Application for inquiry into the David Suzuki Foundation's use of false and misleading imagery in fundraising activity

This is an application for inquiry by eight (8) residents of British Columbia (B.C.) who are not less than 18 years old into materially false and misleading representation by the David Suzuki Foundation by using a misleading photograph to attract donations. The application is made under Sections 9 and 10 of the Competition Act.

The application outlines the following:

- Context
- False or misleading representation
- Misuse of imagery
    - Examples of Wyoming image misuse
    - Knowledge of misuse
- David Suzuki Foundation – a trusted source
- Promoting a business interest
- Use of image in public
- Misleading representation
- Materiality
- Remedy
- Statutory declaration

Context

The David Suzuki Foundation is a "national, bilingual non-profit organization headquartered in Vancouver, with offices in Toronto and Montreal" (https://davidsuzuki.org/about/). It opposes B.C.'s natural gas industry (e.g. "British Columbia's rush to develop LNG is bad on every front, from economics to climate" - https://davidsuzuki.org/story/gas-fuels-the-climate-problem-not-the-solution/)

The Montney Formation is the name used for an area in Northeast B.C., near the city of Fort St. John, where much of B.C.'s natural gas is located. The Montney Formation and neighbouring Duvernay represent around 50% of Canada's natural gas production (https://www.hartenergy.com/exclusives/production-canadas-montney-duvernay-gains-momentum-207694).

In its marketing campaigns to attract donations, the David Suzuki Foundation uses a 20-year-old photograph of natural gas development in Wyoming, USA to falsely represent today's work in B.C.'s Montney Formation. This photograph (referred to here as the 'Wyoming image') shows a dense network of natural gas wells from Wyoming. It is not representative of natural gas development in B.C. (Figure 1). The photograph has been used in media relations, social media and on website pages that invite donations to the David Suzuki Foundation.

Actual, perceived and potential benefits and impacts of natural gas development in B.C. have been debated for many years. Accurate use of information is therefore essential in public discourse, especially as many people will never see the activity first-hand (for example, approximately 54% of B.C.'s population is in the Lower Mainland – approximately 1,200 km from Fort St. John).

We are business owners, residents, and concerned citizens standing up for the communities of Northeast B.C. against unfair attacks on our region's natural gas industry. This industry is not just an economic driver—it provides jobs, fuels local businesses, and generates prosperity that benefits all British Columbians.

Figure 1. Image used by David Suzuki Foundation to represent natural gas development in the Montney Formation (top); an actual image of active sites taken from Google Earth and also including forest and roads (middle); and multiple large drill sites plus water treatment facility plus roads, farms and other infrastructure (bottom)[1].

False or misleading representation

Competition Act Section 74.01(1) states that:

"A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

***(a)** makes a representation to the public that is false or misleading in a material respect."*

[1] Note for scale: Ecoflight uses planes such as the Cessna T210 Turbo Centurion (example: tail number N761XE owned by Ecoflight founder and Wyoming image photographer Bruce Gordon: https://www.youtube.com/watch?v=58kWWMIVE_Q; https://www.flightaware.com/live/flight/N761XE). This plane has an optimum cruising altitude of 19,000 feet (5,791 metres). To attempt to give a fair best comparison, the Google Earth images used above are taken from approximately the same altitude.

David Suzuki Foundation – a trusted source

According to the David Suzuki Foundation website (https://davidsuzuki.org/about/), the organization's work is evidence-based and highly trusted by Canadians:

"Through evidence-based research, education and policy analysis, we work to conserve and protect the natural environment, and help create a sustainable Canada… We are humbled that Canadians consistently name the David Suzuki Foundation the country's most credible and reliable source of evidence-based environmental information, and consider us the lead organization working with government and business to resolve critical environmental issues. Always grounded in sound evidence, we empower people to take action in their communities on the environmental challenges we collectively face."

The known misuse of the Wyoming image is all the more harmful because the David Suzuki Foundation is trusted as an internationally recognized, well resourced and "always grounded in sound evidence". The organization claims that it is "calling out the fossil fuel industry's harmful pollution, practices and disinformation" (https://davidsuzuki.org/project/fossil-fuels-exposed/) while knowingly misusing an image related to the fossil fuel industry.

Promoting a business interest

Section 2(1) of the Competition Act includes a broad definition of "business", including "the raising of funds for charitable or other non-profit services".

The David Suzuki Foundation had revenues of $13.5 million in the year to August 31, 2023 (https://davidsuzuki.org/wp-content/uploads/2024/02/2023-08-31-The-David-Suzuki-Foundation-FS-AR.pdf)). 89% of this ($12 million) came from contributions.

