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Climate
Litigation
Observatory

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recours
climatiques

Taking Stock of Climate Litigation in Canada

Inaugural review



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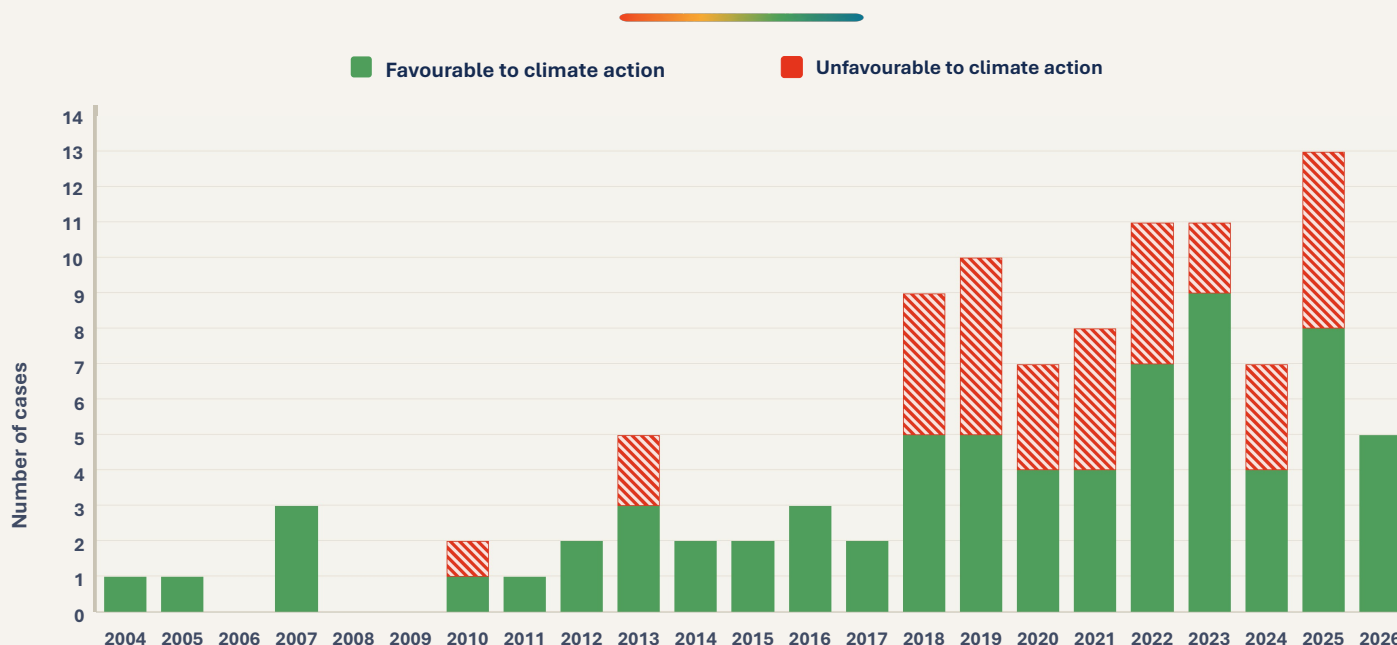


EXECUTIVE SUMMARY

This report is the first comprehensive account of **climate litigation in Canada** – that is, of cases brought before courts, administrative bodies or certain regulators about climate change and directed at the **state, businesses and individuals**. It shows that climate is now not only a scientific and political issue, but also a legal one.

The report identifies 103 climate cases filed between 2004 and September 11, 2026. Of these, **72% (74) seek to advance climate action, while 28% (29) seek instead to challenge or slow particular climate measures**. Thirty-five percent of the cases (36) were filed since 2023 – more than in the first 15 years of the survey combined (33 cases from 2004 to 2018). This growth reflects a significant shift: citizens, environmental organizations, young people, Indigenous communities and, at times, businesses are increasingly turning to the law to advance their interests on climate issues.

Climate cases filed in Canada: 2004–2026



These cases fall into eight categories, whose weight and outcomes differ markedly.



The state's overall climate response

First, **12 cases (12%) challenge the state's overall climate response**, arguing that governments are not doing enough to reduce emissions, on the basis of framework legislation, the charters of rights or international instruments. All are climate-aligned – that is, they seek to strengthen climate action – and the government is always the defendant. **None has yet succeeded:** all eight decided cases were dismissed, most often before any examination of the merits, and four remain pending. **The fate of these claims turns on whether there is a legal anchor precise enough** for a court to measure the state's conduct against; absent such an anchor, the claim is set aside as non-justiciable, and where one exists, the legislature may remove it while the case is pending. The dismissals have nonetheless led plaintiffs to reframe their claims, and **important decisions are expected in the coming years.**



Integration of climate impacts into public decisions

Second, **19 cases (18%) concern the integration of climate impacts into public decisions**, chiefly the approval of energy, industrial or land-use projects. Eighteen of them are climate-aligned. Of the 17 resolved cases, only one succeeded, 12 were dismissed and four ended without a decision because the project was abandoned or agreements were reached with the affected nations. **No approval has been permanently quashed on climate grounds**: in the single success, the assessment was corrected and the project was authorized again one month later.



Adaptation of public infrastructure

Two cases concern adaptation to climate change. Both are applications to authorize a class action following torrential rainfall in Montreal, and both are pending. They are, to our knowledge, the first Canadian cases to tie the fault alleged against a public authority explicitly to climate change. As **extreme weather events grow more frequent and more intense**, this category could eventually **become central** to Canadian climate litigation.



Misleading climate communications

Cases about misleading climate communications – greenwashing, insufficient disclosure under securities law, defamation of climate scientists – now form the **largest category, with 33 cases (32%)**, including 17 of the cases filed since 2023. It is also the least conclusive: 16 cases (48%) remain pending and, of the 17 resolved, six ended without a final decision. This litigation overwhelmingly takes the form of a complaint to a regulator rather than a court proceeding – 23 of the 25 greenwashing cases – and the only substantive outcomes are extensions of scandals already established abroad. In more than 20 years, **no case of purely Canadian origin has been carried through to a decision on the merits at the federal level**.



Regulatory or fiduciary breach by a private actor

Seven cases (7%) allege a regulatory or fiduciary breach by a private actor. All three resolved cases succeeded: a \$196.5 million fine against Volkswagen, a \$6.7 million settlement paid into the Environmental Damages Fund in AQLPA, and an approved agreement in Hino. This is the **highest success rate in the dataset**, but it rests entirely on criminal prosecution and class actions over emissions defeat devices. The first Canadian claim founded on **directors' and officers' duties** (*Hirji*, October 2025) is only at the pleading stage, and three strategies well established abroad – aligning corporate activities with climate targets, failure to adapt to the transition, and polluter-pays claims – remain absent from Canadian litigation.



Legitimacy of public action

Ten cases (10%) challenge the legitimacy of public action – jurisdiction, the reasonableness of a decision, freedom of expression – and all seek to slow climate action. Of the six resolved cases, four were dismissed, one was withdrawn and one succeeded. The courts thus recognize that public authorities have the **power to regulate on climate matters**, although that power is not unlimited: after upholding the constitutionality of federal carbon pricing in 2021, the Supreme Court held in 2023 that part of the *Impact Assessment Act* exceeded federal jurisdiction. A new front is also emerging, in which **freedom of expression** is invoked against the regulation of climate claims.



**Compensation for a
climate measure**

Eleven cases (11%) seek compensation for a climate measure, either in investor-State arbitration or as constructive taking before Canadian courts. All are non-climate-aligned, and **governments prevail almost systematically**: of eight resolved cases, six were dismissed, one was discontinued and only one resulted in an award against the state. These victories, however, often rest on narrow grounds – lack of jurisdiction, limitation periods, absence of substantial deprivation – rather than on the legitimacy of the climate measure itself, and the amounts claimed risk having a **chilling effect on regulation**.



**Proceedings connected
with climate activism**

Finally, **nine cases (9%) involve proceedings connected with climate activism**. Seven target activists or civil society organizations by way of injunction or criminal prosecution, and two, conversely, challenge state surveillance of activists. This is the category in which the **plaintiff most often prevails**: six of the seven proceedings brought against activists succeeded. Injunctions are granted almost systematically, and the necessity defence was rejected in all three cases in which it was raised between 2019 and 2025, even as courts increasingly acknowledge in express terms the gravity of the climate peril.

This report shows that climate litigation is a **means of holding governments and non-state actors to account** for their decisions and actions in the context of climate change. The analysis demonstrates, however, that Canadian courts and enforcement authorities often remain cautious. Many cases are **halted by procedural or justiciability barriers**: of the 67 resolved cases, 29 (43%) were never decided on the merits, because of a discontinuance, a striking out, a refusal of authorization, non-justiciability, a lack of jurisdiction or a regulator's refusal to open an investigation.

Despite these obstacles, an important trend is emerging. **Courts are beginning to recognize more clearly that climate change may engage fundamental rights**, particularly those of young people and of more vulnerable groups. The report also underlines the **important role of Indigenous peoples**, who are plaintiffs in 10 cases (10%) – from the two Arctic petitions of 2005 and 2013 before the Inter-American Commission on Human Rights to recent challenges to major energy projects – and for whom climate issues frequently intersect with their constitutional title and rights, including rights to their territory, to certain activities, and to be consulted on government decisions that may affect their rights.

In short, the report shows that in Canada the **fight against climate change is also being waged in the courts**. Across the cases surveyed, the law emerges as one of the means through which more ambitious climate action, greater corporate accountability, better oversight of high-emitting projects and scrutiny of public policy choices may be pursued. For citizens, this means that climate now also appears as a question of **legal responsibility and of justice**.





1. INTRODUCTION

Over the past few decades, the link between rising concentrations of greenhouse gases (GHGs) in the atmosphere, rising temperatures and the impacts of climate change has become considerably clearer¹. Warming is already producing more frequent and more intense extreme weather events (heat waves, floods, droughts, wildfires) as well as slower transformations such as sea-level rise, ocean warming and permafrost thaw². In every region of the world, these effects compromise people's health and well-being, weaken infrastructure and local economies, deepen inequality, degrade farmland, displace populations and expose millions to greater food and water insecurity.

This scientific knowledge has prompted a political and legal response. Internationally, it led to the adoption of the *United Nations Framework Convention on Climate Change* in 1992 and of the *Paris Agreement* in 2015. Domestically, most states have adopted framework legislation, sectoral policies and accountability mechanisms. Canada is among them: in 2021 it enacted the *Canadian Net-Zero Emissions Accountability Act*, climate framework legislation that entrenches the objectives of the *Paris Agreement* in Canadian law. Private actors, too, have had to respond to these issues, whether to manage climate risk, comply with new regulatory requirements or communicate about the impacts of their activities or their GHG reduction strategies.

These responses are themselves contested. Some actors consider current climate action insufficient; others challenge its legitimacy. These debates unfold in several arenas: political, media and, increasingly, legal. Civil society, Indigenous communities, young people, environmental organizations, investors and consumers – but also corporations and some governments – are taking their claims to domestic and international courts, as well as to administrative and self-regulatory authorities. This turn to legal process on climate issues is referred to in this report as “climate litigation”³.

Worldwide, these cases have multiplied and diversified over the decades, taking increasingly varied judicial and administrative routes as scientific knowledge has advanced⁴. Today, according to the most recent data from the Sabin Center for Climate Change Law and the Grantham Research Institute, more than 3,600 climate cases have been identified worldwide since 1986, of which 249 were filed in 2025 alone, across 62 countries⁵.

This diversification mirrors the tensions that surround climate action more broadly in the political and social spheres. On the one hand, many cases are brought by actors who fault states and corporations for not doing enough: weak GHG reduction targets, inadequate implementation of commitments, breaches of procedural obligations, approval of high-emitting projects, greenwashing or incomplete

¹The IPCC concludes, with “very high confidence”, that every increment of further warming aggravates climate risks and the associated losses and damages, some of which become irreversible, and that the choices made between 2020 and 2030 “will have impacts now and for thousands of years”: IPCC, “Summary for Policymakers” in *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Geneva, IPCC, 2023 at 5.

²*Ibid* at 5.

³The French text uses “recours” rather than “litiges,” because many of the matters surveyed are not brought before courts (complaints to regulators, arbitrations). “Climate litigation” and “climate cases” are used synonymously in this report.

⁴Paule Halley & Michel Bélanger, “Rétrospective du contentieux climatique canadien” (2020) 45:3 RJE 484 at 489.

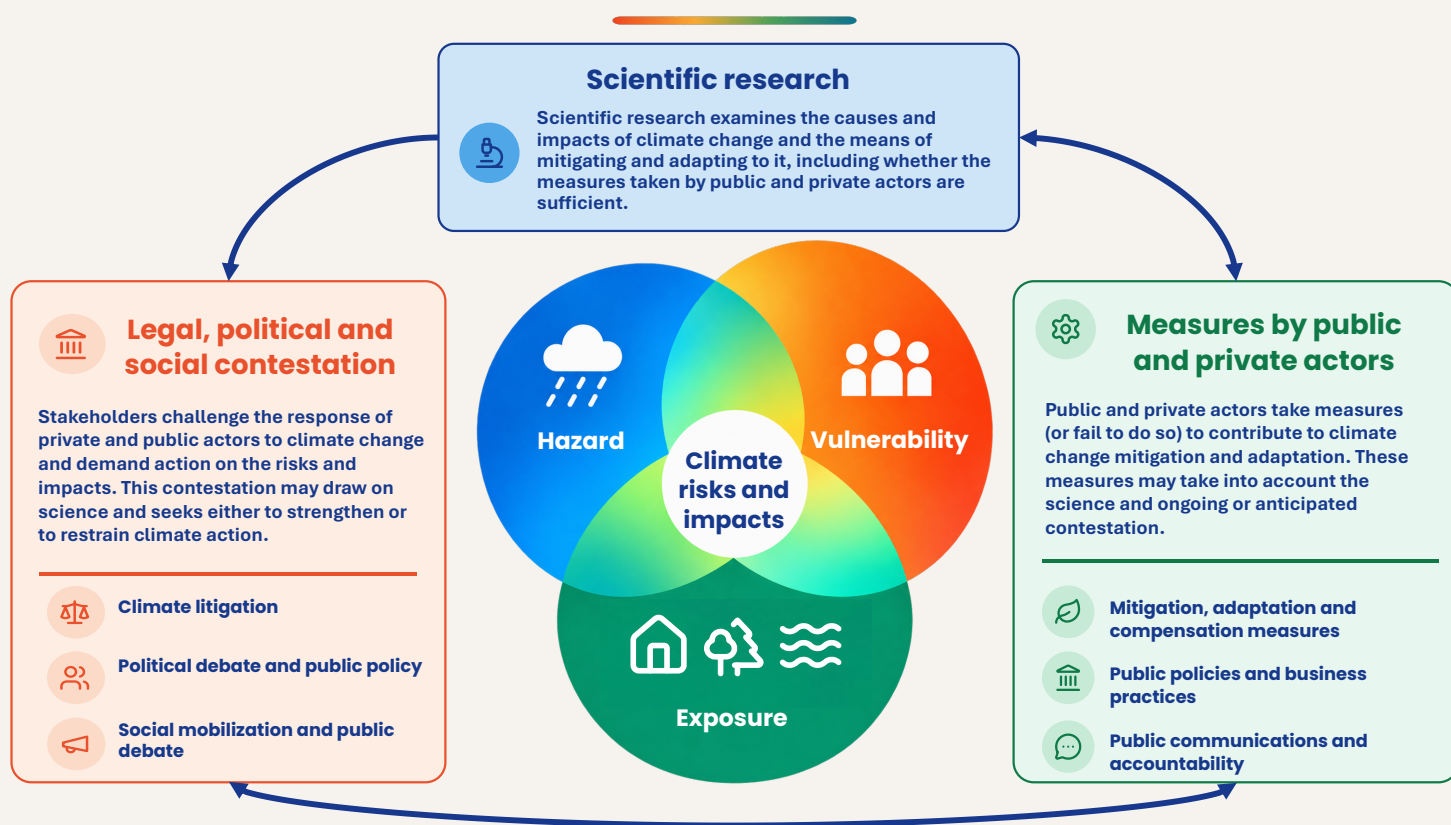
⁵Joana Setzer & Catherine Higham, *Global Trends in Climate Change Litigation: 2026 Snapshot*, London, Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, 2026 at 6, 32.



disclosure of climate risk. On the other hand, a significant number of cases challenge climate measures themselves, seeking to limit or invalidate particular climate-related policies or initiatives.

These cases draw on a wide range of legal foundations: constitutional law, administrative law, environmental law, human rights law, consumer law, securities law, the law of civil liability and international law. Some are strategic, aiming at structural change or at mobilizing public opinion beyond the outcome of the dispute. Others, non-strategic, seek compensation in a particular case⁶.

Figure 1. The cycle of climate action and its contestation



Description. As conceptualized by the IPCC, climate risk arises from the interaction of three factors. The hazard is the climate event itself, like extreme rainfall, a heat wave, drought, wildfire, flooding. Exposure is the people, buildings, infrastructure, activities and natural environments located where that event occurs. Vulnerability is the fragility of what is exposed and its capacity to absorb the shock and then recover from it. The resulting risks and impacts drive both the measures taken by public and private actors and the legal, political and social contestation of those measures, each of which may draw on scientific research. See: IPCC, "Summary for Policymakers" in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Cambridge, Cambridge University Press, 2014, Figure SPM.1.

⁶*Ibid* at 11.



Canada is part of this evolution. The first Canadian climate case dates back to 2004, with *P.V.I. International*, which concerned a company's misleading representations about the capacity of an automotive device to reduce emissions⁷. Although that decision does not yet use the vocabulary of climate change, it is a forerunner of contemporary greenwashing cases. In 2008, environmental organizations challenged the Canadian government's climate action before the federal courts in the landmark *Friends of the Earth* case, beginning a series of claims directed at the state's overall response to climate change. Canadian litigation has since diversified considerably in its legal foundations, its parties and its aims.

This report surveys Canadian climate litigation over the past two decades. It identifies a total of 103 cases as of September 11, 2026, the largest sample identified to date for Canada⁸. Although similar surveys exist internationally⁹, Canada's legal, socio-cultural, linguistic and economic particularities warrant a distinct analysis. Mapping the litigation as a whole also makes it possible to assess how well Canadian law is adapting to climate change¹⁰.

Section 2 sets out the conceptual and methodological choices made, including the definition of "climate case" adopted and the typology that follows from it, together with the broad trends that emerge from the survey as a whole. Section 3 identifies the trends specific to each category of case. Section 4 concludes.

As befits a field that is still young and in flux, this report is intended first and foremost as an initial mapping, one that brings out the main features and trends and makes it possible to better understand the role law plays in Canadian climate governance and in public debate about climate change.



⁷*P.V.I. International Inc v Canada (Commissioner of Competition)*, 2004 FCA 197 at para 2.

⁸See in particular Paule Halley & Michel Bélanger, *supra* note 4 (the evolution of the litigation to 2020); Lisa Benjamin & Sara L Seck, "Mapping Human Rights-Based Climate Litigation in Canada" (2022) 13 J Human Rights & Env't 178 (human rights-based claims); Hassan M Ahmad, *Global Perspectives on Corporate Climate Legal Tactics: Canada National Report*, London, British Institute of International and Comparative Law, 2024 (claims against corporations); Sébastien Jodoin & Jean-Philippe Lemay, "L'arbre vivant dans le contexte de la crise climatique : une analyse des litiges climatiques constitutionnels au Canada" (2022) 56:2 RJTUM 289; Catherine Choquette, Dustin Klaudt & Laura Shay Lynes, "Climate Change Litigation in Canada" in Francesco Sindico & Makane Moïse Mbengue, eds, *Comparative Climate Change Litigation: Beyond the Usual Suspects*, Cham, Switzerland, Springer, 2021; Camille Cameron, Riley Weyman & Claire Nicholson, "Legal Hurdles and Pathways: The Evolution (Progress?) of Climate Change Adjudication in Canada" (forthcoming) 27:2 Dal LJ; Julia Schatz, "Climate Change Litigation in Canada and the USA" (2009) 18:2 RECIEL; Robert C Brears & Jade Lindley, eds, *The Palgrave Handbook of Environmental Policy and Law*, Cham, Switzerland, Palgrave Macmillan, 2025.

⁹Setzer & Higham, *supra* note 5 at 6, 32.

¹⁰Jodoin & Lemay, *supra* note 8 at 297.



2. DEFINITIONS, METHODOLOGY AND GENERAL TRENDS

2.1 What is a climate case?

In this report, a climate case is a proceeding in which climate change law, policy or science raises a material issue of law or fact. This definition includes proceedings before administrative, regulatory, investigative, arbitral or self-regulatory bodies, including complaints to regulators, cases brought before international bodies and investor-State dispute settlement (ISDS) proceedings¹¹. It is the definition used by the Sabin Center for Climate Change Law to determine which cases are entered in its climate litigation database, which the Grantham Research Institute takes as the primary basis for its annual global surveys of climate litigation¹².

As to substance, by contrast, climate must be a material issue in the case, not an incidental mention. A case is therefore excluded where climate is merely ancillary, even if the outcome may bear on climate action or on environmental protection more generally¹³. That is notably so for cases about local air pollution, public health, noise, the protection of ecosystems and biodiversity or other components of the environment, unless an explicit link to climate change is alleged by the parties or drawn by the decision-maker¹⁴. The same reasoning excludes liability claims for adaptation costs or for compensation for harm caused by extreme weather events (for example, actions brought following wildfires or floods) where the claim makes no explicit link to climate change¹⁵. This question is discussed in detail in section 3.3.

A case may nonetheless be included without resting on an explicit climate-based legal foundation, provided the impugned measure is expressly part of a state or private actor's response to climate change¹⁶. A case will also be included where the arguments advanced by the parties refer to climate issues in a substantial way, even if those arguments were not examined and accepted on the merits by the decision-maker¹⁷.

¹¹In Canada, a significant share of climate claims against corporations takes the form of complaints to competition, consumer protection and securities authorities; the definition adopted here is therefore not limited to court proceedings.

¹²Setzer & Higham, *supra* note 5 at 9.

¹³For example, in *Democracy Watch, Environmental Defence Canada, Friends of the Earth Canada and Wildlands League v Ontario (Attorney General)* (Ont SCJ, File No CV-26-00006660-0000, notice of constitutional question of March 31, 2026), the challenge to the *Special Economic Zones Act, 2025*, SO 2025, c 4, Sch 9, rests exclusively on principles of structural constitutional law (legislative delegation, separation of powers, rule of law). The climate link remains indirect: the Act facilitates the expedited approval of mining and energy projects, without any climate assessment or specific project being in issue.

¹⁴For example, in *Centre québécois du droit de l'environnement v Procureur général du Québec*, 2025 QCCS 2971 (Northvot), the grounds raised (biodiversity, wetlands, threatened species, the validity of an order exempting the project from BAPE review) never concern GHG emissions or any climate policy; battery manufacturing is mentioned only as context.

¹⁵For example, in *Burgess v Ontario (Minister of Natural Resources and Forestry)* (Ont SCJ, statement of claim of September 14, 2016), residents along the Muskoka lakes faulted the ministry for negligently allowing dangerous water levels and argued that it had a duty to avoid foreseeable flooding, without invoking climate change. The action was discontinued in November 2018.

¹⁶For example, in *Canadian Civil Liberties Association v Ontario (Attorney General)*, 2020 ONSC 4838, the claim, founded on freedom of expression, targeted a statute requiring stickers denouncing federal carbon pricing; in *Greenpeace Canada v Ontario (Minister of the Environment, Conservation and Parks)*, 2019 ONSC 5629, the consultation-duty ground targeted the repeal of the Ontario cap-and-trade regime. The decisive criterion is the actual place of the climate issue in the dispute, not the legal characterization adopted.

¹⁷For example, in *Raincoast Conservation Foundation v Canada (Attorney General)*, 2019 FCA 224, the young applicants' motion founded on sections 7 and 15 of the *Canadian Charter* and on Trans Mountain's emissions was



Excluded are proceedings that do not involve a contest between parties with opposing interests, notably electricity regulatory matters (certificates of public convenience and necessity, rate setting) and uncontested environmental impact assessments¹⁸.

Finally, as to geographic scope, the survey includes cases brought before bodies located in Canada, cases targeting a Canadian measure or actor, and cases brought by litigants established in Canada.

Box 1. Drawing the line between climate and non-climate cases

As Setzer and Higham (2026) note, as climate issues permeate a growing number of areas of law, it becomes harder to draw the line between a material climate issue and a merely incidental consideration¹⁹. A definition that is too narrow would leave out disputes with indirect climate consequences, such as certain challenges to mining or airport projects that raise no climate argument, at the risk of understating the field. A definition that is too broad, conversely, would make every area of law climate law, since almost all human activity contributes to climate change or is affected by it. The definition adopted follows from the report's objective: to highlight trends in litigation in order to better understand how law is mobilized on climate matters. That choice nonetheless remains subjective, imperfect and open to revision.

2.2 How are cases categorized?

The cases are grouped into eight main categories, reflecting the types of actors involved, the nature of the breaches alleged and the objectives pursued. These categories emerged from the body of cases itself rather than from a pre-established grid, and they are therefore likely to evolve.

Each case is also classified according to whether it is oriented toward advancing climate action ("climate-aligned") or toward restricting it ("non-climate-aligned"). This classification involves a degree of subjectivity: some cases combine partly contradictory objectives, while others may produce indirect effects that the plaintiff did not necessarily seek. The label is not meant to pass judgment on the normative value or the legitimacy of a case, but only to identify the plaintiffs' objectives in order to structure the analysis and facilitate comparison between cases.

dismissed at the leave stage, without examination of the climate ground; in *Lax Kw'alaams Band v Canada (Environment and Climate Change)* (FC, application for judicial review filed October 2025), the application invoking the emissions of the Ksi Lisims LNG terminal was withdrawn after an agreement with the proponent; in *Communities and Coal Society v Canada (Attorney General)*, 2019 FCA 94, the appeal concerning the downstream emissions of exported coal was declared moot. In all three, climate is at the heart of the claims, without the court ruling on it.

¹⁸For example, in *In re River District Energy Limited Partnership*, the British Columbia Utilities Commission granted a certificate of public convenience and necessity for a district heating system despite an anticipated increase in emissions. Absent any contest, that proceeding falls outside the definition adopted here.

¹⁹Setzer & Higham, *supra* note 5 at 9–10.



Table 1. Categories of cases identified in Canada

Category	Definition
1. The state's overall climate response	Cases seeking to strengthen the state's overall response to climate change, notably by challenging mitigation targets, plans and policies on the basis of framework legislation, fundamental rights or international instruments.
2. Integration of climate impacts into public decisions	Cases challenging the way a public authority considered the climate impacts of a decision concerning a particular project or activity (rather than the state's overall climate response).
3. Adaptation to climate change	Cases alleging that the defendants failed to take the measures necessary to adapt to, and guard against, the risks raised by climate change.
4. Climate communications	Cases about the truthfulness or accuracy of public statements relating to climate: greenwashing, insufficient disclosure of climate risk under securities law, defamation and other misrepresentations.
5. Regulatory or fiduciary breaches	Cases founded on a pre-existing obligation to which a climate issue attaches: directors' and officers' duties, or regulatory emissions standards.
6. The legitimacy of public action	Cases challenging the validity or legality of a climate-related state measure, notably on the basis of the division of powers, rights guaranteed by the charters or administrative law.
7. Investor-State disputes and constructive taking	Claims by an investor or a rights holder against the state, in international arbitration or before domestic courts, alleging expropriation – including constructive taking – or unfair treatment on account of a climate measure.
8. Proceedings connected with climate activism	Cases connected with climate mobilization: injunctions against blockades, criminal prosecutions of protesters and challenges to state surveillance of activists.

