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**VIA E-MAIL**

January 20, 2025

Federal Court - Toronto  
Courts Administration Service  
180 Queen Street West, Suite 200  
Toronto ON M5V 3L6

Dear Registrar,

**Re: *RICKARD, Shaun and Karl Harrison v. His Majesty the King, The Minister of Transportation and The Attorney General of Canada*  
T-2536-23**

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I am counsel for the Defendants in the above-noted matter and I write in response to the Plaintiff's motion for an Extension of Time of January 7, 2025.

The Defendants do **not oppose** the Plaintiff's motion.

The Defendants agree that the appropriate test in these circumstances is the four-part test in *Canada (Attorney General) v. Hennelly*, [1999 CanLII 8190 \(FCA\)](#), which asks whether there is:

1. a continuing intention to pursue the appeal;
2. that the appeal has some merit;
3. that no prejudice to the respondent arises from the delay; and
4. that a reasonable explanation for the delay exists.

The Defendants agree that the first, third and fourth branches of the test are met. The Appellants have indicated by affidavit a continuing intention to appeal, the Defendant agrees it has suffered no prejudice because it has not taken any action in the interim, and the Defendant agrees that recent caselaw such as *Dakota Plains Wahpeton Oyate First Nation v. Smoke*, [2023 FCA 129](#) ["*Dakota Plains*"] confirms that counsel error in calculating timelines is considered a reasonable explanation for delay.

The Defendants do not concede that the appeal has some merit. However, as discussed in *Dakota Plains*, even a weak argument on merits is not generally enough to deny an extension of time. As such, the Defendants do not oppose the extension of time.

Sincerely,

**Canada** 

A handwritten signature in black ink, appearing to read 'James Schneider', with a stylized flourish at the end.

James Schneider  
Counsel | Avocat(e)

**CC: Sam A. Presvelos**  
Counsel for the Plaintiffs