



Arctic Athabaskan Council



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**PETITION TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
SEEKING RELIEF FROM VIOLATIONS OF THE RIGHTS OF
ARCTIC ATHABASKAN PEOPLES
RESULTING FROM RAPID ARCTIC WARMING AND MELTING
CAUSED BY EMISSIONS OF BLACK CARBON BY CANADA**

I. SUMMARY OF THE PETITION

Introduction

Black carbon pollution from Canada is harming the Arctic environment and ecosystems upon which indigenous Arctic Athabaskan peoples depend for their lives, livelihoods, and culture. The Arctic is warming and melting at an alarming rate – at least twice as fast as in the rest of the world. Canada’s failure to implement available black carbon emissions reduction measures that could slow the warming and melting that causes these harms violates many rights guaranteed to the Athabaskans in the Inter-American human rights system. Fortunately, measures readily available to the Canadian government can substantially slow Arctic warming and melting.

In this petition, the Athabaskan peoples of the Arctic regions of Canada and the United States respectfully request the assistance of the Inter-American Commission on Human Rights to obtain relief from these violations resulting from the acts and omissions of Canada.

The Arctic Athabaskan Peoples

For 10,000 years, Athabaskan peoples have lived in the Yukon, Northwest Territories, northern British Columbia, Alberta, Saskatchewan, and Manitoba, Canada, and in Alaska. While their ancestors were semi-nomadic, most Arctic Athabaskan peoples now live in settlements with small populations. Athabaskan peoples include the Gwich’in, Dene, Dogrib, Sahtu, Den Cho, Tanana, Kaska and many other communities.

Athabaskan traditions, food sources, and livelihoods are inextricably tied to the ecosystems of the Arctic tundra and boreal forests. Many Athabaskans “live off the land” for all or part of the year, hunting, fishing, and gathering berries and plants. Caribou, moose and salmon are cornerstones of the traditional diet and, like other animal and plant species critical to Athabaskans’ subsistence diet, depend on a healthy Arctic environment for their survival. Athabaskans depend on snow and ice to travel to hunting and gathering grounds.

Our traditional values, our cultural values, our connection to the land and the wildlife and the fish and the environment: those are the most important things in an Indian world.
– Roger Alfred of Pelly, Yukon

I notice more changes in the landscape, more permafrost melt. Last summer we were walking on the mountain and you could see that a whole area had slid, exposing permafrost melt.

– Cindy Dickson of Old Crow, Yukon; Executive Director of the Arctic Athabaskan Council

Athabaskan culture similarly depends on a healthy Arctic environment. Hunting and gathering are important as cultural practices and as opportunities to pass on cultural traditions. Community sharing of food obtained from hunting and gathering is also important in maintaining Athabaskan culture. Understanding Arctic weather and environment is an important aspect of Athabaskan culture and essential to subsistence and survival. As their homelands warm and melt, the tundra and boreal ecology recede and change

dramatically. Arctic Athabaskan peoples find the land and environment they have known so well, and relied upon for millennia, transformed and unpredictable. The steady compass of traditional knowledge that sustained Athabaskan culture for generations is no longer a reliable guide.

Canada's Black Carbon Emissions and Rapid Arctic Warming and Melting

Arctic surface temperature has risen rapidly since the late 1970s. According to NASA's Goddard Institute for Space Studies (GISS), the annual mean surface temperature (land and air) for the Arctic in 2011 was 2.28°C above that of the period between 1951 and 1980. The Government of Canada projects median temperature increases for the western Canadian Arctic will range from 6°C to 12°C by the 2080s.

A significant cause of Arctic warming and melting in Canada and Alaska is Canada's failure to regulate emissions of black carbon, a component of sooty fine-particle pollution. Canada emits roughly 98,000 tons of black carbon annually. Because this black carbon is emitted in or near the Arctic, it has a significantly higher climate warming impact than black carbon from lower latitudes. Major sources of Canada's black carbon emissions are diesel emissions and the burning of biomass in agriculture and other sectors.