2.3 Identifying the cases

The list of Canadian climate cases was assembled through an approach combining established documentary sources with expert validation. Cases were first identified from the Climate Litigation Database of the Sabin Center for Climate Change Law, which listed 52 distinct Canadian cases as of September 11, 2026. Of those, 40 were retained and 12 were set aside as not meeting the definition adopted here²⁰. The same database identified two cases filed by Canadian litigants or against Canada before international bodies and three claims brought by foreign corporations against the Canadian government.

To address the limits of that source, a supplementary search was conducted using targeted keywords in the main Canadian legal search engines and in the databases that index ISDS cases. Those searches were supplemented by references identified in the scholarly literature, the media and civil society reports. Additional cases were then added manually by the research team on the basis of its expertise. The consolidated list was finally validated externally with three Canadian environmental law NGOs and three law professors specializing in climate litigation. In total, 103 cases were identified.

²⁰The cases set aside include regulatory proceedings on energy pricing before the British Columbia Utilities Commission that did not lead to a contested debate on the merits between parties with opposing interests; claims raising no material climate issue, including an adaptation-related case in which the climate link is not expressly pleaded; greenwashing complaints about products unrelated to climate; and an opposition to a trademark.

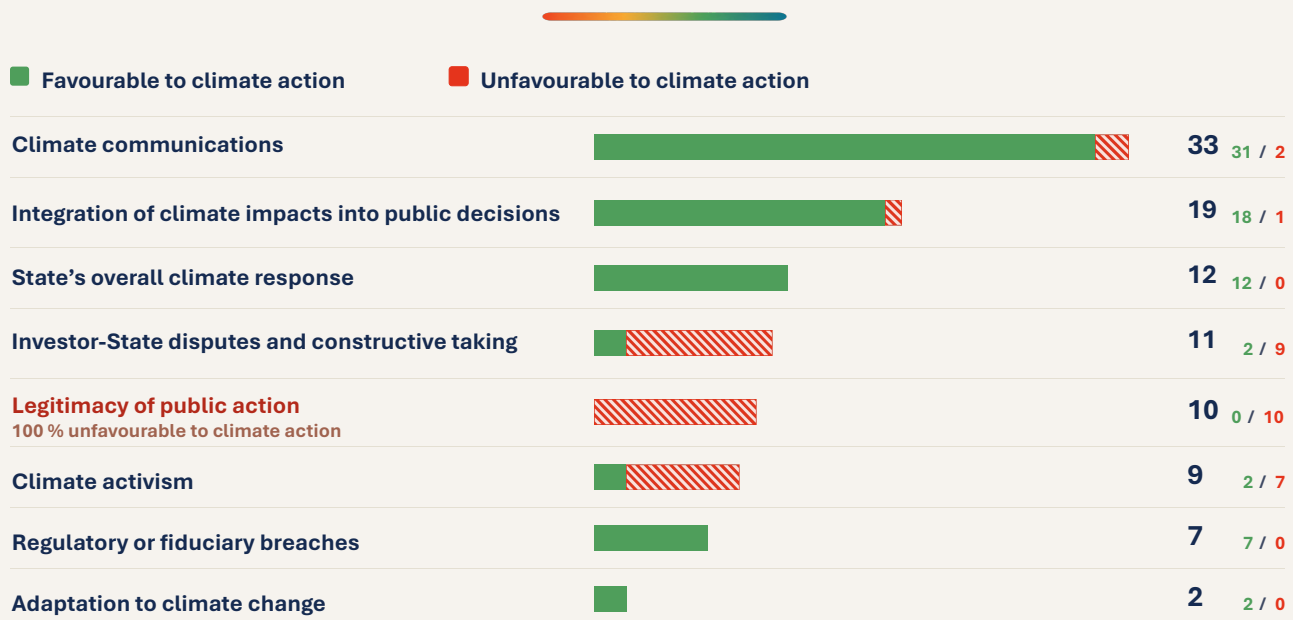


In the body of this report, each case surveyed is designated by a short name in italics (most often that of the plaintiff), and the neutral citation is given in parentheses where the point being made concerns a particular decision rather than the case as a whole. The full citation for each proceeding, together with its status and category, appears in Appendix A²¹.

2.4 General trends

Canadian litigation displays a diversity of cases, both in the objectives pursued and in the legal avenues used. Of the 103 cases identified, 74 seek to strengthen climate action (72%) and 29 seek to slow it (28%). The litigation is growing rapidly: 36 cases were filed between 2023 and September 11, 2026 – more than a third of the dataset – compared with 17 for the entire period before 2015. Growth benefits both camps, but unevenly: 26 of the 36 recent cases are climate-aligned. Slightly more than a third of the cases (36, or 35%) remain pending, so the success rates presented below mainly reflect the case law predating 2023.

Figure 2. Distribution of climate cases



NGOs dominate on the plaintiff side – they are plaintiffs in 45 cases (44%) – followed by individuals (22, often young people or protesters), corporations (21), public entities (17, chiefly consumer protection, competition and securities authorities, and provinces proceeding by way of reference) and Indigenous groups (10). On the defence side, a public entity is the target in 59 cases (57%), ahead of corporations (33) and individuals (11, almost all of them protesters).

The litigation is concentrated in federal forums (39 cases), followed by Quebec (15) and Ontario (14), British Columbia (13) and Alberta (11), with the other provinces appearing only one to three times. Eleven cases are before international forums: the eight ISDS cases against Canada, the two petitions before the Inter-American Commission on Human Rights, and the ISDS component of the *Grassy Mountain* matter.

²¹All the cases listed in Appendix A are included in the statistics presented, but not all are discussed: some are only mentioned, and others not at all, where discussing them would be repetitive or their contribution is marginal. Appendix A remains the reference list. Cases that do not appear there (foreign decisions or cases set aside) are cited in full in accordance with the *McGill Guide*.



Notably, 31 cases (30%) are brought not before a court but before an administrative or regulatory authority, an administrative tribunal or a self-regulatory body.

Among the 67 finally resolved cases, climate-aligned claims against the state succeed, even in part, in only 14% of cases (four of 29), with non-justiciability remaining the principal ground of dismissal and the only complete victory – *CCLA* – concerning freedom of expression rather than substantive climate action. Conversely, climate-aligned claims against corporations succeed in 11 of 16 cases (69%), but that result owes more to consent agreements, settlements and voluntary corrective measures than to decisions on the merits. Overall, the success rate of climate-aligned cases (15 of 46, or 33%) matches that of non-climate-aligned cases (7 of 21, or 33%). These rates nonetheless mask the particular fate of greenwashing litigation, which rarely leads to a resolution: 14 of the 25 cases identified (56%) remain pending, and the great majority of complaints filed with the Competition Bureau and securities regulators since 2021 have either been abandoned or closed, or have seen no public development since they were filed.

Conversely, non-climate-aligned challenges – the constitutionality of carbon pricing, investor arbitrations, constructive taking – fail almost systematically: a single success in 14 decided cases, the *Reference re Impact Assessment Act*, which nonetheless preserves a measure of federal jurisdiction over impact assessment. The apparent success rate of non-climate-aligned cases is thus almost entirely attributable to proceedings against protesters (injunctions, contempt and criminal prosecutions), which succeeded in six of the seven decided cases, the sole exception being the stay of proceedings entered in *R v Huard and Pirro* (2026).

Finally, resolution on the merits remains the exception: 29 of the 67 resolved cases (43%) ended without a decision on the merits – 12 by discontinuance, withdrawal, settlement without payment or closure of an investigation, and 17 by preliminary dismissal (non-justiciability, striking out, refusal of authorization, lack of jurisdiction, refusal to open an investigation).



3. CATEGORIES OF CASES

3.1 The state's overall climate response

Cases in this category allege that the state has breached obligations to set targets, to plan or to report that are imposed by climate or environmental framework legislation, or that its mitigation targets, laws and policies infringe fundamental rights. These cases seek to strengthen the state's overall response to climate change, rather than to challenge a decision about a specific project or sector (section 3.2) or adaptation to effects already being felt (section 3.3)²². They are also distinct from the cases in section 3.6, which seek to restrict climate action by challenging its validity.

The cases are grouped below into three subcategories: cases arising from climate or environmental framework legislation (3.1.1), cases alleging a violation of fundamental rights (3.1.2) and cases brought before international bodies (3.1.3).

3.1.1 Cases arising from climate or environmental framework legislation

Framework legislation is legislation that imposes procedural obligations on the state on climate and environmental matters, notably as to the adoption of targets and plans and as to reporting. The cases examined in this section rely on such statutes to obtain a declaration that the government has failed to meet the obligations it set for itself and, where appropriate, an order requiring it to comply. In that sense they may be described as strategic: framed as breaches of procedural obligations, they indirectly target what is perceived as an inadequate climate response by the state²³.

The earliest cases of this kind were dismissed on separation of powers grounds. In *Friends of the Earth* (2008 FC 1183, aff'd 2009 FCA 297), an environmental organization sought judicial review of the federal *Climate Change Plan*, which it argued did not comply with the *Kyoto Protocol Implementation Act* (KPIA). The Federal Court held the application non-justiciable on two grounds. First, it considered that ruling on the content of the Plan would encroach on the legislative and executive functions, distinguishing the failure to produce a plan, which is reviewable, from an assessment of its content, which is for government²⁴. Second, the Court considered that it could not grant an effective remedy, since it could neither dictate the content of the substantive measures to be adopted nor compel Parliament to legislate.

In *Turp*, where the applicant challenged the government's decision to withdraw from the *Kyoto Protocol* without Parliament's approval, the Court reiterated these conclusions and dismissed the application. The Federal Court also noted that the conduct of international relations falls within the executive prerogative and that it was not for the Court to assess the reasonableness of the government's response to its international commitments (2012 FC 893)²⁵.

²²Joana Setzer & Catherine Higham, *Global Trends in Climate Change Litigation: 2025 Snapshot*, London, Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, 2025 at 29.

²³See generally *ibid*.

²⁴*Friends of the Earth v Canada (Governor in Council)*, 2008 FC 1183 at para 34: "in enacting the KPIA [Kyoto Protocol Implementation Act, SC 2007, c 30], Parliament created a comprehensive system of public and Parliamentary accountability which is inconsistent with judicial review"; the *Plan* is part of "a dialogue the subject matter of which is not, for the most part, amenable to judicial review." See also Jodoin & Lemay, *supra* note 8 at 323–24.

²⁵Halley & Bélanger, *supra* note 4 at 488.



Both decisions nonetheless reserved the possibility of a future challenge founded on the *Canadian Charter of Rights and Freedoms* (the Canadian Charter), a door that the cases examined in section 3.1.2 would go through²⁶.

In *Greenpeace v Ontario* (2019 ONSC 5629), an NGO challenged the Ontario government's decision to make a regulation terminating the provincial cap-and-trade program, arguing that the repeal breached the public consultation obligation set out in the *Environmental Bill of Rights* (EBR), the Ontario statute that guarantees the public a right to be consulted on proposals with significant environmental effects. The Court found that the government had breached that obligation, but held the application inadmissible because the government had enacted the *Cap and Trade Cancellation Act*, repealing both the enabling statute and the impugned regulation and providing, in section 10, that any proceeding challenging the repeal is deemed to be dismissed²⁷. This outcome highlights a limit of litigation directed at specific legislative provisions: where the defendant holds the power to legislate, it may use that power while the case is pending to repeal the impugned provision²⁸.

Sierra Club (BC) (2023 BCSC 74) shows that review of a government's compliance with the obligations in framework legislation can be justiciable, but that how precisely those obligations are drafted is decisive. An NGO argued there that British Columbia's climate accountability report did not set out sufficient plans to meet the 2025, 2040 and 2050 targets or the oil and gas sector target. Because the statute itself prescribes the content of the report, the Court held those requirements justiciable²⁹. It nonetheless dismissed the application: in the Court's view, the minister had reasonably complied with the statute, which requires quantitative data only for the current year and the two following years, does not oblige anyone to meet the targets and provides for no penalty³⁰. The Court accordingly distinguished the English and Irish precedents relied on by the applicant NGO, which were decided under statutes where meeting the targets is itself mandatory. The obligation thus proves to be purely informational: the court verifies that the required information appears in the report, not that the plans will achieve the targets³¹.

²⁶Halley & Bélanger, *supra* note 4 at 488–89. In *Friends of the Earth*, the Court makes clear that its refusal to intervene applies "outside of the constitutional context" (*supra* note 24 at para 40); in *Turp*, it notes the absence of any challenge founded on the *Canadian Charter* (*Turp v Canada (Justice)*, 2012 FC 893 at para 18).

²⁷*Greenpeace Canada (2471256 Canada Inc) v Ontario (Minister of the Environment, Conservation and Parks)*, 2019 ONSC 5629 at paras 74, 84, 87. Two of three judges found the breach established (the minister had relied on the recent election to dispense with consultation), but the application was dismissed: Myers J relied on section 10 of the *Cap and Trade Cancellation Act*, 2018, SO 2018, c 13, and Mew J concluded that a declaration would have no practical effect; Corbett J, dissenting, would have declared the decision unlawful. That statute is itself in issue in *Mathur* (next section).

²⁸A comparable trend is apparent abroad: on August 18, 2026, New Zealand enacted the *Climate Change Response (Tort Liability) Amendment Act 2026*, which excludes any tort liability for harm connected with emissions, including in pending proceedings, bringing *Smith v Fonterra* to an end; in the United States, Utah (HB 222, 2026), Iowa, Oklahoma, Tennessee and Louisiana have enacted climate liability shields modelled on an American Legislative Exchange Council template (December 2025). See Maria Antonia Tigre, "New Zealand Legislates Away Climate Tort, Part I: *Smith v Fonterra* and the Global Backlash Against Climate Litigation" (27 August 2026), online: Climate Law Blog <<https://blogs.law.columbia.edu/climatechange/2026/08/27/new-zealand-legislates-away-climate-tort-part-i-smith-v-fonterra-and-the-global-backlash-against-climate-litigation/>>.

²⁹*Sierra Club of British Columbia Foundation v British Columbia (Minister of Environment and Climate Change Strategy)*, 2023 BCSC 74 at paras 36–38, 44–46, the court holding that the clarity of the requirements in section 4.3 reflects the legislature's intention to make them enforceable (para 46).

³⁰*Sierra Club BC*, 2023 BCSC 74 at paras 23, 68, 75, 81.

³¹*Ibid* at paras 69, 78, Basran J describing as "somewhat disappointing" the projected shortfall of roughly 2 Mt CO₂e against the 2025 target.



The framing of *Maltais*, filed on June 15, 2026 and still pending, draws the lessons of the earlier cases³². Three young activists and two NGOs allege that the federal government failed to bring its 2030 Emissions Reduction Plan into conformity with the *Canadian Net-Zero Emissions Accountability Act* – the federal climate framework statute – after several of the plan's key measures were abandoned or weakened³³. They rely on section 9(1) of the statute, which requires a plan "for achieving the target" the target, and on section 10(1)(b), which requires the plan to describe the measures the government "intends to take" to achieve its target. Anticipating the separation of powers objection, they seek an order triggering the plan amendment process while leaving the choice of measures to the government. Canada nonetheless filed a motion to strike on August 14, 2026, based on non-justiciability, lack of standing and the absence of any enforceable obligation. No decision had been rendered as of September 11, 2026³⁴.

The decisions rendered so far in this subcategory raise a risk: that courts will take refuge behind the separation of powers to decline to verify whether the government acted in accordance with the law, merely because implementation involves scientific and political dimensions³⁵. Yet, as some authors point out, the merits of a policy and its legality remain two distinct questions, and refusing any remedy on the ground that it would have no practical effect amounts to leaving the non-performance of a statute without sanction³⁶. That reluctance also sits uneasily with the very function of framework legislation, which is to bind successive governments and to write into domestic law climate commitments made internationally. It is important to recall, however, that courts have so far qualified their refusals with a reservation, suggesting that Charter-based claims could serve to review the state's overall climate response. It is to those claims that the next subsection turns.

³²*La Rose*, discussed in the next section, targets the same statute and the same 2030 Emissions Reduction Plan, but on the basis of the *Canadian Charter*; its trial is to open on October 26, 2026. Sophia Mathur, a plaintiff here, is also a party to *Mathur v Ontario*. See *Maltais v Minister of Environment and Climate Change* (FC, File No T-2843-26, notice of application of June 15, 2026).

³³According to the applicants, the federal plan, adopted before several key measures were abandoned or weakened (industrial carbon pricing, the oil and gas emissions cap, the zero-emission vehicle standard), no longer reflects the measures actually contemplated, and the government did not follow the statutory procedure then requiring public consultation (*Canadian Net-Zero Emissions Accountability Act*, SC 2021, c 22). A progress report published in December 2025 shows that Canada is far from meeting its target of a 40 to 45% reduction below 2005 levels. See "Ottawa demande au tribunal de rejeter une action en justice", *La Presse* (31 August 2026), online: <<https://www.lapresse.ca/actualites/environnement/2026-08-31/objectif-de-reduction-des-ges/ottawa-demande-au-tribunal-de-rejeter-une-action-en-justice.php>>.

³⁴On a motion to strike, the court hears no evidence: it takes the facts alleged as proven and asks only whether it is plain and obvious that the claim has no reasonable prospect of success. The ruling therefore does not decide the merits; a dismissed motion means only that the claim may proceed as pleaded: *R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at paras 17, 21; *Atlantic Lottery Corp Inc v Babstock*, 2020 SCC 19 at para 14; *La Rose v Canada*, 2023 FCA 241 at paras 18–19; *Federal Courts Rules*, SOR/98-106, r 221(1)(a); art 575(2) CCP. On judicial review, striking is possible only in "very exceptional" cases: *David Bull Laboratories (Canada) Inc v Pharmacia Inc*, [1995] 1 FC 588 (FCA) at 600. Canada argues that the Act does not require it to amend its plan as projections change; the applicants replied, on August 27, 2026, that the obligation invoked arises from subsections 9(1) and 10(1)(b) and not from section 11. See Ecojustice, press release, "Youth and Advocacy Groups Fight Back as Federal Government Moves to Strike Climate Accountability Case" (28 August 2026), online: <<https://ecojustice.ca/news/youth-and-advocacy-groups-fight-back-as-federal-government-moves-to-strike-climate-accountability-case/>>.

³⁵Jodoin & Lemay, *supra* note 8 at 325–26.

³⁶*Ibid.*



3.1.2 Cases alleging a violation of fundamental rights

A second subcategory³⁷ of cases relies on the rights guaranteed by the charters of rights and freedoms – particularly those guaranteed by sections 7 (the right to life, liberty and security of the person) and 15 (the right to equality) of the Canadian Charter³⁸ – to challenge the sufficiency of the state’s overall response to climate change. These cases emphasize the present and foreseeable effects of global warming, such as the risk of death, harm to physical and mental health, and the disproportionate exposure of certain groups³⁹. The remedies sought range from a declaratory judgment to an order to revise emissions reduction targets and plans⁴⁰.

The five cases in this subcategory raise a question that remains unanswered to this day: do sections 7 and 15 of the Canadian Charter impose on the state a positive obligation to address climate change? To date, only one decision has been rendered on the merits, in *Mathur*, and it was reversed on appeal; all the others were rendered on motions to strike or for authorization. Two cases are now over: *ENvironnement JEUnesse*, for want of justiciability, and *Lho’Imggin*, for want of a valid cause of action. *La Rose* is to be heard on the merits beginning October 26, 2026. *Mathur*, remitted to the court of first instance, is adjourned following the repeal of the impugned provisions. *Dykstra* was struck without leave to amend for want of a statutory anchor; the Saskatchewan Court of Appeal upheld that dismissal in 2026, but an application for leave to appeal to the Supreme Court remains possible⁴¹.

In *ENvironnement JEUnesse*, an NGO sought authorization to bring a class action on behalf of Quebecers aged 35 and under, alleging that the federal GHG reduction targets – insufficient and unaccompanied by any implementation plan – infringed the rights to life, security and equality guaranteed by the Canadian and Quebec charters. The Superior Court held the claim justiciable, noting that a court seized of an alleged Canadian Charter violation should not decline jurisdiction merely because the dispute has political implications⁴². It nonetheless refused authorization, for want of a rational basis for the proposed age class⁴³. The Court of Appeal dismissed the appeal, but on a different ground: it set aside the finding on justiciability, concluding that the nature of the questions raised warranted deference to the legislature⁴⁴. It made clear, however, that courts may be called upon, in another context, to examine the state’s conduct with respect to global warming (paras 40–41)⁴⁵.

In *La Rose*, 15 young people initially challenged the whole of federal climate policy. They initially asked the Court to declare that Canada has an obligation to act in a manner consistent with maintaining a stable climate system, that it infringes their rights under sections 7 and 15 of the Canadian Charter, and

³⁷This division follows that of Jodoin & Lemay, *supra* note 8 at 322 ff.

³⁸Benjamin & Seck, *supra* note 8 at 178 ff.

³⁹Some claims also allege a breach of the state’s fiduciary obligation to protect common resources, or seek a declaration that the rights guaranteed by the Canadian Charter include protection against the dangers associated with climate instability.

⁴⁰Halley & Bélanger, *supra* note 4 at 493.

⁴¹*Dykstra v Saskatchewan Power Corporation*, 2026 SKCA 99. An application for leave to appeal to the Supreme Court remained possible as of September 11, 2026.

⁴²*Environnement Jeunesse v Attorney General of Canada*, 2019 QCCS 2885 at paras 56–57.

⁴³*Environnement Jeunesse*, 2019 QCCS 2885 at paras 119, 123, 133, 135, 141; Morrison J declines to narrow the class because no new maximum age could be fixed (paras 139–40). For a critique, see Jodoin & Lemay, *supra* note 8 at 328–32.

⁴⁴*Environnement Jeunesse v Attorney General of Canada*, 2021 QCCA 1871 at paras 35–36, the Court considering that it is not for it either to weigh the scientific, health, economic and budgetary factors in issue or to dictate the state’s choices. See also Jodoin & Lemay, *supra* note 8 at 329–30.

⁴⁵*Ibid* at paras 43–44, the proposed class being described in obiter as “arbitrary.” Leave to appeal to the SCC refused, 2022 CanLII 67615 (SCC).



then to order it to develop and implement an enforceable climate recovery plan under the Court's supervision⁴⁶.

Two House groups of the Wet'suwet'en Nation filed an analogous claim a few months later – *Misdzi Yikh / Lho'Imggin*⁴⁷ – also invoking sections 7 and 15 of the Canadian Charter as well as several common law theories (public trust, equitable waste, intergenerational equity)⁴⁸, and emphasizing effects already observed on their territories: forest insect infestations, wildfires and the decline of forest animals and of salmon. The plaintiffs asked, among other things, that Canada amend its environmental assessment legislation so that it can revoke the authorization of high-emitting projects if it fails to meet its Paris commitment, and that it produce an annual independent accounting of its cumulative emissions⁴⁹.

La Rose and *Misdzi Yikh / Lho'Imggin* then followed a similar path: both were the subject of a motion to strike – that is, an end to the case without examination of the merits – which the Federal Court granted in both instances⁵⁰.

In *La Rose*, the Court held the Canadian Charter allegations non-justiciable because the plaintiffs challenged an unduly broad and unquantifiable range of acts and omissions rather than an identifiable rule of law or state act. In the Court's view, the remedies sought – a declaratory judgment, orders to take measures and judicial supervision of their execution – would amount to pronouncing, in the manner of a public inquiry, on the effectiveness of Canada's climate approach as a whole and then supervising its implementation, which would exceed the Court's institutional capacity⁵¹. The Court nonetheless refused to strike on the sole ground that the right invoked was a "positive" right – that is, an obligation on the state to act rather than a prohibition on infringement (see Box 2) – and accepted that the facts alleged could establish "special circumstances"⁵².

In *Misdzi Yikh / Lho'Imggin*, by contrast, the Court relied on *Friends of the Earth* to conclude that the question in issue was political rather than legal. It considered that climate change, with its vast economic, social and international dimensions, falls to the executive and legislative branches, so that the claim was not justiciable⁵³.

⁴⁶*La Rose v Canada*, 2020 FC 1008 at para 12, reproducing para 222 of the statement of claim; on the climate recovery plan and its judicial supervision, *ibid* at paras 49–50, 53. The plaintiffs also invoke the state's fiduciary obligation to protect public trust resources.

⁴⁷This is a single proceeding (FC, File T-211-20). Only the style of cause changes: the 2020 decision bears the name of the first House group (*Misdzi Yikh v Canada*, 2020 FC 1059), and those of 2025 and 2026 the name of the first plaintiff (*Lho'Imggin v Canada*, 2025 FC 1586 and 2026 FC 943).

⁴⁸They add that the federal peace, order and good government power requires Parliament to legislate (*Constitution Act*, 1867, s 91).

⁴⁹*Misdzi Yikh*, 2020 FC 1059 at paras 2, 4, 10, 15(e)–(f).

⁵⁰*La Rose*, 2020 FC 1008; *Misdzi Yikh*, 2020 FC 1059.

