

# EXECUTIVE SUMMARY OF CULTIVATING EFFECTIVE CLIMATE GOVERNANCE

A GUIDE FOR SMALL FARM CORPORATIONS IN CANADA

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Canada Climate  
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# 1 EXECUTIVE SUMMARY

Climate change has exacerbated recent fires, droughts and floods. Because of its potential magnitude in the future, climate change has become one of the focal points necessitating the exercise of directors' skill, care and diligence in the performance of their duties. In Canadian law, directors of corporations have a legal obligation to exercise care and due diligence in the performance of their duties as directors of the corporation in overseeing operations and ensuring the long-term viability of farms that are incorporated. Regardless of personal opinions on climate change, a director needs to consider climate considerations in their duties to oversee the corporation they serve as there is clear evidence climate change impact economies and financial systems. In failing to do so, directors may be exposing themselves to personal liability.

Planning for this future and future climate change risks, beyond the farmgate and the immediate crop season, is increasingly important and the underlying purpose of this report. And while larger farms and agri-food businesses may be more advanced in their climate and sustainability journey, and governed by more sophisticated boards of directors, the duties with respect to climate also apply to smaller farms and agri-food corporations, regardless of the board composition, level of knowledge, resources, and capacity. Directors of smaller farm corporations also need to have effective climate governance in place and consider climate-related risks and opportunities in their decision-making to ensure the farm business they oversee is resilient to severe weather events, changing climate, and rapidly evolving regulations and market expectations. This report details climate risk for agricultural corporations, duties of directors in anticipating climate risk, and strategies for managing climate risk.

## A WHY SHOULD SMALLER AGRICULTURE CORPORATIONS CARE

This past year, the evidence of the impacts of climate change has been undeniable: fires throughout Canada, and drought in the Prairie Provinces. Climate change is real, it's happening now, and humans are both the cause and the solution.<sup>1</sup> The change in global surface air temperature over land has risen 1.9°C since 1850.<sup>2</sup> In some places in Canada, this is experienced as being 'less cold'. The average winter minimum temperature has increased to minus 16°C today from minus 22°C 55 years ago (a 6-degree Celsius warming). The average frost-free growing period has similarly increased to 140 days, up from 106 days in the mid-1960s.<sup>3</sup> This warming has manifested in such things as the advent of the West Nile virus and the unprecedented extent and severity of the pine beetle infestation.<sup>4</sup> Climate change is also experienced through more frequent and intense droughts, fires, and floods. These events pose risks for livelihoods, agricultural and industrial production, and the economy in general. Climate change risk is also increasingly the outcome of limited and ineffectual responses.

