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Court File No. _____

FEDERAL COURT

BETWEEN:

MATHIAS COLOMB CREE NATION

Applicant

and

ATTORNEY GENERAL OF CANADA, MINISTER OF ENVIRONMENT AND CLIMATE
CHANGE CANADA, and ALAMOS GOLD INC.

Respondents

APPLICATION UNDER S. 18.1 OF THE
FEDERAL COURTS ACT, R.S.C. 1985, C. F-7

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant.
The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Winnipeg, Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office. IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: _____

Address of local office: Winnipeg Local Office
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APPLICATION

This is an application for judicial review of the decision of the Minister of the Environment and Climate Change Canada (“**Minister**”) and the Attorney General of Canada, named in lieu of the Governor in Council, (collectively, the “**Crown**”) made under the authority of sections 52(1) and 53 of the *Canadian Environmental Assessment Act, 2012*, S.C. 2012, c. 19, s. 52 (“**CEAA, 2012**”) determining that the Lynn Lake Gold Mine Project (the “**Project**”) is not likely to cause significant adverse environmental effects within the meaning of subsections 5(1) and 5(2) of *CEAA, 2012*; that the consultation process undertaken in relation to the Project was consistent with the honour of the Crown; and that, with the conditions included in the approval decision, the concerns and interests of the Applicant are appropriately accommodated, all as communicated to the Applicant by the Minister in a Decision Statement issued on March 5, 2023 and made available to the public and to the Applicant on March 6, 2023 (the “**Decision**”).

Canadian law in respect of the duty to consult and accommodate First Nations about potential impacts to their rights from projects on their traditional lands that are approved by the Crown has been systemically applied in a discriminatory, racist and unjust manner. This Application confronts that issue.

In virtually all other categories of law (e.g. negligence, nuisance, trespass, defamation, intentional torts, breach of contract, expropriation, fiduciary and trust breaches, and restitution remedies for criminal offences), monetary compensation is awarded to compensate the damage that has been caused and cannot be undone and to “make whole” the wronged party.

However, while the Supreme Court of Canada has stipulated that consultation must always be carried out with the intent to substantially address the concerns of the affected Indigenous party, including by accommodating those concerns, the requirement that accommodation includes the obligation to compensate and make whole affected

Indigenous parties for the impacts of projects in their territories that cannot be avoided or mitigated is still evolving.

“Mitigation,” meaning measures intended to minimize impacts, are often mistakenly considered sufficient. Yet, invasive projects like open pit mines have cannot be said to have only fleeting and *de minimus* effects on the environment and those peoples most reliant on it, namely First Nations whose traditional lands are affected. As such, requiring mere mitigation measures, without compensating the outstanding unmitigated harms implies that it is constitutionally honourable, valid and just that affected Indigenous groups are left worse off from the projects and developments occurring within their territories.

This approach is not honourable, reconciliatory or just. It does not “substantially address” the concerns of affected Indigenous groups. It leaves First Nations bearing the harms of development in their territory and not being made whole.

If being made whole through compensation is considered as trite law in virtually all other contexts of Canadian law, nothing justifies that it be withheld in the law that is applied to Indigenous peoples. This is the direction that the Applicant seeks from this court in this case, as it applies to the mining project proposed by Alamos in culturally and spiritually significant and ecologically sensitive parts of the Applicant’s traditional territory, including important calving and rearing habitat for threatened caribou populations.

The Applicant makes application for:

- a) a declaration that the Decision triggered the Crown’s constitutional duty to accommodate Mathias Colomb Cree Nation (“**MCCN**”) with the intention of substantially addressing its concerns in respect of the possible adverse effects of the Project on MCCN’s Aboriginal and treaty rights and interests (the “**Duty to Accommodate**”);

