

Schedule "A" (the "**Impacted Area**" and the proposed "**Class Members**", respectively).

3. The Plaintiffs anticipate the definition of the proposed Class may require amendment, as the migration of contaminants that are the subject of this action continue to be investigated, and additional evidence continues to be obtained by the parties after the date of the filing hereof.

The Defendant

4. The Defendant is named as the Crown representative of the Government of Canada, in relation to conduct of the Crown agency, Transport Canada, as permitted by subsection 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50 (the "**CLPA**"). Transport Canada owns and is responsible for the lands identified as Federal Contaminated Sites Inventory ("**FCSI**") "Site 00339002 – Disposal Site 2 and Fire Training Area" (the "**Contaminated Site**"), located approximately 500 m southwest of the Subdivision. Topographically, the Contaminated Site drains towards the northeast and is located at the headwater of the primary watershed system affecting the Impacted Area.
5. Pursuant to subsection 3(b)(ii) of the *CLPA*, the Crown is liable for the damages for which, if it were a person, it would be liable in respect of a breach of duty attaching to the ownership, occupation, possession or control of property.

The Claim

6. The Plaintiffs claim on their own behalf and on behalf of the proposed Class Members against His Majesty the King, as Represented by the Attorney General of Canada, in relation to conduct of the Crown agency, Transport Canada:
 - a. An Order pursuant to sections 5 and 9 of the *Class Actions Act*, SNL 2001, c. C-18.1 certifying this action as a class action, appointing the Plaintiffs as the representative plaintiffs of the Class, and providing any ancillary directions;
 - b. A declaration that Transport Canada is liable to the Plaintiffs and the Class in nuisance, strict liability (doctrine of *Rylands v. Fletcher*), negligence, trespass, and breach of statutory duties under the *Environmental Protection Act*, SNL 2002, c. E-14.2 (the "**EPA**") and the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33 (the "**CEPA**");

- c. A mandatory Order requiring Transport Canada to implement complete and effective control and remedial measures at the Contaminated Site and at the Impacted Area sufficient to prevent the continued migration of PFAS (as defined below) onto, under, into or through the Impacted Area, and to remediate the Off-Site PFAS Contamination (as defined below);
- d. In the alternative to the relief claimed in paragraph 6(c) above, a declaration that the Plaintiffs and Class Members are entitled to remediate the properties they own in the Impacted Area to completely eliminate all traces of PFAS, and that Transport Canada must pay the cost of their so doing as damages;
- e. Pecuniary damages, including in respect of the following:
 - i. costs to investigate, sample, test, and assess PFAS contamination in the well water on the Class Members' properties;
 - ii. costs to install and maintain treatment and remediation systems to address PFAS contamination in the well water on the Class Members' properties;
 - iii. costs to install and maintain monitoring systems to assess and evaluate PFAS contamination in the well water on the Class Members' properties;
 - iv. costs to develop and connect permanent uncontaminated water supply, as an alternative to well water, to the Class Members' properties;
 - v. costs to provide alternative water supply to the Class Members' properties in the interim until the above-referenced systems or permanent uncontaminated water supply is completed; and
 - vi. other costs or consequential damages arising from the PFAS contamination caused by the Defendant;
- f. General damages, representing *inter alia* compensation for Transport Canada's interference with the Plaintiffs' and Class Members' use and enjoyment of their properties in the Impacted Area, as well as inconvenience, discomfort and distress;
- g. Special damages, representing *inter alia* diminution in value and marketability of the Plaintiffs' and Class Members' properties in the Impacted Area, as well as in respect of professional and financing costs, as may be necessarily incurred;
- h. An Order directing a reference or such other directions as may be necessary to determine the issues not determined at trial of the common issues;
- i. Costs of administering any and all remedies granted;
- j. Pre-judgment and post-judgment interest pursuant to the *Judgment Interest Act*, RSN 1990, c. J-2;

- k. Costs of this action, plus disbursements and applicable taxes; and
 - l. Such further and other relief as this Honourable Court deems just.
7. The Plaintiffs and the proposed Class Members do not seek recovery of damages in this action for the individual health-related personal injuries they have suffered, or may be at increased risk to suffer, as a result of their exposure to the Off-Site PFAS Contamination (as defined below), nor do they waive such claims. The Plaintiffs say that they and the proposed Class Members have been, and continue to be, exposed to the Off-Site PFAS Contamination, which exposure has been, and continues to be, hazardous to their health and safety.