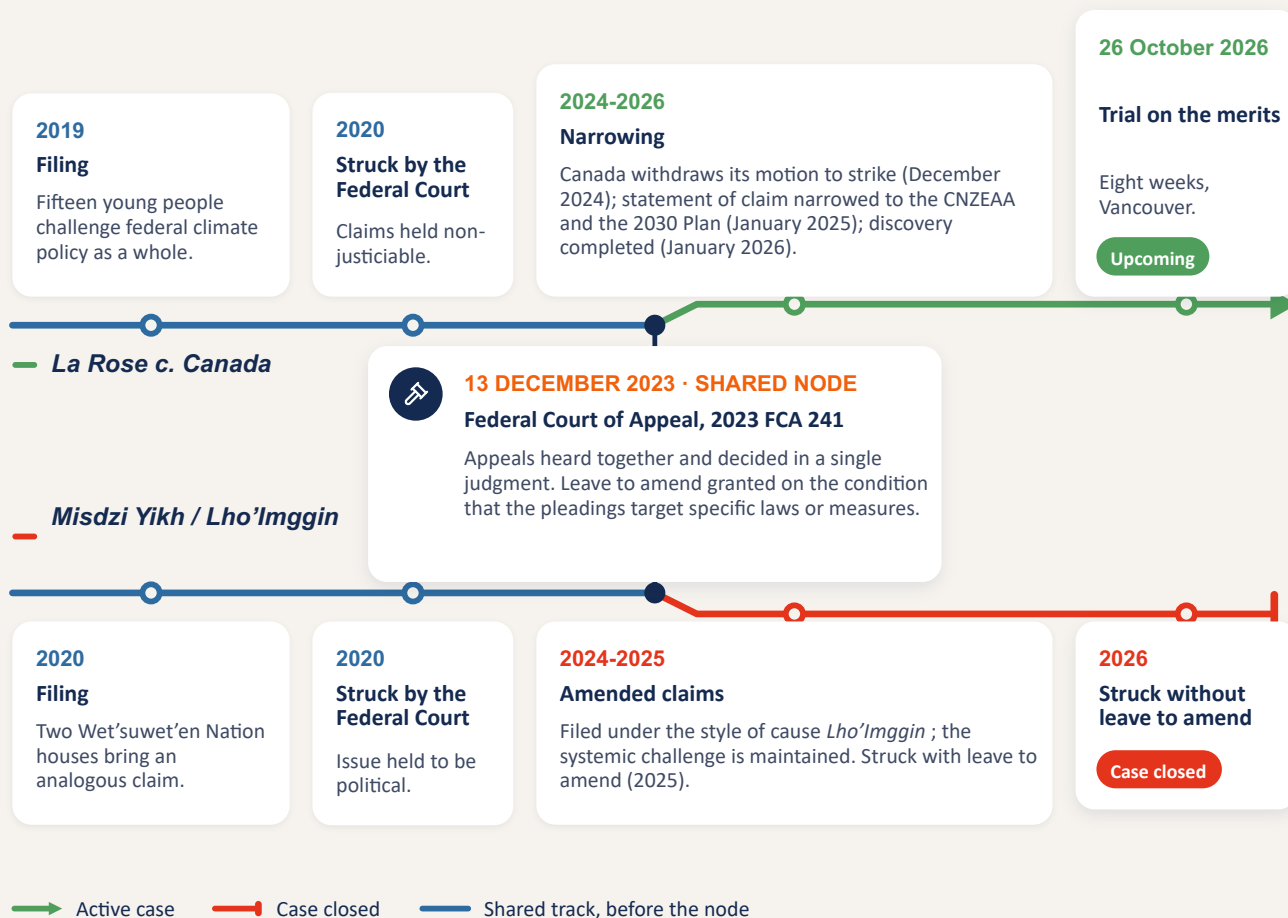
⁵¹*La Rose*, 2020 FC 1008 at paras 40–41, 50–54, Manson J citing *Tanudjaja v Canada (Attorney General)*, 2014 ONCA 852 at paras 22, 34, and *Friends of the Earth*, *supra* note 24 at paras 34–36.

⁵²*La Rose*, 2020 FC 1008 at paras 68–72, citing *Gosselin v Quebec (Attorney General)*, 2002 SCC 84 at paras 81–82, and *Kreishan v Canada (Citizenship and Immigration)*, 2019 FCA 223 at para 139, reasons of Rennie JA, who would write the reasons of the Federal Court of Appeal in *La Rose*.

⁵³*Misdzi Yikh*, 2020 FC 1059 at paras 74–78. The Court also rejects the ground founded on peace, order and good government: that head of power permits Parliament to legislate but does not require it to do so (*ibid* at paras 26–28).



Figure 3. Timeline of *La Rose* and *Misdzi Yikh / Lho'Imggin*



Both strike-outs were then appealed, heard together and decided in a single judgment. The Federal Court of Appeal concluded that there is an objective legal basis on which to assess the rights guaranteed by section 7, holding that it was not "plain and obvious" that this ground was bound to fail, since the plaintiffs had identified statutes, regulations and orders in council against which Canadian Charter rights could be assessed⁵⁴. It nonetheless struck the branches of the claims founded on section 15 and on the state's fiduciary obligation and granted leave to amend only the section 7 branch, on condition that the pleadings target specific laws or measures – their breadth and diffuseness, as pleaded, making constitutional analysis impossible⁵⁵.

In response to these requirements, the plaintiffs in *La Rose* narrowed their claim twice, until it targeted only the *Canadian Net-Zero Emissions Accountability Act* and the 2030 reduction plan adopted under it⁵⁶. Their principal argument is that the statute infringes their rights under section 7 of the Canadian

⁵⁴*La Rose v Canada*, 2023 FCA 241 at paras 22, 32–33, 42, 45–52.

⁵⁵*La Rose*, 2023 FCA 241 at paras 21–22, 123–26, 128, 130, 135. On section 15, the Court notes that intergenerational equity has never been tied to that provision and that the alleged infringement, purely prospective, rests on no present harm; on specificity, "[t]he claims fall short of meeting the threshold standard in constitutional litigation that specific laws or actions be targeted" (para 130). For a critical analysis, see Nigel Bankes et al, "What Does *La Rose* Tell Us About Climate Change Litigation in Canada?" (2 February 2024), online: *ABlawg* <<https://ablawg.ca/2024/02/02/what-does-la-rose-tell-us-about-climate-change-litigation-in-canada/>>.

⁵⁶The plaintiffs filed an amended statement of claim on May 31, 2024 and then, after Canada announced a further motion to strike, a second one on January 13, 2025.



Charter⁵⁷. Canada ultimately abandoned its attempts to strike, and the Court set an eight-week civil trial to open on October 26, 2026 in Vancouver. In *Lho'Imggin*, by contrast, despite successive grants of leave to amend their allegations, the plaintiffs maintained a wholesale challenge⁵⁸. Their claim was finally struck without leave to amend, definitively⁵⁹.

In *Mathur*, seven young Ontarians challenge the constitutionality of sections 3 and 16 of the *Cap and Trade Cancellation Act* – the statute that ended the provincial cap-and-trade program⁶⁰ – as well as the reduction target adopted under it, alleging a violation of sections 7 and 15 of the Canadian Charter⁶¹. The plaintiffs deliberately frame their claim as a negative rights claim, targeting state action rather than the insufficiency of state action⁶². In 2020, the Ontario Superior Court dismissed a motion to strike brought by the Ontario government, noting that section 7 of the Canadian Charter might one day be interpreted to support a positive constitutional obligation to ensure the stability of the climate system⁶³.

The claim accordingly proceeded and was heard on affidavit evidence and expert reports. In 2023, the Court held the claim justiciable but dismissed it on the merits, recharacterizing it as a positive rights claim⁶⁴. The Ontario Court of Appeal then reversed that characterization and remitted the matter to the Superior Court for a fresh hearing on the merits⁶⁵. The Court of Appeal held that, because the province had imposed on itself by statute the obligation to set a target, the question is not whether the Canadian

⁵⁷*La Rose v Canada* (FC, File T-1750-19), amended statement of claim of January 13, 2025 at paras 1(a)–(b), 77, filed in accordance with the orders of Case Management Judge Kathleen Ring of May 16 and 30 and December 20, 2024. The plaintiffs plead in the alternative a breach of a positive constitutional obligation to bring Canada back onto an emissions trajectory consistent with the state of scientific knowledge.

⁵⁸The harm was said to flow from the aggregate of Canada's emissions rather than from any particular instrument; having chosen to act on climate, Canada should do so consistently with the temperature commitment incorporated into domestic law by the *Canadian Net-Zero Emissions Accountability Act*. The claim thus targeted some 1,800 provisions, which the Court held incompatible with constitutional analysis: *Lho'Imggin v Canada*, 2026 FC 943 at paras 35, 76–78, 85, 95–97, 100, 108. The second amended statement of claim "is not very different from the *La Rose* plaintiffs' original claim" (para 96), and the plaintiffs conceded that up to 1,722 provisions "will likely not genuinely be at issue" (para 97).

⁵⁹The Court accepts that some of the provisions targeted could plausibly engage section 7, but the plaintiffs fail on the principles of fundamental justice branch, having failed to identify the purpose of each measure: *Lho'Imggin v Canada*, 2025 FC 1586 at paras 28, 84, 96–100. That final judgment was appealable as of right (*Federal Courts Act*, RSC 1985, c F-7, s 27(2)(a)); to our knowledge, no notice of appeal had been filed as of September 11, 2026.

⁶⁰This is the statute that rendered *Greenpeace v Ontario* moot: see note 27.

⁶¹*Mathur v Ontario*, 2024 ONCA 762 at paras 16–17, 24. Section 16 of the *Cap and Trade Cancellation Act*, 2018, *supra* note 27, repeals the *Climate Change Mitigation and Low-carbon Economy Act*, 2016, SO 2016, c 7, subsection 6(1) of which set a target of 37% below 1990 levels for 2030; section 3(1) directs the government to set new targets, and the one adopted (30% below 2005 levels) is less ambitious and calculated against a different base year.

⁶²Erin Dobbeltsteyn & Nathalie J Chalifour, "Mathur v Ontario: Youth-Led Constitutional Challenge to Government Climate Policy Lights the Path to Future Recognition of Climate Rights in Canada" in Camille Cameron, Patricia Galvão Ferreira & Riley Weyman, eds, *Climate Change Litigation Cases in Context*, Cheltenham, UK, Edward Elgar, 2026, 21 at 38–39.

⁶³*Mathur v Ontario*, 2020 ONSC 6918 at paras 233–34, Brown J recalling, citing Feldman JA's dissent in *Tanudjaja*, *supra* note 51, that the existence of "special circumstances" should not be decided on a motion to strike.

⁶⁴*Mathur v Ontario*, 2023 ONSC 2316 at paras 122, 138, 171. Vermette J nonetheless accepts that the existential threat of climate change presents "special circumstances" and considers the current test ill-suited. See Dobbeltsteyn & Chalifour, *supra* note 62 at 39.

⁶⁵*Mathur*, 2024 ONCA 762 at paras 32, 37, 49, 56–57, 65, 75–76, 79–82, citing at para 76 *Canadian Council for Refugees v Canada (Citizenship and Immigration)*, 2023 SCC 17 at para 176; the Court remits the matter to the court of first instance, better placed to make the necessary findings on infringement and remedy. Leave to appeal to the SCC refused, 2025 CanLII 38373 (SCC). The formal order never having been entered, a motion to reopen could be brought in 2026 (*Mathur v Ontario*, 2026 ONCA 561 at para 1).



Charter creates a positive obligation to act, but whether the performance of that obligation complies with the Charter.

In November 2025, with the resumed hearing imminent, Ontario repealed the impugned provisions and argued that the claim had become moot, reproducing the mechanism seen in *Greenpeace v Ontario*. The repeal did not, however, put an end to the case: the fresh hearing ordered by the Court of Appeal is proceeding before Vermette J, its exact scope remaining to be determined⁶⁶.

Although the merits remain to be decided, *Mathur* is nonetheless a landmark case. The Court of Appeal recognized there that Canadian Charter review of state action is not immune from judicial scrutiny, and rejected the argument that the remedy sought could not be ordered, since a declaratory judgment may be granted without the court imposing specific measures⁶⁷. These conclusions call for a caveat, however. The Court of Appeal's conclusion turns largely on how the claim was framed: the plaintiffs targeted specific provisions rather than challenging the whole of the government's choices, which allowed them to present their claim as a negative rights claim and limited the scope of the state action in issue.

Box 2. Positive rights and the Canadian Charter

A negative right requires the state to refrain: not to censor, not to detain arbitrarily. A positive right requires it to act: to provide a service, to legislate to protect. The Canadian Charter was conceived above all as a shield against state action, and section 7 has traditionally been read in that way. Courts nonetheless recognize obligations to act where they attach to a scheme the state itself created⁶⁸, but resist claims that would require the creation of an entirely new program⁶⁹. The Supreme Court has nonetheless left the door ajar: nothing definitively excludes the possibility that section 7 of the Canadian Charter may one day impose positive obligations, in "special circumstances"⁷⁰.

In the climate litigation context, challenging the insufficiency of state action may be read as a positive rights claim, whereas challenging a measure the state has adopted would be a negative rights claim. That is why *Mathur* was dismissed at first instance and then restored on appeal: the Court of Appeal held that Ontario had imposed on itself, by statute, the obligation to set a climate target, so that the claim went to the performance of that obligation.

The substantive question of whether a positive right to address climate change can be recognized under the Canadian Charter remains entirely open. The Federal Court of Appeal held in *La Rose* that if the existential threat of climate change does not amount to "special circumstances", it is hard to conceive what would⁷¹.

Dykstra illustrates the constraints revealed by *Mathur*. An NGO and seven individuals alleged there that SaskPower's construction – SaskPower being a provincial Crown corporation – of two natural gas plants without carbon capture, together with the insufficiency of the emissions caps set by regulation, violated sections 7 and 15 of the Canadian Charter. The plaintiffs sought orders imposing a net-zero plan. The claim was struck without leave to amend, and the Saskatchewan Court of Appeal dismissed the appeal

⁶⁶The plaintiffs sought to reopen the appeal so that the Court could decide the grounds not addressed in 2024; it refused on August 5, 2026 (*Mathur*, 2026 ONCA 561). The exact scope of the fresh hearing was to be settled at a case management conference at the end of September 2026.

⁶⁷*Mathur*, 2024 ONCA 762 at paras 66–74, citing *Canada (Prime Minister) v Khadr*, 2010 SCC 3 at para 47.

⁶⁸*Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624.

⁶⁹*Gosselin*, *supra* note 52 at paras 81–83.

⁷⁰*Ibid* at para 83.

⁷¹*La Rose*, 2023 FCA 241 at paras 115–16, citing *Gosselin*, *supra* note 52 at para 83, and *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at para 167.



(2026 SKCA 99), with a partial dissent⁷². For the majority, the claim is not justiciable, for want of a precise legal requirement whose breach could be found. The Court also recalled the limits of its institutional capacity, while accepting that the existence of political implications is not a complete bar to justiciability⁷³. The majority expressly distinguished *Dykstra* from *La Rose* and *Mathur*, where the existence of a legislative standard made those claims justiciable.

In short, justiciability depends closely on how precisely a claim ties the alleged infringement to an identifiable provision or legal obligation. That requirement has a corollary: it offers governments a means of escaping constitutional review by repealing the impugned measure⁷⁴. Nothing would prevent the federal government from doing the same in *La Rose*⁷⁵.

The requirement also confronts plaintiffs with a dilemma. Climate change results from a multitude of activities and calls for a response mobilizing just as many levers of state action. A claim that is too narrow risks affording no effective remedy; one that is too broad risks being held diffuse⁷⁶. *La Rose*, narrowed until it targets only the federal framework statute and its 2030 plan, will be the first opportunity to test that balance on the merits.

⁷²*Dykstra*, 2026 SKCA 99 (reasons of Drennan JA, dissenting in part). In her view, section 5 of the *Management and Reduction of Greenhouse Gases Act*, SS 2010, c M-2.01, requires the government to set a reduction target, and the contention that the caps adopted are not one is measured against that internal standard: the claim has the same legislative anchor as *Mathur*. That some of the remedies sought exceed the court's capacity is not fatal, a declaratory judgment remaining available.

⁷³In the Court's view, setting emissions caps requires weighing social, scientific, economic and budgetary factors, and the remedies sought would lead it to legislate rather than adjudicate: *Dykstra*, 2026 SKCA 99.

⁷⁴Ontario did so in November 2025 in *Mathur*: sections 3 to 5 of the *Cap and Trade Cancellation Act, 2018* were repealed by Schedule 1 to Bill 68, which received royal assent on November 27, 2025. The Court of Appeal nonetheless held it premature to conclude that the questions remitted will not be decided, the trial judge retaining the discretion to hear the matter (*Borowski v Canada (Attorney General)*, [1989] 1 SCR 342) and the plaintiffs being able to amend their claim: *Mathur*, 2026 ONCA 561 at paras 16–18, 28, 30, 35. See Dobbelsteyn & Chalifour, *supra* note 62 at 39–40; *contra* Feasby, deVlieger & Huys, cited in Benjamin & Seck, *supra* note 8 at 16.

⁷⁵The KPIA was repealed in 2012 by an omnibus budget statute (*Jobs, Growth and Long-term Prosperity Act*, SC 2012, c 19, s 699), both cases having already been decided.

⁷⁶*Lho'Imggin* does not reject the broad approach in principle: a challenge founded on the cumulative effects of several statutes "remains conceptually possible," provided the measures contributing to the deprivation and their purposes are identified (2025 FC 1586 at para 112). The plaintiffs sought, however, to give constitutional status to Canada's temperature commitment, so that "the section 7 Charter breach claimed is dependent on the remedy sought, which is inappropriate" (2026 FC 943 at paras 102–03). Rennie JA had anticipated this "shell game": pleaded too broadly, the claim is held diffuse; pleaded narrowly, the isolated measure does not suffice to cause the harm. The Federal Court of Appeal answers that the existence of other sources of the harm is no bar to the challenge (*La Rose*, 2023 FCA 241 at paras 133–34).



Box 3. A persistent gap with foreign domestic litigation

The current state of Canadian litigation stands apart from two landmark European decisions, in which courts relied directly on fundamental rights without requiring a link to a specific legislative provision.

In *Urgenda Foundation v State of the Netherlands*⁷⁷, the Supreme Court of the Netherlands (Hoge Raad) upheld, on December 20, 2019, the order requiring the State to reduce its emissions by at least 25% below 1990 levels by the end of 2020, on the basis of articles 2 (the right to life) and 8 (the right to respect for private and family life) of the European Convention on Human Rights (ECHR). This was the first decision anywhere in the world ordering a state to limit its emissions on a ground other than a statutory obligation, and it has since served as a model for many claims abroad⁷⁸.

Similarly, in *KlimaSeniorinnen*, the Grand Chamber of the European Court of Human Rights held, on April 9, 2024, that Switzerland had violated article 8 of the ECHR by failing in its positive obligation to adopt an adequate climate framework in good time. It was the first time the Court had found a violation of the Convention in a climate matter and had recognized a right to effective protection against the serious adverse effects of climate change⁷⁹.

These two decisions reflect the diversity of legal traditions and of conceptions of climate justice. Canadian litigation remains focused on the preliminary question of justiciability, whereas these international developments go to the substantive merits of the targets challenged⁸⁰.

3.1.3 Cases before international bodies

Two cases brought before international bodies were identified, both filed with the Inter-American Commission on Human Rights (IACHR) on behalf of Indigenous peoples of the North American Arctic: the *Inuit Petition* and the *Arctic Athabaskan Council Petition*.

The *Inuit Petition* was filed in December 2005 by Sheila Watt-Cloutier, Chair of the Inuit Circumpolar Conference, on behalf of 62 named individuals and of all Inuit of the American and Canadian Arctic. It argued that the United States, then the world's largest GHG emitter, was responsible for infringements of the fundamental rights of the Inuit, whose culture, food supply and survival depend on a stable Arctic environment. The petition invoked seven rights recognized by the American Declaration of the Rights and Duties of Man, including the rights to culture, property, health, life and the means of subsistence. The IACHR dismissed the petition in November 2006, finding that the information provided did not establish a violation of the protected rights.

⁷⁷*Urgenda Foundation v State of the Netherlands*, Hoge Raad, 20 December 2019, No 19/00135, ECLI:NL:HR:2019:2006, affirming Rechtbank Den Haag, 24 June 2015, ECLI:NL:RBDHA:2015:7145 and Gerechtshof Den Haag, 9 October 2018, ECLI:NL:GHDHA:2018:2610.

⁷⁸Dena Adler, "Dutch Court Upholds Landmark Urgenda Decision" (9 October 2018), online: *Climate Law Blog* <<https://blogs.law.columbia.edu/climatechange/2018/10/09/dutch-court-upholds-landmark-urgenda-decision-requiring-dutch-government-to-reduce-greenhouse-gas-emissions/>>.

⁷⁹*Verein KlimaSeniorinnen Schweiz and others v Switzerland* [GC], No 53600/20 (9 April 2024); see also ECtHR, press release 087 (2024).

⁸⁰See in particular *Neubauer et al v Germany*, BVerfG, 1 BvR 2656/18, 24 March 2021; *VZW Klimaatzaak v Kingdom of Belgium*, Brussels Court of Appeal, 30 November 2023, No 2021/AR/1589; *Do-Hyun Kim et al v South Korea*, Constitutional Court, 29 August 2024, 2020Hun-Ma389. These courts have, to varying degrees, reviewed the sufficiency of reduction targets or trajectories against fundamental rights.



The 2013 *Arctic Athabaskan Council Petition* moved the debate to Canada and narrowed the theory of the claim: rather than a state's GHG emissions as a whole, it targets a specific pollutant, black carbon, whose deposition on snow and ice accelerates Arctic melting. According to the petition, Canada's failure to regulate its black carbon emissions effectively is the first link in a causal chain that ends in the violation of the rights of the Athabaskan peoples – present in the region for 10,000 years – to culture, property, health and the means of subsistence; it also invokes the obligation to prevent transboundary harm and the precautionary principle. The matter remains in principle pending, with no known decision more than ten years after it was filed⁸¹.

Although neither petition led to a decision on the merits, from the mid-2000s onward they foreshadowed five themes that have since become central to rights-based climate litigation.

First, they mark the starting point of that litigation. As early as 2005, the *Inuit Petition* tied climate harm to fundamental rights, an approach that international bodies would only endorse much later⁸². In hindsight, these petitions thus appear as precursors of a movement still to come.

Second, they fault the state not for its own polluting activity, but for its failure to regulate its emissions sufficiently, contributing to the emergence of positive obligations: to regulate emissions, to prevent foreseeable harm and to assess the climate consequences of public decisions. That proposition has since been reinforced by landmark advisory opinions, notably those of the International Court of Justice (see Box 4) and of the Inter-American Court of Human Rights, which have held that states must reduce their emissions and regulate emissions-generating activities carried out by private actors in order to prevent any alteration of the climate system.

Third, they anticipate the objection based on the global multiplicity of emitters: neither claims that the United States or Canada alone caused Arctic warming, both arguing instead that a significant and avoidable contribution to a cumulative phenomenon suffices to give rise to obligations of prevention and protection. The *Arctic Athabaskan Council Petition* pushes the logic further: by targeting a single, well-characterized pollutant, black carbon, rather than a country's emissions as a whole, it tightens the causal chain. The attribution difficulty it seeks to sidestep remains at the heart of climate litigation today.

Fourth, they seek a transformation of public action rather than compensation: both ask for emissions reduction measures, for Arctic impacts to be considered before any significant government decision, and for cultural resource protection plans developed with the peoples concerned. The *Inuit Petition* adds an adaptation assistance component, an innovative approach now found elsewhere in the world⁸³.

⁸¹This absence of a decision is explained less by the case itself than by the chronic backlog of the Inter-American Commission on Human Rights, which has produced delays of more than fifteen years on the admissibility of some petitions alone.

⁸²See in particular *KlimaSeniorinnen*, *supra* note 79; International Tribunal for the Law of the Sea, *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, advisory opinion of 21 May 2024 (Case No 31); Inter-American Court of Human Rights, *Climate Emergency and Human Rights*, advisory opinion OC-32/25 (3 July 2025); *Obligations of States in respect of Climate Change*, *infra* note 85.

⁸³The adaptation assistance sought is not, however, the legal foundation of the claims: in both petitions, the alleged breach concerns mitigation. The Inuit petition faults the United States for failing to reduce its emissions and for refusing to cooperate in international efforts; the *Arctic Athabaskan Council Petition* faults Canada for failing to regulate black carbon effectively. The assistance plan sought by the Inuit is confined to consequences "that cannot be avoided." See Sheila Watt-Cloutier et al, *Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States* (7 December 2005); Arctic Athabaskan Council, *Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations of the Rights of Arctic Athabaskan Peoples Resulting from Rapid Arctic Warming and Melting Caused by Emissions of Black Carbon by Canada* (23 April 2013).



Fifth, they illustrate a conception of territory common to Indigenous claims generally: territory is not a mere economic asset but the foundation of culture, food, traditional knowledge and collective identity, so that a single climate harm may simultaneously infringe several interdependent rights⁸⁴.

Box 4. The advisory opinion of the International Court of Justice

On July 23, 2025, responding to a request from the United Nations General Assembly, the International Court of Justice unanimously delivered its advisory opinion on the *Obligations of States in respect of Climate Change* (the Advisory Opinion)⁸⁵. The Court sets out there the obligations of states arising from climate and environmental treaties, customary international law⁸⁶ and international human rights law⁸⁷. The Court concludes, among other things, that states have an obligation to regulate GHG emissions, including those of private actors, and that a breach engages their international responsibility, which entails obligations of cessation and reparation.

The interpretive weight of that opinion in Canadian law was recognized in *Lho'Imggin* (2025 FC 1586). Seized of a motion to strike, the Federal Court recalled that customary law is automatically incorporated into Canadian common law, without the need for legislation, provided it does not conflict with any valid domestic statute (*Nevsun*, 2020 SCC 5; *Hape*, 2007 SCC 26). It noted that the opinion creates no new customary norm but ties states' climate obligations to existing customary duties: to prevent significant harm to the environment, to cooperate in its protection and to respect human rights (para 61). It added that Canadian courts may draw on the opinion in assessing the conformity of domestic law with international law, particularly where environmental protection overlaps with constitutional rights (para 63): in a section 7 claim, the International Court's reasoning may thus illuminate the extent of the climate protection guaranteed by the Canadian Charter (para 64)⁸⁸. The claim was struck, but with leave to amend, because the plaintiffs had not specified which legislative measures caused the alleged infringement⁸⁹.

In *Dykstra* (2026 SKCA 99), the Saskatchewan Court of Appeal likewise acknowledged the possible interpretive value of the Advisory Opinion but held that it binds the province's courts no more than

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The Inter-American Court of Human Rights' climate advisory opinion emphasizes in particular that traditional and Indigenous knowledge must be taken into account in adaptation and mitigation measures: *Climate Emergency and Human Rights*, *supra* note 82.

⁸⁵*Obligations of States in respect of Climate Change*, advisory opinion, 23 July 2025, ICJ, online: <<https://www.icj-cij.org/case/187>>.

⁸⁶Unlike a treaty, customary international law is neither negotiated nor signed. It emerges from the consistent practice of states, where they act as they do because they believe themselves bound to, and it binds them without their having consented by treaty.

⁸⁷See Nina Pindham & Emily Bradeen, "How the Climate Change Advisory Opinion from the International Court of Justice is Influencing Domestic Jurisprudence" (23 July 2026), online: *Cornerstone Barristers* <<https://cornerstonebarristers.com/how-the-climate-change-advisory-opinion-from-the-international-court-of-justice-is-influencing-domestic-jurisprudence/>>; Maria Antonia Tigre, Max Bönnemann & Aaron De Spiegeleir, "The ICJ's Advisory Opinion on Climate Change: An Introduction" in *The ICJ's Advisory Opinion on Climate Change*, Berlin, Verfassungsbooks, 2025, 15, DOI: <10.17176/20251210-183825-0>; Margaretha Wewerinke-Singh & Jorge E Viñuales, "The Great Reset: The ICJ Reframes the Conduct Responsible for Climate Change Through the Prism of Internationally Wrongful Acts" (4 August 2025), online: *EJIL: Talk!* <<https://www.ejiltalk.org/the-great-reset-the-icj-reframes-the-conduct-responsible-for-climate-change-through-the-prism-of-internationally-wrongful-acts/>>.

⁸⁸Two caveats accompany that opening. The opinion does not relieve plaintiffs of the need to prove the state practice and *opinio juris* establishing the norm invoked (para 62). And while the Court holds that it is not "plain and obvious" that a common law tort founded on a breach of customary law is bound to fail, it finds that the ground was not properly pleaded (para 113): *Lho'Imggin*.

⁸⁹*Mathur*, 2024 ONCA 762 at para 70; see also Dobbeltsteyn & Chalifour, *supra* note 62 at 38.