The weather changes so fast... in the wintertime it can be 50° F below one week and 50° F above the next. When I was in grade school it used to be 40-60° F below for two months straight, no breaks.

– Michael Stickman of Nulato, Alaska, and AAC international chair

Every summer it's getting hotter. Our winters are not as cold as they used to be. We used to have 55° C below long ago, and now it's very rarely we get 30 to 40° C below. Sometimes even in December we get a little rain.

– Mae Andre of Fort McPherson, Northwest Territories

Black carbon is a potent climate warming agent. Scientists have recently estimated that its warming effect on the global climate is second only to that of carbon dioxide. In regions of ice and snow like the Arctic, black carbon has been identified as a particular problem because it warms in two ways. While in the air, black carbon absorbs sunlight and heats the atmosphere. When it falls out of the atmosphere onto snow and ice, black carbon reduces the reflectivity of these surfaces, accelerating the rate of melting, and exposes darker water or land underneath that absorbs more incoming sunlight and leads to additional warming.

Black carbon emissions from within or near (north of 40°) the Arctic are more potent climate forcers. Although relatively smaller than emissions from lower latitudes, emissions from within or near the Arctic have a disproportionate effect because there is a greater likelihood they will deposit on Arctic ice and snow. Reducing emissions from sources in or near the Arctic will thus make a greater contribution to slowing Arctic warming and melting than the size of these sources might suggest.

Arctic Warming and Melting Violates Arctic Athabaskan Peoples' Human Rights

Arctic warming and melting is dramatically degrading and damaging the environment and natural resources that are the heart of Arctic Athabaskan peoples' lives, livelihood, and culture. As a signatory to the Charter of the Organization of American States, Canada is bound to protect and defend the rights set out in the American Declaration of the Rights and Duties of Man. The specific obligations that the Declaration imposes on Canada depend in part on other international obligations relevant to the rights and violations at issue.

In 2005, a Special Rapporteur of the UN Commission on Human Rights concluded that “the effects of global warming and environmental pollution are particularly pertinent to the life chances of Aboriginal people in Canada’s North, a human rights issue that requires urgent attention at the national and international levels.” The rapid warming and melting in Athabaskan lands, caused in significant part by Canada’s failure to reduce black carbon emissions, violates a number of the Arctic Athabaskan peoples’ fundamental rights. These include the right to culture, property, means of subsistence and health.

1. Right to culture

Arctic warming and melting adversely affect Athabaskan peoples’ ability to transmit cultural knowledge to future generations. Knowledge, developed over millennia, about Arctic lands, weather, ecology, and the use of natural resources, is central to Arctic Athabaskan culture and mythological heritage because it provides a basis for the elders to educate the younger generation in traditional ways of life, kinship and bonding. The ability to pass this knowledge from one generation to the next is vital to Arctic Athabaskan peoples’ cultural survival. Arctic warming and melting has made the weather, the hunt, and the behaviors and occurrence of fish and wildlife so erratic that elders no longer feel confident in teaching younger people traditional ways.

The American Declaration guarantees Arctic Athabaskan peoples’ right to the benefits of their culture. As the Inter-American Court has noted, failing to prevent environmental damage to indigenous lands can cause “catastrophic damage” to indigenous peoples because “the possibility of maintaining social unity, of cultural preservation and reproduction, and of surviving physically and culturally, depends on the collective, communitarian existence and maintenance of the land.” For indigenous peoples, “the land is closely linked to their oral expressions and traditions, their customs and languages, their arts and rituals, their knowledge and practices in connection with nature, culinary art, customary law, dress, philosophy, and values.” The Court has repeatedly recognized that the relationship of indigenous groups with their territory is “crucial for their cultural structures,” and “require[s] special measures under international human rights law in order to guarantee their physical and cultural survival.”

2. *Right to property*

Arctic warming and melting is compromising the integrity of the land itself. Severe floods, forest fires, melting permafrost, erosion, and landslides are destroying waterways, riverbanks, airstrips, roads and houses. Changes in ice and snow cover have made it harder to reach hunting, fishing, and gathering areas, impeding access to resources on the land. Cultural and historic sites and traditional travel routes are threatened by flooding, land slumping, erosion, landslides, and forest fires.

