

T-_____-22
FEDERAL COURT OF CANADA

BETWEEN:

**TERRAPURE BR LTD.
TERRAPURE BR LP
RYAN REID
ANDRÉ CHAUVETTE**

Applicants

AND:

**CANADA (MINISTER OF ENVIRONMENT AND CLIMATE CHANGE)
THE ATTORNEY GENERAL OF CANADA**

Respondents

**NOTICE OF APPLICATION FOR JUDICIAL REVIEW
(Section 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7)**

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TO THE RESPONDENTS:

A LEGAL 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 directs otherwise, the place of hearing will be as requested by the Applicants. The Applicants request that this application be heard in Montreal.

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 prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it

on the Applicants' solicitor, or where the Applicant is self-represented, on the Applicant, **WITHIN 10 DAYS** of 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: December 22, 2022

Issued by:

Registry
Federal Court of Canada
30 McGill Street
Montreal, Québec
H2Y 3Z7

TO:

The Attorney General of Canada
284 Wellington St
Ottawa, ON K1A 0H8

The Minister of Environment and Climate Change
Fontaine Building 12th floor
200 Sacré-Coeur Blvd
Gatineau QC K1A 0H3

Environment and Climate Change Canada
105 McGill Street, 3rd Floor
Montréal (Québec) H2Y 2E7

APPLICATION

1. **THIS IS AN APPLICATION FOR JUDICIAL REVIEW PURSUANT TO SECTION 18.1 OF THE *FEDERAL COURTS ACT*** to quash and set aside a direction dated November 24, 2022, purportedly issued pursuant to subsection 38(7.1) of the federal *Fisheries Act*¹ by Environment and Climate Change Canada (“**ECCC**”), which, *inter alia*, compels the Applicants to immediately take measures with regards to purported unlawful discharges of wastewater (the “**Direction**”).
2. The Direction should be quashed and set aside as being unreasonable as, *inter alia*:
 - (a) it does not comply with the governing statutory scheme of the *Fisheries Act*, and therefore is *ultra vires* of the jurisdiction conferred upon ECCC by the *Fisheries Act*;
 - (b) it departs, without justification, from established internal authority;
 - (c) it imposes unreasonable operating, monitoring and discharge requirements;
 - (d) it contains contradictory orders; and
 - (e) it has been issued in contravention of the rules of natural justice and procedural fairness.
3. More generally, the Direction does not take into consideration all of the relevant evidence or it misapprehends it.
4. In the alternative, it was unreasonable to issue the Direction to André Chauvette and Ryan Reid, as this does not comply with the governing statutory scheme of the *Fisheries Act*.

¹ RSC, 1985, c F-14 (the “***Fisheries Act***”).

5. **THE APPLICANTS MAKE APPLICATION TO:**

- (a) **DECLARE** that the Direction is *ultra vires*, beyond the jurisdiction of ECCC, unreasonable, and therefore invalid;
- (b) **QUASH** the Direction;
- (c) In the alternative, **ORDER** to remove the Applicants André Chauvette and Ryan Reid from the Direction's addressees;
- (d) **GRANT** the Applicants all reasonable and proper costs that this Court deems just and equitable in the circumstances; and
- (e) **GRANT** such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE APPLICATION are as follows:

I. **THE FACTS**

A. **THE APPLICANTS**

- 6. The Applicant Terrapure BR Ltd. ("**Terrapure**") is the general partner of the Applicant Terrapure BR LP (previously known as Revolution VSC LP, "**LP**").
- 7. Terrapure operates a lead-acid battery recycling facility at 1200, rue Garnier, in the city of Sainte-Catherine (the "**City**"), located within the Montreal Metropolitan Community (the "**CMM**"), Québec (the "**Establishment**").
- 8. Ryan Reid has been the President of Terrapure since August 17, 2021.
- 9. André Chauvette's employment level is one of lower management. He has no decision-making power over plant operations and his role with respect to discharges is to collect the data for the purpose of Terrapure's issuance of various environmental reports.

