

Summary of New Brunswick Anti-Shale Gas Alliance Affidavit Arguments and Comments on a Carbon Tax

1. Climate change is here now and affecting New Brunswickers and the world. The future looks grim without immediate action.

The existential threat of climate change approaches faster and more powerfully with every passing day, as evidenced by recent studies and statements by virtually every climate science body in the world, and by the events witnessed in our daily lives. Their common message is that the time to stop a climate catastrophe is growing very short.

Scientists have found evidence for 467 different ways the ongoing emission of greenhouse gases (GHGs) is **currently** triggering climate hazards that impact humanity - affecting water, food, economy, infrastructure and security.

They found human health attributes impacted in 27 ways. Climate change could "halt and reverse" progress made in human health over the last century. Conversely, quickly reducing carbon emissions can save millions of lives, according to public health experts.

During recent years New Brunswick has experienced some of the more dramatic effects, such as flooding, tropical storms, ice storms, droughts, heat waves, and damaging wind and storm surges. These are only the most visible symptoms. The extinction of species, the changes in growing seasons, the increased hospital visits, the decreasing agricultural and fish yields, and the increase in invasive species occur with little public knowledge.

The last 5 years have been the hottest years on record - on both land and sea. 2018 was also the hottest La Nina year, which are usually cool years.

2018 was the hottest year ever measured in the oceans, which absorb 90% of the heat trapped by GHG's. The rate of ocean warming has been found to be increasing, and will be 6 times greater in the next 60 years than in the last 60.

Scientists are "surprised at the rate of change in the Earth system. So much is happening at the same time and at a faster speed than we would have thought 20 years ago. We're heading ever faster towards the edge of a cliff."

Instead of steadily decreasing, our emissions are increasing, and at a faster rate. 2018 saw record levels of the GHG's carbon dioxide, methane and nitrous oxide; 2019 is predicted to be worse. Many tipping points may be closer than anyone predicted.

It is not difficult to grasp the immediacy and seriousness of the situation, or what must be done. We must stop burning fossil fuels as quickly as possible.

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"Whether it's drilling a new gas well, keeping an old coal power station open, or even buying a diesel car, the choices we make today will largely determine the climate pathways of tomorrow." "The message ... is loud and clear: act now or see the last chance for a safer climate future ebb away."

2. Successive New Brunswick governments have failed to grasp the urgency and seriousness of climate change, as evidenced in their historic inaction, and in their promotion of fossil fuel industries.

The current government's policies call for a new shale gas industry, promoting the Energy East tarsands pipeline, and supporting the conversion of the Repsol/Irving LNG facility to an export facility.

Each of these actions would prevent New Brunswick from complying with any GHG emissions limits, just as similar projects have done in western provinces.

The former Liberal government put together an all-party climate strategy, which, although good in principle, lacked deadlines and plans for implementation, and did not put a price on carbon.

Its potential good was offset by that government's simultaneous support for the Energy East pipeline, and the inexplicable failure to cement the much-appreciated moratorium on shale gas in legislation.

3. Faced with an existential climate threat to ourselves and the planet, and with provincial governance that cannot be relied upon to protect the health and lives of its citizens, we must turn to the courts and federal government for that protection.

The federal government, via Section 7 of the Charter of Rights, has the responsibility and the obligation to 'guarantee the life, liberty and security of the person'. It also has the legal responsibility to fulfill Canada's international agreements.

As such, the federal government must have the authority to act in that regard, including the power to set minimum standards for the entire nation in order to achieve those guarantees and responsibilities.

Without that authority, inadequate and unequal actions by individual provincial governments threaten the health and lives of the people of New Brunswick, and the rest of the world, as GHG emissions do not stop at political borders. We do not want to be victims of climate change, and neither do we want to export it.

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The federal government itself has not dealt consistently with climate change, but it is aware that it cannot shirk its international, constitutional and moral responsibilities.

4. And really, there is no choice. One cannot strike a bargain with the laws of physics. Either we significantly reduce our use of fossil fuels quickly, or we endanger our present and kiss our future goodbye.

In the words of scientists, “Without rapid cuts in CO₂ and other greenhouse gases, climate change will have increasingly destructive and irreversible impacts on life on Earth. The window of opportunity for action is almost closed.”

So, our intervention maintains that the federal government has the legal and moral authority, under our international obligations, and under the Charter’s guarantee of the right to life, liberty, and the security of the person, to act to protect those rights.

Its implicit authority must include the right to set minimum standards for the entire nation, including a carbon tax, even overriding the will of individual provinces.

As the *‘Economist’* noted, ‘Canada is ill prepared to face a future not dominated by fossil fuels, but must prepare for an equitable and just transition to the clean economy.’

Discussion of a Carbon Tax

As The Wall Street Journal has noted, putting a price on carbon, via a tax or some other mechanism, has been endorsed by, “All four of the still-living former USA Federal Reserve chairs, nearly 30 Nobel economists and all but one former chair of the White House’s Council of Economic Advisers.

It has also gained approval from big oil companies, environmental groups and others across the political spectrum” around the world, even including the Canadian Chamber of Commerce. While each of these groups may have a different view on how a carbon tax should be implemented, they all recognize that it is the most effective tool that we have to decarbonize our economy.

Even the government of New Brunswick has acknowledged in its factum to the Saskatchewan Court of Appeals that a carbon tax is an effective tool.

While economists essentially agree on the efficacy of a carbon tax, politicians have so demonized the word ‘tax’; the average citizen reacts negatively to it.

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Thus, much depends on how the tax is explained, implemented, and what is done with the money. To date, the most acceptable plans return the money to citizens directly in various forms of rebates. That is what the current 'backstop' plan from the federal government will do. We will see how New Brunswickers react.

Another possibility would be to divert the tax money only to energy and climate uses, or to divide it between those uses and public rebates.

The essential point is that governments can implement the tax differently, so long as they retain the part that limits emissions. One hopes that the best methods for implementing a carbon tax, and for gaining public acceptance, will evolve.

The other organizations joining NBASGA in the intervener group known to the Court as 'Climate Justice Saskatoon' include:

Climate Justice Saskatoon, National Farmers Union, Saskatchewan Coalition for Sustainable Development, Saskatchewan Council for International Cooperation, Saskatchewan Electric Vehicle Club, Council of Canadians: Prairie and Northwest Territories Region, Council of Canadians: Regina Chapter, Council of Canadians: Saskatoon Chapter, Youth of the Earth

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