American, British or Australian decisions would; it added that the opinion is irrelevant to justiciability, while accepting that it could have been influential at a later stage had the claim been held justiciable. In the Court's view, while the opinion may illuminate the interpretation of a question that is already justiciable, it cannot render justiciable a question that is not.

Could Canada be sued before the International Court of Justice for its contribution to climate change? In theory, yes: it is among the states that have accepted the Court's compulsory jurisdiction in advance⁹⁰. In practice, however, that avenue is narrow. Canada's 2023 declaration contains several reservations and, above all, may be amended or withdrawn with immediate effect, including in the face of an imminent dispute. Commentators therefore describe it as compulsory jurisdiction "in name only"⁹¹. That change of course raises the question whether it is a matter of coincidence or a strategic choice in the face of proliferating international climate claims⁹².

Finally, the opening recognized in *Lho'Imggin* is not confined to the state. *Nevsun v Araya*, on which the Federal Court relied, concerned a Canadian mining company sued for events occurring abroad⁹³. A claim founded on a breach of customary law could therefore also be brought against Canadian corporations before this country's courts, an avenue as yet unexplored in the climate context.

3.2 Integrating climate considerations into public decisions

Cases in this category challenge a decision by which a public authority approved, refused or extended a project or activity, on the ground that the climate impacts were not adequately considered. They are most often applications for judicial review brought by environmental organizations, citizens or Indigenous Nations, targeting the authorization of an energy or industrial project (a pipeline, oil sands, liquefied natural gas, a coal terminal, offshore drilling, a quarry, carbon capture) or of non-energy infrastructure (a hospital, a tramway, a road, a school complex, a bike lane).

Despite the diversity of the projects and authorities involved, these cases raise a single question: to what extent was the authority required to take climate impacts into account? The answer depends on the legal framework within which the decision was made, and more precisely on the place that framework reserves for climate. Hence the distinction between decisions made outside an environmental assessment regime, where the climate question arises in the exercise of powers governed by the law of the sector concerned (3.2.1), and decisions made within such a regime, which itself defines the effects the decision-maker must examine (3.2.2).

⁹⁰Sandrine Maljean-Dubois & Yann Kerbrat, "Opening the Doors: Legal Consequences of Breaching International Climate Obligations in the ICJ Advisory Opinion" (2026) RECIEL at 11; see also the *United Nations Framework Convention on Climate Change*, 9 May 1992, 1771 UNTS 107, art 14, applicable *mutatis mutandis* under art 24 of the *Paris Agreement*, 12 December 2015, 3156 UNTS 79.

⁹¹As amended on 28 August 2023, the declaration makes any proceeding subject to six months' written notice and excludes disputes raised by a state that accepted that jurisdiction less than twelve months earlier. See Christopher K Penny, "Compulsory in Name Only: Canada's Effective Withdrawal from ICJ Optional Clause Jurisdiction" (2026) Canadian YB Intl L 1, DOI: <10.1017/cyl.2025.10042>.

⁹²Australia, Canada, Germany, Japan and Norway could nonetheless be brought before the Court by virtue of their acceptance of its compulsory jurisdiction (art 36(2) of the Statute): Maljean-Dubois & Kerbrat, *supra* note 90 at 11. See also Penny, *supra* note 91 at 1–29.

⁹³*Nevsun Resources Ltd v Araya*, 2020 SCC 5.



3.2.1 Decisions made outside an environmental assessment regime

What the decisions grouped here have in common is that they were not made within an environmental assessment regime. That the project may otherwise have been assessed at some other point makes no difference, so long as the impugned decision falls outside that process. Plaintiffs nonetheless seek to have climate considered, by tying it to the rules that otherwise govern the impugned decision – the scope of the power conferred by the enabling statute or, in land-use matters, the applicable provincial and municipal policies.

Nine cases fall within this subsection. Five concern decisions made under a variety of sectoral regimes (public transit, mining, municipal park management, the policy direction of a Crown electricity corporation), none of which expressly provides for the examination of climate impacts. The other four arise in land-use planning, where it is alleged that the decision conflicts with the climate objectives set out in provincial or municipal policy.

In ***Clean Train Coalition*** (2012 ONSC 6593), a citizens' coalition sought to quash the decision of Metrolinx – a provincial transit agency – to acquire diesel multiple units for the Union Station–Pearson Airport link, faulting it for not first studying the feasibility of electrification. The claim came after an environmental assessment completed in 2009, which had proceeded on the premise that diesel trains would be used⁹⁴. The Ontario Divisional Court held the decision not reviewable: authorizing the signing of a procurement contract is not the exercise of a "statutory power of decision" within the meaning of the *Judicial Review Procedure Act*, and the *Environmental Bill of Rights* opens no parallel route⁹⁵. The Court thus never ruled on the climate merits of the technology chosen⁹⁶. The case highlights a limit specific to the wording of the Ontario statute: the choice that determines a project's emissions profile escapes judicial review when it is settled by contract, downstream of an environmental assessment already authorized⁹⁷.

A different limit appears in ***Voters Taking Action on Climate Change*** (2015 BCSC 471), where an organization challenged a permit amendment raising to 800,000 tonnes the coal storage capacity of a transshipment facility, on the ground that the chief inspector of mines had no jurisdiction to authorize it under the *Mines Act*, a storage facility not being a mine. The claim failed on standing: the Court concluded that the question really animating the applicant organization – whether coal projects should

⁹⁴The case highlights a limit that has less to do with climate law than with the interaction between regimes: the environmental assessment had fixed the diesel premise, and the technology choice that determines the project's emissions profile was then settled by contract, downstream of that assessment, thereby escaping judicial review. The climate question was not set aside at either stage; it simply could never be put.

⁹⁵*Clean Train Coalition Inc v Metrolinx*, 2012 ONSC 6593 at paras 10–16; *Judicial Review Procedure Act*, RSO 1990, c J.1, ss 1, 2(1). Subsection 2(1) opens judicial review only to the exercise of a "statutory power of decision," that is, a power conferred by statute to decide rights, obligations or eligibility for a benefit or licence; authorizing the signing of a procurement contract is not such a power. The preamble of the *Environmental Bill of Rights*, 1993 confers no rights, and paragraph 2(1)(c) limits protection to the means provided by the Act, which do not include judicial review.

⁹⁶*Clean Train Coalition*, *supra* note 95 at para 13, referring to the *Environmental Bill of Rights*, 1993, SO 1993, c 28, s 2(1)(c).

⁹⁷The only decision to have applied *Clean Train Coalition* since 2012 uses the same definition against an association challenging the approval of a wind farm: *Association for the Protection of Amherst Island v Director of Environmental Approvals*, 2014 ONSC 4574 at paras 16, 21, nn 22, 29.



be authorized at all – was not raised by the application before it⁹⁸. Ruling in the alternative on the merits, it held both decisions reasonable and found no breach of procedural fairness⁹⁹.

In ***Citizens for Public Justice*** (2026 SKKB 9), organizations and citizens challenge the Saskatchewan government’s decision to extend the operating life of two coal-fired power plants. They argue that the decision is unreasonable, that it compromises compliance with federal law and international commitments and that it threatens constitutional protections. The Court struck the application for want of a justiciable question, noting that the applicants invoked no statute, treaty or other standard in support of the remedy sought, and adopting in full the justiciability analysis developed in *Dykstra*¹⁰⁰. The appeal, filed in February 2026, was to be heard on September 15, 2026¹⁰¹.

Highlands District Community Association (2020 BCSC 2135, aff’d 2021 BCCA 232), the only case in this subsection decided on the merits and on appeal, bears directly on the obligation to consider climate. A community organization challenged the permit issued for a rock quarry, the inspector of mines having stated that climate was not relevant under the *Mines Act*. The Supreme Court of British Columbia, and then the Court of Appeal, held that the inspector could take climate impacts into account but that the statute did not require him to do so, and that the decision was therefore reasonable¹⁰². The case reveals a blind spot. Requirements to assess GHG-related impacts are usually concentrated in environmental assessment regimes; a project too small to be subject to such a regime – here, a rock quarry – sees its emissions exempt from review.

Ferguson Point Restaurants (2021 BCSC 1888) presents the inverse configuration: the plaintiffs faulted the authority for giving too much weight to a climate consideration. Two companies operating restaurants in Stanley Park challenged the Vancouver park board’s resolution creating a temporary bike lane as part of the City’s climate emergency plan, on the ground that it rested on the erroneous assumption of a direct reduction in emissions. The Court dismissed the claim: it saw the resolution as an experimental component of a much broader public policy, whose reasonableness does not depend on empirical proof of a determinate reduction in emissions¹⁰³.

The land-use planning cases present a different configuration again. As in *Ferguson Point*, the applicable policies already contain climate objectives; but whereas there they served as the basis for the impugned decision, here they operate as a standard of conformity, the tribunal having to verify whether the instruments before it – a secondary plan, an official plan amendment, a zoning by-law – conform to

⁹⁸*Voters Taking Action on Climate Change v British Columbia (Energy and Mines)*, 2015 BCSC 471 at paras 57–59, 63, 65 (Gropper J), applying *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45.

⁹⁹*Voters Taking Action*, 2015 BCSC 471 at paras 61, 130–35.

¹⁰⁰Although this case resembles *Dykstra* (section 3.1.2), it differs in its subject matter and the remedy sought: *Dykstra* challenges the overall adequacy of the province’s climate response and seeks the imposition of a net-zero plan, whereas *Citizens for Public Justice* targets a single identified administrative decision, of which the applicants seek only the quashing and production of the record. That distinction is itself at the heart of the appeal, the appellants faulting the judge for adopting *Dykstra* without analysing the distinct legal theories that separate the two cases. The case nonetheless illustrates the difficulty of tying a climate challenge to a largely political decision where the applicable legislative framework prescribes no climate consideration.

¹⁰¹*Citizens for Public Justice v Saskatchewan (Government of)*, 2026 SKKB 9; appeal pending before the Saskatchewan Court of Appeal.

¹⁰²*Highlands District Community Association v British Columbia (Attorney General)*, 2020 BCSC 2135, aff’d 2021 BCCA 232.

¹⁰³*Ferguson Point Restaurants Inc and Stanley Park Operations Ltd v Vancouver Board of Parks and Recreation*, 2021 BCSC 1888 at paras 11–14, 51, 64–71, 86–89 (Tucker J), citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 100, and applying *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 at paras 24, 33.



provincial and municipal policy, climate included. All of these cases are from Ontario and were brought before a land-use planning tribunal; none results in an approval being quashed on climate grounds.

The earliest case in this subsection, *Citizens for Riverdale Hospital v Bridgepoint Health Services* (2007 CanLII 23599), concerns the redevelopment of the former Riverdale Hospital site in Toronto. An organization formed solely for the purposes of the appeal faulted the Ontario Municipal Board for having found the official plan amendment and zoning by-law consistent with the environmental and CO₂ emissions objectives of the applicable official plans without making any planning finding on those objectives. The Divisional Court refused leave to appeal: the appellant having filed no expert evidence on emissions, the Board was entitled to accept the developer's uncontradicted evidence¹⁰⁴. The judge acknowledged the importance of CO₂ emissions as an environmental concern but addressed it on the ground of construction-site air quality, recalling that it is for the City to see to the precautions taken during demolition. The case shows how, at that time, a climate argument could be heard and then immediately converted into a local nuisance issue.

In *Shore v Georgina (Town)* (2019 CanLII 29201), a citizen challenged the approval of a plan of subdivision, faulting the municipality for approving it without considering climate change and asking that the replacement of felled trees preserve their carbon sequestration capacity. The Local Planning Appeal Tribunal dismissed the application, holding that invoking the global phenomenon of climate change is not enough: the argument had to be tied to the Ontario planning framework and to the specific characteristics of the site and the project, with supporting evidence – and the appellant filed none, leaving uncontradicted the expert opinion that the plan conformed to the applicable climate policies¹⁰⁵. The decision nonetheless acknowledges that the Provincial Policy Statement and certain provincial plans contain such policies, without identifying any that would have compelled a different conclusion¹⁰⁶.

Two Ontario decisions illustrate the limited reach of those policies once the argument is held admissible. In *CAMPP Windsor Essex Residents Association* (2019 CanLII 114467), concerning the siting of a new hospital 13 kilometres from the city centre, and in *South Bracebridge Environmental Protection Group* (2023 CanLII 100185), concerning a school complex planned on 179 hectares of woodland, the tribunal examined the climate argument against provincial planning policy but found the measures already built into the project sufficient¹⁰⁷.

Taken together, these cases bring out the importance of the legal foundation to which a climate consideration can be tied. In the first five cases, the absence of an express climate requirement leaves wide scope for the decision-maker's discretion, and the claims fail at various thresholds – the nature of the act subject to review, standing, the political character of the decision, or the scope of the power conferred by statute. Highlands District is the most revealing in this respect: the Court accepted that climate could be relevant without making it a mandatory consideration. In the planning cases, by

¹⁰⁴*Citizens for Riverdale Hospital v Bridgepoint Health Services*, 2007 CanLII 23599 (ON SCDC) at paras 8–11, 14–21, 29 (Greer J), on an application for leave to appeal founded on s 96 of the *Ontario Municipal Board Act*, RSO 1990, c O.28, and the conjunctive test in r 62.02(4)(b) of the *Rules of Civil Procedure*.

¹⁰⁵The Tribunal adds that no rule requires a municipality to adopt a carbon-based offsetting program and that "it is not sufficient for the Appellant to simply point to the general, global-scale phenomenon of climate change as a rationale for wanting more to be done": *Shore v Georgina (Town)*, 2019 CanLII 29201 (ON LPAT) at paras 6, 17, 18G, 20–22; *Planning Act*, RSO 1990, c P.13, s 51(53).

¹⁰⁶*Shore*, 2019 CanLII 29201 at paras 7–8, 18G; no climate policy from the *Provincial Policy Statement* is cited there, the decision having been rendered on the written record by a single member, the appellant being self-represented.

¹⁰⁷In *South Bracebridge* (2023 CanLII 100185 (ON LT)), the Tribunal devotes a distinct heading to climate, identifies the applicable policies, accepts that the environmental study should have dealt better with climate impacts, finds the mitigation sufficient and takes cumulative effects into account. In *CAMPP* (2019 CanLII 114467 (ON LPAT)), the Tribunal reproduces the provincial emissions reduction policy and examines the mobility component without ever translating it into an emissions analysis, and declines to compare the chosen site with existing hospital sites.



contrast, the existence of climate policies allows the tribunal to examine the argument directly, but it does not lead to the approval being quashed. None of the nine cases in this category therefore results in a decision being set aside on climate grounds¹⁰⁸. The courts thus show considerable deference and refrain from substituting their assessment for that of the decision-making authority.

3.2.2 Decisions made within an environmental assessment regime

Eleven of the cases surveyed concern decisions made within an environmental assessment regime. There, the legal framework already provides for an examination of the project's environmental effects: the debate therefore turns on the scope of that assessment, the way climate effects are appraised and the consequences to be drawn from them. The legal framework in these cases has been in flux, the federal assessment regime having been replaced twice during the period studied and then substantially amended in 2024.

The earliest decision surveyed, *Pembina Institute for Appropriate Development v Canada* (2008 FC 302), remains the only one in which the inadequacy of the climate analysis led to judicial intervention. The joint review panel had recommended approval of the Kearl oil sands project after finding non-significant emissions equivalent to those of roughly 800,000 vehicles, without explaining how the proposed measures supported that conclusion. The Federal Court allowed the judicial review in part and remitted the matter to the review panel for reasons, making it the first Canadian decision to require a federal environmental assessment to address GHG emissions explicitly. The panel provided the reasons requested without changing its conclusion, and the project was authorized again about one month later. The case's contribution therefore lies in the obligation to give reasons for the assessment of climate effects, not in the imposition of an outcome; no subsequent decision has relied on that basis to quash an approval¹⁰⁹.

The question of the scope of the effects to be examined then arose in *Forest Ethics* (2014 FCA 245). There, the Federal Court of Appeal was seized of judicial review of three interlocutory decisions of the National Energy Board concerning the Line 9B pipeline reversal project. The Board had excluded from its list of issues the general questions relating to climate change, considering them tied to activities upstream and downstream of the pipeline rather than to the pipeline itself. The Federal Court of Appeal held that delineation reasonable: the statute did not expressly require the examination of climate change and authorized the Board to select the factors it considered "directly related" to the pipeline and "relevant," wording that commands deference.

That precedent would exert an important influence on *Sierra Club (Bay du Nord)* (2023 FC 849), concerning the Bay du Nord offshore oil project off Newfoundland. The applicants argued that the emissions resulting from downstream combustion of the oil, far greater than the project's direct emissions, ought to have been assessed by the Impact Assessment Agency of Canada in its report, and then taken into account by the government before it concluded that there would be no significant adverse environmental effects. The Federal Court dismissed the application on the strength of *Forest Ethics*, adding that where the oil might eventually be consumed and what it would be used for were unknown and could be abroad, which made the exercise speculative. The Federal Court of Appeal

¹⁰⁸That contrast is largely due to the evolution of the Ontario framework, both substantively (the 2014 *Provincial Policy Statement*, applied in *CAMPP Windsor Essex Residents Association v Windsor (City)*, 2019 CanLII 114467 (ON LPAT), and the 2020 statement, applied in *South Bracebridge Environmental Protection Group v District Municipality of Muskoka*, 2023 CanLII 100185 (ON LT) at para 12) and procedurally (*Local Planning Appeal Tribunal Act*, 2017, SO 2017, c 23, Sch 1, s 42(3); *CAMPP* at paras 10, 20, 91, the proceeding remaining governed by the text in force before September 3, 2019; compare *South Bracebridge* at para 10: a 20-day hearing and a site visit).

¹⁰⁹Halley & Bélanger, *supra* note 4 at 489.



affirmed the decision in June 2026¹¹⁰. That approach contrasts with the one taken in the United Kingdom, where the Supreme Court held in 2024 that the emissions resulting from combustion of the extracted oil were an effect of the project that had to be assessed¹¹¹.

The series of decisions concerning **Trans Mountain (TMX)**, a pipeline project in western Canada, illustrates instead the procedural limits of this branch of climate litigation. In *Tsleil-Waututh Nation v Canada (Attorney General)* (2018 FCA 153), which quashed the project's first approval, no GHG-based ground was decided: the quashing rested notably on the unjustified exclusion of marine shipping from the definition of the project and on shortcomings in the consultation of Indigenous peoples. When GHG arguments were subsequently raised following the project's re-approval, the Court declined to hear them because they could have been raised in the earlier proceeding, and emphasized, in the alternative, the substantial deference owed to the Governor in Council.

Metlakatla, concerning the Vopak project on Ridley Island, would for its part have allowed the significance of climate effects to be addressed directly. The assessment acknowledged that the emissions would be moderate, global, continuous and irreversible and that they would impair Canada's ability to meet its 2030 and 2050 targets, while nonetheless concluding that there would be no significant adverse environmental effects. The First Nation challenged precisely the reasonableness of that conclusion; it discontinued, however, before filing its evidence, so that no court ruled on the question.

Other claims likewise produced no decision on the merits. The application concerning the Pacific NorthWest LNG project (**SkeenaWild**) was still pending when the proponent abandoned the project in 2017 because of market conditions. In **Goldboro**, a challenged LNG terminal project was also abandoned, in 2023, amid financial difficulties. That case nonetheless produced an important decision on standing: the Nova Scotia Court of Appeal accepted that the climate issue is important enough to justify public interest standing, where the organizations sought to enforce a condition of the authorization requiring the filing of a GHG management plan. It did not, however, rule on the ultimate merits of that contention.

Ksi Lisims, concerning a liquefied natural gas project, illustrates the growing importance of Indigenous grounds in this litigation. Two applications for judicial review of the project's federal approval were filed by Indigenous Nations in 2025; the Lax Kw'alaams community's application relied notably on GHG emissions. Both claims were withdrawn in June 2026, however, after impact benefit agreements were concluded.

Grassy Mountain is the category's mirror image: the proponent faulted the joint review panel for taking climate policy into account in assessing the project's economic prospects. Having found the emissions insignificant, the panel nonetheless held against the proponent its silence on the decarbonization of steelmaking and placed that trajectory among the risks that could reduce future demand for metallurgical coal. Here climate discounts the benefits claimed rather than adding to the liabilities. The proponent's claims failed; two Indigenous Nations, by contrast, succeeded on the federal branch on

¹¹⁰*Sierra Club Canada Foundation v Canada (Environment and Climate Change)*, 2026 FCA 110 at paras 21–23 (Stratas, Mactavish and Roussel JJA). The Federal Court of Appeal concludes that *Forest Ethics* binds it and that the Agency had to consider only the factors listed in the statute under which the project had been assessed. It confines that conclusion, however, to the *Canadian Environmental Assessment Act, 2012*, now repealed, and observes that the *Impact Assessment Act* might call for a different analysis, its preamble recognizing the importance of a process that contributes to meeting Canada's climate commitments. The question therefore remains open under the current regime.

¹¹¹*R (Finch) v Surrey County Council*, [2024] UKSC 20 at paras 53, 62, 83, the Court noting (para 62) that the regime in issue is essentially procedural and concerns how the decision is made rather than its substance.



procedural fairness grounds – consultation-based arguments proving more resilient than those going to the assessment of emissions.

That trend also emerges from *Friends of the Attawapiskat River*, a pending claim concerning the Webequie Supply Road in the Ring of Fire. The applicant challenges the federal decision of June 2026 concluding that the project's effects were justified in the public interest. The application concerns the climate, biodiversity and sustainability effects found in the assessment report, but also the *United Nations Declaration on the Rights of Indigenous Peoples*. The case could thus clarify both the legal significance of climate findings made in an assessment and how they interact with Indigenous rights.

These cases therefore leave largely open the question of the legal consequences of a significant climate effect. *Pembina* requires justification, not an outcome; *Forest Ethics* and *Sierra Club (Bay du Nord)* show that the range of emissions to be examined depends closely on the applicable text; and *Metlakatla*, which would have squarely raised the question of the significance of the effects, ended without judgment. More broadly, no precedent surveyed establishes that a given level of emissions necessarily entails the refusal of a project.

3.3 Adaptation to climate change

In the cases examined in this section, plaintiffs fault a public authority for failing to adapt its infrastructure to the effects of climate change. To our knowledge, two recent Quebec applications are the first to invoke explicitly the link between the hazard and climate change in support of the fault alleged. As no decision has been rendered, there is no case law specific to this category. Other claims engaging the liability of public authorities for harm connected with extreme weather events do exist, but without climate being invoked in support of the fault¹¹².

The two cases identified are applications for authorization to bring a class action, filed on the same day by the same firm in the Quebec Superior Court on July 3, 2026. *Beaudry* targets the City of Montreal and its Pierrefonds-Roxboro borough, while *Wolofsky* targets the City of Dollard-des-Ormeaux and the City of Montreal. In both, the class comprises the owners and tenants whose movable or immovable property was damaged by the flood of June 20, 2026, the perimeter corresponding to the boundaries of the borough or the city. Environment and Climate Change Canada reported 100 to 150 mm of rain in a few hours over the west of the island and the South Shore that afternoon, while the applications state 100 to 170 mm; insured damage from the storms of June 20 and 21, 2026 in Quebec was assessed at \$409 million¹¹³.

The plaintiffs allege negligence, indeed gross negligence, in the design, maintenance and operation of the sewer and drainage systems: failure to empty retention basins before a forecast event, insufficient basins and sponge parks, and failure to modernize aging systems¹¹⁴. Added to this are the low topography of the territory concerned and the precedent of the remnants of Hurricane Debby on August 9 and 10,

¹¹²See *Burgess*, *supra* note 15, which the Sabin Center database nonetheless classifies under "failure to adapt." The same is true of wildfire litigation in British Columbia: see *infra* note 119.

¹¹³Environment and Climate Change Canada, cited by The Canadian Press (21 June 2026); the upper figure of 170 mm comes from the mayor of the Pierrefonds-Roxboro borough. Insurance Bureau of Canada, press release, "June Storms in Quebec Caused \$409 Million in Insured Damage" (23 July 2026) (CatIQ data).

¹¹⁴*Beaudry v Ville de Montréal* (Que Sup Ct, No 500-06-000047-262), application for authorization to bring a class action (3 July 2026) at para 5(a); identical wording in *Wolofsky v Ville de Dollard-des-Ormeaux* (Que Sup Ct, No 500-06-000046-264).



2024, the costliest event in Quebec's history for insurers, with \$2.7 billion in insured damage¹¹⁵. The conclusions sought are compensatory damages, punitive damages under the *Quebec Charter of Human Rights and Freedoms* (the Quebec Charter) and an order requiring the work necessary to prevent another flood.

In Quebec, actions against municipalities for failure to maintain public infrastructure form a body of litigation that has been amply commented on¹¹⁶. There, however, the fault is tied to a discrete lack of diligence or to the age of the system, without any link between the hazard and climate change being alleged.

These cases raise important questions about the foreseeability of risk and about force majeure¹¹⁷. Scientific evidence of the intensification of rainfall may serve to establish the foreseeability of the harm and, correspondingly, to exclude force majeure, which presupposes an event that is both unforeseeable and irresistible (section 1470 of the *Civil Code of Québec*). That characterization becomes all the harder to sustain as the occurrence of such episodes becomes scientifically foreseeable. The point is significant given that Quebec's stormwater systems were not designed to receive rainfall of such intensity¹¹⁸ and that the cost of climate-related losses now far exceeds the sums devoted to adaptation.

Elsewhere in Canada, similar claims exist, engaging the liability of public authorities or private operators for harm connected with extreme weather events, floods, sewer backups or wildfires¹¹⁹. In 2024, insurance claims arising from catastrophic losses reached a record \$8.6 billion in Canada, out of total claims of \$9.1 billion¹²⁰ – insurers thus paying out, for a single event, more than the federal government has allocated to adaptation over the past decade¹²¹.

¹¹⁵Insurance Bureau of Canada, press release, "Severe Weather in 2024 Caused Over \$8.5 Billion in Insured Damage" (13 January 2025) (CatIQ data). The press release of 3 September 2024 reported close to \$2.5 billion, a figure subsequently revised.

¹¹⁶See "Revue de la jurisprudence 2023 et 2024 en droit municipal", 2024 CanLIIDocs 3602; Jean Héту, Yvon Duplessis & Lise Vézina, *Droit municipal – Principes généraux et contentieux*, Montreal, Wolters Kluwer (loose-leaf); Geneviève Gosselin, "Dispositif antiretour : pourriez-vous invoquer l'exonération?" (12 April 2023), online: COMBEQ; online: FQM <<https://fqm.ca/chronique-sam/constat-du-rapport-sur-les-infrastructures-municipales/>>; *Le Devoir*, online: <<https://www.ledevoir.com/actualites/societe/988226/deficit-maintien-infrastructures-reste-sous-documente-aide-pas-resoudre>>. See e.g. *Comité des citoyens inondés de Rosemont v Ville de Montréal*, 2023 QCCS 1065 (approval of a settlement); *Guilbault v Ville de Montréal* (Que Sup Ct, No 500-06-001290-242), seeking damages and an order to repair the sewers, contested by the City (10 January 2024).