The Facts

8. This action concerns the contamination of land and groundwater by per- and polyfluoroalkyl substances (“**PFAS**”). The contaminated groundwater at issue supplies the drinking water wells of the Plaintiffs and the proposed Class Members in the Impacted Area. The original source of the PFAS contamination is fire-fighting suppressant called aqueous film-forming foam (“**AFFF**”) that was used routinely and frequently in fire-fighting training programs undertaken at the Contaminated Site owned by the Defendant.

The Contaminant: PFAS

9. PFAS are a family of highly fluorinated synthetic chemical compounds. They are entirely human-made substances that do not occur naturally in the environment. PFAS exist in a wide range of everyday products, such as food packaging, non-stick cookware, clothing, and cosmetics. PFAS are also used in common industrial products and applications, such as lubricants, oil repellants, and AFFF fire-fighting suppressant.
10. PFAS are highly stable compounds, making them extremely resistant to degradation and difficult to break down. When applied, used, and/or disposed of, PFAS enters the environment and migrates through surfaces, soil, sediment, and groundwater, eventually travelling into and contaminating drinking water sources relied on for human consumption. Human exposure to or ingestion of PFAS results in accumulation of PFAS in the body over time.

11. The presence of PFAS in drinking water presents health risks to residents and decreases market value of contaminated properties.
12. PFAS are bioaccumulative, meaning they are readily absorbed in human tissues after oral exposure, extremely stable and persistent once ingested, and resistant to metabolic degradation. Any newly ingested PFAS will be added to whatever is already present in the body.
13. Exposure to PFAS can result in a body burden that persists for years and increases with additional exposures. Ingestion is the form of exposure to PFAS with the most serious consequences. Ingestion of PFAS most commonly occurs by drinking well water in the vicinity of a source of local contamination.
14. PFAS are toxic and can cause significant adverse health effects in humans, including testicular cancer, kidney cancer, liver damage, autoimmune and endocrine disorders, preeclampsia, ulcerative colitis, thyroid disease, and others. These injuries may arise within months or years after exposure.
15. Government agencies, regulators and scientific experts have concluded that PFAS are human health hazards that present a substantial danger when released into the environment. Canada has prohibited the use of certain PFAS in the *Prohibition of Certain Toxic Substances Regulations, 2012*, SOR/2012-285. Health Canada has established drinking water guidelines and soil-screening values for various PFAS.

Health Canada's PFAS Objective for Drinking Water

16. Health Canada, in collaboration with a specially constituted federal-provincial-territorial committee on drinking water and other federal departments, has established Guidelines for Canadian Drinking Water Quality (the "**Water Guidelines**"). The Water Guidelines are based on current, published scientific research related to health effects of contaminants in drinking water. The Water Guidelines' maximum acceptable concentrations and other treatment goals are based on a comprehensive review of the known health effects associated with contaminants, on exposure levels and on the availability of treatment and analytical technologies. The Water Guidelines' objective values for chemical parameters

are established considering available treatment technology and analytical methods, to reduce exposure through drinking water.

17. The values of the Water Guidelines applicable to PFAS have changed significantly since the conclusion of the fire-fighting training program at the Contaminated Site, the particulars of which are set out below.
18. On January 26, 2011, Health Canada published health-based Drinking Water Guidance Value for Various Perfluorinated Alkyl Substances (“**HC2011**”), setting maximum acceptable concentrations of 700 ng/L for perfluorooctanoic acid (“**PFOA**”, being a type of PFAS) and 300 ng/L for perfluorooctane sulfonate (“**PFOS**”, being another type of PFAS). The publication indicated the PFOA value could also be used as a screening value for certain other types of PFAS in drinking water, including perfluorohexanoic Acid (“**PFHxA**”) and perfluoropentanoic Acid (“**PHPeA**”).
19. In 2018, Health Canada revised the Water Guidelines’ maximum acceptable concentrations to 200 ng/L for PFOA and 600 ng/L for PFOS, and established screening values for nine (9) other PFAS, including 200 ng/L for PFHxA, 200 ng/L for PHPeA, and 200 ng/L for 6:2 fluorotelomer sulfonic acid (“**6:2 FTS**”, being another type of PFAS).
20. On April 24, 2021, the Government of Canada published a Notice of Intent signalling its intent to move forward with activities that would treat PFAS as a class of substances, rather than continue to set values for specific types of PFAS. In accordance with this strategy and considering new scientific evidence in the field of hazard and exposure assessment, as well as in treatment and analytical technologies, Health Canada commenced a review of the PFAS Water Guidelines and screening values.
21. On February 7, 2023, Health Canada published a draft revised objective for PFAS in drinking water. To further reduce exposure to the contaminant, Health Canada proposed an objective of 30 ng/L for the sum of total PFAS detected in drinking water. This objective, when finalized, was to replace the two (2) previous drinking water guidelines (for PFOA and PFOS) and nine (9) screening values derived for individual PFAS.

