



Court File No:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF a Claim under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

B E T W E E N:

DAVID SWAY AND PETER CURRIE

Plaintiffs

- and -

**THE ATTORNEY GENERAL OF CANADA, THE CORPORATION OF THE
CITY OF NORTH BAY AND THE MUNICIPALITY OF THE CITY OF NORTH BAY**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff and file it, with proof of service, in this Court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the Court.

DATED: _____, 2025

Issued by: _____

Address of Court House:

161 Elgin Street
Ottawa, Ontario
K2P 2K1

TO: ATTORNEY GENERAL OF CANADA

Department of Justice
Civil Litigation Section
500-50 O'Connor Street
Ottawa, ON K1A 0U8

AND TO: GOVERNMENT OF CANADA DEPARTMENT OF NATIONAL DEFENCE

National Defence Headquarters
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AND TO: THE CORPORATION OF THE CITY OF NORTH BAY

200 McIntyre St E.
North Bay, ON P1B 8V6

AND TO: THE MUNICIPALITY OF THE CITY OF NORTH BAY

200 McIntyre St E.
North Bay, ON P1B 8V6

CLAIM

DEFINITIONS

1. The following definitions apply for the purpose of this Statement of Claim:
 - (a) “**AFFF**” means Aqueous Film Forming Foam;
 - (b) “**Airport Lands**” means the premises of the Jack Garland Airport (YYB) in North Bay, Ontario, more particularly described as the lands and premises identified within the orange boundary in Schedule “A” hereto;
 - (c) “**CEPA**” means the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, schedule 1, as amended;
 - (d) “**CFB North Bay Lands**” means the property of 22 Wing North Bay, including the area identified as Federal Contaminated Sites Inventory “Site 00024927 - 22 Wing PFAS Monitoring” adjacent to Jack Garland Airport (YYB) in North Bay, Ontario, and the 22 Wing Underground Complex, more particularly described as lands and premises identified within the purple boundary in Schedule “A” hereto;
 - (e) “**City**” means the Municipality and/or the Corporation of the City of North Bay;
 - (f) “**Class**” or “**Class Members**” All persons owning real property on or after January 1, 2017 with private residential drinking water wells within the boundary demarcated by the red circle in Schedule “B” hereto (the “Contaminated Area”);
 - (g) “**Contaminants**” means PFAS, PFOA, PFOS, their precursor and related perfluorinated and polyfluorinated alkyl compounds, and any other contaminants as defined by the EPA or CEPA, derived from substances used, handled, applied, stored, generated or disposed of at CFB North Bay Lands and the Airport Lands;

- (h) **“Contamination”** means both the on-site migration of Contaminants on the CFB North Bay Lands and the Airport Lands, and the off-site migration of Contaminants from CFB North Bay Lands and the Airport Lands into the Contaminated Area;
- (i) **“Contaminated Area”** means the area within a 3 km radius of the location identified on the Federal Contaminated Sites Inventory for “Site 00024927 – 22 Wing PFAS Monitoring” at coordinates 46.357854 (latitude), -79.408401 (longitude), more particularly described as area demarcated by the red circle in Schedule “B” hereto;
- (j) **“Contaminated Site”** means the Airport Lands and the CFB North Bay Lands;
- (k) **“CJA”** means the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (l) **“CPA”** means the *Class Proceedings Act, 1992*, S.O. 1992, c. C.6, as amended;
- (m) **“Currie”** means Peter Currie;
- (n) **“Currie Residence”** means the lands and premises known municipally as 641 Carmichael Dr, North Bay, Ontario;
- (o) **“DND”** means the Department of National Defence;
- (p) **“EPA”** means the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and the regulations thereunder, as amended;
- (q) **“FFTA”** means the Former Firefighting Training Area located on the Airport Lands that was transferred from the federal government to the Corporation/Municipality of the City of North Bay in 1998 identified in Schedule “A” hereto;
- (r) **“HC2011”** means the screening values for PFAS in Health Canada’s January 2011 Guidelines for Canadian Drinking Water Quality, setting maximum acceptable concentrations of 700 ng/L for PFOA and 300 ng/L for PFOS in drinking water. In

2018, these maximum acceptable concentrations were adjusted to 200 ng/L for PFOA and 600 ng/L for PFOS with additional screening values established for nine (9) individual PFAS;

- (s) “**HC Objective**” means Health Canada’s August 2024 Objective for Canadian Drinking Water Quality for PFAS, setting a threshold of 30 ng/L for the sum of twenty five (25) specific PFAS, replacing the previous individual screening values for nine (9) individual PFAS;
- (t) “**Lee’s Creek**” means the creek that flows from the Contaminated Site through the Contaminated Area and into Trout Lake;
- (u) “**MECP**” means the Ontario Ministry of the Environment, Conservation and Parks;
- (v) “**MECP Objective**” means the March 2017 MECP Interim Advice for PFAS, recommending that drinking water used for human consumption should not exceed 70 ng/L for the sum of eleven (11) different PFAS;
- (w) “**OWRA**” means the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended;
- (x) “**PFAS**” means perfluorinated and polyfluorinated alkyl compounds;
- (y) “**PFOA**” means perfluorooctanoic acid and its salts;
- (z) “**PFOS**” means perfluorooctane sulfonate and its salts;
- (aa) “**RWWSP**” means the Residential Water Well Sampling Program monitoring approximately 160 properties for PFAS Contamination, commenced by the DND in 2017, which remains ongoing as of the date of this Statement of Claim;
- (bb) “**Sway**” means David Sway; and,

(cc) “**Sway Residence**” means the lands and premises known municipally as 651 Carmichael Dr, North Bay, Ontario.

2. The Plaintiffs anticipate that the definitions of “**Class**”, “**Class Member**”, “**Contaminated Area**” and “**Contaminated Site**” may be revised. This is because the Plaintiffs and Class Members currently do not know the full extent and geographic reach of the perfluorinated and polyfluorinated alkyl compounds (“**PFAS**”) Contamination migration from the Contaminated Site to the Contaminated Area, and possibly beyond it. These definitions may change because of ongoing investigations into the migration of Contaminants involved in this action, and the continuous acquisition of additional evidence by the parties after the filing of this claim.