In several instances that we are aware of, the Wyoming image has been used in close proximity to messages encouraging donations. For example:

- Every page on the David Suzuki Foundation website (including posts using the Wyoming image) include a button encouraging readers to donate (Figure 2).

Figure 2. Donation button used in the footer of David Suzuki

- The organization's Instagram posts indicate that links to the Montney report are available in its 'bio'. This uses a Linktree service, which includes permanent links to donation pages.

The David Suzuki Foundation's misuse of the Wyoming image seeks to unfairly advance its business interests by misleading the Canadian public about today's natural gas extraction in Northeast B.C. This is needed to continue to attract significant donations from the public.

Use of image in public

We have become aware of the repeated misuse of the Wyoming image by the David Suzuki Foundation in its campaigns and alongside fundraising efforts, even after the error has been pointed out repeatedly.

Examples of Wyoming image use

The David Suzuki Foundation has used the Wyoming image across social media (e.g. Facebook, Instagram) and its website to represent natural gas development in the Montney. Examples include:

- David Suzuki Foundation website post "Fracking is neither climate solution nor economic blessing - David Suzuki Foundation" July 10, 2019 (Figure 3)
    - The Wyoming image is credited correctly as being from Wyoming, although the article is about B.C. This confirms that the David Suzuki Foundation is aware of the source of the Wyoming image.
    - Despite this, the Wyoming image is accompanied by a quote about B.C: "Methane pollution from B.C.'s oil and gas industry is at least 2.5 times higher than reported by industry and government."

Figure 3. In this example, the David Suzuki Foundation correctly acknowledges that the source of the Wyoming image – it is not from B.C.

Figure 4. Example of Instagram post wrongly associating the Wyoming image with B.C. The David Suzuki Foundation Instagram bio includes links to donate.

- David Suzuki Foundation Instagram post promoting a David Suzuki Foundation report on the Montney, June 25th, 2024 (Figure 4)
    - https://www.instagram.com/p/C8pQpSDNA0V/?img_index=1
    - The Wyoming image is not credited in the post.
    - The Wyoming image is overlaid with the caption “Never heard of the Montney? It’s big!”. The image is not of the Montney.

- David Suzuki Foundation Instagram and Facebook posts promoting the same report on October 31, 2024 (Figure 5)
    - https://www.instagram.com/p/DBzR04wTFb-/?img_index=1
    - https://www.facebook.com/photo/?fbid=998783882294561&set=pcb.998783978961218
    - The Wyoming image is overlaid with the caption “New report confirms fracked gas (aka LNG) export projects in B.C. are BAD investment”.

Figure 5. Another example of Instagram post wrongly associating the Wyoming image with B.C. The David Suzuki Foundation Instagram bio includes links to donate.

Knowledge of misuse

It is clear that the David Suzuki Foundation knows that the Wyoming image it is using to represent the Montney is from Wyoming, but has determined to (i) initially use this false image and (ii) continue to use this false image, which we presume is based on the extremely prejudicial and harmful reaction of viewers to that false image. This activity is unexpected from a trusted and well-funded organization. Replies to its June 25, 2024 Instagram post (Figure 4) included:

- “Those pictures are not from Canada?”
- “Why are you using a photo of Wyoming? Weird”

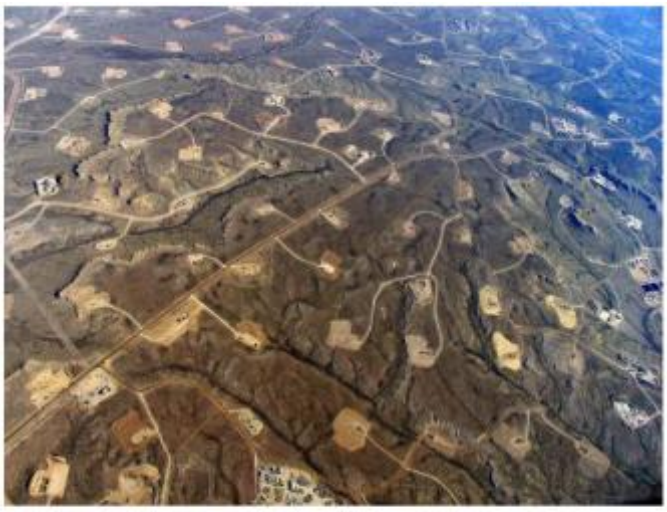
Stewart Muir is one of the applicants. He emailed former David Suzuki Foundation Chair Margot Young highlighting the issue on July 4, 2024. A reply on the same day noted

that the issues had been raised with the current Chair and with the Executive Director. A copy of the email is available upon request.