22. In August 2024, Health Canada finalized and published its revised objective for PFAS in drinking water, establishing a single value of 30 ng/L for the sum of twenty-five (25) specific PFAS, including PFOS, PFOA, PFHxA, PHPeA and 6:2 FTS (the “**HC Objective**”). The HC Objective value serves to reduce potential exposure to PFAS through drinking water while Canada's Water Guidelines are being further revised.
23. These changes to the values of the Water Guidelines applicable to PFAS are such that concentrations of PFAS in drinking water that were previously considered negligible are now recognized as being hazardous to human health.

The Contaminated Site and the Off-Site Migration of PFAS Contamination

24. The Contaminated Site at issue was previously used as a site for fire-fighter training involving the release of AFFF fire suppressants, which are products containing high concentrations of PFAS. The fire-fighter training program, which was conducted at the Contaminated Site from the early 1980s to 2004, focused on responding to aircraft fires. Aviation fuel was pumped into an aircraft mock-up and ignited, allowing fire-fighters opportunity to practice extinguishing the fire using AFFF. The release of AFFF was done without subsequent capture, containment or other precautions to prevent the migration of PFAS into the groundwater below the Contaminated Site.
25. Upon conclusion of the fire-fighter training program in 2004, Transport Canada commenced a remediation project at the Contaminated Site. In December 2006, remediation activities were undertaken at the Contaminated Site under the supervision of Transport Canada's consultant environmental engineers, Jacques Whitford Environmental Limited. Approximately eighteen-thousand seven-hundred and forty-six (18,746) tonnes of petroleum hydrocarbon impacted soil were removed from the Contaminated Site and backfilled to grade level. Several environmental investigations were performed thereafter, including intrusive soil and groundwater investigations, human health and environmental risk assessments, a soil remediation project and several groundwater and stream monitoring programs.
26. A groundwater and surface water monitoring program completed at the Contaminated Site by AMEC Environment & Infrastructure, a division of AMEC Americas Limited (“**AMEC**”) in 2011, as consultant engineers for Transport Canada, indicated concentrations of PFAS,

including specifically PFOA and PFOS, in the groundwater at the Contaminated Site at levels exceeding the HC2011 guidelines. The HC2011 guidelines set maximum acceptable concentrations of 700 ng/L for PFOA and 300 ng/L for PFOS. AMEC further reported having detected PFOS in nearby surface water exceeding the HC2011 maximum acceptable concentrations. These values significantly exceed (by a factor of thirty-three (33)) the current HC Objective of 30 ng/L for PFAS.

27. Also in 2011, the Government of Newfoundland and Labrador, Department of Environment and Climate Change (the “**Department**”), Water Resource Management Division (“**Water Management**”) provided direction to Transport Canada regarding the remediation project. In order to ensure that drinking water wells down-gradient from the Contaminated Site were not affected by contamination migrating from the site, Water Management directed Transport Canada to undertake a study (i) to delineate the extent of the known contamination migrating from the Contaminated Site, (ii) to collect water samples from shallow and deep monitoring wells installed on lands adjacent to the Contaminated Site, between the site and the drinking water wells in the Subdivision, and (iii) to produce a groundwater model to determine the future optimum sustainable pumping rate from the water supply without adversely affecting the quality and quantity of water in existing drinking water wells.
28. In June 2011, Public Works and Government Services Canada, on behalf of Transport Canada, retained AMEC as consultant environmental engineers to complete the studies directed by Water Management. In March 2012, AMEC reported that samples of the deep groundwater collected in November 2011 between the Contaminated Site and the Subdivision did not detect PFAS, but that samples of the shallow groundwater collected at the same time in the same area showed concentrations of PFAS with sum totals as high as 700 ng/L. These concentrations did not exceed the HC2011 values applicable at the time of detection, but significantly exceed the current HC Objective of 30 ng/L.
29. Transport Canada’s consultant environmental engineers conducted annual groundwater and stream monitoring programs of the area between the Contaminated Site and the Subdivision from 2012 and 2023. The sample results of a deep groundwater monitoring well located approximately 100 metres southwest of the Subdivision, designated well “WW3”, consistently showed total PFAS concentration sums exceeding the HC Objective

of 30 ng/L for PFAS in drinking water. Specifically, the sample results detected concentrations of the following types of PFAS: (i) PFHxA between 20-26 ng/L in 2012, 2013, 2015, 2016, 2017, 2018, 2019 and 2022; (ii) PHPeA between 27-39 ng/L in each year between 2012 and 2023; and (iii) 6:2 FTS between 35-45 ng/L in each year between 2019 and 2023 (6:2 FTS was not analyzed prior to 2019). Transport Canada knew the groundwater migrating from the Contaminated Site into the Impacted Area was used by the Plaintiffs and the proposed Class Members in the Impacted Area as potable drinking water supply for their wells. Transport Canada further knew that PFAS is characteristically capable of traveling long distances in groundwater.