¹¹⁷Julien O Beaulieu & Patricia Turcotte, "Responsabilité corporative et recours climatiques : où en sommes-nous?" in *Les développements récents en droit de l'environnement 2026*, vol 591, Montreal, Centre d'accès à l'information juridique, 2026 (online only).

¹¹⁸Ville de Québec, *Gestion des eaux et adaptation aux changements climatiques* (24 November 2025), online: <https://ceriu.qc.ca/system/files/2026-01/Gestion%20des%20eaux%20et%20adaptation_0.pdf>.

¹¹⁹In British Columbia, wildfire litigation has developed both through the suppression cost recovery provided for in the *Wildfire Act*, SBC 2004, c 31, and through tort liability, as the class action certified in 2025 following the Lytton fire illustrates. See Scott Marcus & Frances Miltimore, "Wildfire Liability in British Columbia: Legal Exposure, Cost Recovery, and Emerging Litigation Trends" (17 July 2026), online: *Alexander Holburn Beaudin + Lang LLP* <<https://www.ahbl.ca/>>; *Canadian National Railway Co v British Columbia (Government of)*, 2020 BCFAC 2, aff'd 2022 BCSC 2263 and 2024 BCCA 309; *Moiseiwitsch v Canadian National Railway Company*, 2025 BCSC 2377.

¹²⁰Statistics Canada, *The Impacts of Extreme Weather Events on Consumers and Insurers in Canada, December 2019 to December 2025: An Updated Analysis* (16 June 2026), online: <<https://www150.statcan.gc.ca/n1/pub/11-621-m/11-621-m2026007-eng.htm>>.

¹²¹Insurance Bureau of Canada, press release, "Summer of Destruction: Insured Losses from Severe Weather Reach Record-Breaking Levels" (24 September 2024), online: <<https://www.abc.ca/>>. Proactive adaptation would save up to \$9 billion a year in infrastructure costs: Canadian Climate Institute, *Prévenir ou réparer : la preuve qu'adapter les infrastructures publiques aux changements climatiques rapporte gros*, Ottawa, Canadian Climate Institute, 2026 at ii, v, 16, online: <<https://climateinstitute.ca/>>.



These uncertainties are not unique to Canada. Failure-to-adapt litigation remains limited worldwide, the Grantham Research Institute counting 89 cases, four of them filed in 2025, and observing that courts are more hesitant to examine adaptation planning than to review mitigation targets, for want of equivalent benchmarks¹²². Two recent decisions illustrate that gap. In Australia, the Federal Court dismissed the Torres Strait Islanders' negligence claim in July 2025, holding that common law negligence is not an appropriate vehicle for challenging government policy choices. In the Netherlands, by contrast, The Hague court ordered the Dutch government in January 2026 to adopt an adaptation plan for the island of Bonaire, but on the basis of articles 8 and 14 of the *European Convention on Human Rights* rather than the law of liability¹²³. Where an obligation to adapt has been recognized, it has therefore been by way of fundamental rights; where it has been pleaded in fault-based liability, it has met with the courts' reluctance to revisit public policy trade-offs.

The two recent Quebec applications take the second route. Their fate appears likely to depend less on climate science than on the characterization of the municipal decisions, on the assessment of the measures the defendants took as a whole, and on proof of a link between the alleged failure and the extent of the harm¹²⁴. These questions will arise first at the authorization stage.

Box 5. Where does the category of inadequate adaptation claims end?

The definition of "climate case" set out above (see section 2.1) requires that climate be a material issue in the case and that an explicit link with climate change be alleged. Several adaptation-related cases come close to that definition without being included.

For example, decisions in which the rainfall trend is put in evidence without climate change being named are excluded. *Blanchette*, *Lac-Beauport* and *Dicaire* bring the intensification of precipitation into the analysis of foreseeability or of the standards of the art, but none uses the phrase "climate change": they speak of an "increase in extreme climate events," of a "period of climate stability" now past, of "the increasing intensity of rainfall," of "recent climate phenomena." The trend is considered without its cause being named.

In *Burgess* (2016), Lake Muskoka residents faulted the provincial government for negligently allowing dangerous water levels, arguing that it had a duty to avoid foreseeable flooding. The case has the structure of an adaptation claim – a public authority, a water-related hazard, an alleged foreseeability – but the statement of claim does not invoke climate change; the action was discontinued in November 2018¹²⁵. Wildfire litigation in British Columbia has the same profile, both in cost recovery under the *Wildfire Act* and in tort: in the class action certified following the Lytton fire, the conditions of the June 2021 heat dome are described as factual context, the alleged fault remaining the ignition of the fire by a train¹²⁶.

These choices remain open to discussion. Although explicit references to climate change are recent, the foreseeability of heavy rainfall has been debated before the courts for at least two decades, and adaptation already figures among the measures a municipality may rely on to establish its diligence (see *Poiré* (2022 QCCQ 6051)).

¹²²Setzer, Higham & Chan, *supra* note 5 at 13.

¹²³*Pabai Pabai v Commonwealth of Australia (No 2)*, [2025] FCA 796 (15 July 2025); *Greenpeace Nederland v Dutch State*, Rechtbank Den Haag, 28 January 2026, ECLI:NL:RBDHA:2026:1344.

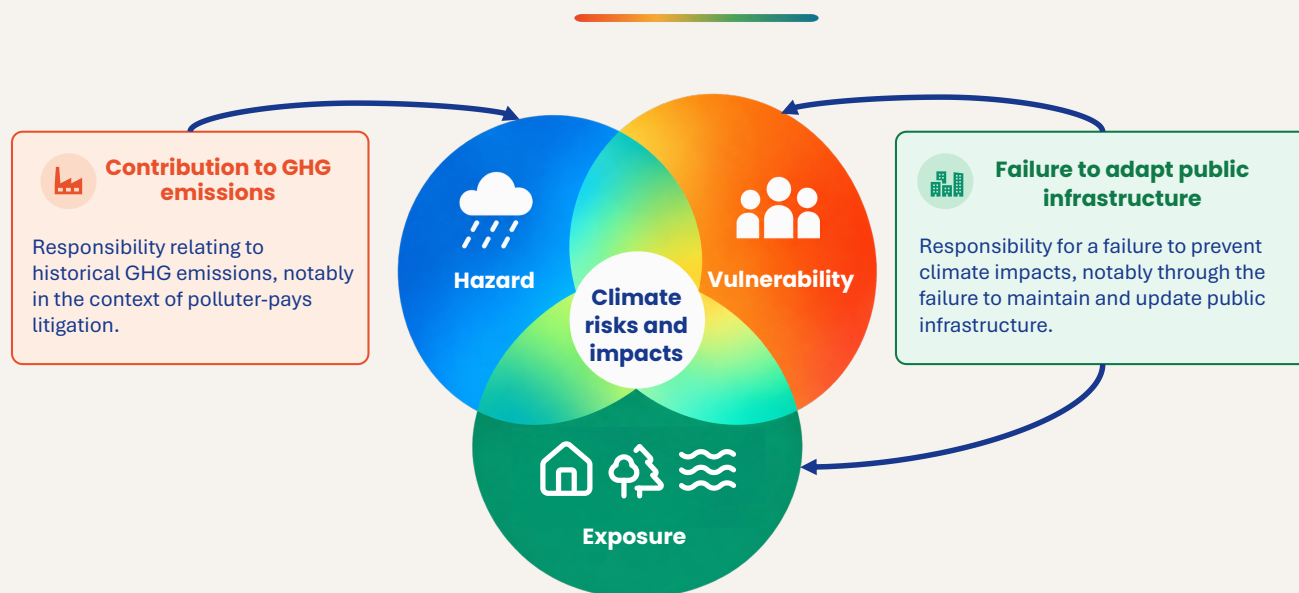
¹²⁴Gaye Taylor, "Legal Experts Weigh in on Quebec Lawsuit Over Municipal Flood Prevention", *The Energy Mix* (3 August 2026), online: <<https://www.theenergymix.com/legal-experts-weigh-in-on-quebec-lawsuit-over-municipal-flood-prevention/>>, reporting Professor Susan Gaskin's view that sponge parks would have been insufficient in the face of an episode of that intensity.

¹²⁵*Burgess*, *supra* note 15.

¹²⁶*Wildfire Act*, *supra* note 119; *Moiseiwitsch*, *supra* note 119 (certification granted on December 2, 2025).



Figure 4. Distinguishing adaptation claims from polluter-pays claims



Description. A climate case seeking compensation for the materialization of a climate risk may focus on the contribution to a hazard (for example, alleging that a historical GHG emitter contributed to increasing the frequency and intensity of extreme rainfall caused by climate change) as well as on exposure and vulnerability (for example, alleging that a municipality failed to adequately maintain its water system when extreme rainfall was foreseeable). This framing of climate risks and impacts is derived from the IPCC's.

3.4 Climate communications

This section groups the cases that target not a state actor's decision or the carrying out of a project, but the climate communications of non-state actors. Climate communications cases concern the truthfulness of what companies and organizations say, or leave unsaid, about climate.

This section is divided into five subcategories. The first three go directly to the accuracy of climate discourse: greenwashing sanctions the misleading claim that overstates environmental performance; insufficient disclosure under securities law targets the omission or inaccuracy of the climate information an issuer is required to provide; and defamation protects the reputation of climate scientists. The fourth subcategory concerns the integrity of an emissions verification mechanism under a provincial statute, while the fifth concerns the challenge to an Ontario statute requiring retailers to display a negative message about carbon pricing.

3.4.1 Climate greenwashing

Greenwashing consists of disseminating false, misleading or speculative information that overstates the environmental performance of a product, an activity or an organization¹²⁷. Although the phenomenon extends beyond climate issues, this section deals only with climate greenwashing.

We identified 25 climate greenwashing cases in Canada. Unlike the other categories of cases studied in this report, these proceed mainly by way of complaints filed with public authorities or self-regulatory bodies rather than before the courts: that is so in 23 of the 25 cases.

¹²⁷Thomas P Lyon & A Wren Montgomery, "The Means and Ends of Greenwash" (2015) 28:2 Organization & Environment 223.



This litigation rests on four legal regimes. The *Competition Act* is by far the most important: it founds 19 of the 25 cases, chiefly against the oil, natural gas and automotive sectors. Two cases rely on provincial consumer protection statutes, both against gas distributors, while three cases against financial institutions or oil and gas issuers rely on securities law. Finally, one case, concerning a campaign promoting liquefied natural gas, relies on advertising self-regulation.

The type of claim most frequently in issue concerns the climate benefits attributed to natural gas, with seven cases. These target either the gas industry as a whole (for example, the complaint by the Canadian Association of Physicians for the Environment against the Canadian Gas Association, which presented natural gas as "clean" and "affordable" energy) or specific companies (such as Enbridge Gas, FortisBC, Énergir and Enbridge Gaz Québec). To these is added the *Canada Action* case on liquefied natural gas exports, which was sanctioned by Ad Standards¹²⁸.

Five of the cases surveyed concern motor vehicle emissions and fuel consumption, including the 2004 *P.V.I.* decision, the starting point of Canadian litigation on the subject, and the *Hyundai and Kia* (2013), *Volkswagen and Audi* (2016) and *Volkswagen, Audi and Porsche* (2018) cases¹²⁹.

Two cases concern the climate benefits claimed for hydrocarbon extraction or production projects: the complaint by the *Centre québécois du droit de l'environnement* against the Gazoduc project, presented as carbon neutral, and Greenpeace Canada's complaint against the Pathways Alliance's "Let's clear the air" campaign, which presented carbon capture and storage as a credible route to net-zero oil sands.

Carbon offsetting for fossil fuels appears in only one case, but an emblematic one: Greenpeace Canada's complaint against Shell's "Drive Carbon Neutral" program. That campaign, which claimed to neutralize the emissions from the use of its fuels through forestry carbon credits, was also challenged abroad. In the Netherlands, the advertising self-regulatory body held in 2021 that Shell's claims were misleading, for want of sufficient proof that the credits genuinely offset the emissions¹³⁰.

The financial sector's climate commitments and sustainable finance practices are the subject of three cases, two of them before securities regulators. They target, among other things, the "sustainable finance" commitments of the five large Canadian banks, the net-zero statements of Cenovus and Enbridge, and the Ontario Securities Commission's proceeding against Purpose Investments, alleged to have presented its investments as guided by environmental, social and governance (ESG) criteria when only a minority of its assets actually met them.

Finally, several cases also put in issue the role of certain technologies presented as climate solutions, notably nuclear power, carbon capture and storage, renewable natural gas and green hydrogen.

¹²⁸Ad Standards, "Decision regarding Canada Action Coalition" (30 January 2024), online: <https://cape.ca/wp-content/uploads/2024/05/Ad_Standards_ruling_BC_LNG_scrubbed.pdf>.

¹²⁹These cases concern vehicle emissions, with a dual focus (climate and air pollution), and carry major foreign litigation over into Canada. "Dieselgate" led in the United States to settlements worth several billion dollars: US Department of Justice, press release, "Volkswagen to Spend Up to \$14.7 Billion to Settle Allegations of Cheating Emissions Tests and Deceiving Customers on 2.0 Liter Diesel Vehicles" (28 June 2016), online: <<https://www.justice.gov/archives/opa/pr/volkswagen-spend-147-billion-settle-allegations-cheating-emissions-tests-and-deceiving>>. The overstatement of fuel economy alleged against Hyundai and Kia led there to a US\$100 million civil penalty and the forfeiture of 4.75 million emissions credits: US Environmental Protection Agency & US Department of Justice, press release, "United States Reaches Settlement with Hyundai and Kia in a Historic Greenhouse Gas Enforcement Case" (3 November 2014).

¹³⁰*Stichting Reclame Code* (Reclame Code Commissie), Decision Vervoer 2021/00190 (27 August 2021). The "Drive CO2 Neutral" campaign also ran in the United Kingdom, where Shell's "carbon neutral" claims were the subject of complaints in 2023.



A low resolution rate for cases before the Competition Bureau

One finding stands out: the four consent agreements obtained by the Competition Bureau in climate greenwashing matters since *P.V.I.* all stem from international scandals already established elsewhere. In more than 20 years, the Bureau has therefore not carried a single case of purely Canadian origin through to a conclusion on the merits. The *Shell* case illustrates that weakness well: while the "Drive Carbon Neutral" campaign was held misleading in the Netherlands, the Bureau closed its investigation in Canada without ruling, after the impugned representations were withdrawn.

Two cases are exceptions, though neither falls within the Bureau's jurisdiction. The first is the complaint filed in June 2023 with Quebec's consumer protection agency by the *Sortons le gaz!* coalition against Énergir. The complainants faulted the distributor for offering customers the option of converting 10%, 30% or 100% of their consumption to renewable natural gas at a higher rate, giving the impression that the choice affected the gas actually delivered to their building, when the network cannot carry renewable gas and fossil gas separately. The agency issued Énergir a notice of non-compliance in November 2024, concluding that the representations were false or misleading and withheld an important fact, within the meaning of sections 219 and 228 of the *Consumer Protection Act*. The second is the decision of Ad Standards, a self-regulatory mechanism whose decisions are not published in full, which held inaccurate, misleading and scientifically unsupported the claim by the organization Canada Action that British Columbia liquefied natural gas would reduce global emissions.

This weakness in the federal enforcement mechanism was denounced in June 2026 by the Canadian Association of Physicians for the Environment (CAPE), which spoke of a "concerning systemic pattern": the Bureau, it said, terminates several investigations without ever ruling on the merits as soon as an advertising campaign ends¹³¹. According to CAPE, this occurred in the Pathways Alliance, Shell and Canadian Gas Association files. In each case the representations were simply withdrawn, with no public finding on whether they were misleading. This suggests that the length of investigations, combined with the temporary nature of advertising campaigns, is often enough to make a complaint disappear without a decision on the merits, which raises questions about the accountability of potentially offending companies.

This record contrasts with that of other jurisdictions. In the United Kingdom, the Advertising Standards Authority has issued at least 19 rulings on climate advertising since 2020, nearly all of them adverse to the advertisers¹³². In the United Kingdom, the courts have decided at least 18 comparable cases since 2016, most of them in favour of the claimants¹³³. In Canada, despite a comparable volume of cases, this litigation has produced no genuinely enforceable standard of climate conduct, for want of a decision on the merits. That absence of case law, combined with the lack of detailed guidance, sustains uncertainty about the precise scope of the current rules.

The amendments made to the *Competition Act* in 2024 through Bill C-59, and then the new rules resulting from Bill C-15, passed in March 2026, did not produce the anticipated increase in complaints or

¹³¹Stefan Labbé, "Doctors Group Calls on Ottawa to Intervene in Gas Greenwashing Probe", *Business in Vancouver* (25 June 2026), online: <<https://www.biv.com/news/economy-law-politics/doctors-group-calls-on-ottawa-to-intervene-in-gas-greenwashing-probe-12474214>>.

¹³²Data drawn from a sample of 72 climate files handled by the Advertising Standards Authority (United Kingdom) and the German courts between 2016 and 2025, compiled from the databases of the Sabin Center for Climate Change Law and the Grantham Research Institute.

¹³³*Ibid.*



claims¹³⁴. Despite the coming into force, in June 2025, of a private right of access to the Competition Tribunal, no application had been filed as of September 2026. Several factors explain this: the Tribunal's prior leave requirement, the public interest standing requirement, the absence of damages for a mere failure to substantiate and, more broadly, the cost and complexity of this type of proceeding¹³⁵. Moreover, the March 2026 reform further narrowed this route by removing that private right of access for certain claims concerning businesses and their activities.

At the same time, the number of complaints filed with the Bureau has not risen markedly. The practice of closing investigations without a decision as soon as a campaign ends sharply reduces any incentive for the companies concerned to defend the substance of their claims rather than simply withdraw their communications.

Cases against the government and against an NGO

Finally, two cases stand out because of the nature of the parties targeted: the government and an NGO.

First, on August 18, 2026, the **New Democratic Party** asked the Competition Bureau to investigate two videos published on June 30, 2026 by Environment and Climate Change Canada, which present federal energy policy as the route to a "cleaner future" even though the Prime Minister acknowledges in them that Canada's emissions will be higher over the next few years. Founded on the same provisions as those invoked against companies, this complaint is the first to target the state's own climate communications. The Bureau refused to open an investigation in September 2026, on the ground that the *Competition Act* binds Crown agents only in respect of the commercial activities they carry on in competition with other persons (section 2.1). The political party replied that the state does indeed carry on such activities, through the Crown corporation that owns the Trans Mountain pipeline, but the impugned representations came from a department and not from that corporation. The outcome recalls that of the *Canadian Nuclear Association* complaint, dismissed by the Competition Bureau in 2024 on the ground that the statements in issue were "political statements"; in both cases, the line between commercial and political speech deprives the federal regime of any purchase on state greenwashing¹³⁶.

Second, in 2025, eight British Columbia residents, supported by the commentator Stewart Muir and the organization Resource Works, filed a complaint against the **David Suzuki Foundation**. They fault it for using, in its fundraising campaigns against gas development in the Montney region, a photograph roughly 20 years old showing gas facilities located in Wyoming rather than in British Columbia. Founded on the same provisions of the *Competition Act* as those invoked against oil and gas companies, this complaint shows that the anti-greenwashing framework can serve not only to challenge corporate speech but also that of advocates of climate action. Whether such a complaint is admissible remains uncertain, however: the misleading advertising provisions reach only representations made to promote a product or a business interest, or made within a merchant-consumer relationship.

¹³⁴Julien O Beaulieu, Iris Fairley-Beam & Camille Lemarié, "Green Trust or Green Hush? A Critical Analysis of Canada's New Anti-Greenwashing Rules and Their Implications" (2025) 38:2 Canadian Competition Law Review 33.

¹³⁵*Ibid.*

¹³⁶Julien O Beaulieu, Tiffanie Chan & Malaïka Jacques-Bérubé, "State Greenwashing: Who Watches the Green-Watcher?" (2026) [working paper], showing that the frameworks mobilized against corporate greenwashing are ill-suited to the state context, where the sanction lies rather in administrative law, public law and climate framework legislation.



3.4.2 Insufficient disclosure under securities law

The cases in this section include complaints alleging that an issuer failed to disclose, or disclosed incompletely or inaccurately, information in the documents it is required to make public under provincial securities legislation.

In the absence in Canada of a regime imposing climate-specific disclosure obligations, these complaints do not rest on the breach of freestanding requirements but on the general obligations of the harmonized Canadian regime, built around the concepts of "material fact" and "material change." Unlike greenwashing, the grievance goes specifically to the omission or insufficiency of the information prescribed by securities regulation. The boundary nonetheless remains porous, since a single gap between an issuer's statements and its actual situation may ground both types of complaint.

The **Kinder Morgan** matter (2017–2018) is one of the first climate-related complaints in Canada founded on the general disclosure obligations of securities law. In May 2017, Greenpeace Canada submitted to the Alberta Securities Commission (ASC) that the prospectus prepared for the initial public offering of Kinder Morgan Canada Ltd. did not present all material facts fully, truthfully and plainly (outdated oil demand projections, inadequate disclosure of climate risk) and asked that the prospectus be suspended. Before closing, the issuer supplemented the final prospectus with information on physical and transition risks, including the possible effect of the *Paris Agreement* targets on hydrocarbon demand, though those additions cannot officially be attributed to the complaint or to any request by the ASC. A second complaint, in 2018, faulted the annual report for departing from the recommendations of the Task Force on Climate-related Financial Disclosures, notably the absence of a low-emissions scenario and the omission of the legal risks that climate litigation poses for the company's customers. The ASC acknowledged receipt of both complaints, confirming, as to the second, that it was reviewing the matter, without any enforcement measure having been made public to date.

Six years later, Greenpeace repeated the exercise before the ASC, this time concerning **Suncor** (October 2023). The organization denounced not the absence of disclosure but the removal of information previously disclosed. The warnings in earlier climate reports that certain oil sands assets could become stranded assets had, it said, been deleted from the 2023 report, at the very moment when the issuer was increasing its exposure to the sector. Greenpeace asked the ASC to investigate and to order their reinstatement; the regulator confirmed that it was reviewing the complaint, with no public decision to date.

Also before the ASC, Investors for Paris Compliance (I4PC) challenged, in February 2023, the "sustainable" character of sustainability-linked bonds issued by **Enbridge** – debt securities whose financial terms depend on meeting sustainability targets. According to I4PC, the targets chosen risked misleading investors: measured in intensity rather than absolute emissions and covering only part of Scope 3 emissions, they could be met without impeding the expansion of the issuer's fossil fuel activities. I4PC asked the ASC to open an investigation; what followed the complaint has not been made public.

To date, this litigation remains in its infancy: three complaints in less than a decade,¹³⁷ no public decision clarifying the scope of the general disclosure obligations as applied to climate information and, as the only tangible result, an amendment of uncertain origin to the *Kinder Morgan* prospectus, with no precedential value. That record is likely explained by the architecture of the Canadian regime itself, founded on the concepts of "material fact" and "material change" rather than on expressly defined climate disclosure obligations. The lack of transparency about how securities regulators follow up on

¹³⁷With the exception of *Purpose Investments*, mentioned in section 3.4.1 as a climate greenwashing case.



such submissions does not help build a body of law on these questions either. The Canadian Securities Administrators (CSA) have, it is true, issued notices clarifying how the materiality of environmental and then climate information is to be assessed; those notices remain non-binding. As for the case law, the Supreme Court of Canada recently adopted, in *Lundin Mining Corp v Markowich*, 2025 SCC 39, a broad and contextual interpretation of "material change," without ruling on its application to climate information.

Recent developments also point to a slowdown in regulation rather than to its strengthening. In April 2025 the CSA suspended its proposed climate disclosure rule, while recalling that climate information remains subject to the general obligations where it is material. The federal government, after announcing its intention to impose mandatory climate disclosure on large federally incorporated private companies, confined itself in Budget 2025 to announcing harmonization with the provinces, the territories and international standards, without any binding legislative commitment. Alberta, finally, acquired, effective December 11, 2025, the power to extend by regulation certain defences and civil liability exemptions to climate disclosures; that power remains unexercised as of the date of this analysis¹³⁸.

3.4.3 Defamation

Claims brought by climate scientists

In the two defamation cases surveyed, climate scientists sued a media outlet in response to articles or communications casting doubt on their professional or scientific integrity.

Between 2009 and 2010, the *National Post* published four articles linking **Andrew Weaver** to the so-called "Climategate" scandal and suggesting that he had fabricated allegations about the fossil fuel industry's involvement in criminal acts, as well as engaging in dishonest and unscientific conduct. The Supreme Court of British Columbia found defamation, holding that the articles had no factual foundation and that the fair comment defence could not apply in the absence of any factual basis; it awarded \$50,000 and ordered the articles removed together with a full retraction. The Court of Appeal allowed the *National Post*'s appeal in 2017, however: the trial judge should have assessed the defamatory character of each of the four articles individually rather than globally, in the absence of evidence of a link between them. The matter was remitted for a new trial, which the plaintiff did not pursue.

In another case, **Mann** (2019 BCSC 1580), a climatologist sued a Canadian climate sceptic, Tim Ball, for defamation after Ball suggested in an interview that the climatologist had committed criminal fraud in connection with "Climategate." The Frontier Centre for Public Policy, a co-defendant, settled in June 2019 by publishing a retraction and an apology; the action against Ball was dismissed on August 22, 2019 for delay, with costs to the defendant, without the truth of the statements being examined. As in Weaver, no final judgment on the merits was therefore rendered.

Claim brought by an opinion columnist

In 2019, the commentator **Ezra Levant and Rebel News** brought two defamation actions: one against the journalist Brendan DeMelle and the outlet The Narwhal, which had described Levant as a "climate denier," and the other against Al Jazeera, which had described Rebel News as an "anti-climate" outlet¹³⁹. On February 16, 2021, the Ontario Superior Court dismissed both actions (2021 ONSC 1074 and 2021 ONSC 1035). The Court accepted that the claims appeared to have substantial merit, but concluded that the harm alleged – unproven and mitigated by the plaintiffs' pre-existing reputation – did not outweigh

¹³⁸Beaulieu & Turcotte, *supra* note 117.

¹³⁹*Levant v DeMelle*, 2022 ONCA 79.



the public interest in protecting the expression. In 2022, the Ontario Court of Appeal upheld that result and awarded costs against the plaintiffs. It corrected the motion judge's reticence, however, in stating that few subjects fall more plainly within the public interest than climate change and the conduct of those who deny its reality.

3.4.4 Misrepresentation in an emissions certification process

This subcategory comprises claims alleging that a person or a company provided false information to regulators about the professional qualifications required to carry out a verification or certification relating to GHG emissions.

Only one such case was identified: **Amberg Corp.**, an environmental consulting firm retained to help Alberta companies comply with provincial GHG emissions regulation, had one of its employees, Olga Kiiker, falsify the documents attesting to a colleague's professional qualifications, leading the Alberta authorities to believe that the colleague had carried out the peer reviews required by the *Technology Innovation and Emissions Reduction Regulation*. Ms Kiiker pleaded guilty to knowingly providing false or misleading information; the parties jointly proposed a \$10,000 fine and a three-year order restricting the exercise of certain professional functions under Alberta's *Emissions Management and Climate Resilience Act*.