The David Suzuki Foundation has continued to use the Wyoming image in new posts (e.g. October 31, 2024 social media posts – Figure 5) after the issue was raised. At the time of writing (May 24, 2025), the image was still being used on the David Suzuki Foundation website (e.g. https://davidsuzuki.org/story/fracking-is-neither-climate-solution-nor-economic-blessing/).

Misleading representation

Online research has confirmed that the Wyoming image being used by David Suzuki Foundation to represent natural gas development in B.C.'s Montney Formation was taken in Wyoming. The primary tool used to determine this is Google Lens. Google Lens is an advanced visual recognition tool integrated into smartphones that leverages artificial intelligence to provide contextual information about objects, text, and scenes captured by camera. Google Lens can be used to search the internet using images instead of text. Google text searches using terms related to the Wyoming image also found many different uses of the same Wyoming image.



A fracking site in Wyoming, USA. So far, the USA is the only country in which fracking is happening at scale. Photo credit: Bruce Gordon via EcoFlight / Simon Fraser University via Flikr. CC BY 2.0.

Figure 6. The image used by the David Suzuki Foundation, here correctly referenced by Opendemocracy.net (https://www.opendemocracy.net/en/uk-just-sent-four-men-to-prison-for-peaceful-civil-opposition/)

According to many articles that credit the Wyoming image (e.g. Figure 6), it was taken by Bruce Gordon of EcoFlight. EcoFlight also has an online photo portfolio using the Zenfolio service, where the original photo is available for download (https://ecoflight.zenfolio.com/p648196342/h32638d19#h32638d19). This page and the file information (metadata) for the downloaded Wyoming image (included with this submission – EcoFlight – Jonah May06.jpg) show that the Wyoming image:

- was taken on May 14, 2006;
- is from the Jonah Field in Wyoming;
- was saved or edited using Adobe Photoshop software; and

- was taken on using a Canon Powershot Pro1 camera.

It is clear that the Wyoming image is not a representation of current natural gas development in B.C., but that it is being used by the David Suzuki Foundation to create a misleading literal and general impression of Northeast B.C. in order to benefit the organization through donations.

Why location and date matter

Wyoming and B.C. look very different. Also, the approach taken to extract natural gas in the Jonah Field in Wyoming and the Montney Formation in B.C. are very different.

Natural gas extraction in the Jonah Field could only be profitable if as much natural gas a possible was produced. To do this, drilling wells close together in the Jonah Field began in the 1990s (https://en.wikipedia.org/wiki/Jonah_Field). The Wyoming image used by David Suzuki Foundation shows a densely packed network of wells in the Jonah Field in 2006, many years after development there had started.

The current trend for natural gas extraction in the Montney Formation began in 2005. This was made possible thanks to the use of 'horizontal drilling' technology. This allows multiple wells to be drilled from one location at the surface by drilling down ('vertically') and then across ('horizontally') beneath the surface, as shown in Figure 7 (https://geoconvention.com/wp-content/uploads/abstracts/2022/73401-the-evolution-of-montney-development.pdf).

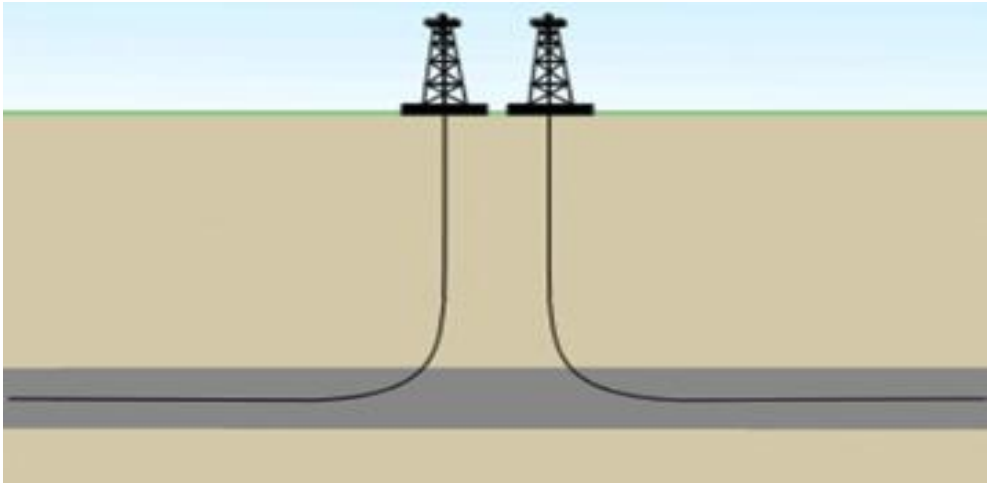


Figure 7. 'Horizontal drilling' drills down (vertically) and then across (horizontally) (https://www.sciencedirect.com/topics/engineering/horizontal-drilling). Multiple horizontal wells can be drilled at a single site.