RELIEF SOUGHT

3. The Plaintiffs seek the following relief:
- (a) an Order certifying this action as a class proceeding and appointing the Plaintiffs as Representative Plaintiffs;
 - (b) a declaration that the Defendants’ use, handling, application, storage, and disposal of products containing Contaminants caused a nuisance in the Contaminated Area, for which the Defendants are liable to the Plaintiffs and the Class Members;
 - (c) a declaration that the Defendants are strictly liable for the escape of Contaminants into the Contaminated Area, for which the Defendants are liable to the Plaintiffs and the Class Members;
 - (d) A declaration that the Defendants' actions in using, handling, applying, storing, and disposing of products containing Contaminants breached the *Environmental*

Protection Act, R.S.O. 1990, c. E.19 (“**EPA**”), the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, schedule 1, as amended (“**CEPA**”), and the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended (“**OWRA**”), causing loss and damage to the Plaintiffs and Class Members, for which the Defendants are liable;

- (e) a declaration that the Defendants owed a duty of care to the Plaintiffs and to the other Class Members;
- (f) a declaration that the Defendants were negligent in the use, handling, application, storage and disposal of products containing Contaminants for which the Defendants are liable to the Plaintiffs and Class Members;
- (g) a mandatory order requiring the Defendants to implement effective control and remedial measures at the Contaminated Site, in order to prevent the continued migration of the Contaminants onto, under, into or through the Contaminated Area;
- (h) a mandatory Order requiring the Defendants to remediate the Contaminated Area;
- (i) in the alternative to the relief in subparagraph 3(h) above, a declaration that the Plaintiffs and other Class Members are entitled to remediate their properties in the Contaminated Area to completely eliminate all traces of Contaminants and that the Defendants must pay the cost of so doing as damages;
- (j) a mandatory order requiring the Defendants to provide the Plaintiffs and Class Members the most effective PFAS drinking water filtration systems available and bottled drinking water;

- (k) a mandatory order requiring the Defendants to provide access to the Plaintiffs to the Contaminated Site for the purpose of sampling of soil or groundwater found thereon, with reasonable notice to the Defendants;
- (l) general damages and special damages in the amount of \$100,000,000.00 representing, *inter alia*, the diminution in value and marketability of the Plaintiffs' and other Class Members' properties in the Contaminated Area, as well as in respect of remediation costs, engineering and other professional costs and financing costs, as may be necessarily incurred. This value may be adjusted as more information on the extent of PFAS Contamination and its impact on the Plaintiffs' and Class Members' property value becomes available;
- (m) general damages, representing, *inter alia*, compensation for the Defendants' interference with the Plaintiffs' and Class Members' use and enjoyment of their properties in the Contaminated Area, as well as compensation for inconvenience, discomfort and distress;
- (n) special damages, including in respect of the following:
 - a. costs to investigate, sample, test, and assess PFAS Contamination in the private residential drinking well water (the "**well water**") on the Plaintiffs' and other Class Members' properties;
 - b. costs to install and maintain treatment and remediation systems to address PFAS Contamination in the well water on the Plaintiffs' and other Class Members' properties;

- c. costs to install and maintain monitoring systems to assess and evaluate PFAS Contamination in the well water on the Plaintiffs' and other Class Members' properties;
 - d. costs to develop and connect permanent uncontaminated water supply, as an alternative to well water, to the Plaintiffs' and other Class Members' properties;
 - e. costs to provide alternative water supply to the Plaintiffs' and other Class Members' properties in the interim until the above referenced systems or permanent uncontaminated water supply is completed; and,
 - f. other costs or consequential damages arising from the PFAS Contamination caused by the Defendants.
- (o) punitive damages in the amount of \$5,000,000.00;
 - (p) an Order directing a reference or such other directions as may be necessary to determine issues not determined at the trial of the common issues;
 - (q) pre-judgment interest pursuant to the CJA;
 - (r) post-judgment interest pursuant to the CJA;
 - (s) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity plus, pursuant to s. 26(9) of the *Class Proceedings Act, 1992*, S.O. 1992, c. C.6 ("CPA"), the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes;
 - (t) out of pocket expenses and disbursements; and,
 - (u) such further and other relief as this Honourable Court may deem just.
4. The Plaintiffs do not seek damages in this proceeding for the individual personal injuries that they and other Class Members have suffered due to exposure to the Contaminants, nor

are they waiving such claims. The Plaintiffs assert that the Class has been, and continues to be, exposed to the Contaminants, which are hazardous, and that any Contamination levels on their properties, including in their well water, caused by the Defendants, are unacceptable.

OVERVIEW

5. The Municipality and/or the Corporation of the City of North Bay (the “**City**”) owns and operates Jack Garland Airport (YYB) in North Bay, Ontario (the “**Airport**”), having taken ownership from the Department of National Defence (the “**DND**”) in 1998. A Former Firefighting Training Area (the “**FFTA**”) is located at the Airport, where the DND historically conducted firefighting training activities from the early 1970s to 1995.
6. Both CFB North Bay and the Airport are located immediately adjacent to the Contaminated Area. The DND and the City allowed the Contaminants to migrate offsite from the CFB North Bay Lands and the Airport Lands (collectively, the “**Contaminated Site**”) and contaminate the Contaminated Area.
7. The Contaminants that migrated from the Contaminated Site entered into the soil, groundwater and surface water and spread throughout the Contaminated Area, forming a groundwater PFAS plume. The Plaintiffs and the other Class Members rely on this groundwater in the Contaminated Area as potable water, as their residential water supply comes from private groundwater wells (the “**water wells**”), not municipal services. There are high levels of the Contaminants present in their well water.

8. The DND and the City have admitted that the Contaminated Site is the source of the PFAS found in the water wells of the Plaintiffs and the other Class Members. As a result, the properties owned by the Plaintiffs and the other Class Members in the Contaminated Area have suffered a diminution in value as a result of the Contamination of the surface water and groundwater in the Contaminated Area.
9. In this action, the Plaintiffs and the other Class Members seek to recover damages equal to the reduction in value of their properties in the Contaminated Area, as well as consequential damages and punitive damages. The Plaintiffs and the other Class Members also seek an Order requiring the Defendants to remediate the Contaminated Area or, in the alternative, to recover damages equal to the costs of removing the Contaminants from their properties.
10. The Plaintiffs also seek an immediate mandatory order requiring the Defendants to provide the Plaintiffs and Class Members with the most effective PFAS drinking water filtration systems available and bottled drinking water.
11. The Plaintiffs and the other Class Members also seek to recover damages for the inconvenience, discomfort and distress for the stress, inconvenience and aggravation of having to reside with drinking water contaminated by PFAS.

THE PLAINTIFFS

12. Sway purchased the Sway Residence in August 2007 and has resided there with his family since May 2008. The Sway Residence is located immediately next door to the Contaminated Site and is within the Contaminated Area. The Sway Residence is supplied with drinking water from its groundwater well.

13. Currie purchased the Currie Residence in October 2008 and has resided there with his family since the purchase. The Currie Residence is located immediately next door to the Contaminated Site and is within the Contaminated Area. The Currie Residence is supplied with drinking water from its groundwater well.