3.4.5 Challenge to a provincial statute requiring retailers to display a negative message about carbon pricing

This last subcategory covers claims challenging the constitutional validity of legislative measures that compel private actors to relay a government message about climate policy. Only one such case was identified: in **CCLA** (2020 ONSC 4838), the Canadian Civil Liberties Association challenged Ontario's *Federal Carbon Tax Transparency Act*, which required Ontario gasoline retailers to display a sticker asserting that federal carbon pricing "will cost you." Invoking compelled speech, it argued that the requirement forced private actors to convey a partisan message, contrary to section 2(b) of the Canadian Charter. The Court allowed the application, concluding that the infringement of freedom of expression could not be justified under section 1, since the sticker served to promote a partisan political program rather than to inform consumers objectively¹⁴⁰.

3.5 Regulatory or fiduciary breach

Two further categories of claims against non-state actors are grouped here: breaches of directors' and officers' duties (3.5.1) and non-compliance with emissions standards (3.5.2). Together, they form the residual portion of Canadian litigation directed at non-state actors.

This grouping is defined as much by its content as by its absences. Three strategies well established abroad for holding companies to account remain absent from the Canadian case law surveyed¹⁴¹: claims seeking to compel a company to align all of its activities with climate objectives, invoking in particular human rights or a duty of vigilance; claims alleging that a company has failed to adapt its activities to the climate transition; and "polluter-pays" claims, which are the subject of Box 7.

¹⁴⁰Although the ground is freedom of expression, the case has concrete effects on the public image of a federal climate measure: *Canadian Civil Liberties Association*, *supra* note 16. Freedom of expression has also been invoked to challenge rules on corporate climate communications.

¹⁴¹These three categories follow the typology of litigation against private actors used by Setzer, Higham & Chan, *supra* note 5.



3.5.1 Breaches of directors' and officers' duties

Claims founded on breaches of directors' and officers' duties concern in particular the duty of care and diligence and the duty of loyalty. They allege that directors or officers underestimated climate-related risks, failed to take them adequately into account in managing the company, or failed to disclose relevant information about them.

Only one claim, *Hirji*, falls within this category to date¹⁴². In October 2025, four young Canadians filed an originating application against the Canada Pension Plan Investment Board, a Crown corporation responsible for managing the Plan's assets. They allege that the Board of Directors is in breach of its fiduciary obligations to act prudently, loyally and impartially, particularly with respect to the intergenerational interests of contributors and beneficiaries: its risk models, they say, considerably underestimate the financial risks associated with climate change; the Board continues to invest in fossil fuel assets and it fails to adequately disclose its exposure to those risks. The harm alleged is financial and concerns contributors who will retire after 2050. The plaintiffs seek declarations specifying the Board's obligations as well as orders requiring increased disclosure of climate risk. They claim no damages.

It is also worth noting that fiduciary obligation had already been invoked in Canada in the climate context, but against the state, in *La Rose*. The plaintiffs argued there, among other things, that the state was bound, as a fiduciary, to protect certain common resources against climate change. The Federal Court of Appeal upheld the striking out of those claims, however, holding that they could not ground the remedies sought (2023 FCA 241). *Hirji* mobilizes similar fiduciary vocabulary, but in a different legal setting: that of private law, where trustees' duties of prudence and loyalty are already recognized and justiciable. The claim therefore does not ask the court to recognize a new fiduciary obligation, but to apply existing obligations to the management of new risks.

Similarly, the plaintiffs' profile, young people invoking harm that will materialize after 2050, and the intergenerational framing echo those of *ENJEU*, *La Rose* and *Mathur*. What changes is the defendant: a manager of public savings rather than the state.

Box 6. Directors' and officers' consideration of climate risks and opportunities

Although *Hirji* is the first claim of its kind in Canada, several similar claims have been brought in other jurisdictions, for both pro- and anti-climate purposes.

A first wave faults directors and trustees for failing to take sufficient account of climate risks in their decisions, notably transition risks and stranded assets. In South Korea, contributors to the national pension plan alleged that the directors and auditor of the National Pension Service had breached their fiduciary duty by failing to implement the coal exit policy the plan announced in 2021 (*Kim Min v Kim Tae-Hyun*, 2024); the Seoul District Court dismissed all the claims in June 2025, holding that the announcement created no binding legal obligation.

In the United Kingdom, two members of the universities' pension scheme sought to bring a derivative action against the directors of the scheme's trustee over continued fossil fuel investments without an adequate

¹⁴²*Hirji v Canada Pension Plan Investment Board* (Ont SCJ, originating application filed October 2025). This claim belongs with the so-called "turning off the taps" claims, which challenge financial flows toward activities not aligned with climate action. By its subject matter – the mismanagement of transition risk – it also falls within the *transition risk* category (26 claims worldwide, four of them in 2025): Setzer & Higham, *supra* note 5.



divestment plan (*McGaughey v Universities Superannuation Scheme*, 2021); the High Court refused permission to proceed in 2022, notably for want of *prima facie* evidence of loss to the scheme, and the Court of Appeal upheld that refusal in 2023.

In Australia, *McVeigh v Retail Employees Superannuation Trust (REST)* settled in 2020. The member challenged, among other things, the insufficiency of the information the fund provided about the financial risks associated with climate change and their management. REST then undertook to aim for a carbon-neutral portfolio by 2050 and to strengthen its consideration, management and disclosure of climate risk.

In the United States, a first wave of similar claims, brought between 2015 and 2016 against coal and oil companies under the *Employee Retirement Income Security Act* (ERISA), ended unfavourably for the plaintiffs: the claim against Arch Coal was stayed following the company's bankruptcy (*Roe v Arch Coal*, 2015); the claim against Peabody Energy was dismissed in 2017, notably for failure to establish a breach of the duty of prudence (*Lynn v Peabody Energy*, 2015); and the claim against Exxon was dismissed in 2019 because the plaintiffs had not sufficiently established the plaintiffs not having sufficiently established the alleged breach of the duty of prudence (*Fentress v Exxon Mobil*, 2016). Comparable reasoning has been invoked against state actors: in New Jersey, a claim alleging that the public pension plan's oil and gas investments violated the constitutional right to a stable environment and the *public trust* doctrine was dismissed in 2022, a judgment affirmed on appeal in 2024 (*Dawson v Murphy*).

A second, more recent wave reverses the polarity of the grievance: it faults directors and officers instead for taking too much account of climate risk in their investment decisions. In New York, a challenge to municipal pension plans' divestment from fossil fuel extraction companies was dismissed in 2024 for want of standing, a judgment affirmed on appeal in 2025 and in respect of which the State Court of Appeals refused leave to appeal in October 2025 (*Wong v New York City Employees' Retirement System*). A class action against American Airlines and its employee benefits committee, alleging that the use of ESG strategies in exercising proxy voting rights had harmed participants' financial interests, produced a split result: the federal court for the Northern District of Texas found a breach of the duty of loyalty but not of the duty of prudence; no damages were awarded, but an injunction imposing governance and transparency measures was granted, and American Airlines' motion for reconsideration was denied in February 2026 (*Spence v American Airlines, Inc.*, 2025).

In Canada, there is debate about the precise interpretation of directors' and officers' duties with respect to climate change: some argue that the current framework already requires climate risks and opportunities to be considered in discharging the duty of care, while others advocate express regulatory requirements on the point in order to avoid any ambiguity¹⁴³.

¹⁴³Carol Hansell, *Climate Change: An Essential Item for Boardroom Discussion*, Vancouver, Canada Climate Law Initiative, 2020, online: <<https://ccli.ubc.ca/fr/resource/putting-climate-change-risk-on-the-board-room-table/>>; Canada Climate Law Initiative, *Directors' Duties Navigator: Climate Risk and Sustainability Disclosures*, online: <<https://ccli.ubc.ca/resource/directors-duties-navigator-climate-risk-and-sustainability-disclosures/>>. Bill S-285, *An Act to amend the Canada Business Corporations Act and to make consequential amendments to other Acts (twenty-first century business)*, 1st Sess, 44th Parl, 2024, illustrates the second route: it proposed to amend the *Canada Business Corporations Act*, RSC 1985, c C-44, to require corporations to act in a manner that benefits society and the environment and to report annually on their impacts, on pain of third-party claims. It died on the Order Paper when Parliament was dissolved in 2025.



3.5.2 Non-compliance with emissions standards

This category comprises claims (class actions) alleging that a company marketed products whose emissions exceed the applicable regulatory limits. Such claims may concern, in particular, the use of a defeat device or the falsification of certification testing that allowed non-compliant products to be placed on the market.

This branch is distinguished from climate greenwashing by the nature of the grievance. Where the breach of an environmental standard (or the infringement of a right flowing from it) is at the heart of the claim, the case is classified in this section; where the claim is principally about the communication of false or misleading information, it is classified under climate greenwashing. Dual classification remains possible where both allegations are made in the same case, as in the various claims involving Volkswagen¹⁴⁴.

This branch comprises six claims: five class actions (four brought in Quebec and one in British Columbia) and one federal criminal prosecution. All concern the same type of conduct: the use of a defeat device or the falsification of emissions certification testing. Each targets a company in the automotive or engine manufacturing sector: General Motors, Robert Bosch, Volkswagen, Toyota Industries and Hino Motors¹⁴⁵. No hydrocarbon company appears among them.

Three cases are closed: **R v Volkswagen** (2020 ONCJ 398), in which the company pleaded guilty to 60 counts under the *Canadian Environmental Protection Act* and was fined \$196.5 million, paid into the Environmental Damages Fund; **Hino**, which concluded with a Canada-wide settlement approved in 2025 without admission of liability; and **AQLPA** (2022 QCCS 2186), which concluded with a \$6.7 million settlement paid into the same fund. The other three remain at the authorization stage, two of them filed in 2017 and 2018 with no development since (**Auger v General Motors** (2017); **Équiterre v Robert Bosch** (2018)). Four of the five cases are brought in Quebec, which tends to confirm that the Quebec class action regime is a forum of choice for this type of claim.

The five class actions concern the falsification or concealment of data on the emissions produced by various types of engines. **AQLPA** differs from the others, however, in that the remedy sought was not on behalf of purchasers. The *Association québécoise de lutte contre la pollution atmosphérique* acted on behalf of all Quebec residents and claimed punitive damages under the *Quebec Charter*, on the ground of an intentional interference with class members' fundamental rights. The Superior Court authorized the action solely in respect of the claim for punitive damages (2018 QCCS 174), after dismissing the claim for compensatory damages; the Court of Appeal refused leave to appeal (2018 QCCA 1034). In November 2019, the Supreme Court dismissed Volkswagen's appeal, thereby maintaining the authorization of the class action with respect to the punitive damages claim (2019 SCC 53).

A \$6.7 million settlement was finally approved by the Superior Court on June 16, 2022. The settlement directs the funds to environmental projects in Quebec. The judgment also recalls that Volkswagen had

¹⁴⁴The Volkswagen saga, arising from a device designed to defeat emissions testing, comprises five cases spread over two categories. Two fall under greenwashing (misleading representations): the consent agreements registered with the Competition Tribunal concerning the 2.0 L (CT-2016-017) and 3.0 L (CT-2018-003) engines. Three fall within the present category (emissions standards): *Équiterre v Robert Bosch LLC* (Que Sup Ct, 2018), *R v Volkswagen AG*, 2020 ONCJ 398, and *AQLPA v Groupe Volkswagen du Canada inc*, 2022 QCCS 2186; only the last two are discussed below.

¹⁴⁵*Auger v General Motors of Canada Company* (Que Sup Ct, application for authorization of 19 May 2017); *Équiterre v Robert Bosch LLC* (Que Sup Ct, amended application of 20 February 2018); *R v Volkswagen AG*, 2020 ONCJ 398; *AQLPA v Groupe Volkswagen du Canada inc*, 2022 QCCS 2186 (authorization: 2018 QCCS 174, aff'd 2018 QCCA 1034, leave to appeal to SCC refused, 38297 (2019)); *Transport TFI 2, sec v Hino Motors, Ltd*, 2025 QCCS 1789; *Reforus Wood Systems Inc v Toyota Industries Corporation* (BC Sup Ct, proposed class action filed 4 March 2025).



previously paid a \$196.5 million criminal fine following its guilty plea, part of which had been directed to environmental projects in Quebec through the Environmental Damages Fund.

Box 7. When will Canada see a polluter-pays claim?

Polluter-pays claims seek compensation for adaptation costs and for harm caused by climate change, by holding an actor liable for its historical contribution to climate change. This is an emerging body of litigation abroad, brought notably before Swiss, German, American, British, Belgian and New Zealand courts, and its growth is facilitated by advances in attribution science¹⁴⁶.

In common law jurisdictions outside Canada, recent polluter-pays claims have relied on tort doctrine (public and private nuisance, negligence), on consumer protection (failure to inform, defective manufacture of goods), on civil conspiracy, on wrongful death, or on a combination of these sources of law.

Despite calls from some civil society actors and the existence of bills and policy proposals that went nowhere, no polluter-pays claim has yet been brought in Canada¹⁴⁷. In Quebec law, the legal avenues that might open the way to such a claim are analysed in detail in a recent article on the subject¹⁴⁸. They include abuse of rights, extracontractual liability, neighbourhood disturbances, the safety defect of a good and unjust enrichment.

This type of claim differs from most of the emissions cases presented above, since it rests on the impacts of a company's contribution to climate change and on allegations of climate disinformation, rather than on the breach of an emissions standard. Proof of causation between the fault (historical emissions and/or disinformation) and the harm remains the principal challenge for plaintiffs.

AQLPA, the only case in the Canadian dataset that led to the payment of damages for interference with the collective right to a healthy environment, is probably the case that comes closest to a polluter-pays claim. The money paid by the automakers was directed to funding environmental projects rather than to compensating consumers. Although what the case establishes is confined to standing on behalf of an indeterminate group without individual causation, it could thus open the way to a polluter-pays claim in Quebec, not only through classic civil liability but also through the punitive damages provided for in the *Quebec Charter*.

Polluter-pays claims could, however, be neutralized by the legislature. That recently occurred in New Zealand, where Parliament enacted, in August 2026, the *Climate Change Response (Tort Liability) Amendment Act 2026*, which bars tort liability for any person, including the state, for the effects of climate change caused or contributed to by greenhouse gas emissions¹⁴⁹. The reform applies notably to *Smith v Fonterra*, in which Michael Smith, a Māori climate activist, sought to hold major emitters liable on the basis of *public nuisance*, negligence and a new tort concerning damage to the climate system. In 2024, the Supreme Court of New Zealand had reinstated the claim and allowed those causes of action to be examined on the merits, while recognizing the potential relevance of *tikanga Māori* to the formulation and development of tort law. The new legislation now bars that route to liability for harm connected with GHG emissions.

¹⁴⁶See in particular *Lliuya v RWE AG*, Oberlandesgericht Hamm (Germany), 28 May 2025; *Asmania and others v Holcim AG*, Cantonal Court of Zug (Switzerland), 17 December 2025; *Smith v Fonterra Co-operative Group Ltd*, [2024] NZSC 5; Setzer & Higham, *supra* note 5.

¹⁴⁷See in particular *St Lawrence Cement Inc v Barrette*, 2008 SCC 64, and *Imperial Oil v Quebec (Minister of the Environment)*, 2003 SCC 58. Benjamin and Seck also give the example of *Nevsun Resources Ltd v Araya*, 2020 SCC 5: *supra* note 8.

¹⁴⁸Beaulieu & Turcotte, *supra* note 117.

¹⁴⁹Tigre, *supra* note 28.



Smith is thus of particular interest not only as an example of a polluter-pays claim, but also as an illustration of the possibility of integrating norms and concepts drawn from *tikanga Māori* into the development of the general law of civil liability. Whether comparable legislative interventions, already seen in some American states, will emerge in Canada remains to be seen.

3.6 The legitimacy of public action

3.6.1 Cases challenging the jurisdiction of public authorities

Six of the cases in this category challenge the jurisdiction of public authorities that adopted climate measures. These cases raise the question of whether the authority had the constitutional or enabling power to act, independently of the merits or the logic of the measure itself.

The ***References re Greenhouse Gas Pollution Pricing Act*** (2021 SCC 11) is the most emblematic example. That litigation concerned Parliament's authority to enact the *Greenhouse Gas Pollution Pricing Act* (GGPPA)¹⁵⁰, which establishes a national price on GHG emissions. That price applies, as a backstop, only in provinces and territories that lack a regime meeting the federal standards¹⁵¹. The Supreme Court upheld its constitutionality by a six-to-three majority.

The Court characterized the pith and substance of the Act narrowly: "establishing minimum national standards of GHG price stringency to reduce GHG emissions" (para 80). It is therefore not a general regulation of emissions, and the provinces remain free to design their own regimes. That characterization limits the intrusion into provincial jurisdiction and allows the Act to be grounded in the national concern branch of the peace, order and good government power (s 91, *Constitution Act, 1867*). The matter meets the criteria of sufficient concern to the country as a whole, singleness, distinctiveness and indivisibility, and its effect on provincial jurisdiction is reconcilable with the division of powers¹⁵².

Without abandoning provincial autonomy, the Court anchored that reasoning in a cooperative conception of federalism, which requires coordinated action by both orders of government in the face of climate change. It modernized the notion of provincial inability to encompass the consequences of a province's refusal to cooperate¹⁵³. It also weighed the federal intrusion against "the extent of the impact on the interests that would be affected" if Parliament were unable to act – here, irreversible climate effects that would have "a disproportionate impact on vulnerable communities and regions"¹⁵⁴. The national concern test thus evolves to "better reflect cooperative federalism and considerations beyond the division of powers"¹⁵⁵.

The ***Reference re Impact Assessment Act*** (2023 SCC 23) then clarified the limits of federal jurisdiction over the environment. Alberta challenged the "designated projects" scheme of the 2019 *Impact Assessment Act* (IAA) and the *Physical Activities Regulations*. Such projects, listed in the regulations or designated by the minister, could not proceed without a federal assessment and a decision on whether

¹⁵⁰ *Greenhouse Gas Pollution Pricing Act*, SC 2018, c 12, s 186.

¹⁵¹ For further detail, see Jodoin & Lemay, *supra* note 8 at 311–19.

¹⁵² The national concern branch allows Parliament to legislate on matters of inherently national concern: *References re Greenhouse Gas Pollution Pricing Act*, *supra* note 71 at paras 49, 89–90, 109; see also Jodoin & Lemay, *supra* note 8 at 314.

¹⁵³ Jodoin & Lemay, *supra* note 8 at 318.

¹⁵⁴ *References re Greenhouse Gas Pollution Pricing Act*, *supra* note 71 at para 161; see also Jodoin & Lemay, *supra* note 8 at 319.

¹⁵⁵ Jodoin & Lemay, *supra* note 8 at 319.



their effects were in the public interest. By five judges to two, the Supreme Court held that the scheme intrudes on provincial jurisdiction, and only the provisions concerning federal projects (ss 81 to 91) remain valid. Two defects were in issue. First, the Act counted among "effects within federal jurisdiction" any change to the environment occurring in another province. That clause thus permitted a project to be designated, assessed and refused on the basis of its GHG emissions alone, which goes beyond the matter of national concern recognized in 2021, confined to "a specific and limited regulatory mechanism." The government in fact read it that way, as a 2019 consultation document and two ministerial letters to Coalspur and Suncor show (paras 184–189). Second, the public interest decision, which may rest on effects such as impairment of Canada's climate commitments, is no longer focused on federal effects. It confers a "practically untrammelled power" to regulate projects as such (para 178). The Court did not thereby deny federal jurisdiction over the environment, including climate: Parliament may legislate provided each measure is tied to a head of federal power, in a spirit of cooperative federalism (para 216). The Act was amended in June 2024 to conform to the opinion.

In *Syncrude* (2016 FCA 160), the applicant challenged the constitutional validity of the *Renewable Fuels Regulations*, which impose a minimum 2% renewable fuel content in diesel, arguing that the federal government exceeded its jurisdiction in legislating on the subject. The Federal Court of Appeal upheld the validity of the regulations, accepting that reducing GHG emissions is a legitimate objective falling within the federal criminal law power. Incidentally, the Court also rejected arguments based on the regulations' alleged ineffectiveness and on the existence of divergent scientific opinion as to the measure's effect on air pollution, a branch that goes to the reasonableness of the government's assessment but that remains secondary to the central question of jurisdiction¹⁵⁶.

In *Énergir v Prévost* (2023), Énergir challenged the first Quebec municipal by-law prohibiting fossil fuel heating in new buildings, arguing that the by-law exceeded municipal jurisdiction and intruded on provincial jurisdiction over energy. The distributor discontinued its claim, however, after the Town amended the by-law to allow renewable natural gas and hybrid systems; the jurisdictional question was therefore never decided on the merits.

Two more recent cases extend this branch. The *Reference re Clean Electricity Regulations*, submitted by Alberta to its Court of Appeal in 2025, conversely challenges Parliament's authority to impose decarbonization standards on the electricity sector. The proceeding is ongoing, a political agreement having in the meantime suspended the regulations' application in Alberta. Finally, in *Saskatchewan v The King* (2025 TCC 181), the province challenges roughly \$71 million in fuel charge assessments, arguing that the federal exemption granted to heating oil in 2023 rendered carbon pricing unconstitutional for failing to meet the minimum national standard criterion – an argument distinct from the one decided in 2021, most of which the Tax Court of Canada struck at the preliminary stage.

3.6.2 Cases challenging the reasonableness of public decisions

Three further cases in this category challenge the reasonableness of public decisions relating to climate change. These cases do not question the authority's power to act, but challenge the reasonableness of a specific decision made in the exercise of that power.

For example, *Ferguson Point* (2021 BCSC 1888) challenges, on behalf of commercial interests, the closure of a Stanley Park roadway to cars. The Court dismissed the application, concluding that the decision was reasonable and noting that the measure was not aimed directly at reducing emissions but formed part of a broader climate plan.

¹⁵⁶Jodoin & Lemay, *supra* note 8 at 309–11.



Manitoba (2021 FC 1115) followed the *Carbon Pricing Reference*¹⁵⁷. Federal jurisdiction having already been established, Manitoba instead challenged, as a separate question, the reasonableness of the Governor in Council's decision to include it in the schedule to the Act. The Court dismissed the challenge, holding that the decision was reasonable, since the province had itself withdrawn its own regime before the federal assessment.

Boucherville (2024, pending) involves a challenge by a group of businesses to a municipal by-law imposing a tax on hard surfaces, adopted to combat heat islands. The plaintiffs do not allege that the city exceeded its taxing power, but rather that the by-law is unreasonable, arbitrary and self-contradictory, because the city requires mandatory parking ratios and then taxes the resulting hard surfaces. Trial is expected in 2026.

3.6.3 Cases alleging a violation of Charter-protected rights

While in *CCLA* (2020 ONSC 4838) the freedom of expression guaranteed by the Canadian Charter served climate-aligned ends, it can equally ground non-climate-aligned claims. In December 2024, the **Alberta Enterprise Group** and the Independent Contractors and Businesses Association challenged the new anti-greenwashing provisions introduced into the *Competition Act*, which required that any claim about the environmental benefits of a business and its activities first be substantiated in accordance with an internationally recognized methodology. The plaintiffs see in this an infringement of freedom of expression, given the chilling effect on true or defensible statements and the application of the regime to commercial actors alone. The challenge was not decided, however: Bill C-15, which received royal assent on March 26, 2026, removed the internationally recognized methodology requirement and narrowed the private right of action before the Competition Tribunal¹⁵⁸.

This claim is part of a broader trend, particularly pronounced in the United States, where freedom of expression is increasingly invoked against climate disclosure regimes¹⁵⁹. In Canada, it also recalls the tobacco precedent: the Supreme Court struck down the federal advertising regulations in 1995 (*RJR-MacDonald*), then upheld a tightened regime in 2007 (*JTI-Macdonald*), confirming that commercial freedom of expression is not absolute.

¹⁵⁷See Jodoin & Lemay, *supra* note 8 at 311–19.

¹⁵⁸Beaulieu, Fairley-Beam & Lemarié, *supra* note 134.

¹⁵⁹Julien O Beaulieu & Iris Fairley-Beam, "Will Free Speech Derail North America's Climate Finance Agenda?", *Corporate Knights* (2 April 2024), online: <<https://corporateknights.com/finance/will-free-speech-derail-north-americas-climate-finance-agenda/>>.



Box 8. Canadian courts' recognition of climate science

Whatever the legal outcome of a case, Canadian courts have consistently recognized the scientific consensus on climate change.

The reference point is the *GGPPA Reference* (2021 SCC 11), where the Supreme Court held that climate change is real, that human activity is its principal cause and that it is an existential threat. That finding is taken up as is by lower courts, notably in *Dykstra* (2025 SKKB 175, para 8) and *Citizens for Public Justice* (2026 SKKB 9, para 7), two cases that were nonetheless struck.

Governments themselves do not dispute that science. In *ENvironnement JEUnesse*, the Superior Court notes that Canada accepts that the IPCC's information is "robust, comprehensive and relevant" (2019 QCCS 2885, para 95). In *La Rose*, the Federal Court of Appeal reports that Canada admits that anthropogenic climate change is real, scientifically established and objectively measurable (2023 FCA 241, para 5); the parties already agreed on the point at first instance (2020 FC 1008, para 4). In *Mathur*, the Court of Appeal notes that Ontario admitted the reality of climate change and the risks it poses to health (2024 ONCA 762, para 9).

Mathur remains the only case in which a Canadian court has assessed that evidence on the merits, after cross-examination of the experts. Vermette J concludes that the IPCC reports are a reliable, comprehensive and authoritative synthesis of scientific knowledge and expressly sets aside Ontario's experts, whose qualifications do not compare with those of the IPCC (2023 ONSC 2316, para 19). On causation, she holds that Ontario's contribution to warming, though small in size, is nonetheless real, measurable and not speculative (para 148).

3.7 Investor-State disputes and constructive taking

3.7.1 Investor-State dispute settlement

Worldwide, there are more than 3,000 bilateral investment treaties between states. Whether in bilateral treaties between states or in investment chapters in free trade agreements, they protect foreign investors and entitle them to compensation where the host state expropriates their assets or treats them in a manner contrary to international law¹⁶⁰.

That was notably so of Chapter 11 of the *North American Free Trade Agreement* (NAFTA), the precursor of the current Canada–United States–Mexico Agreement (CUSMA), which set out investor-State dispute settlement provisions allowing foreign investors to bring claims against Canada's federal and provincial governments before private arbitral tribunals rather than before domestic courts. The ISDS mechanism was, however, removed from CUSMA, which succeeded NAFTA in July 2020¹⁶¹.

ISDS mechanisms apply to investments made in fossil fuel projects, including those that will eventually have to be abandoned in order to hold warming "well below 2°C" and pursue efforts to limit it to 1.5°C,

¹⁶⁰Oliver Hailes, "Valuation of Compensation in Fossil Fuel Phase-Out Disputes" (2023) LSE Law, Society and Economy Working Papers 23/2023 at § 6.01.

¹⁶¹Canada, Office of the Prime Minister, "Prime Minister Trudeau and Minister Freeland Speaking Notes for the United States-Mexico-Canada Agreement Press Conference" (1 October 2018), online: <<https://www.pm.gc.ca/en/news/speeches/2018/10/01/prime-minister-trudeau-and-minister-freeland-speaking-notes-united-states>>.



the threshold set by the *Paris Agreement*¹⁶². Those investors, protected by investment treaties, can claim compensation for "loss of future profits" through an ISDS mechanism when governments impose production limits (or other supply-side climate policies)¹⁶³.