- b) a declaration that the Duty to Accommodate includes the duty to compensate MCCN, or ensure that MCCN is compensated, for residual impacts on its asserted and known Aboriginal and treaty rights (“**Rights**”) that remain or are likely to remain despite or following the prevention and mitigation measures;
- c) a declaration that the Crown in making the Decision breached its Duty to Accommodate MCCN in respect of the Project;
- d) an order declaring the Decision invalid or unlawful, and quashing or setting aside the Decision;
- e) in the alternative to the relief sought in paragraph (d), an order suspending the effect of the Decision until adequate accommodation of MCCN has occurred, which shall include reasonable compensation so as to “make whole” MCCN in respect of potential adverse effects of the Project on its Rights, and an order of this Court to that effect has been made;
- f) an order in the nature of *mandamus* directing the Crown to fulfill its Duty to Accommodate MCCN in respect of the Project;
- g) an order that the Parties are at liberty to re-apply to this Court for further relief;
- h) costs;
- i) in the alternative to the relief sought in paragraph (h), in the event that this application is dismissed, an order that the Applicant shall not be required to pay costs to the Respondents pursuant to Rule 400 of the *Federal Courts Rules*; and
- j) such further and other relief as this Honourable Court may deem just.

The grounds for the application are as follows:

The Applicant and its Aboriginal and Treaty Rights

1. MCCN constitutes an “Aboriginal people” within the meaning of section 35 of the *Constitution Act, 1982* (U.K.), 1982, c. 11 (the “**Constitution Act, 1982**”). MCCN is also a “band” under the *Indian Act*, R.S.C. 1985, c. I-5.
2. For thousands of years and continuously to the present day, ancestors and present members of MCCN have lived and sustained themselves, their families and their community on MCCN’s traditional territory by hunting, trapping, fishing and gathering, carrying out their distinctive way of life, and passing down their culture from generation to generation.
3. MCCN is the successor to an Indigenous community that adhered to Treaty No. 6 (the “**Treaty**”) with the Crown. MCCN was formerly known as the Mathias Colomb Band, which was an arm of the Peter Ballantyne Band that became distinct in 1910. The Peter Ballantyne Band was itself an offshoot of the James Roberts Band that adhered to the Treaty at Montreal Lake, Saskatchewan, on February 11, 1889. MCCN was treated as part of larger tribes or bands that had large territories.
4. MCCN is a beneficiary to Treaty No. 6. Part of its traditional territory, including the Project location in Manitoba, is actually within the territory covered by Treaty No. 5. In that part of its territory, MCCN has and exercises both Treaty 6 rights and inherent Aboriginal rights.
5. The Treaty guaranteed the continued exercise of MCCN’s harvesting rights and incidental practices (the “**Treaty Rights**”), and its inherent Aboriginal rights albeit modified by the Treaty. By virtue of the *Natural Resources Transfer Agreement, 1930* (enacted by the *Constitution Act, 1930* (U.K.) 20-21 George V, c. 26) (the “**NRTA**”) as applicable to both Manitoba and Saskatchewan and Supreme Court of Canada authority including *R v. Badger*, [1996] 1 SCR 771, Treaty Rights are exercisable anywhere across NRTA lands in the prairies.

6. Today, MCCN has its main reserve at Pukatawagan, about 210 kilometres north of the Pas and about 125 kilometres south of Lynn Lake. MCCN has a registered membership of about 3,900 members, approximately 2,250 members of whom live in Pukatawagan and 1,650 of whom live off-reserve. These members exercise Rights throughout the traditional territory, including where the Project will be located and the area it will impact.
7. MCCN also has rights to several other reserve parcels through the Treaty Land Entitlement (“**TLE**”) process as set out in the Manitoba *Treaty Land Entitlement Framework Agreement* dated May 29, 1997, including parcels near the Project.
8. As Indigenous people, the members of MCCN also have the following rights that are recognized in the United Nations *Declaration on the Rights of Indigenous Peoples* (“**UNDRIP**”), and which have been incorporated into Canadian law by the Crown’s enactment of the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2020, c. 14 (the “**UNDRIP Act**”):
 - a) the right to determine and develop priorities and strategies for the development or use of their lands, territories and resources (Article 32);
 - b) the right to extend, or withhold, consent for projects affecting their lands, territories, and resources, particularly in relation to the development, utilization or exploitation of mineral, water and other resources (Article 32);
 - c) the right to redress, including just, fair and equitable compensation, for their lands, territories and resources that have been taken, used or damaged (Article 32);
 - d) the right to the conservation and protection of the environment and the productive capacity of their lands, territories and resources (Article 29); and
 - e) the right not to have hazardous materials disposed or stored on their lands and territories without their consent (Article 29).