30. Transport Canada did not inform the Plaintiffs and the proposed Class Members of the findings of the aforementioned studies and monitoring programs.
31. In December 2023, Transport Canada approved adoption of the HC Objective for purposes of its assessing, monitoring and remediating contaminated sites for which it is responsible. In doing so, Transport Canada committed to adhering to the HC Objective on federal lands and to using the HC Objective proactively in the absence of provincial or territorial PFAS standards on provincial or territorial lands. Transport Canada further committed to using the HC Objective in investigations in place of other drinking water guidelines. Transport Canada acknowledged that adoption of the HC Objective would result in new detections and exceedances at contaminated sites for which it was responsible.
32. On or about January 1, 2024, Transport Canada commenced a water sampling program involving the collection of water samples from privately-owned drinking water wells located within the Subdivision, including the drinking water well owned by the Plaintiffs located on the Sheerrs' Property (the "**Sheerrs' Well**"). Transport Canada explained to the Plaintiffs and the other participants that the sampling program was being conducted as a precautionary measure, as Health Canada was in the process of developing a new PFAS objective for drinking water (the HC Objective) that would be lower than the previous Water Guidelines. Transport Canada explained to the Plaintiffs and the other participants that the new objective was being pursued to reduce the potential exposure to unsafe and unhealthy concentrations of PFAS through drinking water.

33. In soliciting the Plaintiffs and proposed Class Members' consent to participate in the drinking water well sampling program, Transport Canada did not disclose to the Plaintiffs and proposed Class Members Transport Canada's knowledge of the presence and extent of PFAS detected in the groundwater at the Contaminated Site and in the monitoring wells between the Contaminated Site and the Subdivision, nor make any reference to the Contaminated Site as the originating site of the Off-Site PFAS Contamination.
34. As of the date of the filing hereof, Transport Canada has sampled at least 197 drinking water wells in the Impacted Area and is continuing its water sampling program at additional properties in the Impacted Area. To the knowledge of the Plaintiffs and the proposed Class Members, Transport Canada has not yet determined the full delineation of the plume of PFAS that has migrated, and is continuing to migrate from, the Contaminated Site into the Impacted Area.
35. The results of the water sampling program, including those relating to the sample taken from the Sheerrs' Well, established the presence of hazardous PFAS concentrations exceeding the HC Objective in the groundwater supplying the drinking water wells in the Impacted Area (the "**Off-Site PFAS Contamination**"). The full extent and geographic scope of the migration of PFAS from the Contaminated Site throughout the Impacted Area is unknown to the Plaintiffs and the proposed Class Members. The environmental testing performed on lands adjacent to the Contaminated Site within the Impacted Area have determined there has been, and continues to be, a migration of PFAS-contaminated groundwater from the Contaminated Site into the Impacted Area, and specifically into the drinking water wells of the Plaintiffs and the proposed Class Members.
36. The Plaintiffs and the proposed Class Members claim Transport Canada is responsible for off-site impacts originating from the Contaminated Site, including off-site impacts in the form of PFAS contamination. The Plaintiffs and the proposed Class Members further claim Transport Canada has had, and continues to have, a duty to provide, in a timely, complete and effective manner, information to the Plaintiffs and the proposed Class Members regarding the Off-Site PFAS Contamination that has caused, is causing and may further cause adverse impacts to their health, safety and property. Transport Canada has also had, and continues to have, a duty to conduct timely, complete and effective investigation and remediation of the Off-Site PFAS Contamination.