The average amount claimed in fossil fuel-related arbitrations is estimated at roughly US\$1.4 billion worldwide, twice the average for claims unrelated to fossil fuels. On the merits, fossil fuel investors have succeeded in 72% of cases, and governments have paid out more than US\$82 billion in compensation globally¹⁶⁴, with average awards of some US\$600 million – five times the average award in arbitrations unrelated to fossil fuels¹⁶⁵.

While some argue that the pattern of substantial awards to individual investors could change given the evolution of states' obligations to address climate change under international law¹⁶⁶, others estimate that governments seeking to honour their climate commitments under the *Paris Agreement* could be required to pay US\$340 billion in future ISDS proceedings brought by oil and gas companies, which would further aggravate structural inequalities between the global North and South¹⁶⁷. These risks could also impede states' climate ambitions by creating a "regulatory chill" effect¹⁶⁸.

In the Canadian context, ISDS claims target mainly measures that restrict fossil fuel development. **Lone Pine** is one of the first cases of this kind. In June 2011, Quebec enacted the *Act to limit oil and gas activities*, which prohibits oil and gas activities in certain portions of the St. Lawrence River and revokes the exploration permits that had been issued there. Lone Pine Resources Inc., a Delaware company, had acquired, through an agreement with the Quebec company Junex, rights connected with five shale gas exploration permits, one of which concerned the area beneath the St. Lawrence. It initially claimed CAD 250 million (US\$179 million), later revised to US\$118.9 million. Lone Pine invoked articles 1110 (expropriation) and 1105 (minimum standard of treatment) of NAFTA Chapter 11 and argued that the legislation was politically motivated rather than aimed at pursuing a legitimate environmental objective.

Canada disputed the existence of an investment capable of being expropriated, an exploration permit conferring no acquired right to production. In the alternative it invoked the absence of substantial deprivation and Quebec's legitimate power to regulate. Admitted as *amicus curiae*, the *Centre québécois du droit de l'environnement* argued that the legislation was foreseeable in light of the scientific uncertainties surrounding hydraulic fracturing and the precautionary principle. The tribunal rejected all the claims, but on narrow grounds: it concluded unanimously that there had been no substantial deprivation of the investment, only a fraction of it having been affected. Nor was the legislation manifestly arbitrary or unfair¹⁶⁹.

¹⁶²Kyla Tienhaara, "Regulatory Chill in a Warming World: The Threat to Climate Policy Posed by Investor-State Dispute Settlement" (2018) 7:2 Transnational Environmental Law 229.

¹⁶³Tienhaara et al, *infra* note 170.

¹⁶⁴Di Salvatore et al, *Investor-State Dispute Settlements: A Hidden Handbrake on Climate Action*, London, IIED, 2023, online: <<https://www.iied.org/21971iied>>.

¹⁶⁵*Ibid.*

¹⁶⁶Hailes, *supra* note 160 at § 6.06; the global estimate of US\$340 billion comes from Kyla Tienhaara et al, "Investor-State Disputes Threaten the Global Green Energy Transition" (2022) 376:6594 Science 701.

¹⁶⁷See Tienhaara et al, *infra* note 170; Lorenzo Cotula, "International Investment Law and Climate Change: Reframing the ISDS Reform Agenda" (2023) 24:4–5 J World Investment & Trade 766.

¹⁶⁸See Tienhaara, *supra* note 162; Kyla Tienhaara et al, "Investor-State Dispute Settlement: Obstructing a Just Energy Transition" (2023) 23:9 Climate Policy 1197; Alessandro Monti, "Climate Change and Investor-State Disputes: Protecting Stranded Assets or Promoting Green Investments?" in Francesco Sindico et al, eds, *Research Handbook on Climate Change Litigation*, Cheltenham, UK, Edward Elgar, 2024.

¹⁶⁹*Lone Pine Resources Inc v Government of Canada*, ICSID Case No UNCT/15/2 (UNCITRAL Rules), final award of 21 November 2022 and partial dissenting opinion of arbitrator David R Haigh. See Alessandra Arcuri, Kyla Tienhaara & Lorenzo Pellegrini, "Investment Law v Supply-Side Climate Policies: Insights from *Rockhopper v Italy* and *Lone*



Westmoreland illustrates one of the main Canadian disputes connected with the coal phase-out. An American coal company challenged the *Climate Leadership Plan* adopted by Alberta in 2015, which aimed to phase out coal-fired electricity generation by 2030, as well as the transition payments made to certain coal plant owners but not to Westmoreland for its mining assets. It invoked in particular articles 1102 (national treatment), 1105 (minimum standard of treatment) and 1110 (expropriation and compensation) of NAFTA Chapter 11. The first claim, ***Westmoreland (I)***, was discontinued in 2018. The second, ***Westmoreland (II)***, was dismissed in 2022, the claimants not having held the protected investment at the time of the impugned measures. A third claim, ***Westmoreland (III)***, was dismissed in 2024, the claim being out of time and not meeting the criteria of the CUSMA transitional regime¹⁷⁰.

Koch arises from Ontario's abolition of its cap-and-trade system, linked to the *Western Climate Initiative* with Quebec and California¹⁷¹. Koch claimed more than US\$31 million for the expropriation of its emission allowances and a breach of fair and equitable treatment. The tribunal declined jurisdiction: the allowances are not "property" within the meaning of article 1139(g) of NAFTA, for want of exclusive control under Ontario law, and Koch's activity resembles cross-border trading rather than a protected investment. The tribunal nonetheless noted, in *obiter*, that a lack of predictability in such schemes could harm collective efforts to address climate change.

Ruby River, pending, is brought by an American company that controls Symbio Infrastructure, which holds the Quebec companies GNL Québec and Gazoduq. The dispute concerns the Énergie Saguenay project, which was to involve the construction of a natural gas liquefaction complex in the Saguenay, and the Gazoduq project, which was to involve the construction of a pipeline to supply that complex. Against a background of concerns raised about greenhouse gas emissions and the projects' potential effects on the marine environment, and demonstrations organized by local communities opposed to the projects, the authorities refused to authorize the Énergie Saguenay project: the Quebec government rendered its decision on July 21, 2021, followed by the federal government on February 7, 2022. As for the Gazoduq project, its federal environmental assessment process ended on July 18, 2023 without an environmental authorization being issued. Ruby River alleges that it made significant investments in these projects and claims damages from Canada. It invokes in particular a breach of fair and equitable treatment (art 1105), discriminatory treatment (arts 1102 and 1103) and indirect expropriation without compensation (art 1110). No final award has yet been rendered in this case.

ISDS is not, however, inherently hostile to climate action: it can also serve investors in renewable energy. In ***Windstream (I)***, concerning a moratorium on offshore wind development in Ontario, the tribunal rejected the claimants' expropriation arguments, on the ground that the feed-in tariff program was still in force and that the company could continue developing the project once the moratorium was lifted. The tribunal nonetheless concluded that the Ontario government had breached article 1105 of NAFTA by failing to resolve the regulatory uncertainty caused by the moratorium and awarded Windstream CAD 25.2 million in damages and CAD 2.9 million in legal costs. In ***Windstream (II)***, by contrast, the tribunal dismissed all the claims and ordered each party to bear its own costs.

One last set of cases is worth noting, although it is excluded from the survey. Canadian entities have also resorted to ISDS, but to challenge foreign climate measures affecting their fossil fuel investments. Those

Pine v Canada" (2024) 24:2 International Environmental Agreements: Politics, Law and Economics 193; Monti, *supra* note 170.

¹⁷⁰See the sources cited *supra* note 170.

¹⁷¹*Koch Industries Inc and Koch Supply & Trading, LP v Canada*, ICSID Case No ARB/20/52, award of 13 March 2024. Unlike the other ISDS cases, *Koch* challenges not a climate measure but the abolition of a carbon market; it is retained here because its climate-favourable effect is incidental and because recognizing allowances as compensable "property" would constrain the state's regulatory autonomy.



claims are not counted: the survey covers measures and forums that engage Canada, not steps taken by Canadian investors abroad, whose outcome falls to another legal order¹⁷².

3.7.2 Constructive taking claims before domestic courts

Three cases brought before Canadian courts raise a problem parallel to that raised in ISDS claims: obtaining compensation where environmental or climate measures substantially affect the value of a fossil fuel asset or right. They are, however, brought before Canadian courts and governed by domestic law rather than by an investment treaty. The question common to these cases is the following: how far may the state restrict or prohibit the exploitation of a resource in the name of environmental protection and climate action without paying compensation? Both families converge on the same principle: an investor in a fossil fuel business cannot claim a legitimate expectation that climate law will stand still¹⁷³.

Altius (2021 ABQB 3, aff'd 2024 ABCA 105) is the leading case. In 2014, the plaintiffs had acquired for \$460 million a 9% royalty interest in the coal produced by the Genesee mine, whose revenues were then tied to the operation of the generating station supplied by that mine. Amendments to the federal regulatory regime in 2018 required existing plants to meet the new emissions standards by December 31, 2029, while Alberta had provided for the phase-out of emissions from coal-fired electricity generation by 2030. Those measures substantially affected the value of the royalty. The Alberta courts dismissed the constructive taking claim: no compensable taking occurred, because the benefits of the climate measure accrue to the public and not to the state; the investor had committed its capital with full knowledge of the regulatory environment in a regulated industry; and broadening the notion of "benefit" would have considerable effects on public finances and on the legislature's freedom to act on climate.

Two Quebec cases carry forward, before the Quebec courts, the question already raised in *Lone Pine*: who must bear the cost of exiting hydrocarbons? Quebec policy unfolded in two stages: in 2011, and then with the general termination of exploration and production in 2022. Whereas *Lone Pine* invoked NAFTA before an arbitral tribunal to challenge the 2011 prohibition, *Gaspé Énergies* and *Langelier* rely on domestic law to challenge the 2022 *Act to end exploration for oil and underground reservoirs, production of oil and brine*.

In **Gaspé Énergies** (2025 QCCA 629), holders of revoked licences had obtained at first instance a stay of certain provisions concerning well closure. The Court of Appeal lifted the stay, holding that the judge should not presume that a stay would harm the public interest, a presumption the licence holders had not rebutted. The constitutional challenge on the merits remains pending; mediation between several plaintiffs, including Gaspé Énergies, and the Quebec government has been under way since September 2026.

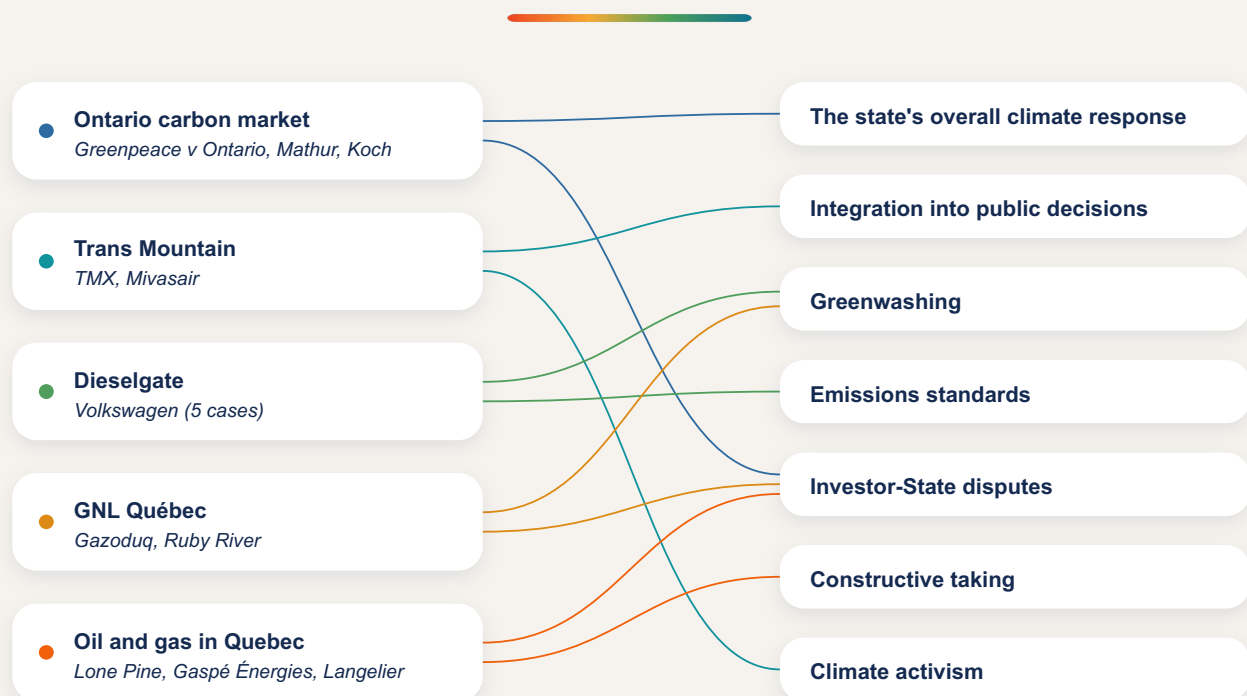
Langelier (2025, pending) is an application for authorization to bring a class action on behalf of holders of royalty rights on hydrocarbons and brine. The plaintiffs allege expropriation without compensation arising from the legislative measures of 1982 and 2022, and claim fair compensation, damages founded notably on the *Quebec Charter*, and restitution of unjust enrichment.

¹⁷²*TC Energy Corporation and TransCanada Pipelines Limited v United States of America*, ICSID Case No ARB/21/63, award of 2024 (jurisdiction declined); *Alberta Petroleum Marketing Commission v United States of America*, ICSID Case No UNCT/23/4, memorial of April 2024 (pending). Executive Order 13990 of 20 January 2021 revoked the permit issued in 2019. CUSMA having succeeded NAFTA on 1 July 2020, before the revocation, the tribunal declined jurisdiction: Annex 14-C extends only the offer to arbitrate, not NAFTA's substantive obligations (*Vienna Convention on the Law of Treaties*, 23 May 1969, 1155 UNTS 331, arts 31, 32, 70; *Articles on Responsibility of States for Internationally Wrongful Acts*, art 13).

¹⁷³Camille Martini, "From Fact to Applicable Law: What Role for the International Climate Change Regime in Investor-State Arbitration?" (2023) 61 Canadian YB Intl L 1.



Figure 5. Cases spanning several categories



Description. A single project or measure may give rise to several cases, brought before different forums and founded on distinct legal regimes. Five factual situations thus account for 15 of the 103 cases surveyed, spread across seven categories: the abolition of the Ontario carbon market, the Trans Mountain project, the Volkswagen emissions scandal, the GNL Québec project and the end of oil and gas activity in Quebec. The categorization used in this report follows the legal basis invoked rather than the project targeted; each case is therefore counted only once in Appendix A and in the statistics presented.

3.8 Proceedings connected with climate activism

3.8.1 Injunctions against blockades

Two injunction cases meet the definition adopted in section 2.1. Blockades of worksites and transportation routes by activists have generated abundant litigation over the past decade, notably against the Coastal GasLink pipeline on Wet'suwet'en territory (2019 BCSC 2264) and during the solidarity rail blockades that followed (2020 ONSC 3033). Those two cases are excluded from the survey, however, because climate change is not at the heart of the debate.

In the two cases retained, by contrast, climate change is argued by a party and the court responds. That response is consistent: the injunction is granted; climate and ecological concerns are recognized as legitimate in public debate but held to fall outside the constitutional competence of the court seized of an injunction application; and blockading before legal avenues are exhausted is characterized as contrary to the rule of law and as an abuse of process.

Teal Cedar concerns Fairy Creek, an old-growth forest watershed north of Port Renfrew in Pacheedaht territory, within the tree farm licence held by Teal Cedar. After blockades began in August 2020 by the Rainforest Flying Squad, the court granted a six-month injunction with a power of arrest conferred on the Royal Canadian Mounted Police (2021 BCSC 605), the enforcement of which led to roughly 1,200 arrests. The episode then unfolded across three separate decisions: in August 2021, the exclusion zones and checkpoints set up by the RCMP were declared unlawful and the injunction was varied to guarantee



media access (2021 BCSC 1554); in September 2021, an extension of the injunction was refused, for want of an "enforcement deficit" justifying the continuation of a civil remedy and on the ground that the police conduct exposed the court's reputation (2021 BCSC 1903); in January 2022, the Court of Appeal reversed that refusal and extended the injunction to September 26, 2022 (2022 BCCA 26). It was before the Court of Appeal that the climate argument was raised: the opponents asked that public concern about climate change and the carbon sink function of old-growth forests weigh in the balance of convenience. The Court answered that the case is not about the wisdom of provincial forest policy, "even in the context of climate change," those questions falling exclusively to the elected government, and that the public interest in maintaining the rule of law must be the dominant consideration in all cases of significant and persistent civil disobedience.

Tsawak-qin (2025 BCSC 1880) transposes that logic to the Upper Walbran, near Carmanah Walbran Provincial Park, and presents an inverted Indigenous configuration: the plaintiff, C'awak ʔqin Forestry (formerly TFL 44 LP), is owned jointly by the Huu-ay-aht First Nation together with Western Forest Products, its operations have the support of the Pacheedaht council on whose territory the cutblocks are located, and one of the defendants is a Pacheedaht elder. The blockade, erected in August 2025 by the same networks that had animated *Fairy Creek*, prevented access to two cutblocks worth roughly \$3 million. An interim injunction was granted on September 12, 2025. This is the only blockade case in which climate change grounds a freestanding legal argument rather than an argument of expediency: relying on *Mathur* (2024 ONCA 762), the defence argued that the right to security of the person guaranteed by section 7 of the Canadian Charter includes the right to be protected against the effects of climate change, and filed evidence on the loss of old-growth forest, biodiversity and climate resilience. The judge rejected the argument: section 7 governs state action and does not apply to a private law dispute in which a company exercises rights conferred by valid permits; the duty to consult, being collective in nature, cannot be invoked individually against a Nation that consents to the project; and the defendant, having approached the minister and the Federal Court only after taking part in the blockade, committed an abuse of process.

These two cases show that injunctions leave little room for climate change arguments. The balance of convenience filters such considerations out as matters of public policy, and therefore for the legislature, while section 7 is neutralized by the private character of the dispute, even though the blockade is in reality directed at government policy.

3.8.2 Criminal prosecutions and the necessity defence

Five cases involve activists prosecuted criminally for mischief, obstruction, break and enter or contempt, following climate-motivated action. In three of them, the necessity defence was raised. It is a common law defence that excuses an otherwise criminal act where the person was compelled to commit it by imminent peril, in the absence of any reasonable legal alternative, and provided the harm avoided is proportionate to the harm caused¹⁷⁴. Applied to climate action, it means that a prosecuted activist argues that the climate emergency compelled them to take unlawful direct action. Section 7 of the Canadian Charter is argued alongside it in some cases.

Trans Mountain v Mivasair is the leading case. Activists prosecuted for criminal contempt, for breaching an injunction protecting the Trans Mountain worksite, sought leave to raise the necessity defence. The court accepted that the accused subjectively believed that catastrophic and irreversible harm would occur without immediate action, but concluded that this belief had no objectively reasonable foundation, since the rise in temperatures unfolds over decades, adaptation measures remain possible, and the materialization of the peril is foreseeable or probable rather than virtually certain. It also held

¹⁷⁴ These are the three branches recognized in *Perka v R*, [1984] 2 SCR 232.



that the accused had unused legal remedies available and that contempt proceedings are not the forum in which to decide questions of climate policy. The British Columbia Court of Appeal dismissed the appeal (2020 BCCA 255), relying on the existence of reasonable legal alternatives, without however ruling clearly on the imminence of the peril¹⁷⁵.

R v Breen and Murray (2024 BCPC 95) goes further in recognizing the peril. The court accepted without reservation that climate change is a real and documented existential threat, recognized by the Supreme Court in the *References re Greenhouse Gas Pollution Pricing Act*. Unlike the decision at first instance in *Mivasair*, it allowed expert evidence to be led, hearing the climatologist Peter Carter and the philosopher Kimberley Brownlee on civil disobedience. It nonetheless found no air of reality to the first two branches of the defence and therefore did not have to examine proportionality. On imminent peril, the enhanced scientific evidence was not enough to meet the legal threshold. On legal alternatives, it held that the accused had made choices in the course of their mobilization, which is incompatible with the moral involuntariness the defence presupposes. Both accused were convicted and sentenced in October 2024 to community-based sentences.

R v Béliveau arises from the blockade of the Valero oil terminal in Montréal-Est on October 19 and 20, 2022, where ten activists from the Antigone collective chained themselves to the installations or climbed the loading arms, halting the terminal's operations for more than 22 hours. All admitted the facts but pleaded not guilty on the basis of necessity, which the court rejected¹⁷⁶. The accused emphasized that they had exhausted legal avenues and invoked the pipeline's danger to drinking water. The court did not question the gravity of the crisis or the sincerity of the accused, but declined to treat either as mitigating. It relied on two considerations. First, necessity had already been tested and rejected repeatedly in near-identical circumstances, notably in *Mivasair*. Second, it declined to characterize the acts as civil disobedience. Nine defendants received a suspended sentence with three years' probation; Olivier Huard, identified as the instigator, was sentenced to 90 days to be served conditionally.

Two cases in this subcategory did not give rise to any examination of necessity. In ***R v Haq*** (2023 BCPC 159), the Extinction Rebellion Vancouver activist pleaded guilty to five counts of mischief in connection with blockades of bridges, of access to St. Paul's Hospital and of the Vancouver airport, and to a breach of a release order. The court recognized the accused's sincerity but concluded that protecting the environment does not reduce his moral culpability, and imposed a 61-day conditional sentence order, 12 months' probation, 75 hours of community service and seven days' detention for the breach¹⁷⁷.

R v Huard and Pirro is the only case in this subcategory in which the prosecution failed. On October 22, 2024, Olivier Huard and Jacob Pirro, already charged in the Valero case, climbed the structure of the Jacques-Cartier Bridge with the support of the Antigone collective to denounce federal climate inaction, blocking traffic for roughly seven hours. Prosecuted by indictment for mischief and obstruction, and detained for ten and seven days respectively before release on conditions restricting their communications with the media, they elected trial by jury; the Crown then laid charges by summary conviction and stayed the indictable file, which had the effect of removing that option. On January 22, 2026, the Court of Québec ordered a stay of proceedings for breach of sections 7 and 11 of the Canadian

¹⁷⁵*Trans Mountain Pipeline ULC v Mivasair*, 2019 BCSC 50, aff'd 2020 BCCA 255 (21 September 2020) and 2020 BCCA 385 (1 December 2020). On the Court of Appeal's not taking a position on imminent peril, see *R v Breen*, 2024 BCPC 95 at para 63.

¹⁷⁶*R v Béliveau*, 2025 QCCM 39 (sentencing judgment, 28 April 2025); the verdict of 14 March 2025, referred to at para 6 of that judgment, has no known neutral citation.

¹⁷⁷*R v Haq*, 2024 BCCA 85. The Court of Appeal dismissed the sentence appeal on 28 February 2024 on the sole, by then residual, question of credit for pre-sentence custody; the convictions were not challenged and the treatment of the environmental motive was not examined.



Charter, finding that the prosecution had been reckless as to the rights of the accused and that their detention had been abusive¹⁷⁸.

3.8.3 State surveillance of activists

Two cases, the only representatives of the category of claims seeking to protect climate activists against state surveillance, arise from complaints filed in February 2014 by the British Columbia Civil Liberties Association (BCCLA). The climate link in these two cases is indirect: it lies in the identity of the groups surveilled and in the fossil fuel focus of their mobilization, not in the legal questions decided, which concern civilian oversight of security and police services.

The facts alleged are the same on both sides: the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP) are said to have surveilled environmental and Indigenous groups mobilized against the Northern Gateway pipeline project, and then to have communicated the information so gathered to the National Energy Board and to oil companies; the legal arguments are likewise common to both, namely the absence of any legal basis for collecting information about lawful protest activity and the resulting chilling effect on the freedoms of expression and association guaranteed by section 2 of the Canadian Charter.

The **CSIS** branch failed on the merits: the Security Intelligence Review Committee dismissed the complaint on May 30, 2017, following hearings held partly *ex parte*, on the ground that the information had been collected incidentally in the course of lawful investigations directed at other authorized targets and that no communication to industry was established; judicial review of that decision, still pending, has shifted to questions of evidence.

The **RCMP** branch is, by contrast, one of the category's rare favourable outcomes, but on strictly procedural grounds: the Civilian Review and Complaints Commission could not publish its conclusions until the Commissioner had responded to its interim report of June 2017, and Associate Chief Justice Gagné declared on December 29, 2021 (2021 FC 1475) that the Commissioner had breached her obligation to respond "as soon as feasible" within the meaning of subsection 45.76(2) of the *Royal Canadian Mounted Police Act*, a delay of more than three years being unreasonable and six months serving as the benchmark absent exceptional circumstances.



¹⁷⁸*R v Huard and Pirro* (Ct Q, Crim & Pen Div, Montreal, 22 January 2026, Springate J), judgment released on 29 January 2026; neutral citation to be obtained.



4. Conclusion



Mapping Canadian climate litigation as a whole raises an essential question: does the justice system have the resources and the legitimacy to respond to systemic, cumulative and intergenerational harms, or is it itself among the structural causes of climate inaction in Canada¹⁷⁹? The map presented here does not settle the question, but it sharpens the terms of the debate. Canadian litigation has not reached maturity: 103 cases in 22 years, a third of them since 2023 and a third still pending; of the 67 resolved cases, 29 (43%) were never decided on the merits. It is also distinctive in its dual orientation: 72% of cases seek to strengthen climate action, 28% to slow it.

Law is thus one of the arenas in which the social conflict over the transition is played out: when the state or companies retreat, people turn to the courts, as in *Maltais*; when they advance, others seek to slow them down, as the *References re Greenhouse Gas Pollution Pricing Act* illustrate. The success of a case is therefore not measured by its formal outcome alone: even when dismissed, it may establish the justiciability of a question, consolidate the scientific evidence, make marginalized harms visible, or shift public debate.

4.1 How a claim is framed is the decisive variable

The early cases were dominated by preliminary questions – justiciability, separation of powers, standing. Those obstacles have not disappeared, but they have become more precise: the question is no longer whether courts can hear a climate claim, but which obligations they can review and which remedies they can grant. The common thread is how the claim is framed. Courts intervene where the claim targets a specific measure – a target, a plan, an authorization, a legislative provision – tied to an identifiable obligation; they hold back in the face of challenges directed globally at the insufficiency of government action.

The horizon is not therefore dark: no decision has rejected the plaintiffs' premises on the merits; on the contrary, the courts have at every opportunity recognized the scale of climate risk and have left the door open to future claims.

4.2 A distinctly Canadian profile, and telling absences

The largest category in the dataset – climate communications, 32% of cases – proceeds mainly through regulatory or quasi-judicial routes: 23 of the 25 greenwashing cases go through a complaint rather than a court, and no case of purely Canadian origin has been carried through to a decision on the merits in more than 20 years. Private actors are thus held to account through scrutiny of their environmental representations far more than through claims directed at their contribution to the harm, which contrasts with Germany or the United Kingdom.