B. TERRAPURE'S WASTEWATER TREATMENT

i. Wastewater Treatment Plant

10. Terrapure recycles batteries at the Establishment by breaking them into their main constituent components (the “**battery breaking process**”), which are then collected and, generally, processed for reuse in the battery manufacturing industry and in other industrial activities.² Terrapure’s recycling process significantly reduces waste requiring disposal in landfills.
11. Terrapure’s battery breaking process generates process water that is treated by a wastewater treatment plant at the Establishment (the “**treatment plant**”) before being discharged to the City’s municipal storm sewer (the “**Municipal Sewer**”).
12. Terrapure operates the Establishment pursuant to an authorization (the “**Authorization**”) issued under the Québec *Environment Quality Act*³ by the *Ministère de l’Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs* (“**MELCC**”).
13. The Authorization approves, *inter alia*, the operation of the treatment plant, which treats the Establishment’s storm water and process water (collectively, the “**wastewater**”) with an approved maximum throughput capacity to the Municipal Sewer.
14. The treatment plant notably includes interconnected basins and a treatment unit to store and treat the wastewater. The treated wastewater is then discharged to the approximately 400 metre long Municipal Sewer, which discharges near Quai

² The lead-acid battery is widely used in vehicles and industrial applications across North America. However, the average life expectancy of a lead-acid battery is no more than five years. As a result, significant numbers of lead-acid batteries require recycling to avoid being disposed of in landfill.

³ CQLR c Q-2.

Baillargeon in the South Shore Canal, a 14 nautical mile portion of the St. Lawrence Seaway (the “**Seaway**”).⁴

15. When Terrapure is discharging the treated wastewater from the treatment plant to the Municipal Sewer, Terrapure analyzes composite samples of the final wastewater approximately every four hours. If the results are nearing the applicable limits, Terrapure closes the discharge valve on the treatment plant, which then operates as a closed loop treatment system until subsequent testing confirms that the treated wastewater meets the applicable limits. Terrapure then reopens the discharge valve and resumes the discharge of the treated wastewater to the Municipal Sewer.
16. Depending on the quality and quantity of the wastewater therefore, the discharge valve on the treatment plant may be closed and reopened several times per day to ensure that the treated wastewater that is ultimately discharged to the Municipal Sewer meets the applicable limits.

ii. **Mixing Model Study**

17. In 2020, Terrapure retained the services of experts to ensure that the ultimate discharge of its treated wastewater from the Municipal Sewer to the Seaway would have no unacceptable adverse effect.
18. It was confirmed by an environmental consultant, in a memorandum dated June 17, 2020 (the “**Mixing Model Study**”), that no significant impacts are anticipated in terms of the toxicity of the wastewater and non-toxic conditions are immediately achieved within five metres downstream from the Municipal Sewer outfall to the Seaway.

⁴ The Seaway is a man-made structure where fishing is strictly prohibited pursuant to the *Seaway Property Regulations* (SOR/2003-105) adopted under the *Canada Marine Act* (SC 1998, c 10).

iii. **2020 City Agreement**

19. Notwithstanding that the Mixing Model Study confirmed that the treated wastewater was not deleterious, the concentration of sulfate contained in the treated wastewater exceeded the municipal limit of 1500 mg/L (the “**municipal sulfate limit**”) set out in CMM’s By-Law 2008-47, as modified (the “**CMM By-Law**”).⁵ The municipal sulfate limit is not included in, or otherwise expressly prescribed by, the *Fisheries Act*, and well below levels demonstrated by literature as deleterious to fish.
20. On November 13, 2020, LP entered into an agreement with the City, who is in charge of the application of the CMM By-Law, which authorizes the discharge of treated wastewater above the municipal sulfate limit into the Municipal Sewer, subject to certain commitments made by LP to ensure that the treated wastewater would meet the municipal sulfate limit by November 14, 2023 (the “**2020 City Agreement**”). LP also undertook to provide quarterly updates to the City and the MELCC. The 2020 City Agreement was assigned to Terrapure effective April 1, 2021.
21. In accordance with the 2020 City Agreement, Terrapure has diligently pursued the assessment and design of a proposed sulfate recovery plant to treat the sulfate in the treated wastewater so that it would meet the municipal sulfate limit. Terrapure has also been diligently pursuing alternative solutions to ensure that the treated wastewater would meet the municipal sulfate limit in accordance with the 2020 City Agreement.