Many horizontal drills can be performed from one site, taking away any need for the densely packed wells shown in the Wyoming image used by David Suzuki Foundation.

For example, the site shown on the right in Figure 1 may look like one well, but public B.C. Energy Regulator data (https://data-bc-er.opendata.arcgis.com/) shows there were six wells beneath the surface at the time of writing. There are permits for a total of 19 wells, and this would bring no visual change or additional infrastructure at the surface.

It should also be noted that the geology and landscape in the Montney Formation and Jonah Fields are very different. This is demonstrated in Google Earth images shown in Figure 8. Put simply, modern natural gas development in the Montney Formation does not look like development in Wyoming. By using the Wyoming image, the David Suzuki Foundation is creating a false perception that natural gas development has turned Northeast B.C. from 'green' to 'dry and dusty'.

Figure 8. Google Earth examples of landscape - Montney Formation (left) and Jonah Field (right)

Materiality

The Wyoming image is false and misleading in a material respect. As noted above, the Wyoming image paints a picture of the Montney BC region as one that is dirty, desolate and packed with natural gas well pads, as opposed the reality of a green area where natural gas development takes place around farms and public infrastructure. This leads to a conclusion of irresponsible drilling, with no regard to any environmental or other considerations, likely without any regulation. This is materially false, and inconsistent with reality, and moreover, is incredibly damaging.

The misuse of the Wyoming image by the David Suzuki Foundation is material to us and to the public because it makes a false and misleading environmental claim that damages our region's reputation. It is being used to attract donations (a business interest), and is damaging our livelihoods because it misrepresents our region's economy, chasing away people who might visit our region as tourists or move here.

Environmental issues can, rightly, be very emotional for many people and can have a big impact on peoples' actions – what they buy, where they visit, where they choose to live and even the kinds of jobs they pursue.

Remedy

We are requesting that the Commissioner of Competition file an application to the Competition Tribunal for an order under section 74.1 of the Competition Act:

"74.1 (1) Where, on application by the Commissioner, a court determines that a person is engaging in or has engaged in reviewable conduct under this Part, the court may order the person

(a) not to engage in the conduct or substantially similar reviewable conduct;

(b) to publish or otherwise disseminate a notice, in such manner and at such times as the court may specify, to bring to the attention of the class of persons likely to have been reached or affected by the conduct, the name under which the person carries on business and the determination made under this section, including

(i) a description of the reviewable conduct,

(ii) the time period and geographical area to which the conduct relates, and

(iii) a description of the manner in which any representation or advertisement was disseminated, including, where applicable, the name of the publication or other medium employed;

(c) to pay an administrative monetary penalty, in any manner that the court specifies, in an amount not exceeding

…

(ii) in the case of a corporation, the greater of

(A) $10,000,000 and, for each subsequent order, $15,000,000, and

(B) three times the value of the benefit derived from the deceptive conduct, or, if that amount cannot be reasonably determined, 3% of the corporation's annual worldwide gross revenues; and

(d) in the case of conduct that is reviewable under paragraph 74.01(1)(a), to pay an amount, not exceeding the total of the amounts paid to the person for the products in respect of which the conduct was engaged in, to be distributed among the persons to whom the products were sold — except wholesalers, retailers or other distributors, to the extent that they have resold or distributed the products — in any manner that the court considers appropriate."

Statutory declaration

Under Sections 9 and 10 of the Competition Act, this is an application for inquiry by nine (9) residents of British Columbia who are not less than 18 years old into materially false and misleading representation by the David Suzuki Foundation by using a misleading photograph to attract donations:

*"**9 (1)** Any six persons resident in Canada who are not less than eighteen years of age and who are of the opinion that… (b) grounds exist for the making of an order under Part VII.1 or VIII"; and*

*"10 (1) The Commissioner shall **(a)** on application made under section 9… cause an inquiry to be made into all such matters as the Commissioner considers necessary to inquire into with the view of determining the facts."*

[Signatures and addresses on submission only]