PROPOSED CLASS

14. The Plaintiffs bring this proceeding on their own behalf and on behalf of the members of the proposed Class, which is defined as follows:

All persons owning real property on or after January 1, 2017 with private residential drinking water wells in the area within North Bay, Ontario, particularly described as the lands and premises within the boundary demarcated by the red circle in Schedule “B” hereto (the “**Contaminated Area**”).

15. The boundary demarcated by the red circle in Schedule B is based on water well PFAS contamination reports provided to resident property owners by the DND with PFAS detected as far as approximately 3 km away from the Contaminated Site. This boundary is subject to change because of ongoing investigations into the migration of Contaminants involved in this action, and the continuous acquisition of additional evidence by the parties after the filing of this claim.

THE DEFENDANTS

16. The Defendant, the Attorney General of Canada, is authorized pursuant to sections 3, 10 and 23 of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50 as amended, to defend actions on behalf of His Majesty the King in the Right of Canada, including all departments thereunder.

17. DND is a federal government department established pursuant to section 3 of the *National Defence Act*, R.S.C. 1985, c. N-5, as amended. DND is a department and servant of Canada.
18. The federal government owns, operates and is responsible for the property of 22 Wing North Bay (the “**CFB North Bay Lands**”), including the area identified as Federal Contaminated Sites Inventory “Site 00024927 - 22 Wing PFAS Monitoring”, which is located immediately adjacent to Jack Garland Airport (YYB) (the “**Airport Lands**”).
19. Both the Airport and CFB North Bay are located on Airport Road in North Bay, Ontario as identified in Schedule “A” hereto. The FFTA is located on the southeast corner of the Airport, located immediately adjacent to the CFB North Bay property boundary.
20. Originally, both the Airport and CFB North Bay were owned by the federal government and operated as a military base. From the early 1970s to 1995, DND used Aqueous Film Forming Foam (“**AFFF**”) containing PFAS, which was released onto the ground at both the CFB North Bay Lands and the Airport Lands during firefighting training activities, equipment testing, maintenance, and transfers. The majority of the PFAS Contamination was released at the FFTA. DND conducted firefighting training activities at the FFTA, which included the release of PFAS, until 1995, when the responsibility for firefighting training operations was transferred to the City. These activities by both the DND and the City caused the Contamination.

21. As of the date of this Statement of Claim, the Federal Contaminated Sites Inventory (“**FCSI**”) classifies the CFB North Bay site as a “high priority for action,” estimates 214,000 cubic meters of contamination, and confirms that PFAS contamination is present in the surface water, groundwater, and soil at the CFB North Bay Lands.
22. The Defendant, the City, is a municipal corporation incorporated pursuant to the provisions of the *Municipal Act 2001*, S.O. 2001, c. 25. The City currently owns the Airport, having acquired it from the federal government in 1998. Responsibilities for firefighting operations were transferred from the DND to the City in 1995.
23. In 2013, the Ontario Ministry of the Environment, Conservation and Parks (the “**MECP**”, previously the Ontario Ministry of the Environment and Climate Change) discovered PFAS in surface water and fish at Lee’s Creek, eventually leading to the issuance of a “No Fish Consumption Advisory” (the “**Fish Advisory**”) for Lee’s Creek in 2016 because of elevated PFAS contaminants that may pose a human health risk. Despite the Fish Advisory being issued in 2016, a physical signpost stating “Do Not Eat Fish From Lee’s Creek – Elevated contaminants may pose a health risk” was not installed at Lee’s Creek until approximately two years later, in around May 2019.
24. Lee’s Creek flows southwards from both the CFB North Bay Lands and the Airport Lands into Trout Lake. As of this Statement of Claim, there are Fish Advisories due to PFAS contamination for numerous water bodies in North Bay, including for Trout Lake, Lee’s Creek, Depensiers Lake, Passmore Lake, Twin Lakes, Chippewa Creek, Delaney Lake, and Doran Creek.

25. The DND confirmed that PFAS has been migrating through the surface water and groundwater into the Contaminated Area for up to fifty (50) years. The highest levels of source PFAS Contamination were primarily detected at the FFTA, and this Contamination ultimately migrates to Trout Lake.

THE CONTAMINANT: PFAS

26. PFAS are a large class of man-made fluorinated aliphatic substances. They have molecular structures where one or more carbon atoms have their hydrogen atoms replaced by fluorine atoms. PFAS do not occur naturally and are used in various industrial applications, including firefighting foam, or AFFF. PFAS are commonly referred to as “forever chemicals” because they are persistent and do not naturally degrade in the environment. Notably, Perfluorooctanoic Acid (“**PFOA**”) and Perfluorooctane Sulfonate (“**PFOS**”) do not degrade under environmental conditions and remain persistent at sites contaminated by PFAS.
27. PFAS have been recognized for their negative impact on the environment and human health. Exposure to PFOA and PFOS has been linked to high cholesterol, increased liver enzymes, decreased vaccination response, thyroid disorders, pregnancy-induced hypertension, preeclampsia, and certain cancers, including testicular and kidney cancer.
28. Extensive studies in the United States led to the U.S. Environmental Protection Agency (the “**U.S. EPA**”) issuing a Drinking Water Health Advisory for PFOA and PFOS in May 2016. The Advisory identified PFOA and PFOS as health hazards, setting a maximum

allowable limit of 70 ng/L (nanograms per litre) for each in drinking water. The U.S. EPA recommended that the combined concentrations of PFOA and PFOS in drinking water should not exceed this level.

PLAINTIFFS DO NOT ACCEPT DEFENDANTS' RELIANCE ON PFAS GUIDELINES IN DECISION-MAKING OR TO JUSTIFY ANY ACCEPTABLE LEVELS OF PFAS IN DRINKING WATER

29. The Plaintiffs reject the Defendants' reliance on federal Health Canada or provincial MECP Drinking Water PFAS Guidelines as justification for allowing any acceptable threshold levels of PFAS Contamination in drinking water.
30. Health Canada's Drinking Water Quality Objective for PFAS, finalized in August 2024, sets a precautionary group-based Guideline of 30 ng/L for the combined total of twenty-five (25) specific PFAS compounds in drinking water. In the Guideline itself, Health Canada acknowledges that this PFAS Drinking Water Quality Objective does not follow a traditional health-based approach because scientific knowledge about PFAS is rapidly evolving, and there is no consensus on the most sensitive health effects. This Guideline is not legally enforceable, but Health Canada recommends that all Canadian jurisdictions keep PFAS levels in drinking water "as low as reasonably achievable".
31. The Plaintiffs submit that the Defendants' reliance on these Guidelines, whether the MECP threshold of 70 ng/L for 11 PFAS or Health Canada's 30 ng/L for 25 PFAS, to determine whether to provide bottled water and filtration systems, or to deem any PFAS Contamination levels below these thresholds as "acceptable," is arbitrary and unacceptable.