⁵ Sulfates, which are salts of sulphuric acid, are a typical component of battery recycling wastewater.

C. **ECCC INSPECTION**

i. **Notice of Intent to Issue Direction**

22. On July 14, 2022, two ECCC inspectors visited for the first time the Establishment to verify compliance with the *Fisheries Act*.
23. The ECCC inspectors requested and obtained the treatment plant's activity reports for the months of April, May and June 2022, including sulfate concentrations in effluent discharged to the Municipal Sewer (the "**Sulfate Discharges**").
24. Further, following an emergency discharge of partially treated wastewater on August 23, 2022 to manage the risks of overflows due to heavy rainfall (the "**Emergency Discharge**"), and following Terrapure's notice to ECCC, which was sent without delay, regarding this discharge, ECCC performed another inspection at the Establishment on August 23, 2022 and took samples of the partially treated wastewater discharged into the Municipal Sewer. The sampling report and analysis certificates in relation with these samples (the "**Sampling Report**"), requested by Terrapure on September 27, 2022, were only partially provided by ECCC. The toxicity testing results were obtained by Terrapure's legal counsel on November 10, 2022 further to an access to information request and no report providing sampling procedures and testing protocols was provided for review.
25. Based on the treatment plant's activity reports for the months of April, May and June 2022 and on the samples collected by ECCC on August 23, 2022, ECCC concluded, *inter alia*, that it had reasonable grounds to believe that the Sulfate Discharges and the Emergency Discharge constituted deposits of deleterious substances in contravention of subsection 36(3) of the *Fisheries Act* (the "**Deposits**").
26. On September 22, 2022, ECCC issued a Notice of Intent to issue a direction to the Applicants pursuant to the *Fisheries Act* (the "**Notice of Intent**"), which addressed, *inter alia*, the Deposits.

27. ECCC concluded that there was a risk that the Deposits in the Municipal Sewer would enter fish-bearing waters and that immediate action was necessary under subsection 38(7.1) of the *Fisheries Act* in order to prevent the occurrence of adverse effects.
28. On October 18, 2022, the Applicants provided detailed submissions (the “**Submissions**”) to ECCC describing Terrapure’s efforts to ensure compliance with the *Fisheries Act* and why a direction was not warranted or justified pursuant to subsection 38(7.1) of the *Fisheries Act* and the *Compliance and enforcement policy for habitat and pollution provisions of Fisheries Act*,⁶ including that Terrapure had never been subject to any warning or other enforcement action under the *Fisheries Act* and that it was fully collaborating with ECCC.
29. Since the issuance of the Notice of Intent, Terrapure has taken and continues to take all reasonable measures to prevent or to counteract, mitigate or remedy adverse effects, if any, that could result from, *inter alia*, the Deposits to the Municipal Sewer. Terrapure also worked diligently and collaboratively with ECCC to address ECCC’s concerns described in the Notice of Intent (including segregating the wastewater that contains the highest degree of sulfate concentration and transporting this material offsite to an approved receiver).
30. In addition, Terrapure undertook a formalized process to review the contributing factors to the August 23, 2022 overflow, and has implemented and is in the process of implementing, various enhancements to its wastewater system, in order to avoid further overflows in case of episodes of extreme weather.

ii. **Direction**

31. Despite the Submissions and full collaboration with ECCC, ECCC issued the Direction to the Applicants on November 24, 2022.

⁶ Elaborated jointly by ECCC and Fisheries and Oceans Canada (the “**Compliance Policy**”).

32. In the Direction, ECCC orders the Applicants to, *inter alia*:
- (a) on the one hand, cease the “immediate discharge” into the Municipal Sewer that is deleterious or likely to be deleterious to fish or fish habitat or to the use of fish by humans in waters frequented by fish or in any other place if there is a risk that the substance from its discharge will enter such waters, and, on the other hand, implement all measures to cease such discharges no later than July 1, 2023;
 - (b) within 30 days of receipt of the Direction, develop and submit an action plan to ECCC to implement items noted above (the “**Action Plan**”) including, *inter alia*, measures to prevent purportedly future unlawful deposits; and
 - (c) as soon as the Direction is issued, “for each batch of treated wastewater, before allowing the discharge”, undertake acute lethality tests in accordance with the Direction (the “**acute lethality tests**”). This requires that the final effluent be tested by an external approved laboratory in accordance with prescribed biological test methods using *Daphnia Magna* (commonly known as a water flea) and potentially rainbow trout.⁷