37. The Plaintiffs and the proposed Class Members further claim Transport Canada is a person responsible for the release of the PFAS into the environment that has caused, is causing and may further cause an adverse effect within the meaning of sections 8 and 9 of the *EPA*. Pursuant to section 8 of the *EPA*, Transport Canada was dutybound, as soon as it knew or ought to have known of the hazardousness of the released PFAS, to report it to the Plaintiffs and the proposed Class Members, as they are persons who Transport Canada knew or ought to have known might be directly affected by the release. Pursuant to section 9 of the *EPA*, Transport Canada was dutybound, at its own cost, and as soon as it knew or ought to have known of the hazardous PFAS release that has caused, is causing and may further cause an adverse effect, (i) to take all reasonable measures to prevent, reduce and remedy the adverse effects of the PFAS, (ii) to remove or otherwise dispose of the PFAS in a manner that minimizes adverse effects, and (iii) to rehabilitate the environment to a standard the Department requires.
38. In or about May 2024, Transport Canada began delivering bottled drinking water to the Plaintiffs and some of the proposed Class Members whose drinking water well sample results showed PFAS concentrations exceeding the HC Objective. Transport Canada continues to supply bottled drinking water to these residents of the Impacted Area as of the date of the filing hereof. Transport Canada has refused to provide bottled drinking water to all residents in the Impacted Area drawing drinking water from the groundwater downgradient from the Contaminated Site, notwithstanding that a timely, complete and effective investigation of the Off-Site PFAS Contamination has not been completed by Transport Canada. The Plaintiffs and the Proposed Class Members claim Transport Canada has failed to take a reasonably precautionary approach to investigation of the Off-Site PFAS Contamination and protection of the health and safety of the Plaintiffs and the proposed Class Members, being persons who Transport Canada knew or ought to have known might be adversely affected by the Off-Site PFAS Contamination.
39. At an in-person meeting held on September 12, 2024, representatives of Transport Canada acknowledged and informed the Plaintiffs and some of the proposed Class Members that the originating source of the Off-Site PFAS Contamination is the Contaminated Site.

40. Transport Canada has failed to conduct a timely, complete and effective investigation of the Off-Site PFAS Contamination in the Impacted Area. Specifically, Transport Canada has failed to fully and reasonably investigate the mobility, stability, migration, delineation and risk profile of the Off-Site PFAS Contamination in the Impacted Area.
41. On March 31, 2025, Water Management wrote to the Town of Torbay setting out its concern that the private well testing conducted by Transport Canada was ineffective to reasonably determine the entire area impacted by the Off-Site PFAS Contamination plume. Water Management directed that a risk assessment should be undertaken to fully delineate the area at risk of impacts to human health. Water Management further directed that a full hydrogeological assessment should be completed to assess the extent of the contamination, as well as future impacts or changes to the contamination plume due to such factors as climate change (i.e., the effects on the Off-Site PFAS Contamination caused by lower or higher precipitation rates).
42. On April 2, 2025, the Town of Torbay forwarded Water Management's letter of March 31 to Transport Canada. The Town of Torbay indicated to Transport Canada that it agreed with Water Management's recommendations and requested that Transport Canada implement the recommendations.
43. The Government of Canada's *"Human Health Risk Assessment Framework for Federal Sites Impacted with Per- and Polyfluoroalkylated Substances"*, prepared by Health Canada in February 2019, directs that complete and effective investigation of off-site PFAS impacts requires consideration of complex water-groundwater interactions and the potential for PFAS migration to areas far downstream and downgradient. Health Canada directed that characterization and delineation of PFAS should be completed.
44. As of the date of the filing hereof, Transport Canada has failed to conduct the investigations and assessments directed by Water Management and Health Canada. Transport Canada knew or ought to have known that a detailed investigation of the Impacted Area, including a comprehensive hydrogeological assessment, was required as early as the date Transport Canada learned of Health Canada's proposition of the new HC Objective, at which date Transport Canada knew the PFAS detected in the groundwater at WW3 exceeded 30 ng/L on each occasion it was annually sampled between 2012 and

2023, and it was reasonably foreseeable that such concentrations had migrated, and were continuing to migrate, into the Subdivision.

45. Transport Canada has failed to implement control and remedial measures at the Contaminated Site and at the lands adjacent to the Contaminated Site in the Impacted Area sufficient to prevent the continued migration of PFAS onto, under, into and through the Impacted Area, specifically into drinking water wells in the Impacted Area. Transport Canada has failed to adopt a reasonably precautionary approach towards preventing, reducing and remedying the adverse effects of the Off-Site PFAS Contamination.
46. The fair market value of the properties owned by the Plaintiffs and the proposed Class Members in the Impacted Area have been significantly reduced because of the discovery of the presence and extent of PFAS in the groundwater supplying the drinking water wells in the Impacted Area, and the resulting uncertainty about the delineation of the Off-Site PFAS Contamination throughout the Impacted Area. Proposed Class Members have listed their properties for sale but have been unable to sell their properties because of knowledge of the presence of unhealthy and unsafe PFAS concentrations in their drinking water wells, or because of the uncertainty about such presence, there being a stigma about the presence of PFAS contamination affecting the properties throughout the Impacted Area. Proposed Class Members have otherwise been impeded from planned sale or refinancing of their properties for the same reasons. These properties will continue to suffer a diminution in value in the future because of the Off-Site PFAS Contamination and associated stigma. The Plaintiffs and the proposed Class Members claim from Transport Canada this diminution in value and marketability as damages.
47. Since learning of the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area, as well as the health and safety risks posed by same, and the effect of the Off-Site PFAS Contamination on the fair market values and marketability of their properties in the Impacted Area, the Plaintiffs and the proposed Class Members have experienced mental anxiety, stress and psychological upset. These circumstances have negatively impacted, and continue to negatively impact, the Plaintiffs' and the proposed Class Members' enjoyment of life.