9. MCCN's traditional territory extends from north of Lynn Lake, west past the Manitoba-Saskatchewan border, south to The Pas and east beyond Herb Lake.

The Respondents

10. The Minister is responsible for the administration of *CEAA, 2012*, its successor legislation the *Impact Assessment Act*, S.C. 2019, c. 28, s. 1 (the "**IAA**"), and for the Impact Assessment Agency of Canada (the "**Agency**").
11. The Attorney General of Canada is responsible for the conduct of all litigation for or against the Crown or any department, and is named as a representative of the Crown, the Minister and the Agency pursuant to section 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50.
12. The Respondent Alamos Gold Inc. ("**Alamos**" or the "**Proponent**") is a mining company that is the proponent of the Project.

The Project

13. The Project is the proposed construction, operation, decommissioning, and reclamation of two open pit gold mines, ore and mine stockpiles, tailings storage areas, a new ore processing facility, a water treatment plant, and supporting surface infrastructure at two historic mining sites – the Gordon Gold Mine approximately 55 kilometres east of Lynn Lake, and the MacLellan Gold Mine approximately 8 kilometres northeast of Lynn Lake (together, the "**Sites**").
14. Both Sites are located within the northern portion of MCCN's traditional territory, on which MCCN and its members have sustained themselves since time immemorial.
15. The Project also lies within the range of boreal woodland caribou herds (*rangifer tarandus caribou*) which are culturally significant to MCCN and are already at risk, including specifically calving and rearing habitat. Both Sites overlap with the Kamuchawie Management Unit, a provincially-designated unit for managing boreal caribou ranges identified in *Manitoba's Boreal Woodland Caribou*

Recovery Strategy (2015). The MacLellan Site overlaps habitat identified in the federal *Recovery Strategy for the Woodland Caribou (Rangifer tarandus caribou), Boreal Population, in Canada* (2020). The boreal woodland caribou within MCCN's traditional territory are "threatened" within the meaning of the *Species at Risk Act*, S.C. 2002, c. 29, and the Project would put these caribou, and MCCN's reliance on them, further at risk.

16. The Project proposes to mine approximately 8.6 million tonnes per year at the Gordon Gold Mine and approximately 2.8 million tonnes per year at the MacLellan Gold Mine, all for processing at the new processing facility with a capacity of approximately 8,250 tonnes per day.
17. Consistent with UNDRIP and the UNDRIP Act, MCCN has the right to extend – or withhold – free, prior and informed consent before the Project proceeds in its traditional territory. In accordance with Canada's constitutional duty to consult with and accommodate First Nations, it has long been the case that accommodation measures must be sufficient to substantially address the affected First Nation's concerns about the project impacts. With the enactment of UNDRIP and the UNDRIP Act, this must be taken to mean "sufficient to substantially address the affected First Nation's concerns such that it is able to give free, prior and informed consent."

The Environmental Assessment Process

18. On or about June 23, 2017, Alamos submitted its "Summary of a Project Description of a Designated Project," initiating the environmental assessment process under *CEAA, 2012* (the "**EA**").
19. From about July 2017 to May, 2020, Alamos engaged with MCCN regarding the potential impacts of the Project on MCCN's Aboriginal and treaty rights, as well as the environmental concerns of MCCN in relation to the Project.
20. Alamos filed its Environmental Impact Statement (the "**EIS**") in the Canadian Impact Assessment Registry (the "**Registry**") in or about August, 2020.

21. The Agency conducted a conformity review of the EIS, and on or about June 24, 2020 informed Alamos that the EIS did not comply with the requirements for the *Guidelines for Preparation of an Environmental Impact Statement pursuant to the Canadian Environmental Assessment Act, 2012 for the Lynn Lake Gold Project*. In particular, the Agency noted in many sections a failure to adequately consult with Indigenous peoples, to consider Indigenous knowledge, or to plan for future engagement with affected Indigenous peoples.
22. As a result, Alamos conducted further engagement with Indigenous groups, including MCCN, regarding their perspectives and concerns, and the potential impacts of the Project on Aboriginal and treaty rights. Alamos provided supplemental filings on or about March 3, 2021 and September 16, 2021 informing the Agency of its further efforts to consult with affected Indigenous groups.
23. MCCN also participated in the EA directly through submissions to the Agency, requesting mitigation measures to avoid or mitigate the environmental impacts of the proposed Project.

