, to be served;
7. Such further and additional materials as counsel may advise and the Court may allow.

DATE: June 15, 2026



Fraser Thomson and Reid Gomme

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