

ANNEX B : Notice to members

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF RICHELIEU

SUPERIOR COURT
(Class action)

No : 765-06-000002-217

**ORGANISME POUR L'ACTION
COLLECTIVE POUR LA PROTECTION
DES BERGES DU SAINT-LAURENT
CONTRE LE BATILLAGE DANS LES
MUNICIPALITÉS DE VARENNES,
VERCHÈRES ET CONTRECŒUR INC.**

Plaintiff

c.

**LE PROCUREUR GÉNÉRAL DU
CANADA**

Defendant

-et-

**LE PROCUREUR GÉNÉRAL DU
QUÉBEC**

-et-

MUNICIPALITÉ DE VARENNES

-et-

MUNICIPALITÉ DE VERCHÈRES

-et-

MUNICIPALITÉ DE CONTRECOEUR

-et-

**MUNICIPALITÉ RÉGIONALE DE
COMTÉ DE MARGUERITE-
D'YOUVILLE**

-et-

ANGÉLIQUE BEAUCHEMIN

Joinder of parties

NOTICE TO MEMBERS

1. **TAKE NOTICE** that on August 17, 2021, the honorable judge Sylvain Lussier j.s.c., authorized a class action for the natural or legal persons forming part of the Class hereinafter described:

« All natural or legal person, owner of an immovable property located on the shore of the Saint-Lawrence River, within a distance of 609,60 meters (2000 feet) or less from the center of maritime channel of the Saint-Lawrence River in the municipalities of Varennes, Verchères and Contrecoeur, including the shorefront properties located on the islands, and which show signs of erosion or which have protective structures against erosion that show some signs of deterioration, except the following persons:

the persons who have assumed in one or more written documents published against their immovable property in the land Registry office, the ownership and maintenance of the protective structure erected by the Government of Canada in front of their shorefront property.»

2. *L'Organisme pour l'action collective pour la protection des berges du Saint-Laurent contre le batillage dans les municipalités de Varennes, Verchères et Contrecoeur Inc.*, a company incorporated in accordance with Part III of the Companies Act, has been appointed as the representative Plaintiff for the members of the class by the Superior Court.
3. The authorized class action proceeds in the district of Richelieu, in the courthouse of Sorel-Tracy 46, rue Charlotte, Sorel-Tracy, (Québec), J3P 6N5.
4. The allegations of the Plaintiff will have to be proven before the Court during trial. The Attorney General of Canada has expressed his intention to contest the class action.
5. The principal questions of fact and law to be dealt with collectively are as follows:
 - a) Is the Government of Canada a « neighbour » of members of the Class according to section 976 of the Civil code of Québec (C.c.Q.)?
 - b) Do the members of the Class suffer neighbourhood annoyances which are intolerable and beyond the normal inconveniences of neighbourhood as per section 976 C.c.Q., from ship generated waves caused by the commercial navigation in the Saint Lawrence River and by the action of ice which is loosened by the work of icebreakers?
 - c) Is the Government of Canada debtor of a continuing obligation to indemnify and protect the shorefront properties of the members of the Class affected by ship generated waves and ice?
 - d) Is the Government of Canada liable in accordance with the Crown Liability and Proceedings Act or otherwise?
 - e) Do the members of the Class have the right to obtain from the Government of Canada an indemnity for the loss of property suffered from January 27, 2017 and for the protection costs incurred after this date?
 - f) Is the Government of Canada responsible for the future maintenance and costs related to future maintenance of the protective structures erected or to be erected in front of the properties of the members?

6. The principal questions of fact and law to be dealt with individually are as follows :
- a) What is the amount of the damages that can be claimed by a member for the erosion of his property since January 27, 2017?
 - b) If applicable, the reimbursement of urgent costs for the temporary work completed by the members of the Class during proceedings in order to protect their property against erosion which is caused by ship generated waves and ice.
 - c) Determine the amount that each member might be entitled to for the cost of the required protective structures which are necessary to protect in the future their property against the erosion caused by ship generated waves in the maritime channel.

7. The conclusions sought with relation to such questions are as follows:

« **GRANT** the demand to institute legal proceedings.