32. The presence of PFAS Contamination in the Plaintiffs' and Class Members' well water poses significant health risks and diminishes the value of their properties. The Plaintiffs assert that any amount of PFAS Contamination on their properties, including in the groundwater and well water, resulting from the Defendants' actions is unacceptable, regardless of whether PFAS Contamination levels are above or below the thresholds of the Health Canada or MECP drinking water Guidelines.

TIMELINE OF RECENT CHANGES TO FEDERAL PFAS REGULATIONS

33. In 2006, PFOS was listed as a toxic substance under CEPA, Schedule 1. PFOA was later listed in 2013 as a toxic substance under CEPA, Schedule 1.
34. In 2008, Canada restricted the manufacture, import, and use of PFAS and products containing them.
35. In 2012, Canada prohibited the use of certain PFAS under the *Prohibition of Certain Toxic Substances Regulations, 2012*, SOR/2012-285.
36. On April 24, 2021, Canada published a Notice of Intent signaling its intent to regulate PFAS as a class of substances, rather than setting individual screening values for different types of PFAS.
37. On March 5, 2025, Canada released the final State of PFAS Report and the proposed Risk Management Approach for PFAS. This Report recommended designating PFAS, excluding fluoropolymers, as "toxic" under Part 2 of Schedule 1 of CEPA.

38. This Report identified certain locations, particularly sites where AFFF had been used, such as firefighting training areas, as "hot spots" with potentially elevated PFAS levels.
39. This Report further stated that PFAS can travel several kilometers through groundwater and surface water, significantly increasing the impact of a single contamination source. Contaminated drinking water, resulting from PFAS migration from impacted sites, was also identified in the Report as a key pathway for human exposure to PFAS.
40. In this Report, Health Canada and Environment and Climate Change Canada concluded that there is growing evidence linking PFAS exposure to widespread health impacts, including effects on the liver, kidneys, immune system, reproductive health, thyroid function, nervous system, and metabolism. This evidence includes recent findings showing that PFAS persist in the human body for years, accumulating over time and causing various negative health effects, and that PFAS can harm human health at lower concentrations than previously understood.
41. This Report states that people living in the vicinity of sites contaminated with PFAS because of the use of AFFF may also be disproportionately exposed to PFAS. Highlighted on a map contained within the Report, the Contaminated Site is identified as a "hot spot" federal PFAS contaminated facility.

TIMELINE OF RECENT CHANGES TO FEDERAL PFAS GUIDELINES

42. Health Canada establishes Guidelines for Canadian Drinking Water Quality (the "**Water Guidelines**") to minimize health risks from contaminants in drinking water. These Guidelines are based on scientific reviews of known health effects, exposure levels, and

the availability of treatment and analytical technologies, with objective values set to reduce exposure through drinking water while considering technological feasibility.

43. The Water Guidelines for PFAS have undergone significant changes since firefighting training operations ceased at the Contaminated Site reflecting evolving scientific understanding and increased concern regarding PFAS health impacts, as detailed below.
44. On January 26, 2011, Health Canada published health-based Drinking Water Guidance Values for PFAS (“**HC2011**”), setting maximum acceptable concentrations of 700 ng/L for PFOA and 300 ng/L for PFOS. HC2011 also indicated that the PFOA value could serve as a screening value for other types of PFAS in drinking water.
45. In 2018, Health Canada revised these maximum acceptable concentrations to 200 ng/L for PFOA and 600 ng/L for PFOS, and established screening values for nine (9) individual PFAS, including 200 ng/L for PFHxA, 200 ng/L for PHPeA, and 200 ng/L for 6:2 fluorotelomer sulfonic acid.
46. In February 2023, Health Canada published a draft revised objective for PFAS in drinking water, proposing a single objective limit of 30 ng/L for the sum total of PFAS detected in drinking water. This proposed objective aimed to replace the previous screening values for PFOA and PFOS, as well as the nine (9) individual screening values for other PFAS.
47. In August 2024, Health Canada finalized and published its Objective for Canadian Drinking Water for PFAS (as of the date of this Statement of Claim, the current “**HC Objective**”), establishing a single value of 30 ng/L for the sum of twenty-five (25) specific PFAS. The HC Objective also introduced the principle that PFAS concentrations in

drinking water should be kept “as low as reasonably achievable.” This HC Objective is intended to further reduce potential exposure to PFAS through drinking water, while the Water Guidelines continue to be revised.

48. As a result of these changes, PFAS concentrations in drinking water that were previously considered “acceptable” are now recognized as hazardous to human health, demonstrating an increasing recognition of the risks posed by even low levels of PFAS exposure

ONTARIO MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS INTERIM ADVICE FOR PFAS IN DRINKING WATER

49. In 2017, the MECP developed interim advice for PFAS, recommending that drinking water used for human consumption should not exceed 70 ng/L for the sum of eleven (11) different PFAS (the “**MECP Objective**”).
50. The MECP Objective is significantly less stringent than the HC Objective, which specifies a limit of 30 ng/L for the sum of twenty-five (25) PFAS.
51. When testing the Plaintiffs’ and Class Members’ well water for PFAS, the DND relies on the less stringent 70 ng/L PFAS MECP Objective as the threshold for deciding whether to provide alternative water sources or filtration systems, rather than applying the more protective 30 ng/L PFAS HC Objective.

DND AND CITY TESTING OF THE CONTAMINATED SITE AND THE CONTAMINATED AREA

52. Between 2010 to 2016, DND implemented a PFAS tap water monitoring program at CFB North Bay. The Plaintiffs do not know the full results of this testing, but the results are known to the DND.

53. By no later than October 2011, the DND knew that PFAS levels in the groundwater at both the FFTA on the Airport Lands and the CFB North Bay Lands exceeded HC2011, being Health Canada's then PFAS Water Guidelines of 300 ng/L for PFOS and 700 ng/L for PFOA. An October 2011 PFC Sampling Report warned the DND of the potential for AFFF used at the Contaminated Site to contaminate nearby groundwater and municipal water supplies.
54. Further, in November 2012, the DND was advised by its environmental consultant that PFAS concentrations in samples taken from CFB North Bay prior to June 2012 might have been underreported, possibly by up to 90 times, and that retesting for PFAS was recommended.
55. In 2012, PFAS were also detected in water inside the Underground Complex at CFB North Bay, some of which was reported to be discharged into Lee's Creek, which flows into Trout Lake, both of which are located in the Contaminated Area where the Plaintiffs' and Class Members' properties are located.
56. In 2016, the No Fish Advisory was first issued for Lee's Creek. Around this time, the DND shared its PFAS monitoring results with the MECP, the City, and the North Bay Parry District Health Unit (the "NBPDHU").
57. Also in 2016, the DND's environmental consultant at the time confirmed that PFAS were detected in both the soil and groundwater at the CFB North Bay Lands. Due to potential off-site migration from the Contaminated Site, a water supply survey and off-site PFAS testing program for residential water wells belonging to several Class Members upgradient

and downgradient of CFB North Bay began in 2017. Subsequently, the DND expanded the off-site potable water sampling program between 2017 to 2018. The Plaintiffs do not have the full results of this program, but the full results of this program are known to the DND.