II. GROUND FOR JUDICIAL REVIEW

33. The Applicants submit that the Direction is *ultra vires*, arbitrary and unreasonable, and that this Court should grant the orders sought by the Applicants for the following reasons.
34. The Direction is unreasonable in light of the legal and factual constraints that bear on it, as it is not justified in relation to the law and facts that are relevant to it:

⁷ An acute toxicity test measures the proportions of the test species affected by their exposure to the wastewater.

- (a) ECCC issued the Direction despite not meeting all of the governing statutory conditions precedent required to issue a direction under subsection 38(7.1) of the *Fisheries Act*, and therefore acted without jurisdiction;
 - (b) it departed, without justification, from the Compliance Policy, contrary to the principle of legitimate expectations;
 - (c) the Direction's operating, monitoring and discharge requirements are not reasonable or technically feasible; and
 - (d) it contains contradictory orders.
35. Furthermore, ECCC failed to observe the principles of natural justice and procedural fairness, by refusing to remit to Terrapure a full copy of the Sampling Report, which had to be obtained through an access to information request.
36. In arriving at its conclusions to issue the Direction, ECCC did not take into consideration all of the relevant evidence or misapprehended it.
37. Alternatively, the Applicants submit that the Direction was unreasonably issued to André Chauvette and Ryan Reid, as ECCC does not meet the requirements provided by the *Fisheries Act* to include him as addressee of the Direction.

A. UNTENABLE IN LIGHT OF THE LEGAL AND FACTUAL CONSTRAINTS

i. ULTRA VIRES DIRECTION

38. The statutory conditions precedent required to issue a direction under subsection 38(7.1) have not been met. Further, in assessing whether these statutory conditions precedent were met in the Applicants' case, ECCC fundamentally misapprehended and failed to account for relevant evidence provided by the Applicants. The Direction is therefore unjustifiable in light of the facts and the law and, consequently, *ultra vires* and unreasonable.
39. ECCC is authorized to issue a direction under subsection 38(7.1) of the *Fisheries Act* where ECCC is satisfied on reasonable grounds that immediate action is

necessary to take the corrective measures described in subsection 38(6) – namely, to, “as soon as feasible, take all reasonable measures” that are consistent with public safety and with the conservation and protection of fish and fish habitat to prevent the occurrence or to counteract, mitigate or remedy any adverse effects that result from the occurrence or might reasonably be expected to result from it.

40. ECCC is therefore only authorized to issue a direction if it is satisfied on reasonable grounds that immediate action is required to prevent such adverse effects.
41. Further, ECCC’s authority is limited under subsection 38(7.1) to the types of reasonable measures described in subsection 38(6) and directing that such reasonable measures be taken as soon as feasible.
42. Finally, the corrective measures must be needed in relation with a non-authorized deposit (or a serious and imminent danger thereof) of a deleterious substance in water frequented by fish.

1) No Deposits in Water Frequented by Fish

43. First, no deposits occurred in water frequented by fish as matter of fact or law. Indeed, the Establishment’s treated wastewater is discharged in the Municipal Sewer, which discharges to the Seaway (a man-made water body). The Direction relies on no evidence that the Municipal Sewer and the Seaway are “water frequented by fish”.
44. Therefore, ECCC strays beyond the limits set by the statutory language provided in the *Fisheries Act*, such that ECCC’s failure to interpret correctly the legal requirement that no deposits must occur in water frequented by fish is unreasonable in the circumstances.

2) No Deleterious Substance

45. Second, no deleterious substance was deposited in a place where said substance may enter water frequented by fish, within the meaning of the *Fisheries Act*,

considering, *inter alia*, the results of the Mixing Model Study with respect to the treated wastewater and the measures described in the Submissions.