The American Declaration guarantees Arctic Athabaskan peoples' right to "own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home." Indigenous peoples' right to property includes the right to natural resources "found on and within [their] territory [which] are essential for the survival of their way of life." The Commission has recognized that "the right to use and enjoy property may be impeded when the State itself, or third parties acting with the acquiescence or tolerance of the State, affect the existence, value, use or enjoyment of that property."

In the northern Yukon, freezing rains in November have meant that animals cannot eat. In some areas, thawing permafrost has caused the ground to drop and in some cases has made the area smell foul. ... There are increased sightings of new types of insect.... Lakes and streams are drying up, or are becoming choked with weeds, making the water undrinkable. Many animals are changing their distribution and behavior. Bears used to go into their dens in October and November, but are now out until December.

– Elders Climate Change Workshop and the Yukon First Nations Climate Change Forum (2009)

3. *Right to means of subsistence*

Warming and melting have reduced Arctic Athabaskans' access to important traditional food sources. Harvesting has become more difficult due to adverse effects on the populations and habitats of species that comprise a key part of Arctic Athabaskans' subsistence diet. Rising temperatures are disturbing salmon spawning habitat. Forest fires are destroying caribou habitat. Warming has altered vegetation, and, in turn, caribou migration patterns, resulting in fewer births and more deaths of calves. Freezing rain atop snow make grazing difficult and can cause caribou weakening, starvation and mortality. Dangerous ice, unpredictable and extreme storms and winds, landslides, and avalanches have made travel on land and waterways more dangerous, and have caused injuries. These conditions prevent Arctic Athabaskan peoples from accessing hunting grounds and gathering areas, and reduce their capacity to maintain traditional knowledge of hunting and associated traditions.

We have people going through the ice like we never had before, good hunters going through the ice.

– Chief Bill Erasmus of Dene First Nation, Yellowknife, Northwest Territories

Our elders are saying that there are more fires than there used to be. It affects people because access to the food becomes difficult. Fires affect the land and the animals and affects harvesting.

– Chief Bill Erasmus of Dene First Nation Yellowknife, Northwest Territories

I notice the depletion of animals more and more. I also notice we have more trees dying off.

– Grand Chief Ruth Massie of Lake Laberge, Yukon

For people who depend on natural resources for their livelihood, the right to their own means of subsistence is inherent in, and a necessary component of, the American Declaration's rights to property, health, life, and culture. The 2007 United Nations Declaration on the Rights of Indigenous Peoples, which Canada endorsed in 2010, provides that indigenous peoples have the right "to be secure in the enjoyment of their own means of subsistence and development." The Inter-American Court has recognized that "the culture of indigenous communities is part of a unique way of living, of being, seeing, and acting in the world, formed due [to] their close relationship with their traditional lands and natural resources," in part "because it is their main means of subsistence." International law recognizes that hunting, fishing, and gathering are important factors in the maintenance of indigenous culture and economic self-reliance. The Canadian government has provided explicit protection for rights to harvest fish and wildlife, including for subsistence, in the modern treaties between Athabaskan Nations and the Canadian crown.

4. Right to health

Arctic warming has led to a loss of traditional foods that adversely affects the health of Arctic Athabaskan peoples. When Athabaskan peoples are less able to obtain food through traditional hunting, fishing and gathering, they must supplement their diet with purchased food, which is markedly less healthy and is associated with an increased prevalence of chronic diseases such as cancer, obesity, cardiovascular disease and diabetes. Arctic warming and melting also worsens water quality in areas of permafrost melt, increases the likelihood of disease and injury due to dangerous conditions, and causes psychological stress.

The American Declaration provides that "[e]very person has the right to the preservation of his health..." The Inter-American Commission has long recognized the adverse effects of environmental degradation on health. The Commission has observed that "damage to [traditional] lands invariably leads to serious loss of life and health...of indigenous peoples." As a result, the Commission has found that a State's failure "to take timely and effective measures" to protect an indigenous people from degradation of their land can result in the violation of the "right to the preservation of health and to well-being."