58. On or around December 11, 2016, the DND advised the NBPDHU that an ongoing PFAS monitoring program at CFB North Bay was being implemented, and that the DND detected PFAS throughout North Bay, specifically in Trout Lake, Lee's Creek, the Airport Lands, the CFB North Bay Lands, and in several monitoring wells located near CFB North Bay.
59. On or around February 22, 2017, the Plaintiffs were notified both by written correspondence and personal visits from DND representatives that they should not consume water from their private water wells. The DND also advised that it was unsafe for pets to drink well water or to consume fish from Lee's Creek. Other Class Members received similar warnings from the DND throughout the remainder of 2017.
60. Also on or around February 22, 2017, the NBPDHU issued a public health notice (the "**Notice**") regarding PFAS contamination in North Bay. The Notice advised residents not to use Lee's Creek as a source of drinking water due to PFAS levels detected above the HC2011 PFAS Guidelines. The Notice further stated that the DND intended to begin monitoring PFAS concentrations in water wells at properties near CFB North Bay Lands, the Airport Lands, and Lee's Creek.
61. In or around March 2017, the DND commenced a Residential Water Well Sampling Program (the "**RWWSP**") developed in collaboration with the MECP and the NBPDHU. The RWWSP sampled the Plaintiffs' and various Class Members' properties in the vicinity

of CFB North Bay and the Airport for PFAS in private drinking well water. The RWWSP remains ongoing and is limited to properties using private water wells.

62. Also around March 2017, the DND sampled soil from various residential properties near CFB North Bay and the Airport for PFAS. The Plaintiffs do not have access to the complete results of this testing, but the DND possesses the full results.
63. Also in March 2017, the MECP Interim Advice for PFAS was established, recommending that drinking water should be treated if the total PFAS concentration across eleven (11) different PFAS types (not just PFOS and PFOA) exceeds 70 ng/L, as these compounds may cause similar health effects.
64. In April 2017, the DND's environmental consultant confirmed PFAS Contamination in ten (10) out of twenty-seven (27) well water samples taken from residential properties southeast of the Airport Lands along Lee's Creek to Trout Lake.
65. In June 2017, the NBPDHU was informed by the DND that PFAS levels in two (2) private residential drinking water wells near CFB North Bay exceeded the HC2011 PFAS Guidelines. Affected homeowners were advised not to use their well water for drinking or cooking.
66. In August 2017, the Medical Officer of the NBPDHU released recommendations concerning the PFAS Contamination, advising residents to stop using Lee's Creek for

drinking water due to PFAS levels detected above the HC2011 PFAS Guidelines. These recommendations advised that:

- (a) In 2012, PFAS were detected in the Underground Complex at CFB North Bay and that water from this Complex is discharged into Lee's Creek, which flows into Trout Lake;
- (b) On December 11, 2016, the DND notified the NBPDU about PFAS detections in Trout Lake, Lee's Creek, the Airport, CFB North Bay and monitoring wells located near CFB North Bay;
- (c) AFFF containing PFAS was utilized by DND at CFB North Bay and that PFAS were detected in nearby private drinking water supplies and Lee's Creek, which drains into Trout Lake;
- (d) The use of PFAS at CFB North Bay was discontinued around 1998;
- (e) The levels of PFAS detected in Lee's Creek exceeded the HC2011 PFAS Guidelines;
- (f) Residents should not consume fish from Lee's Creek as per the MECP Fish Advisory;
- (g) An environmental consultant for DND began sampling for PFAS from private water wells in the vicinity of the CFB North Bay and the Airport on April 6, 2017. Out of twenty-seven (27) water samples taken, PFAS were detected in ten (10) samples from water wells southeast of the Airport Lands along Lee's Creek, with four (4) samples exceeding the MECP Guidelines of 70 ng/L for all PFAS tested;
- (h) In June 2017, two (2) water well samples exceeded the HC2011 PFAS Guidelines;
- (i) That the full extent of the PFAS groundwater plume was unknown; and,
- (j) The DND should fully delineate the areal extent of the plume and monitor PFAS levels in drinking water.

67. As of this Statement of Claim, the full extent of the PFAS Contamination plume in the Contaminated Area is not known to the Plaintiffs and Class Members. The Plaintiffs and Class Members do not know if the Defendants possess this information.
68. Throughout the remainder of 2017, the DND reported that the Plaintiffs' and many Class Members' private water wells were contaminated with PFAS. Prior to these reports, Class Members had no knowledge of the Contamination in their water wells. The Plaintiffs do not have the full results of these reports, but these results are known to the DND.
69. Properties with well water detected at PFAS levels above the MECP Objective of 70 ng/L were offered bottled water and/or a Point of Entry Treatment well water filtration system (the "**POET System**"). However, to obtain a POET System, residents are required to sign a license agreement indemnifying the DND, despite the DND causing the PFAS Contamination. As of the date of this Statement of Claim, properties with PFAS detections below the MECP Interim Advice of 70 ng/L are not being offered bottled water or POET Systems, despite the existence of the more stringent HC Objective for PFAS in drinking water of 30 ng/L.
70. By April 2021, at least nine (9) properties near CFB North Bay were offered bottled water for drinking and cooking due to PFAS levels detected above the MECP Objective of 70 ng/L in their well water.

71. During a Public Information Townhall held by the MECP, the NBPDHU, the DND and the City on June 20, 2024, the following was confirmed:
- (a) The most significant source of PFAS in drinking water was believed to come from AFFF containing PFAS used during firefighting exercises at the Airport Lands from the 1970s up until 1998;
 - (b) The NBPDHU was first informed of PFAS contamination in drinking water in December 2016;
 - (c) In 2016, when DND learned of the Fish Advisory issued for Lee's Creek, it contacted the MECP, the NBPDHU and the City to share information in its possession and to assist in managing PFAS contamination in North Bay;
 - (d) Evidence from human studies links PFAS with varying levels of certainty to health impacts such as decreases in birth weight, increased risk of renal cancer, decreased response to immunization, increased cholesterol levels, and increased rate of allergic rhinitis or eczema in children;
 - (e) The NBPDHU could not advise as to whether there is a level of PFAS in drinking water that is known to be safe;
 - (f) The NBPDHU had sufficient grounds to believe that PFAS pose a risk to human health at some level and that accordingly, the precautionary principle should be applied to PFAS exposure in drinking water, and that PFAS levels should be reduced as much as possible;
 - (g) Options to reduce PFAS exposure in drinking water are not equally accessible to all individuals because not everyone can afford a water treatment system, and that the NBPDHU takes this inequity into account when issuing its recommendations;