Unmitigated Impacts on MCCN

24. MCCN provided evidence, in the EA and in its dealings with Alamos, of its traditional use and occupation of areas affected by the Project through a Traditional Knowledge and Use Study (the “**Study**”) completed in or around May 2021, which included findings about:
 - a) the hunting, trapping, fishing and harvesting rights exercised by MCCN in lands affected by the Project;
 - b) MCCN’s connection to the lands affected by the Project; and
 - c) the existence of cultural and spiritual sites significant to MCCN affected by the Project.
25. Many significant impacts on MCCN and its constitutionally protected Rights are anticipated as a result of the Project over its estimated 16-year construction and

operation period. The Study confirms MCCN's high degree of usage of, connections to and values within the Project area, many of which will be adversely affected.

26. The Project will have impacts on MCCN and its members' ability to exercise their Rights throughout the northern portions of MCCN's traditional territory, and may have downstream impacts on species and sensitive ecosystem components, including fish habitat and spawning locations that are culturally significant to MCCN throughout its entire traditional territory.
27. These impacts are expected to be long-term and extend not only for 16 years but well beyond the closure of the Project.
28. Further impacts are expected to harm the physical and cultural heritage of MCCN, including by impeding access to and the use of cultural and spiritual sites within the Project areas. Alamos has described the anticipated residual impacts to MCCN's Rights as both continuous and irreversible; the residual effects are not likely to be reversed to the baseline conditions pre-dating the Project.
29. This Project is a large open pit gold mine at two Sites, with tailings ponds and a processing mill. Its impacts are not able to be fully avoided or mitigated. By issuing the Decision, the Minister has determined that the Project is not likely to cause significant adverse environmental effects, including effects on the health and socioeconomic conditions, physical and cultural heritage, and current use of lands and resources for traditional purposes of Indigenous peoples. As a result, the Decision enables an approval to be issued for the Project with the terms and conditions the Minister considers necessary to mitigate the Project's effects, in accordance with section 53 of *CEAA, 2012*.

Alamos' Failure to Engage with MCCN in Good Faith to Provide Accommodation

30. In order for MCCN to be able to provide its free prior and informed consent to the Project, MCCN sought sufficient accommodation measures to substantially address its concerns about Project impacts. It sought such measures through the

EA and the conditions on approval (including those provided in the Decision), and through an accommodation agreement with Alamos known as an Impact Benefit Agreement (“**IBA**”). Together, these two instruments should provide the vast majority of all accommodation required.

31. The EA conditions typically provide measures to prevent and mitigate impacts. They typically do not, and in this case do not, provide any measures to compensate for residual impacts or require the proponent to do so.
32. Measures to compensate or provide offset benefits are typically provided, and in this case MCCN intended that they be provided, through an IBA. Such measures include monetary compensation, including through revenue sharing and priority access to training, employment and business contracting opportunities with the Project.
33. As is the industry norm for IBAs, the IBA in this case was to be between MCCN and Alamos rather than between MCCN and the Crown. However, because IBAs are agreements to provide accommodation measures, it is the duty of the Crown to ensure that such accommodation measures are provided – either by the Crown itself or by the proponent. The Crown can satisfy itself that such accommodation has been provided by the proponent when the First Nation signs such an agreement accepting the accommodation measures therein as sufficient. Where that has not occurred, the Crown cannot satisfy itself of this unless it engages with the First Nation and the Crown provides such compensatory accommodation itself, or the Crown assures itself that the proponent will provide or has offered to provide what is sufficient to meet the Crown’s Duty to Accommodate.
34. This did not occur in this case, and the Crown’s Duty to Accommodate was not fulfilled.
35. Since 2019, MCCN has endeavoured to engage with Alamos toward an IBA that provided sufficient and fair accommodation measures that, together with those

provided in the EA conditions, would substantially address MCCN's reasonable and serious concerns about the Project impacts.