DECLARE:

- a) That members of the Class suffer neighbourhood annoyances which are intolerable and beyond the normal inconveniences of neighbourhood as per section 976 C.c.Q., from ship generated waves caused by the commercial navigation in the Saint Lawrence River in the municipalities of Varennes, Verchères and Cotrecoeur?
- b) That the Government of Canada is debtor of a continuing obligation to indemnify and protect the shorefront properties of the members of the Class affected by ship generated waves in the maritime channel and by the movement of ice loosened by the ice breakers which cause continuing damages to the shorefront properties of the members of the Class?
- c) That the liability of the Government of Canada is engaged *inter alia* in accordance with the Crown Liability and Proceedings Act?
- d) That the members of the Class have the right to obtain from the Government of Canada an indemnity for the loss of property caused from ship generated waves since January 17, 2017?
- e) That the members of the Class have the right to obtain from the Government of Canada an indemnity which corresponds to constructions costs as well as all other expenses (including but not limited to the permit requirements, the engineering plans, the restauration and revegetation of the shorefront properties) related to the construction of an adequate and permanent protective structure against ship generated waves?
- f) That the Government of Canada is responsible for the maintenance and expenses related to maintenance of protective structures erected or to be erected in front of the properties of the members?

CONDEMN the Government of Canada to pay to each member of the Class an indemnity for the loss of property due to erosion caused by ship generated waves since January 27, 2017.

CONDEMN the Government of Canada to pay to each member of the Class an amount equal to the costs of constructions or restauration of permanent protective structures erected according to the specifications provided in the report of Aqua-Berge P-5, including all costs related to this construction or restauration (including but not limited to the permit requirements, the engineering plans, the restauration and revegetation of the shorefront properties), the whole according to modalities and dispositions which shall be determined by this Court, by collective or individual recovery evaluated up to a maximum of fifty million dollars (50 000 000,00\$), which can be adjusted.

CONDEMN the Government of Canada to pay the costs and expenses incurred by the members of Class for the urgent work which was necessary to protect their property against erosion since the date of service of the demand to authorize a class action.

THE WHOLE with costs, including the expert fees and the fees related to the notices to members. »

8. Any member of the Class who has not requested his or her exclusion in the manner hereinafter indicated, will be bound by any judgment to be rendered on the class action.
9. The date after which a member can no longer request his or her exclusion has been set on August 31st, 2022.
10. A member may request his or her exclusion from the Class by notifying in writing the clerk of the Superior Court of the district of Richelieu, the Courthouse of Sorel-Tracy, no later than August 31st, 2022, at the following address:

Grefe civil de la Cour supérieure
PALAIS DE JUSTICE DE SOREL-TRACY,
46, rue Charlotte Sorel-Tracy (Québec)
J3P 6N5

11. Any class Member who has already instituted an action for the same purpose as the Class Action shall be deemed to have opted out of the Class if that Class Member does not discontinue such personal action no later than August 31st, 2022.
12. A member of the Class other than a representative Plaintiff cannot be condemned to pay the costs of the class action.
13. A member of the Class may ask permission of the Court to intervene in the class action if it's considered useful to the members of the Class. A member intervenor can be submitted to out of court examinations. A member who doesn't intervene in the class action shall not be submitted to out of court examination except if the Court considers it necessary.

14. For any additional information related to the proceedings, members can contact the attorneys of the representative Plaintiff at the following coordinates:

Me Olivier Laurendeau, Me Rusmir Rasic
Me Laura Courtemanche et Me Thibault Froehlich
Laurendeau Rasic s.e.n.c.,
407 boulevard Saint-Laurent, bureau 800,
Montréal, (Québec), H2Y 2Y5
Phone : 514-288-4241
Fax : 518-849-9984
E-mail: info@laurendeaurasic.com
Website: www.laurendeaurasic.com

15. The coordinates of the representative Plaintiff, *l'Organisme pour l'action collective pour la protection des berges du Saint-Laurent contre le batillage dans les municipalités de Varennes, Verchères et Contrecoeur inc.*, are as follows :

Address: 4900 route Marie-Victorin,
Varennes, (Québec) J3X 0J7
Email: obnldesberges.stl@hotmail.com

16. The Registry of class actions can be accessed at the following website : <https://www.registredesactionscollectives.quebec>

LAURENDEAU RASIC s.e.n.c.
Attorneys for the Plaintiff

PUBLICATION OF THIS NOTICE WAS ORDERED BY THE SUPERIOR COURT