- (h) Over 1,200 drinking water samples were taken from over 160 residential properties participating in the RWWSP, with PFAS monitoring anticipated to continue in the foreseeable future. Of these 160 properties, at least twenty four (24) exceeded the Ontario MECP 70 ng/L PFAS Guidelines and were offered bottled water, municipal water connections where possible, or POET filtration systems. Only six (6) properties had filtration systems installed;
- (i) The HC Objective for PFAS in drinking water of 30 ng/L is more stringent than the MECP Objective of 70 ng/L;
- (j) Residents with PFAS levels in their private well drinking water below the MECP Objective of 70 ng/L, irrespective of whether their drinking water tested above the HC Objective for PFAS of 30 ng/L, are not being offered alternative water sources or filtration systems;
- (k) Since 2021, the DND also sampled country foods and home-grown foods at properties with high PFAS Contamination in the vicinity of CFB North Bay. Properties that used groundwater to irrigate their home-grown foods were sampled and all samples were confirmed to be contaminated with PFAS;
- (l) Remediating all PFAS Contamination is impossible;
- (m) The DND conducted extensive soil and bedrock drilling at CFB North Bay. The findings of this drilling are not known to the Plaintiffs and the Class Members;
- (n) The DND completed preliminary groundwater modelling and a Conceptual Site Model to describe PFAS movement across the area. The results of these models are not known to the Plaintiffs and the Class Members;
- (o) PFAS can travel far distances in the groundwater;

- (p) PFAS has been migrating through the groundwater from the Contaminated Site into the Contaminated Area for at least thirty (30) to fifty (50) years, with the highest levels of source PFAS Contamination primarily detected at the FFTA, which migrates to Trout Lake. To reach Trout Lake, the PFAS Contamination must migrate through the Contaminated Area, where the Plaintiffs' and Class Members' properties are located;
- (q) Surface water, groundwater, soil and bedrock interact with each other between the FFTA and Trout Lake;
- (r) PFAS migrated offsite from the FFTA via stormwater runoff, surface water, and groundwater because the bedrock slopes downwards and away from the FFTA;
- (s) The City completed a Site-Specific Risk Assessment Report concerning the human health and environmental risks associated with the Airport Lands, which was submitted to the MECP in the early spring of 2024. The results of this Report are unknown to the Plaintiffs but are known to the City;
- (t) PFAS migrated and continues to migrate offsite via the groundwater and surface water from the FFTA, through the Contaminated Site, and into the Contaminated Area; and,
- (u) Both groundwater and surface water Contamination at the Airport Lands exceed PFAS drinking water guidelines sitewide, with the highest concentrations of PFAS found at the FFTA.

72. In October to November 2024, the DND commenced drilling boreholes with monitoring wells at various locations on CFB North Bay and on Carmichael Drive, between Ayr Street and Airport Road, just south of the Contaminated Site, to test for PFAS. The findings of

this drilling are not known to the Plaintiffs and the Class Members but are known to the DND.

73. As of the date of this Statement of Claim, and since 2023, the DND has tested water wells at a minimum of 162 residential properties. Of these, sixty-six (66) properties were found to have PFAS levels exceeding the drinking water HC Objective of 30 ng/L.
74. As of the date of this Statement of Claim, the Plaintiffs have verified that at least sixteen (16) Class Member properties had PFAS detected in their well water via the RWWSP. Several properties had PFAS levels detected between three (3) to sixty (60) times the HC Objective of 30 ng/L. These properties range from immediately adjacent to up to approximately 3 km away from the Contaminated Site.
75. As of the date of this Statement of Claim, the City is remediating PFAS Contamination at the Airport, including at the FFTA, with financial support from the DND.
76. As of the date of this Statement of Claim, the DND is remediating source areas of PFAS Contamination at CFB North Bay and monitoring off-site PFAS Contamination migration from both the Airport Lands and CFB North Bay Lands into the Contaminated Area where the Plaintiffs' and Class Members' properties are located.
77. The full extent and geographic scope of the PFAS migration from the Contaminated Site throughout the Contaminated Area is not known to the Plaintiffs and Class Members. The Plaintiffs and Class Members do not know if this is known to the DND and the City. To the Plaintiffs' and Class Members' best knowledge, the surface water and groundwater in

the Contaminated Area has been significantly impacted by PFAS originating from the Contaminated Site.

78. The fair market value of the properties owned by the Plaintiffs and the other Class Members in the Contaminated Area has significantly reduced as a result of the Contamination. These properties will continue to suffer a diminution in value in the future as a result of the Contamination. The Plaintiffs and Class Members claim this diminution in property value as damages from the DND and the City.

THE LIABILITY OF THE DEFENDANTS

Nuisance

79. The DND and the City created a nuisance, which is ongoing, through their use, handling, application, storage and disposal of AFFF containing PFAS at the Contaminated Site.
80. The DND and the City are liable in nuisance for causing or permitting the discharge or migration of the Contaminants from the Contaminated Site to the properties of the Plaintiffs and the other Class Members in the Contaminated Area.

Strict Liability

81. The Plaintiffs plead and rely upon the doctrine of strict liability (*Rylands v. Fletcher*). The DND and the City are liable for any and all damage caused to the Plaintiffs and the other Class Members as a result of the Contamination because:
- (a) The DND and the City made a non-natural or special use of the Airport Lands and the CFB North Bay Lands, in that they used, stored, handled, applied and disposed of the Contaminants;

- (b) The DND and the City knew or ought to have known that the Contaminants that they brought to the Airport Lands and CFB North Bay Lands were likely to do mischief if the Contaminants escaped; and,
- (c) The Contaminants escaped from the Airport Lands and CFB North Bay Lands and contaminated the Contaminated Area resulting in damage and loss to the Plaintiffs and other Class Members.