48. As a result of Transport Canada's actions and inactions, the Plaintiffs and the proposed Class Members have suffered, and continue to suffer, interference with their use and enjoyment of their properties within the Impacted Area, diminution of value and marketability of their properties, as well as inconvenience, discomfort and distress.
49. Further particulars of Transport Canada's liability to the Plaintiffs and the proposed Class Members are set out below.

Nuisance

50. At all material times, Transport Canada's actions and inactions, including *inter alia* Transport Canada's failure to implement timely, complete and effective controls and remedial measures at the Contaminated Site, and the lands adjacent to the Contaminated Site in the Impacted Area, sufficient to prevent the initial and continued migration of PFAS onto, under, into and through the Impacted Area, specifically into the drinking water wells in the Impacted Area, and Transport Canada's failure to timely, completely and effectively inform the Plaintiffs and the proposed Class Members of the Off-Site PFAS Contamination that has caused, is causing and may further cause adverse effect to their health, safety and property, and failure to timely, completely and effectively investigate and remediate the Off-Site PFAS Contamination, have caused and continue to cause substantial interference with the Plaintiffs' and the proposed Class Members' use and enjoyment of their properties, which is private nuisance, as well as substantial interference with the Plaintiffs' and the proposed Class Members' common right to clean water, which is public nuisance.

Strict Liability (Doctrine of *Rylands v. Fletcher*)

51. At all material times, Transport Canada's actions and inactions regarding its non-natural or special use of the Contaminated Site as a site for fire-fighter training involving the release of AFFF, being a PFAS-containing product, without subsequent capture and containment, which use Transport Canada knew or ought to have known was likely to do mischief to the lands adjacent to the Contaminated Site and the Impacted Area if the PFAS escaped the Contaminated Site, and which did in fact escape resulting in the Off-Site PFAS Contamination, have caused and continue to cause damage and loss to the Plaintiffs and the proposed Class Members, for which Transport Canada is strictly liable according to the doctrine of *Rylands v. Fletcher*.

Negligence

52. At all material times, Transport Canada owed a duty of care to the Plaintiffs and the proposed Class Members because it knew that its actions and inactions regarding the Contaminated Site and the Off-Site PFAS Contamination, including its knowledge of the historical use of the Contaminated Site as a site for fire-fighter training involving the release of AFFF, and its knowledge of the results of the subsequent assessments and monitoring programs conducted at the Contaminated Site and on lands adjacent to the site in the Impacted Area, and Transport Canada's failure to timely, completely and effectively investigate and implement controls and remedial measures at the Contaminated Site, and lands adjacent to the site in the Impacted Area sufficient to prevent the initial and continued migration of PFAS onto, under, into and through the Impacted Area, specifically into the drinking water wells in the Impacted Area, could cause damage and loss to the Plaintiffs' and the proposed Class Members if done without sufficient care.

53. Transport Canada breached its duty of care in its failure to implement timely, complete and effective controls and remedial measures, the particulars of which negligence are as follows:
 - a. Transport Canada failed to implement timely, complete and effective methods to capture and contain the hazardous PFAS released at the Contaminated Site;
 - b. Transport Canada failed to take proper precautions to prevent the migration of PFAS into the groundwater below the Contaminated Site;
 - c. Transport Canada failed to implement timely, complete and effective controls and remedial measures at the Contaminated Site and lands adjacent to the Contaminated Site in the Impacted Area sufficient to prevent the initial and continued migration of PFAS onto, under, into and through the Impacted Area, specifically into the drinking water wells in the Impacted Area;
 - d. Transport Canada failed to provide the Plaintiffs and the proposed Class Members timely, complete and effective warning of the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area;
 - e. Transport Canada failed to provide the Plaintiffs and the proposed Class Members timely, complete and effective warning of the risks to their health and safety posed

by the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area; and

- f. Transport Canada failed to take timely, complete and effective steps to investigate and remediate the Contaminated Site, the lands adjacent to the Contaminated Site, and the Impacted Area, upon learning of the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area, and upon learning of the risks to human health and safety posed by the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area.
54. Transport Canada's failure to meet the standard of care and breach of its duty of care caused the Plaintiffs and the proposed Class Members the damages described herein below.