3) Reasonable Measures Taken as Soon as Feasible

46. Third, as set out in the Submissions, Terrapure has taken and is currently taking all reasonable measures, as soon as feasible, to insure continued compliance with applicable standards under the *Fisheries Act*. Terrapure has invested substantial time, effort and capital to put in place all reasonable measures in order to prevent or to counteract, mitigate or remedy as soon as feasible any adverse effects, if any, that could result from the Sulfate Discharges.
47. With regards to the August 23, 2022 Emergency Discharge, Terrapure has already taken, following the discharge, reasonable measures to implement various enhancements to its wastewater system to avoid further overflows.

4) No Justification for Immediate Action

48. Fourth, given that Terrapure is fully collaborating with ECCC, the MELCC and the City, given that action plans (including the 2020 City Agreement, the segregation and transportation of wastewater containing high degree of sulfate concentration to an approved receiver, and other measures to address the risk of overflow) are already in place to take all reasonable measures, there are no reasonable grounds or urgency justifying an immediate action to support the issuance of the Direction.
49. Further, measures properly mandated under a subsection 38(7.1) direction need only be taken “as soon as feasible”. In this context, ECCC does not have the authority under subsection 38(7.1) to order that measures be taken immediately.

ii. Inconsistent with the Compliance Policy

50. Furthermore, the Direction departs, without justification, from the principles included the Compliance Policy, which is an established internal authority outlining the issuance of various enforcement measures.

51. Indeed, contrary to the terms of the Compliance Policy, ECCC decided to issue the Direction notwithstanding that: (i) Terrapure had never previously been subject to any warning or other enforcement action under the *Fisheries Act*; (ii) Terrapure provided its full collaboration to ECCC; (iii) all reasonable measures had been or were in the process of being taken as soon as feasible to prevent, counteract, mitigate or remedy any potential adverse effects; and (iv) the degree of harm or potential harm to fish, if any, would be expected to be minimal.

52. ECCC's unjustifiable and unjustified departure from the Compliance Policy is unreasonable. It is also contrary to the principle of legitimate expectations and, as such, contravenes the principles of natural justice and procedural fairness.

iii. **Monitoring Requirements are Not Reasonable and Not Technically Feasible**

53. When Terrapure's treatment plant is discharging, treated wastewater is typically tested every four hours by Terrapure's internal laboratory to monitor compliance with the applicable limits. As noted above, this means that the discharge valve on the treatment plant may be closed and reopened several times per day to ensure that the treated wastewater meets the applicable limits.

54. The Direction requires that, as soon as the Direction is issued, "for each batch of treated wastewater, before allowing the discharge", Terrapure is required to undertake acute lethality tests.

55. A plain reading of this requirement would potentially require that Terrapure undertake acute lethality tests several times per day *before* allowing a discharge of treated wastewater. However, by definition, lethality testing, which can be very expensive, requires a 48 to 96 hours exposure of the test subjects, and results can take over 14 days to be delivered by the laboratory conducting such tests. Terrapure cannot stop operating/discharging to wait for external laboratory results for such a long period, and such requirement would be unjustified and unreasonable when Terrapure's internal analysis performed approximately every four hours provides a strong indicator of compliance. Weekly acute lethality testing, as was initially proposed in the Notice of Intent, would have been a

reasonable and technically feasible measure to confirm that Terrapure's internal laboratory testing is accurate.

56. Similarly, the two-step testing required by the Direction, first on *Daphnia Magna*, and then if such test fails, an additional sampling and testing on rainbow trout, is also untenable, considering the delay to receive laboratory results. Weekly acute lethality testing on rainbow trout would allow a more coherent and workable application of the requirements under the Direction and would ensure compliance with the *Fisheries Act*.
57. ECCC's authority is limited under subsection 38(7.1) to require that reasonable measures be taken as soon as feasible. However, the monitoring requirements are not reasonable, technically feasible or consistent with ECCC's other regulatory approaches to acute lethality testing.

iv. Contradictory

58. The Direction's orders are contradictory. On the one hand, the Applicants must cease the immediate discharge of deleterious substance into the Municipal Sewer. On the other hand, they must implement all measures to cease such discharges no later than July 1, 2023. These two orders are in substance the same, but associated with two different deadlines, more than six months apart.
59. As the Applicants are subject to significant fines if they do not comply with the orders, they are entitled to know, clearly and without ambiguity, what obligations are incumbent upon them by virtue of the Direction and by which deadline they must comply.
60. In these circumstances, this contradiction included in the Direction's orders is unreasonable.