Negligence

- 82. The DND and the City owed a duty of care to the Plaintiffs and the other Class Members because they knew or ought to have known that their acts and omissions in their use, storage, handling, application and disposal of PFAS Contaminants during firefighting training activities, equipment testing, maintenance, and transfers could cause damage and loss to the Plaintiffs and the other Class Members.
- 83. The DND and the City breached the standard of care and were negligent in their use, storage, handling, application and disposal of PFAS Contaminants during firefighting training activities, equipment testing, maintenance, and transfers at the Contaminated Site, particulars of which negligence are as follows:
 - (a) they failed to properly use, store, handle, apply and dispose of PFAS Contaminants during firefighting training activities, equipment testing, maintenance, and transfers at the Contaminated Site;
 - (b) they failed to take proper precautions to prevent the introduction of the Contaminants into the groundwater;
 - (c) they continued to use fire-fighting foam containing PFAS after their use was

restricted by the federal government;

- (d) they failed to adequately train, monitor and supervise their employees, servants and agents in the proper use, storage, handling, application and disposal of the Contaminants, including AFFF containing PFAS and Contaminants associated with firefighting training activities, equipment testing, maintenance, and transfers;
- (e) they failed to hire competent employees, servants and agents to use, storage, handle, apply and dispose the Contaminants, including AFFF containing PFAS and Contaminants associated with firefighting training activities, equipment testing, maintenance, and transfers;
- (f) they failed to provide the Plaintiffs and the Class Members with timely, complete and effective warning of the presence and extent of PFAS discovered to have migrated via the surface water and groundwater from the Contaminated Site to the Contaminated Area;
- (g) they failed to provide the Plaintiffs and the 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 surface water and groundwater from the Contaminated Site to the Contaminated Area;
- (h) they failed to use adequate safety equipment that would have prevented the discharge of the Contaminants at the Contaminated Site;
- (i) they failed to implement adequate safety policies and procedures at the Contaminated Site;
- (j) they failed to maintain and operate an adequate containment facility for spent AFFF foam containing PFAS and Contaminants associated with firefighting training

- activities, equipment testing, maintenance, and transfers at the Contaminated Site;
- (k) they failed to prevent the discharge of the Contaminants on the Contaminated Site;
 - (l) they failed to take adequate and timely measures to prevent the migration of the Contaminants from the Contaminated Site in, on and beneath the Contaminated Area;
 - (m) they failed to implement timely, complete and effective methods to capture and contain the PFAS released at the Contaminated Site;
 - (n) they failed to take adequate and timely steps to remediate the Contaminated Site and the Contaminated Area upon learning of the Contamination;
 - (o) they failed to cease the use of fire-fighting foam containing PFAS when they knew or ought to have known that the use of such foam was restricted by the federal government;
 - (p) they failed to adequately or properly monitor their practices with respect to their use, storage, handling, application and disposal of the PFAS Contaminants in order to ensure that Contamination of the Contaminated Area by PFAS would not occur; and,
 - (q) they failed to comply with their duties pursuant to section 30 of the *OWRA* not to discharge, or cause or permit the discharge of the Contaminants in a place or in any waters, which includes groundwater, where such discharge may impair the quality of the waters.

84. The negligence of the DND and the City has caused damage and loss to the Plaintiffs and the other Class Members.

EPA

85. Pursuant to section 99 of the EPA, an owner of a pollutant or person in control of a pollutant that is spilled and causes, or is causing, or is likely to cause an adverse effect, is liable for the resulting damage and loss. The Plaintiffs state that the spills and discharges of substances containing Contaminants by the DND and the City constitute spills as defined in section 91 of the EPA. The Plaintiffs state that the DND and the City are liable to them and the other Class Members under section 99 of the EPA for all losses and damages incurred by the Plaintiffs and the other Class Members resulting from these spills which have caused an adverse effect (pursuant to section 99(2)(a)(i)) and resulting from the DND's and the City's neglect or default in carrying out their duties imposed under Part X of the EPA (pursuant to section 99(2)(a)(iii)).
86. Each of the DND and the City are both an "owner of the pollutant" and a "person having control of a pollutant" pursuant to the provisions of the EPA and are therefore responsible for all costs to remediate the Contaminated Area, including the properties of the Plaintiffs and the other Class Members.
87. The Contamination is causing an adverse effect to the Plaintiffs and the other Class Members in that the Contamination has impaired the quality of the surface water, the groundwater and drinking water in the Contaminated Area.
88. The DND and the City have failed to comply with their obligations under the EPA not to discharge, or cause or permit the discharge of the Contaminants into the natural environment. These breaches of the DND's obligations and the City's obligations have caused damage and loss to the Plaintiffs and the other Class Members.

89. Further, the DND and the City have failed to comply with their obligations under section 93(1) of the EPA to “forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effect and to restore the natural environment”, despite the fact that the DND and the City knew or ought to have known that the Contaminants were causing or were likely causing an adverse effect upon the Plaintiffs and the other Class Members.

CEPA

90. The DND and the City owned or had the charge, management or control of the Contaminants immediately before their release, and were accordingly required to take all reasonable measures to prevent the release and to mitigate any danger to the environment or to human life or health that results from the release, pursuant to the provisions of section 95 of the CEPA. The DND and the City were further required under section 95 to make a reasonable effort to notify any member of the public who may be adversely affected by the release. The DND and the City breached all of these obligations.
91. The DND’s and the City’s breach of their obligations under the CEPA have caused damage and loss to the Plaintiffs and the other Class Members. Pursuant to section 40 of the CEPA, the DND and the City are liable to the Plaintiffs and the other Class Members for the damage and loss they have suffered as a result of the contravention of the CEPA by the DND and the City.

Trespass

92. The DND and the City are liable in trespass in that, without consent, they released or permitted the release of the Contaminants into the environment that migrated and continue to migrate offsite into the soil, surface water and groundwater into the Contaminated Area,

including into the Plaintiffs' and Class Members' well water. This continuing trespass by the DND and the City caused and continues to cause interference, damage and loss to the Plaintiffs and the other Class Members in the Contaminated Area.

DAMAGES

93. As a result of the acts and omissions of the DND and the City described herein, the Plaintiffs and the other 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 Contaminated Area, caused by the stigma of off-site PFAS Contamination in their groundwater and drinking water wells, and the stigma of off-site PFAS Contamination in the Contaminated Area;
- (b) Loss of marketability of their properties in the Contaminated Area, caused by the stigma of off-site PFAS Contamination in their groundwater and drinking water wells, and the stigma of the off-site PFAS Contamination in the Contaminated Area;
- (c) Inability to obtain mortgage financing or re-financing and increased financing costs;
- (d) Material, labour, engineering and other professional costs in respect of the investigation of their properties in the Contaminated Area;
- (e) Material, labour, engineering and other professional costs in respect of the remediation of their properties in the Contaminated Area;
- (f) Material, labour, engineering and other professional costs in respect of the ongoing monitoring, treatment and maintenance of their well water;
- (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) Damages for inconvenience, discomfort and distress; and,

(i) Other expenses and losses, full particulars of which will be provided prior to trial.

94. The Plaintiffs request that this Court order damages to be paid to Class Members on an aggregate basis or otherwise in accordance with sections 23, 24, and 25 of the CPA.

95. The Plaintiffs further state that the conduct of the DND and the City warrants an award of punitive damages in the amount of \$5,000,000. This conduct relating to their use, storage, handling, application and disposal of the Contaminants, including AFFF containing PFAS was indifferent, reckless, wanton, without care, deliberate, callous, willful, in complete disregard of the rights and safety of the Plaintiffs and the other Class Members warrants an award for punitive damages.