Trespass

55. At all material times, Transport Canada's actions and inactions regarding the Contaminated Site, including Transport Canada's use of the Contaminated Site as a site for fire-fighter training involving the release of AFFF as described above, and Transport Canada's failure to implement timely, complete and effective controls and remedial measures at the Contaminated Site and lands adjacent to the Contaminated Site in the Impacted Area sufficient to prevent the initial and continued migration of hazardous concentrations of PFAS onto, under, into and through the Impacted Area, specifically into the drinking water wells in the Impacted Area, without the Plaintiffs' and/or the proposed Class Members' consent, and which have caused and continue to cause damage and loss to the Plaintiffs and the proposed Class Members, constitute past and continuing trespass by Transport Canada of the properties owned by the Plaintiffs and the proposed Class Members in the Impacted Area.

Breach of Statutory Duty

56. At all material times, Transport Canada was dutybound pursuant to sections 8 and 9 of the *EPA* and section 95 of the *CEPA* to take all reasonable measures consistent with the protection of the environment and public safety to remedy the danger to human health caused by the release of the PFAS and the Off-Site PFAS Contamination as described above, and to notify the Plaintiffs and the proposed Class Members of such danger, in a

timely, complete and effective manner. Transport Canada breached its statutory duties, the particulars of which are as follows:

- a. Transport Canada failed to implement timely, complete and effective methods to capture and contain the PFAS after its release at the Contaminated Site;
 - b. Transport Canada failed to take proper precautions to prevent the migration of PFAS into the groundwater below the Contaminated Site;
 - c. Transport Canada failed to implement timely, complete and effective controls and remedial measures at the Contaminated Site and at the lands adjacent to the Contaminated Site in the Impacted Area sufficient to prevent the initial and continued migration of PFAS onto, under, into and through the Impacted Area, specifically into the drinking water wells in the Impacted Area;
 - d. Transport Canada failed to provide the Plaintiffs and the proposed Class Members timely, complete and effective warning of the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area;
 - e. Transport Canada failed to provide the Plaintiffs and the proposed Class Members timely, complete and effective warning of the risks to their health and safety posed by the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area; and
 - f. Transport Canada failed to take timely, complete and effective steps to investigate and remediate the Contaminated Site and the lands adjacent to the Contaminated Site in the Impacted Area, upon learning of the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area, and upon learning of the risks to human health and safety posed by the presence and extent of PFAS discovered to have migrated via the groundwater from the Contaminated Site to the Impacted Area.
57. Transport Canada's breaches of its duties under the *EPA* and the *CEPA* have caused damage and loss to the Plaintiffs and the proposed Class Members. Pursuant to section 40 of the *CEPA*, Transport Canada is liable to the Plaintiffs and the proposed Class Members for the damage and loss they have suffered as a result of the contraventions of the *CEPA* by Transport Canada.

Damages

58. As a result of Transport Canada's actions and inactions described herein, the Plaintiffs and the proposed Class Members have suffered, and will continue to suffer, damage and loss, as follows:
- a. Diminution in the fair market value of their properties in the Impacted Area, caused by the Off-Site PFAS Contamination in their drinking water wells and/or the stigma of the Off-Site PFAS Contamination in the Impacted Area;
 - b. Loss of marketability of their properties in the Impacted Area, caused by the Off-Site PFAS Contamination in their drinking water wells and/or the stigma of the Off-Site PFAS Contamination in the Impacted Area;
 - c. An inability to obtain mortgage financing or re-financing, and/or increased financing costs;
 - d. Material, labour, engineering and other professional costs in respect of the investigation of their properties in the Impacted Area, as may be necessarily incurred;
 - e. Material, labour, engineering and other professional costs in respect of the remediation of their properties in the Impacted Area, as may be necessarily incurred;
 - f. Material, labour, engineering and other professional costs in respect of treatment, maintenance and monitoring of their drinking water wells, as may be necessarily incurred;
 - g. Material, labour, engineering and other professional costs in respect of developing and connecting permanent uncontaminated water supply, as an alternative to well water, to their properties;
 - h. Inconvenience, discomfort and distress; and
 - i. Other expenses and losses, full particulars of which will be provided prior to trial.
59. The Plaintiffs and the proposed Class Members say that contaminated property such as theirs experience a loss in value due to the factor of stigma. Stigma is a market-imposed disadvantage that affects a property known to be contaminated, a property once contaminated and since cleaned, or a property neighbouring one that is contaminated. Properties with known or suspected contamination suffer in the marketplace due to limited knowledge of the kind and amount of contamination present, the unknown costs and timing of remediation, and a host of intangible factors, including fear of contaminant