The Canadian profile is defined as much by its absences: claims seeking to impose a reduction trajectory on a company, claims founded on a failure to adapt operations to the transition, claims seeking to limit the financing of high-emitting activities, and polluter-pays claims all remain embryonic or non-existent. A single instrument may finally serve opposing ends – greenwashing invoked against NGOs, the Canadian Charter and judicial review mobilized on both sides – and a single dispute may be challenged from several angles: the Volkswagen saga gave rise to two agreements before the Competition Tribunal,

¹⁷⁹Jodoin & Lemay, *supra* note 8.



a criminal prosecution and two class actions. These clusters reveal the plasticity of a body of law that has no unified climate framework.

Claims brought by Indigenous peoples – 10 cases, 10% of the dataset – add a distinct dimension. They are not limited to demonstrating the unequal distribution of climate effects: they put in issue collective relationships to territory, the continuity of cultures and communities' capacity to maintain their modes of governance. *Lho'Imggin* illustrates the possibility of placing the individual rights guaranteed by the Canadian Charter in dialogue with Wet'suwet'en law and with a collective conception of life, liberty and security, while leaving open the respective roles of section 35, the United Nations Declaration on the Rights of Indigenous Peoples and Indigenous legal orders.

4.3 Remedies and their implementation

Beyond these issues, the climate trajectory itself demands attention. Current commitments lead to warming above 1.5°C, and the window for avoiding the most severe impacts is closing quickly. Yet the litigation surveyed here is overwhelmingly about mitigation: the sufficiency of targets and plans, the consideration of emissions in project approvals, the truthfulness of environmental claims. With further warming increasingly unavoidable, the centre of gravity could shift toward adaptation and toward compensation for climate impacts.

The adaptation claims following the floods in the Montreal area are the first sign of this. That logic could reach both the state and companies and extend to a failure to prepare for the transition; ground already marked out by the claims on directors' duties and on climate risk disclosure.

That shift depends, however, on the work now under way. The trials on the merits expected in *Maltais*, *Mathur*, *Hirji*, *La Rose* and *Lho'Imggin* will be about mitigation, and their outcome will matter in two directions: the more climate action falls short, the greater the harm to be allocated; and those trials will supply, or withhold, the tools that compensatory litigation will need – from justiciability to the rejection of the "drop in the ocean" argument, through the admissibility of attribution evidence.





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Appendix A. Table of cases



The 103 Canadian climate cases identified as of September 11, 2026, in alphabetical order of the short name used in the report. The "Year" column gives the year the claim was filed. The "Full citation(s)" column gives the citations of the decisions rendered at the various levels, or a description of the proceeding where no decision has been published. "Orientation" indicates whether the case seeks to advance (Pro) or restrict (Anti) climate action.

Short name	Year	Full citation(s)	Category	Orientation
<i>Alberta Enterprise Group</i>	2024	<i>Alberta Enterprise Group and Independent Contractors and Businesses Association v Canada (Attorney General)</i> (application filed December 2024)	6. Legitimacy of public action	Anti
<i>Altius</i>	2019	<i>Altius Royalty Corporation v Alberta</i> , 2021 ABQB 3 (reconsideration: 2022 ABQB 255; appeal dismissed by the Alberta Court of Appeal, 2024)	7. ISDS and constructive taking	Anti
<i>Amberg</i>	2023	<i>R v Amberg Corp and Olga Kiiker</i> – agreed statement of facts (Provincial Court of Alberta, 2023)	4. Climate communications	Pro
<i>AQLPA v Volkswagen</i>	2015	<i>Association québécoise de lutte contre la pollution atmosphérique (AQLPA) v Groupe Volkswagen du Canada inc</i> , 2022 QCCS 2186 (authorization: 2018 QCCS 174; 2018 QCCA 1034; appeal to SCC dismissed, File No 38297, 2019)	5. Regulatory or fiduciary breaches	Pro
<i>Arctic Athabaskan Council Petition</i>	2013	<i>Petition of the Arctic Athabaskan Council v Canada</i> (Inter-American Commission on Human Rights, filed April 2013)	1. The state's overall climate response	Pro
<i>Auger</i>	2017	<i>Auger v General Motors of Canada Company</i> (Que Sup Ct, application for authorization to bring a class action)	5. Regulatory or fiduciary breaches	Pro
<i>BCCLA (CSIS)</i>	2014	<i>British Columbia Civil Liberties Association v Canada (CSIS)</i> – complaint to SIRC filed February 6, 2014, dismissed May 30, 2017; judicial review still pending before the Federal Court; s 38 CEA branch: <i>Canada (Attorney General) v British Columbia Civil Liberties Association</i> , 2024 FC 853 (DES-1-19); appeal dismissed: 2026 FCA 14	8. Climate activism	Pro
<i>BCCLA (RCMP)</i>	2020	<i>British Columbia Civil Liberties Association v Commissioner of the Royal Canadian Mounted Police (Brenda Lucki) and Attorney General of Canada</i> , 2021 FC 1475 (File No T-1347-20)	8. Climate activism	Pro
<i>Beaudry</i>	2026	<i>Beaudry v Ville de Montréal (Pierrefonds-Roxboro borough) and Ville de Montréal</i> , Quebec Superior Court, File No 500-06-000047-262 (application for authorization to bring a class action filed July 3, 2026)	3. Adaptation to climate change	Pro
<i>Boucherville</i>	2024	Challenge to By-law No 2024-438 of the City of Boucherville (tax on hard surfaces) – Que Sup Ct, 2024	6. Legitimacy of public action	Anti

Short name	Year	Full citation(s)	Category	Orientation
CAMPP	2019	<i>CAMPP Windsor Essex Residents Association v Windsor (City)</i> , 2020 ONSC 4612 (merits: 2019 CanLII 114467 (ON LPAT))	2. Integration into public decisions	Pro
Canada Action	2023	Ad Standards – complaint against pro-LNG advertising by Canada Action (decision of January 2024, disclosed in 2024–2025)	4. Climate communications	Pro
Canadian Nuclear Association	2024	Canadian Nuclear Association (CNA) – complaints to the Competition Bureau (February and October 2024)	4. Climate communications	Pro
Carbon Pricing References	2018	<i>References re Greenhouse Gas Pollution Pricing Act</i> , 2021 SCC 11 (2019 SKCA 40; 2019 ONCA 29; 2020 ABCA 74)	6. Legitimacy of public action	Anti
CCLA	2019	<i>Canadian Civil Liberties Association v Ontario (Attorney General)</i> , 2020 ONSC 4838	4. Climate communications	Pro
Cenovus and Enbridge	2025	Investors for Paris Compliance (I4PC) v Cenovus and Enbridge – complaint to the Alberta Securities Commission regarding "net-zero" disclosure (August 2025)	4. Climate communications	Pro
CGA	2022	Canadian Gas Association (CGA) – complaint to the Competition Bureau (September 2022)	4. Climate communications	Pro
Citizens for Public Justice	2025	<i>Citizens for Public Justice v Saskatchewan (Government of)</i> , 2026 SKKB 9	2. Integration into public decisions	Pro
Citizens for Riverdale	2007	<i>Citizens for Riverdale Hospital v Bridgepoint Health Services and City of Toronto</i> , 2007 CanLII 23599 (ON SCDC), [2007] OJ No 2527, File No 85/07 (Greer J, June 26, 2007)	2. Integration into public decisions	Pro
Clean Electricity Regulations Reference	2025	<i>Reference re Clean Electricity Regulations (Canada)</i> – Alberta reference	6. Legitimacy of public action	Anti
Clean Train Coalition	2012	<i>Clean Train Coalition Inc v Metrolinx</i> , 2012 ONSC 6593	2. Integration into public decisions	Pro
CSA	2021	Canadian Standards Association (CSA) – complaint to the Competition Bureau (Ecojustice, July 2021)	4. Climate communications	Pro
David Suzuki Foundation	2025	Stewart Muir / Resource Works et al v David Suzuki Foundation – complaint to the Competition Bureau (2025)	4. Climate communications	Anti
Don Davies	2026	Don Davies (NDP parliamentary leader) – request for a Competition Bureau investigation into federal government advertising on clean energy infrastructure (August 2026)	4. Climate communications	Pro
Dykstra	2023	<i>Dykstra v Saskatchewan Power Corporation</i> , 2026 SKCA 99 (first instance: 2025 SKKB 175)	1. The state's overall climate response	Pro

Short name	Year	Full citation(s)	Category	Orientation
<i>Ecology Action Centre (offshore drilling)</i>	2020	<i>Ecology Action Centre, Sierra Club Canada Foundation and World Wildlife Fund Canada (WWF-Canada) v Minister of Environment and Climate Change</i> , 2020 FC 663 (interlocutory motion); 2021 FC 1367 (Files T-541-20 and T-679-20, Bell J); appeal filed January 2022.	2. Integration into public decisions	Pro
<i>Enbridge (divulgarion)</i>	2023	Investors for Paris Compliance (I4PC) v Enbridge – complaint to the Alberta Securities Commission concerning sustainability-linked bonds (February 2023)	4. Climate communications	Pro
<i>Enbridge Gas</i>	2023	Enbridge Gas – complaint to the Competition Bureau for misleading marketing practices (Environmental Defence, September 2023)	4. Climate communications	Pro
<i>Énergir (Competition Bureau)</i>	2025	Énergir / Enbridge Gaz Québec – Competition Bureau investigations (complaints by the Sortons le gaz! coalition, 2025)	4. Climate communications	Pro
<i>Énergir (Consumer Protection Office)</i>	2023	Coalition Sortons le gaz! v Énergir – complaint to the Quebec Office of Consumer Protection (filed June 1, 2023; notice of non-compliance November 2024)	4. Climate communications	Pro
<i>Énergir v Prévost</i>	2023	<i>Énergir v Ville de Prévost</i> (originating application filed 2023; withdrawn 2024)	6. Legitimacy of public action	Anti
<i>ENJEU</i>	2018	<i>Environnement Jeunesse v Attorney General of Canada</i> , 2021 QCCA 1871 (first instance: 2019 QCCS 2885; leave to appeal to SCC refused, July 2022)	1. The state's overall climate response	Pro
<i>Équiterre v Bosch</i>	2018	<i>Équiterre v Robert Bosch LLC et al</i> (Que Sup Ct, application for authorization to bring a class action)	5. Regulatory or fiduciary breaches	Pro
<i>EverWind</i>	2025	EverWind Fuels Inc – complaint to the Competition Bureau (August 2025)	4. Climate communications	Pro
<i>Ezra Levant and Rebel News</i>	2019	<i>Levant v DeMelle</i> , 2022 ONCA 79	4. Climate communications	Anti
<i>Ferguson Point</i>	2021	<i>Ferguson Point Restaurants Inc v Vancouver Board of Parks and Recreation</i> , 2021 BCSC 1888	6. Legitimacy of public action	Anti
<i>Five major banks</i>	2024	Investors for Paris Compliance (I4PC) v the five major Canadian banks – complaint to the OSC and the AMF (January 2024)	4. Climate communications	Pro
<i>Forest Ethics</i>	2014	<i>Forest Ethics Advocacy Association and Donna Sinclair v Canada (National Energy Board)</i> , 2014 FCA 245	2. Integration into public decisions	Pro
<i>FortisBC</i>	2024	<i>Stand Environmental Society et al v FortisBC Energy Inc et al</i> (Supreme Court of British Columbia, notice of civil claim filed March 25, 2024)	4. Climate communications	Pro

Short name	Year	Full citation(s)	Category	Orientation
<i>Friends of the Attawapiskat River</i>	2026	<i>Friends of the Attawapiskat River v Canada (Minister of Environment and Climate Change)</i> , Federal Court, File No T-3312-26 (notice of application issued July 23, 2026) – Webequie Supply Road project ("Ring of Fire")	2. Integration into public decisions	Pro
<i>Friends of the Earth</i>	2007	<i>Friends of the Earth v Canada (Governor in Council)</i> , 2008 FC 1183, aff'd 2009 FCA 297; leave to appeal to SCC refused, 2010 CanLII 14720 (SCC)	1. The state's overall climate response	Pro
<i>Gaspé Énergies</i>	2022	<i>Procureur général du Québec v Gaspé Énergies inc</i> , 2025 QCCA 629 (stay at first instance: Que Sup Ct, January 25, 2024)	7. ISDS and constructive taking	Anti
<i>Gazoduc</i>	2021	CQDE v Gazoduc / Symbio Infrastructure – complaint to the Competition Bureau (June 2021)	4. Climate communications	Pro
<i>Goldboro</i>	2021	<i>Ecology Action Centre v Nova Scotia (Environment and Climate Change)</i> , 2023 NSCA 12 (first instance: 2022 NSSC 104)	2. Integration into public decisions	Pro
<i>Grassy Mountain</i>	2021	PROVINCIAL BRANCH: <i>Benga Mining Limited v Alberta Energy Regulator</i> , 2022 ABCA 30 (leave to appeal refused; leave to appeal to SCC refused, September 29, 2022); <i>Stoney Nakoda Nations v Alberta (Aboriginal Consultation Office)</i> , 2023 ABKB 700; <i>Northback Holdings Corporation v Alberta Energy Regulator</i> , 2025 ABCA 186 (Khullar CJA, dissenting; leave to appeal to SCC refused with costs, October 2, 2025). FEDERAL BRANCH: <i>Benga Mining Limited, Piikani Nation and Stoney Nakoda Nations v Minister of the Environment</i> , 2024 FC 231; <i>Northback Holdings Corporation v Canada (Environment and Climate Change)</i> , 2025 FCA 31 (File A-98-24). ISDS BRANCH: <i>Riversdale Resources / Hancock Prospecting v Canada</i> – included in this row (no separate row in 3.7.1).	2. Integration into public decisions	Anti
<i>Greenpeace v Ontario</i>	2018	<i>Greenpeace Canada v Ontario (Minister of the Environment, Conservation and Parks)</i> , 2019 ONSC 5629	1. The state's overall climate response	Pro
<i>Highlands District</i>	2020	<i>Highlands District Community Association v British Columbia (Attorney General)</i> , 2020 BCSC 2135; 2021 BCCA 232 (leave to appeal to SCC refused, November 2021)	2. Integration into public decisions	Pro
<i>Hirji</i>	2025	<i>Hirji v Canada Pension Plan Investment Board</i> (Ont SCJ, originating application filed October 2025)	5. Regulatory or fiduciary breaches	Pro
<i>Hyundai</i>	2013	<i>Commissioner of Competition and Hyundai Auto Canada Corp</i> – registered consent agreement (Competition Tribunal, 2013)	4. Climate communications	Pro
<i>Impact Assessment Act Reference</i>	2019	<i>Reference re Impact Assessment Act</i> , 2023 SCC 23 (Alberta reference: 2022 ABCA 165).	6. Legitimacy of public action	Anti

Short name	Year	Full citation(s)	Category	Orientation
<i>Inuit Petition</i>	2005	Petition of Sheila Watt-Cloutier and the Inuit Circumpolar Conference v United States (Inter-American Commission on Human Rights, filed December 2005)	1. The state's overall climate response	Pro
<i>Kia</i>	2013	<i>Commissioner of Competition and Kia Canada Inc</i> – registered consent agreement (Competition Tribunal, 2013)	4. Climate communications	Pro
<i>Kinder Morgan</i>	2017	Greenpeace Canada v Kinder Morgan – complaint to the Alberta Securities Commission (2017–2018)	4. Climate communications	Pro
<i>Koch</i>	2020	<i>Koch Industries Inc v Canada</i> (ICSID, Case No ARB/20/52; final award of March 13, 2024). Full title on the ICSID docket: <i>Koch Industries, Inc and Koch Supply & Trading, LP v Canada</i> .	7. ISDS and constructive taking	Anti
<i>Ksi Lisims</i>	2025	<i>Lax Kw'alaams Band v Canada (Environment and Climate Change)</i> and <i>Metlakatla First Nation v Canada (Environment and Climate Change)</i> , Federal Court, separate applications for judicial review filed October 2025 – Ksi Lisims floating LNG terminal project	2. Integration into public decisions	Pro
<i>La Rose</i>	2019	<i>La Rose v Canada</i> , 2023 FCA 241 (first instance: 2020 FC 1008)	1. The state's overall climate response	Pro
<i>Langelier</i>	2025	<i>Paul Langelier v Procureur général du Québec</i> (Que Sup Ct, application for authorization to bring a class action, 2025)	7. ISDS and constructive taking	Anti
<i>Lho'Imggin</i>	2020	<i>Lho'Imggin v Canada</i> , 2025 FC 1586 (formerly <i>Misdzi Yikh v Canada</i> , 2020 FC 1059; <i>La Rose v Canada</i> , 2023 FCA 241)	1. The state's overall climate response	Pro
<i>Lone Pine</i>	2013	<i>Lone Pine Resources Inc v Government of Canada</i> , ICSID Case No UNCT/15/2 (UNCITRAL Arbitration Rules), final award of November 21, 2022 (partial dissenting opinion of arbitrator David R Haigh)	7. ISDS and constructive taking	Anti
<i>Lululemon</i>	2024	Lululemon – complaint to the Competition Bureau (Stand.earth, February 2024)	4. Climate communications	Pro
<i>Maltais</i>	2026	<i>Maltais, Mathur, Barnea, Environmental Defence Canada and Canadian Association of Physicians for the Environment v Minister of Environment and Climate Change</i> (Federal Court, notice of application filed June 15, 2026), Court File No T-2843-26	1. The state's overall climate response	Pro
<i>Manitoba</i>	2019	<i>Manitoba v Canada (Attorney General)</i> , 2021 FC 1115	6. Legitimacy of public action	Anti
<i>Mann</i>	2011	<i>Michael Mann v Timothy Ball, The Frontier Centre for Public Policy Inc and John Doe</i> , 2019 BCSC 1580 (Supreme Court of British Columbia, File No VLC-S-S-111913, action commenced 2011)	4. Climate communications	Pro

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<i>Mathur</i>	2019	<i>Mathur v Ontario</i> , 2024 ONCA 762 (first instance: 2023 ONSC 2316; leave to appeal to SCC refused, May 2025)	1. The state's overall climate response	Pro
<i>Metlakatla</i>	2022	<i>Metlakatla First Nation v Canada (Attorney General) and Prince Rupert Port Authority</i> , Federal Court, File No T-2619-22 (application filed December 9, 2022) – Vopak bulk petroleum products storage terminal, Ridley Island	2. Integration into public decisions	Pro
<i>P.V.I. International</i>	2004	<i>P.V.I. International Inc v Canada (Commissioner of Competition)</i> , 2004 FCA 197	4. Climate communications	Pro
<i>Pathways Alliance</i>	2023	Greenpeace Canada v Pathways Alliance – complaint to the Competition Bureau (March 2023)	4. Climate communications	Pro
<i>Pembina</i>	2007	<i>Pembina Institute for Appropriate Development et al v Canada (Attorney General) and Imperial Oil</i> , 2008 FC 302	2. Integration into public decisions	Pro
<i>Purpose Investments</i>	2025	<i>Ontario Securities Commission v Purpose Investments Inc</i> , 2026 ONCMT 10	4. Climate communications	Pro
<i>R v Béliveau</i>	2022	<i>R v Béliveau</i> , 2025 QCCM 39 (sentencing judgment, April 28, 2025); verdict of March 14, 2025 (necessity defence rejected)	8. Climate activism	Anti
<i>R v Breen and Murray</i>	2022	<i>R v Breen and Murray</i> , 2024 BCPC 95 (ruling on the necessity defence, May 3, 2024); convictions and sentences rendered October 2024	8. Climate activism	Anti
<i>R v Haq</i>	2021	<i>R v Haq</i> , 2023 BCPC 159 (sentence); sentence appeal dismissed: <i>R v Haq</i> , 2024 BCCA 85	8. Climate activism	Anti
<i>R v Huard and Pirro</i>	2024	<i>R v Huard and Pirro</i> (Court of Québec, Criminal and Penal Division, Montreal; stay of proceedings entered January 22, 2026 by Springate J)	8. Climate activism	Anti
<i>R v Volkswagen (2020)</i>	2019	<i>R v Volkswagen AG</i> , 2020 ONCJ 398	5. Regulatory or fiduciary breaches	Pro
<i>RBC</i>	2022	Royal Bank of Canada (RBC) – complaint to the Competition Bureau (Ecojustice, April 2022)	4. Climate communications	Pro
<i>Reforus</i>	2025	<i>Reforus Wood Systems Inc v Toyota Industries Corporation et al</i> (proposed class action)	5. Regulatory or fiduciary breaches	Pro
<i>Ruby River</i>	2023	<i>Ruby River Capital LLC v Canada</i> (ICSID, Case No ARB/23/5 – GNL Québec / Gazoduq, proceeding commenced October 2023)	7. ISDS and constructive taking	Anti
<i>Saskatchewan v The King</i>	2025	<i>Saskatchewan v The King</i> , 2025 TCC 181	6. Legitimacy of public action	Anti

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<i>Shell Canada</i>	2021	Greenpeace Canada v Shell Canada – complaint to the Competition Bureau (2021; investigation closed December 2023)	4. Climate communications	Pro
<i>Shore</i>	2018	<i>Shore v Georgina (Town)</i> , 2019 CanLII 29201 (ON LPAT), File No PL180794 (Member Thomas Hodgins, April 2, 2019)	2. Integration into public decisions	Pro
<i>Sierra Club (Bay du Nord)</i>	2022	<i>Sierra Club Canada Foundation, Équiterre and Mi'gmawe'l Tplu'taqnn Inc v Canada (Environment and Climate Change)</i> , 2023 FC 849 (Bay du Nord project); appeal dismissed: 2026 FCA 110.	2. Integration into public decisions	Pro
<i>Sierra Club (BC)</i>	2022	<i>Sierra Club of British Columbia Foundation v British Columbia (Minister of Environment and Climate Change Strategy)</i> , 2023 BCSC 74	1. The state's overall climate response	Pro
<i>SkeenaWild</i>	2016	<i>SkeenaWild Conservation Trust v Canada</i> (application for judicial review filed October 2016; withdrawn July 2017)	2. Integration into public decisions	Pro
<i>South Bracebridge</i>	2022	<i>South Bracebridge Environmental Protection Group v District Municipality of Muskoka</i> , 2023 CanLII 100185 (ON LT)	2. Integration into public decisions	Pro
<i>Suncor</i>	2023	Greenpeace Canada v Suncor – complaint to the Alberta Securities Commission regarding climate risk disclosure (October 2023)	4. Climate communications	Pro
<i>Sustainable Forestry Initiative</i>	2022	Sustainable Forestry Initiative – complaint to the Competition Bureau (Ecojustice, December 2022)	4. Climate communications	Pro
<i>Syncrude</i>	2010	<i>Syncrude Canada Ltd v Canada (Attorney General)</i> , 2016 FCA 160 (first instance: 2014 FC 776)	6. Legitimacy of public action	Anti
<i>Teal Cedar</i>	2021	<i>Teal Cedar Products Ltd v Rainforest Flying Squad</i> , 2021 BCSC 1554 (injunction and contempt branch, 2021–2023)	8. Climate activism	Anti
<i>Trans Mountain (TMX)</i>	2016	<i>Tsleil-Waututh Nation v Canada (Attorney General)</i> , 2018 FCA 153; <i>Raincoast Conservation Foundation v Canada (Attorney General)</i> , 2019 FCA 224 (decision on leave) and 2019 FCA 259 (abuse of process; leave to appeal to SCC refused, March 2020); <i>Coldwater First Nation v Canada (Attorney General)</i> , 2020 FCA 34 (leave to appeal to SCC refused with costs, July 2, 2020)	2. Integration into public decisions	Pro
<i>Trans Mountain v Mivasair</i>	2018	<i>Trans Mountain Pipeline ULC v Mivasair</i> , 2019 BCSC 50 (refusal to allow the necessity defence); convictions for criminal contempt: 2019 BCSC 1247; aff'd 2020 BCCA 255 (necessity branch) and 2020 BCCA 385 (mens rea, s 2(b) of the Charter and s 9 Cr C branch); related contempt proceedings, 2018–2023	8. Climate activism	Anti
<i>Transport TFI</i>	2023	<i>Transport TFI 2, sec v Hino Motors, Ltd</i> , 2025 QCCS 1789 (settlement; File No 500-06-001275-235; see also 2024 QCCS 3910 and 2025 QCCS 21)	5. Regulatory or fiduciary breaches	Pro

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<i>Tsawak-qin</i>	2025	<i>Tsawak-qin Forestry Limited Partnership v O'Connell</i> , 2025 BCSC 1880 (Upper Walbran injunction and referral for criminal contempt)	8. Climate activism	Anti
<i>Turp</i>	2012	<i>Turp v Canada (Justice)</i> , 2012 FC 893	1. The state's overall climate response	Pro
<i>Volkswagen and Audi (2016)</i>	2016	<i>Commissioner of Competition and Volkswagen Group Canada Inc / Audi Canada Inc</i> – registered consent agreement (Competition Tribunal, CT-2016-017, 2016)	4. Climate communications	Pro
<i>Volkswagen, Audi and Porsche (2018)</i>	2018	<i>Commissioner of Competition and Volkswagen Group Canada Inc / Audi Canada Inc / Porsche Cars Canada Ltd</i> – registered consent agreement (Competition Tribunal, CT-2018-003, 2018)	4. Climate communications	Pro
<i>Voters Taking Action</i>	2015	<i>Voters Taking Action on Climate Change v British Columbia (Energy and Mines)</i> , 2015 BCSC 471	2. Integration into public decisions	Pro
<i>Weaver</i>	2010	<i>Weaver v Corcoran</i> , 2015 BCSC 165; 2017 BCCA 160	4. Climate communications	Pro
<i>Westmoreland (I)</i>	2018	<i>Westmoreland Coal Company v Government of Canada (I)</i> , claim brought under NAFTA Chapter 11 in 2018; proceeding discontinued (no public file number, no award)	7. ISDS and constructive taking	Anti
<i>Westmoreland (II)</i>	2019	<i>Westmoreland Mining Holdings LLC v Government of Canada (II)</i> , ICSID Case No UNCT/20/3, final award of January 31, 2022	7. ISDS and constructive taking	Anti
<i>Westmoreland (III)</i>	2022	<i>Westmoreland Coal Company v Government of Canada (III)</i> , ICSID Case No UNCT/23/2, award of December 17, 2024	7. ISDS and constructive taking	Anti
<i>Windstream (I)</i>	2013	<i>Windstream Energy LLC v Government of Canada (I)</i> , PCA Case No 2013-22 (UNCITRAL Arbitration Rules), award of September 27, 2016	7. ISDS and constructive taking	Anti
<i>Windstream (II)</i>	2020	<i>Windstream Energy LLC v Government of Canada (II)</i> , PCA Case No 2021-26 (CUSMA Annex 14-C, NAFTA Ch 11, 2013 UNCITRAL Arbitration Rules), award of April 20, 2026; rectification decision of June 11, 2026	7. ISDS and constructive taking	Anti
<i>Wolofsky</i>	2026	<i>Wolofsky v Ville de Dollard-des-Ormeaux and Ville de Montréal</i> , Quebec Superior Court, File No 500-06-000046-264 (application for authorization to bring a class action filed July 3, 2026)	3. Adaptation to climate change	Pro