36. While Alamos has exchanged drafts of the IBA, attended a few meetings and provided process funding, its conduct has been characterized by bad faith, lack of transparency and intransigence, resulting in its refusal to provide accommodation measures that reflect reasonable or adequate compensation considering the significance of expected impacts and current mining industry standards for IBAs and compensation.
37. Alamos' bad faith, rather than being alleviated by providing process funding to MCCN, has been exacerbated by Alamos' utilization of the process funding provided as a reason to deny sufficient substantive accommodation. Process funding should lead to, rather than deny, substantive accommodation.
38. MCCN and Alamos entered into a Process Agreement dated October 21, 2020 (the "**Process Agreement**") to establish a framework for consultation and engagement, and for negotiating an IBA as accommodation for the Project.
39. Article 4.2 of the Process Agreement specifically required both Alamos and MCCN to negotiate in good faith to conclude an IBA prior to construction of the Project that substantially addresses MCCN's reasonable concerns regarding the Project and its impacts.
40. Alamos refused and failed to engage in good faith including, but not limited to, by:
 - a. causing several lengthy delays in engagement;
 - b. refusing to engage with MCCN, including on the draft IBA provided by MCCN, in any way unless and until it had fully completed its engagement and IBA with Marcel Colomb First Nation ("**MCFN**"). MCFN is a family group from MCCN that broke off to create its own First Nation, and obtained band status

- in or about 1999 with its reserve near Lynne Lake using TLE lands from MCCN's TLE entitlement;
- c. withholding the generation, gathering or disclosure of information necessary and critical to enable MCCN to participate in an informed way in the engagement toward an IBA, including information about benefits and compensation that could be negotiated and available;
 - d. attempting to require MCCN to agree to an IBA with the same terms as its agreement with another First Nation relating to the Project in 2023, despite the provision of a draft IBA sent by MCCN to Alamos in late 2020 informing Alamos that it was not to, at a later date, enter into an agreement with another First Nation and require MCCN to agree to the same terms;
 - e. repeatedly refusing to negotiate an agreement that resembles current mining industry standards for IBAs accommodating First Nations for project impacts, insisting on an outdated compensation framework that, along with other risks to MCCN, imposes substantial risks of non-payment on MCCN, and which is far lower than what is considered standard, fair and reasonable in current industry practices;
 - f. engaging in correspondence that has threatened or been threatening to MCCN and its advisors in respect of MCCN seeking to uphold its rights through litigation; and
 - g. delaying and obstructing the IBA engagement process while proceeding unilaterally with the EA process, such that the Crown consent was provided while MCCN consent could not be provided due to the actions and inactions of Alamos, thus requiring MCCN to commence this litigation within the 30-day time limit to ensure it can enforce its right to sufficient accommodation.
41. MCCN is part of an Indigenous Nation with its own Indigenous laws that it would be forced to violate by allowing a Project to occur without challenge when that Project will leave the Applicant, its members and its territory worse off. MCCN's

own laws require it to ensure that it is not left weakened and worse off by Projects within its territory, because it has a sacred duty to protect its lands for future generations. MCCN is unable to protect its lands in accordance with its laws if those lands are repeatedly impacted by Projects that leave both the territory and MCCN worse off, rather than improving the situation for MCCN and its members.

42. to do so if it is constantly cumulatively weakened by Projects that leave it worse off, where it is not made whole or bettered as should be the case.

The Duty to Accommodate MCCN

43. MCCN has established Treaty Rights and unextinguished Aboriginal rights that stand to be adversely affected by the Project.
44. The Crown is required to consult with MCCN with the intention of substantially addressing MCCN's concerns, which means providing sufficient accommodation. The Crown retains responsibility for ensuring that the Duty to Accommodate is fulfilled consistent with the honour of the Crown, even if certain aspects of consultation and accommodation are to be largely conducted by the Proponent.
45. The conditions in the EA Decision imposed by the Minister under s. 53 of *CEAA, 2012* do not adequately accommodate MCCN. While such measures go some way toward preventing and mitigating environmental effects, they do not purport to compensate, and do nothing to compensate, for those effects that will remain.
46. The Duty to Accommodate requires that accommodation measures do not leave a significant gap, as they do here, between the residual impacts of a Project and the accommodation measures provided. Such a gap must be filled by the Crown, ensuring that the affected First Nation is made whole considering the residual impacts of a proposed project on their Rights and interests, and ensure that the affected Indigenous party benefits from, rather than being harmed by, any project proceeding in its territory.