B. PRINCIPLES OF NATURAL JUSTICE AND PROCEDURAL FAIRNESS

61. ECCC's refusal to share the Sampling Report in a timely manner denied the Applicants' right to review ECCC's sampling procedures and testing protocols and

to provide observations on these material documents, which form the very basis of the Direction, such that it contravenes the principles of natural justice and procedural fairness.

C. ADDRESSEES

62. In the alternative, the Applicants submit that it was unreasonable to issue the Direction to André Chauvette and Ryan Reid, considering that the conditions required to issue a direction to them are not met and considering that the evidence does not support this decision.
63. A direction under the *Fisheries Act* may only be issued to a person who has a duty to notify thereunder, namely (a) the person who owns or has the charge, management or control of the deleterious substance, or of the work, undertaking or activity that resulted in the deposit or occurrence or the danger of the deposit or occurrence, or (b) the person who causes or contributes to the occurrence or the danger of the occurrence.⁸ The inclusion of any person must also be reasonable, in the circumstances.
64. Although André Chauvette has been ECCC's point of contact during previous inspections, he does not have the power to influence the decisions relevant to the factual matters discussed in the Direction, or the actions required thereunder. André Chauvette's employment level is only one of lower management. He has no decision-making power over plant operations and his role with respect to discharges is to collect the data for the purpose of Terrapure's issuance of various environmental reports.
65. As such, André Chauvette clearly does not meet the criteria triggering a duty to notify under subsection 38(5) of the *Fisheries Act*, as he does not own nor does he have the charge, management or control of Terrapure's effluent or of Terrapure's effluent management infrastructures, nor does he have the power to

⁸ Subsec. 38(5) *Fisheries Act*.

cause or contribute to any occurrence at it relates to Terrapure's effluent discharges.

66. Furthermore, it was unreasonable for ECCC to include André Chauvette and Ryan Reid as named persons in the Direction, in addition to Terrapure and LP. The mere fact that individuals may have a role in ensuring compliance with a direction by a corporate entity is not and cannot be a sufficient basis for ECCC, acting reasonably, to take the drastic and exceptional measure of formally naming them in a direction. There needs to be particularised facts relied upon which would justify their inclusion based on their own prior course of conduct or the necessity of including them in the direction to ensure compliance. No such particularized facts are relied upon in the Direction with regards to Mr. Chauvette and Mr. Reid, other than descriptions of their roles and responsibilities at Terrapure which are in and of themselves not sufficient. Their inclusion is particularly unreasonable given the collaboration offered by Terrapure at all relevant times in this matter.
67. Therefore, the Direction, which includes Mr. Chauvette and Mr. Reid as addressees, is untenable, as it is based on ECCC's misapprehension of the relevant facts and its erroneous interpretation of the law. As such, their names must be removed from the Direction.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

68. The Applicants' Application Record including affidavits sworn on behalf of the Applicants, to be filed herein;
69. Any information filed with the Court in accordance with the request below pursuant to Rules 317 and 318 of the Federal Court Rules; and
70. Such further and other material as counsel may advise and this Honourable Court may permit.

RULE 317/318 REQUEST


71. Pursuant to Rules 317 and 318 of the *Federal Courts Rules*, the Applicants hereby request that ECCC provide them and the Registry with a certified copy of all material relevant to the Application (including the Direction) that is not in the possession of the Applicants but is in the possession of ECCC, including, without limitation:
- (a) All documents that were considered and/or consulted by ECCC when it issued the Notice of Intent and the Direction; and
 - (b) All documents (including draft versions), correspondence, memoranda, studies, written communications (including electronic communications) with or within ECCC, notes or minutes taken during verbal communications and meetings with the Applicants or their representatives, or other documents or materials relevant to the Notice of Intent or the Direction, or to issues pertaining to the Notice of Intent or the Direction.
72. The Applicants reserve their right to amend this Application including in light of the material to be transmitted.

DATED AT MONTRÉAL, this 22nd day of December, 2022.

Luca Teolis

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