96. The DND was informed as early as October 2011 in a PFC Sampling Report that PFAS levels were detected in excess of the HC2011 PFAS Guidelines in the groundwater at both the Airport Lands and the CFB North Bay Lands. The City was the owner of the Airport Lands at the time of this Report.

97. This Report recommended that the DND's fire suppression system be drained to decontaminate an AFFF tank and that the solution be properly disposed of to minimize the possibility of off-site Contamination of the nearby groundwater and municipal drinking water supply. This should have alerted the DND and the City to the potential of offsite PFAS Contamination into the Plaintiffs' and other Class Members' well water. Therefore, by no later than October 2011, the DND and the City knew or ought to have known of

possible PFAS Contamination of the Plaintiffs' and other Class Members' drinking water. Despite the findings of this Report, the DND and the City failed to make full, prompt and candid disclosure of the results of this Report and of the PFAS Contamination to the Plaintiffs and the other Class Members.

98. Further, in November 2012, the DND was advised that PFAS concentrations in samples taken from CFB North Bay pre-June 2012 may have been underreported, possibly by up to ninety (90) times, and that the samples should be re-tested. This information should also have alerted the DND to the potential of offsite PFAS Contamination into the Plaintiffs' and other Class Members' well water. By November 2012, the DND was alerted about the PFAS Contamination for at least a second time, and the DND knew or ought to have known of possible PFAS Contamination of the Plaintiffs' and other Class Members' drinking water at this time. Despite this, the DND failed to make full, prompt and candid disclosure of this information and of the PFAS Contamination to the Plaintiffs and the other Class Members.
99. In addition, the City was also informed as early as February 2014 by the MECP that the Timmins/North Bay Safe Drinking Water Branch was advised of elevated levels of PFAS found in fish samples collected in 2009 in Trout Lake. The MECP advised the City that this testing was completed as part of a study by the MECP targeting PFAS in the vicinity of the firefighting training operations at the Airport Lands. At the time of this correspondence between the MECP and the City, the City was the owner of the FFTA at the Airport Lands.

100. Also at this time, the City was further advised by the MECP that PFAS was detected in water samples from five (5) locations within the North Bay Drinking Water System, including in raw water, partially treated water, treated water, a Standpipe in Birchs Road, and the CFB North Bay Reservoir. This information should also have alerted the City to the potential of offsite PFAS Contamination into the Plaintiffs' and other Class Members' well water. By no later than February 2014, the City knew or ought to have known of possible PFAS Contamination of the Plaintiffs' and other Class Members' drinking water. Despite this, the City failed to make full, prompt and candid disclosure of these findings and of the PFAS Contamination to the Plaintiffs and the other Class Members.
101. Jointly, in unambiguous terms, by no later than October 2011, PFAS were recorded by the DND at both the CFB North Bay Lands owned by the federal government and the FFTA located on the Airport Lands owned by the City. By no later than February 2014, the City was advised of elevated PFAS levels in fish samples identified in MECP studies targeting PFAS Contamination in the vicinity of the Airport Lands, and that PFAS was detected in water samples in the North Bay Drinking Water System, including in the CFB North Bay Reservoir. Nevertheless, the existence of PFAS Contamination on the Contaminated Site and associated off-site migration of Contaminants was first announced to the Plaintiffs and other Class Members in or around February 22, 2017. In or around March 2017, the DND commenced the RWWSP and residential soil sampling program.
102. The DND's and the City's delay of more than five (5) years from October 2011, or more than three (3) years from February 2014, in disclosing any information pertaining to PFAS

Contamination to the Plaintiffs and other Class Members warrants an award for punitive damages.

103. Further, since the commencement of the RWWSP in March, 2017, the DND has only offered bottled water or POET filtration systems to approximately twenty four (24) out of the about 160 properties with PFAS levels exceeding the MECP Objective of 70 ng/L. As the date of this Statement of Claim, properties with PFAS levels below the MECP Objective have not been offered bottled water or PFAS filtration systems.
104. The HC Objective for PFAS is far more stringent, with a threshold of 30 ng/L for the sum of 25 PFAS compounds. The DND's failure to offer bottled water or POET filtration systems to properties with PFAS readings below the MECP Objective, including those both above and below the HC Objective, warrants an award of punitive damages, particularly because the DND is responsible for the contamination.
105. At other PFAS-contaminated federal government facilities, both within and outside Ontario, neighboring properties with PFAS levels below the 70 ng/L MECP Objective threshold in their well water are being provided with bottled water and/or filtration systems. In contrast, the Plaintiffs and Class Members in the North Bay Contaminated Area have not been offered comparable support.
106. Bottled water and filtration systems should be offered to all properties with well water in the Contaminated Area, regardless of whether the MECP Objective is exceeded. The DND's decision to apply the less stringent MECP Objective in determining eligibility for bottled water and filtration systems, while these resources are being offered at lower PFAS

contamination thresholds at other federal PFAS-contaminated sites, both within and outside Ontario, warrants a claim for punitive damages.

107. Furthermore, the POET systems offered by the DND do not fully remove PFAS but are only intended to reduce levels below the DND's Treatment Objective of up to the MECP Objective of 70 ng/L. Class Members must sign a license agreement indemnifying the DND to receive a POET system, despite the DND causing the PFAS Contamination. This conduct by the DND also warrants a claim for punitive damages.

STATUTES RELIED UPON

108. The Plaintiffs plead and rely upon the provisions of the EPA (sections 13, 14, 91, 93 and 99); the CEPA (sections 40, 95 and Schedule 1); the OWRA (section 30); the CPA; the CJA; and the *Negligence Act*, R.S.O. 1990, c. N.1.
109. The Plaintiffs propose that this action be tried at Ottawa.

DATE: October 16, 2025

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SCHEDULE "A"

BOUNDARIES OF AIRPORT LANDS AND CFB NORTH BAY LANDS AND LOCATION OF FORMER FIREFIGHTING TRAINING AREA (FFTA)



SCHEDULE “B”

**BOUNDARY OF CONTAMINATED AREA WITHIN 3 KM RADIUS OF LOCATION
IDENTIFIED AS FEDERAL CONTAMINATED SITES INVENTORY “SITE 00024927 –
22 WING PFAS MONITORING”**



DAVID SWAY and PETER CURRIE
Plaintiffs

- and -

DEPARTMENT OF NATIONAL DEFENCE et al.
Defendants

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF a Claim under the *Class Proceedings Act*,
1992, S.O. 1992, c. 6

PROCEEDING COMMENCED AT

OTTAWA

STATEMENT OF CLAIM

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