47. Such a requirement in the Duty to Accommodate is mandated by or consistent with:
- a. the fundamental principles of the Crown's duty to consult and accommodate Indigenous peoples that apply in all cases: the Crown must always carry out the Duty with the intent to substantially address the concerns of the affected First Nation;
 - b. the requirement to act in accordance with the Honour of the Crown and the need to effect reconciliation which underlies all instances of duty to consult and accommodate; and
 - c. UNDRIP, as incorporated into Canadian law by the UNDRIP Act, which includes the right of Indigenous peoples to consent or withhold consent to developments in their traditional territories, meaning that the Duty to Accommodate should be interpreted as addressing the concerns of the affected Indigenous party sufficiently to allow them to consent to the project, or if such concerns cannot be accommodated, declining to approve the project;
 - d. other provisions of UNDRIP as incorporated by the UNDRIP Act which require Canada to fairly compensate, or ensure that a proponent fairly compensates, Indigenous peoples for impacts on the lands, resources, and rights of Indigenous peoples;
 - e. the constitutional principle of the Rule of Law, and ensuring that Canadian law is applied in a just, fair, and non-discriminatory manner, and therefore is applied consistently with the remedial principles that apply in every other legal category of Canadian law addressing harm to property and persons requiring compensation to be paid; and
 - f. the commitments contained in the Treaty, which promised Indigenous signatories and adherents the right to share in the benefits of the lands and resources that are their traditional territories.

Breach of the Duty

48. The Decision, including its determination that MCCN's interests and concerns have been appropriately accommodated, constitutes a breach by the Crown of its Duty to Accommodate MCCN.
49. The Crown failed to ensure that MCCN is sufficiently accommodated in respect of the residual impacts of the proposed Project. The Crown has failed to itself fairly and sufficiently compensate MCCN, or ensure that the Proponent fairly and sufficiently compensates MCCN, for such residual impacts. The residual impacts will be severe; compensation must reflect that.
50. The Crown also breached its duty to consult with and accommodate MCCN by failing to provide MCCN with any reasons for its decision that the unmitigated impacts on MCCN are not significant adverse environmental effects on MCCN within the meaning of subsections 5(1) and (2) of *CEAA, 2012*, or why the Decision represents an adequate accommodation of MCCN's Rights despite there being unmitigated effects that are not accommodated by any measures whatsoever.

Specific Grounds for the Application

51. The Crown's failure to discharge its Duty to Accommodate MCCN prior to making the Decision constitutes a reviewable error under subsections 18.1(4)(a),(c) and/or (f) of the *Federal Courts Act*, R.S.C. 1985, c. F-7 (the "*Federal Courts Act*").
52. The Applicant relies on sections 18, 18.1 and 18.2 of the *Federal Courts Act*, the *Federal Courts Rules*, the *Constitution Act, 1982*, *CEAA, 2012*, *UNDRIP*, the *UNDRIP Act*, and on such additional enactments and ground as counsel may identify and this honourable Court may consider.

This Application will be supported by the following materials:

- a) Affidavit of Chief Gordon Bear;
- b) Affidavit of Lorna Bighetty;
- c) Affidavit of Jim Bowers;
- d) Affidavit of Justin Page;
- e) Affidavit of Lisa Spaven;
- f) such further affidavits to be served and filed within 30 days of the issuance of this Application;
- g) materials from the certified tribunal record produced under Rules 317 and 318 of the *Federal Courts Rules*; and
- h) such further and other affidavits and evidence as counsel may advise and this honourable Court may consider.

Rule 317 Request

The Applicant requests the Agency send a certified copy of the following material that is in the possession of the Agency to the Applicant and to the Registry:

- a) the record of all materials before the Minister for the making of the Decision; and
- b) such further and other materials that may be in the possession, power or control of the Minister or Agency and which may be relevant to these proceedings.

Dated: April 5, 2023



Kate Kempton



Erika Richards

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