migration and additional health hazards. Before contamination is detected, a property perceived as clean may realize a value equal to its full uncontaminated market value. When a property is perceived to be a health risk because of contamination, its marketability suffers due to uncertainty of health hazards, and of costs and timing of remediation. The more uncertainty associated with a property, the greater the risk margin sought by the market, and the greater the value loss.

60. The Plaintiffs and the proposed Class Members are entitled *inter alia* to have their properties remediated to such state where the groundwater supplying the drinking water wells of the Impacted Area is clean and free of the Off-Site PFAS Contamination, or their properties are supplied with uncontaminated drinking water from an alternate (non-groundwater) source, and to be awarded the diminution of value and marketability resultant from the Off-Site PFAS Contamination.

Relief Sought

61. The Plaintiffs say that Transport Canada's actions and inactions have caused the Plaintiffs and the proposed Class Members to suffer the losses and/or damages described above, for which Transport Canada is liable, and for which the Plaintiffs and the proposed Class Members seek this Honourable Court's award against Transport Canada as follows:
- a. An Order pursuant to sections 5 and 9 of the *Class Actions Act*, SNL 2001, c. C-18.1 certifying this action as a class action, appointing the Plaintiffs as the representative plaintiffs of the Class, and providing any ancillary directions;
 - b. A declaration that Transport Canada is liable to the Plaintiffs and the Class in nuisance, strict liability (doctrine of *Rylands v. Fletcher*), negligence, trespass, and breach of statutory duties under the *Environmental Protection Act*, SNL 2002, c. E-14.2 (the "**EPA**") and the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33 (the "**CEPA**");
 - c. A mandatory Order requiring Transport Canada to implement complete and effective control and remedial measures at the Contaminated Site and at the Impacted Area sufficient to prevent the continued migration of PFAS (as defined below) onto, under, into or through the Impacted Area, and to remediate the Off-Site PFAS Contamination (as defined below);
 - d. In the alternative to the relief claimed in paragraph 61(c) above, a declaration that the Plaintiffs and Class Members are entitled to remediate the properties they own

in the Impacted Area to completely eliminate all traces of PFAS, and that Transport Canada must pay the cost of their so doing as damages;

- e. Pecuniary damages, including in respect of the following:
 - i. costs to investigate, sample, test, and assess PFAS contamination in the well water on the Class Members' properties;
 - ii. costs to install and maintain treatment and remediation systems to address PFAS contamination in the well water on the Class Members' properties;
 - iii. costs to install and maintain monitoring systems to assess and evaluate PFAS contamination in the well water on the Class Members' properties;
 - iv. costs to develop and connect permanent uncontaminated water supply, as an alternative to well water, to the Class Members' properties;
 - v. costs to provide alternative water supply to the Class Members' properties in the interim until the above-referenced systems or permanent uncontaminated water supply is completed; and
 - vi. other costs or consequential damages arising from the PFAS contamination caused by the Defendant;
- f. General damages, representing *inter alia* compensation for Transport Canada's interference with the Plaintiffs' and Class Members' use and enjoyment of their properties in the Impacted Area, as well as inconvenience, discomfort and distress;
- g. Special damages, representing *inter alia* diminution in value and marketability of the Plaintiffs' and Class Members' properties in the Impacted Area, as well as in respect of professional and financing costs, as may be necessarily incurred;
- h. An Order directing a reference or such other directions as may be necessary to determine the issues not determined at trial of the common issues;
- i. Costs of administering any and all remedies granted;
- j. Pre-judgment and post-judgment interest pursuant to the *Judgment Interest Act*, RSN 1990, c. J-2;
- k. Costs of this action, plus disbursements and applicable taxes; and
- l. Such further and other relief as this Honourable Court deems just.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 23rd of May, 2025.



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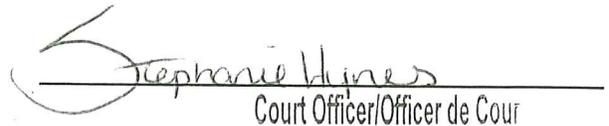
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ISSUED at St. John's, in the Province of Newfoundland and Labrador, this 23 of May, 2025.



Court Officer/Officer de Cour

APPENDIX "A"

