



September 18, 2019

Honourable John Horgan, Premier

Honourable George Heyman, Minister of Environment and Climate Change Strategy

Honourable David Eby, Attorney General

MLA Peter Milobar, Opposition Critic for Environment and Climate Change

MLA Andrew Weaver, Leader of the BC Green Party

**Re: Liability for Climate-related Harms Act and Climate Leadership**

We write to ask your government to take action to hold global fossil fuel companies accountable for climate change-related harm and costs that occur in British Columbia, through the enactment of a Liability for Climate-related Harms Act – a statute to clarify the legal rules of liability for harm caused by climate change. This statute is essential both to protect BC taxpayers against a rising tide of climate change costs and to give global fossil fuel companies financial incentives to work to solve the climate crisis.

**Climate impacts in BC**

We are deeply concerned about what climate change means for our planet, British Columbia and our communities. As a result of fossil fuel pollution, the world has already seen a 1°C increase in average temperatures. In BC we are already seeing:

- droughts and heat threatening us with increased wildfires and water shortages,
- extreme weather and early melting of snow-pack leading to flooding, landslides, and resident evacuation,
- sea level rise requiring expensive coastal protection measures, and
- the spread of diseases and pest species, such as Lyme Disease and the Mountain Pine Beetle.

The government of British Columbia and other levels of government are on the hook to fund infrastructure upgrades and changes to services, in efforts to shield British Columbians from the worst of these climate impacts. Estimates of the potential costs to British Columbia run in the tens of billions of dollars.

Estimates of the costs of coastal flooding to BC illustrate the point. Paying the Price, a 2010 report of the National Roundtable on Environment and Economy (NRTEE) estimated costs to Canada by 2020 at \$5 billion per year, rising to \$21-43 billion per year by 2050 (and much more than that if global temperature increase is not kept to below 2°C). The same report estimates that flooding in BC by 2050 is likely to cost the province an average of between \$0.8 and \$7.6 billion each year if the world is successful in keeping temperature increases below 2°C. (p. 72). If governments build infrastructure to deal with the potential flooding, this figure will be reduced, but the infrastructure needed for the Lower Mainland has been estimated at \$9.5 billion by 2100 to deal with a 1 metre sea-level rise (Delcan. Cost of Adaptation - Sea Dikes and Alternative Strategies (Province of BC, 2012)).

### **Polluters must pay**

Until now, governments, industry and the public have largely assumed that these costs will be fully borne by taxpayers – much as it was at one time generally assumed that smokers and health care systems would bear the full health costs of smoking. In effect, fossil fuel companies are transferring costs of managing the climate impacts of their products to taxpayers. Not only is that unfair to taxpayers, but it also means that fossil fuel companies and their investors lack economic incentives to transition to a more sustainable business model.

The province of British Columbia has the legal power – through a Liability for Climate-related Harms Act – to define the legal consequences associated with climate costs and impacts that are currently being incurred within its borders. The Act could ensure that global fossil fuel companies pay a fair share of those costs – even where the companies that contributed to the impacts are outside the province’s borders.<sup>1</sup>

BC was the first province in Canada to enact a Tobacco Damages Recovery Act, to enable lawsuits to recover health care costs from cigarette manufacturers. While fossil fuel companies could be sued under existing common law principles, there are significant advantages to the Legislature, rather than the courts, clarifying the legal rules for liability in such cases. Enacting a Liability for Climate-related Harms Act may clarify the legal rules more quickly and cheaply than could occur through protracted litigation, as well as giving the public’s representatives an important opportunity to investigate and quantify the costs of climate change and to discuss the role of the fossil fuel industry in paying for those costs.

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<sup>1</sup>See Gage, A. and Wewerinke, M, Taking Climate Justice into our own Hands (Vancouver, BC: West Coast Environmental Law, 2015); Byers, M., Franks, K. and Gage, A. The Internationalization of Climate Damages Litigation. Washington Journal of Environmental Law & Policy, Volume 7, issue 2, July 2017, <http://hdl.handle.net/1773.1/1709>, last accessed 23 April 2018.

## Conclusion

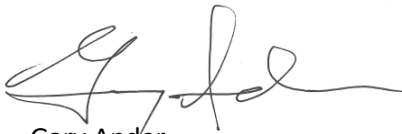
BC's government, communities, taxpayers and individual victims cannot afford the rising tide of climate costs that is bearing down upon us. Communities in BC and around the world are demanding that fossil fuel companies pay their share of climate costs.<sup>2</sup>

As the City of Victoria wrote in a letter to 20 fossil fuel companies about its expected climate impacts: "It would be financially irresponsible of us to assume that our taxpayers will bear the full costs of these impacts of fossil fuel production, while your shareholders continue to benefit financially from the sale of fossil fuels."<sup>3</sup>

A relatively small number of companies have the resources, scale, knowledge, technology and expertise to either block or advance climate action. We must ensure that they have every incentive to use that power to build the sustainable economy that we need.<sup>4</sup>

In enacting a Liability for Climate-related Harm Act, you would help protect BC taxpayers and individuals from massive costs, avoid the need for protracted and expensive litigation to clarify legal responsibility for climate impacts, and, perhaps most importantly, you would send a global message to the fossil fuel industry that its business model can no longer ignore the harm that it is causing.

Sincerely,



Gary Ander  
Mayor

cc: Honourable Doug Donaldson, Minister of FLNRORD  
MP Pamela-Goldsmith Jones, West Vancouver-Sunshine Coast-Sea-to-Sky Country  
MLA Jordan Sturdy, West Vancouver-Sea-to-Sky  
Chair Sav Dhaliwal, Metro Vancouver Regional District  
Chair Peter Luckham, Islands Trust Council  
Bowen Island Municipal Council

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<sup>2</sup>Here in BC, over 10 local governments, plus the Association of Vancouver Island and Coastal Communities (representing 53 local governments) have voted to send letters to 20 fossil fuel companies demanding that they pay their share of local climate impacts.

<sup>3</sup> Letter from City of Victoria to Chevron, November 28, 2017.

<sup>4</sup> In many other contexts, the BC government has long required industry to pay for the full costs of their products, as through Extend-ed Producer Responsibility which is a well-established principle of BC's laws regarding recycling and waste management.