I think more and more people are getting away from traditional foods because it's harder to harvest.

– Grand Chief Ruth Massie of Lake Laberge, Yukon

Canada Has an International Human Rights Obligation to Take Steps to Reduce Black Carbon Pollution

Protecting human rights is the most fundamental responsibility of civilized nations. Because the rapid warming and melting that is the cause of the violations described above are

due in part to Canada's failure to adequately regulate black carbon emissions, Canada has an international obligation to take steps to reduce these emissions.

Fortunately, the Canadian government can substantially slow Arctic warming and melting through actions to reduce black carbon emissions. A 2012 assessment by the United Nations Environment Programme and the World Meteorological Organization detailed methods of reducing emissions of black carbon that, if widely implemented, could reduce future Arctic warming by two-thirds by 2040. Canada should do everything within its power to implement such methods nationally.

Black carbon is considered a "short-lived" climate pollutant because it stays in the atmosphere for only about one week (versus 100 years or more for carbon dioxide). Although deep cuts in carbon dioxide remain the backbone of efforts to limit long-term adverse consequences of climate change in the Arctic and globally, rapid reductions of emissions of the short-lived climate pollutants black carbon, tropospheric ozone and methane have been identified by scientists as the best, and perhaps only, strategy to reduce near-term warming and melting in the Arctic and other sensitive, glaciated, snow-covered regions.

Of the short-lived climate pollutants, black carbon has been identified as a particularly potent climate forcer in regions of ice and snow, and thus is a priority for mitigation to protect the Arctic from warming and melting. Because it stays in the atmosphere for such a short time, reducing black carbon emissions will provide very rapid climate benefits.

Similarly, because black carbon emissions from Arctic and near-Arctic sources are more likely to deposit on Arctic snow and ice, reducing emissions from these sources, which includes any sources in Canadian territory, will have the greatest beneficial impact.

Moreover, there are many steps Canada could take to significantly reduce its black carbon emissions. For example, Canada could strengthen regulations to reduce direct emissions of the air pollutant category known as fine particulate matter, or PM_{2.5} (particles smaller than 2.5 microns) by adopting regulations for stationary diesel engines and for more on- and off-road diesel engines.

Many measures are available to Canada to reduce its black carbon emissions. Canada could: require retrofitting the existing fleet of on-road diesel vehicles with particle traps, which reduce black carbon emissions by over 90 percent; eliminate high-emitting vehicles; require improved efficiency for residential heating with wood and coal; eliminate most gas flaring; and ban agricultural biomass burning. These measures, based on readily available emissions reduction technology and practices, would significantly reduce black carbon emissions.

Request for Relief

Because this petition raises violations of the American Declaration of the Rights and Duties of Man by Canada, the Inter-American Commission on Human Rights has jurisdiction to receive and consider it. The petition is timely because the acts and omissions of Canada that form the basis for the petition are ongoing, and the human rights violations they are causing are continuing. Moreover, there are no domestic remedies suitable to address the violations. To the

contrary, the Arctic Athabaskan Council has expressed its concern over Canada's failure to adequately regulate black carbon emissions in letters and presentations to, and meetings with, personnel in various Canadian federal agencies, to no avail.

Canadian government action to reduce black carbon emissions can substantially remedy the rapid Arctic warming and melting that are causing the violations detailed in this petition. For that reason, and in light of the violations described above, Petitioners respectfully request that the Commission:

- Investigate and confirm the harms suffered by Arctic Athabaskans affected by Arctic warming and melting;
- Prepare a report setting forth all the facts and applicable law, declaring that Canada's failure to implement adequate measures to substantially reduce its black carbon emissions violates rights affirmed in the American Declaration of Rights and Duties of Man; and
- Recommend that Canada take steps to limit black carbon emissions and protect Arctic Athabaskan culture and resources from the effects of accelerated Arctic warming and melting.

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