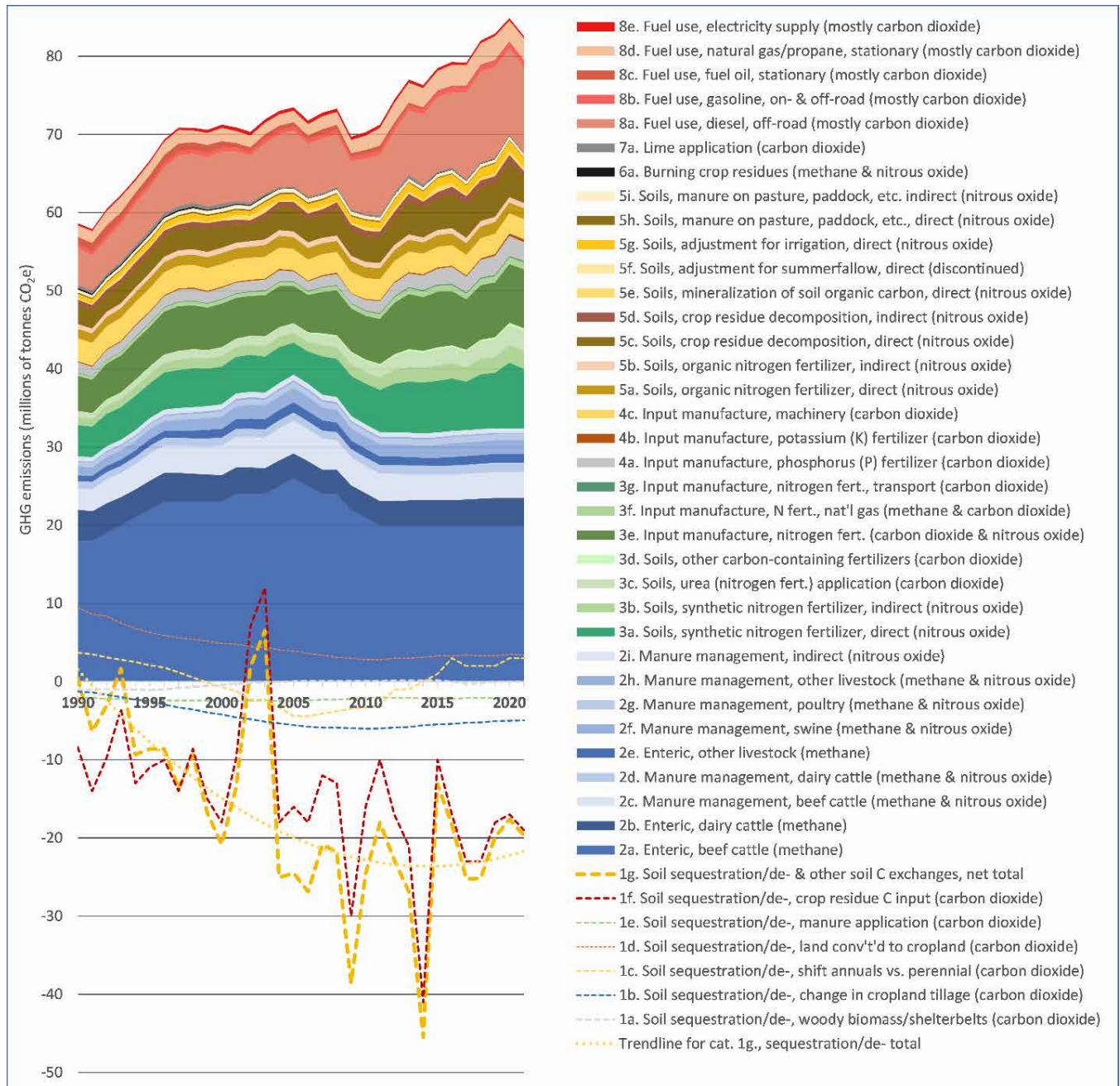
Human activity increases greenhouse gas emissions<sup>5</sup> (expressed in CO<sub>2</sub> equivalents, and within this document often generically referred to as 'carbon') which in turn changes our climate. This human



activity has been most intense since the industrial revolution. In turn, climate now impacts the human activity that can be conducted. Increasingly countries are responding with mitigative measures that reduce greenhouse gas emissions and adapting human activity to changed climate.

While the oil and gas and transportation sectors are the largest contributors to GHGs, agriculture has accounted for between 7-10% in the last few decades. In addition to on-farm fuel use, application of biosolids and inorganic nitrogen fertilizers, decomposition of crop residues, loss of soil organic carbon, cultivation of organic soils, indirect emissions from leaching and volatilization, field burning of agricultural residues, liming, and urea application account for the GHGs from crop production. Animal housing, manure storage, manure deposited by grazing animals, and application of manure to manage soils account for GHGs from animal production. In 2020 agriculture was the fifth largest source of GHG emissions, 3% higher than in 2019. Between 1990 and 2020 GHG emissions grew by 33% mostly due to emissions related to crop production and increased use of fertilizer. Not included in these calculations are energy sources of emissions from production processes, transportation, and fugitive emissions during the production of nitrogen fertilizers.<sup>6</sup> Adding these would increase GHG emissions to 12% of Canada's total emissions.<sup>7</sup>

**FIGURE 1: CANADIAN AGRICULTURAL EMISSIONS AND FLUXES, 2019-2020<sup>8</sup>**



For many years, Canadian decision-makers have tended to discount, or reduce, risks happening in the future. Former Bank of England and Bank of Canada governor Mark Carney refers to the climate crisis as the “tragedy of the horizon”.<sup>9</sup> Although severe droughts, floods, and fires are occurring now, the fact is that the severe effects of climate change will be felt well beyond most government and business’ traditional horizons, imposing a cost on future generations that we, the current generation, have little immediate incentive to fix.

Failure to act now threatens the welfare of future generations. Without it, decisions might be made that create stranded assets in the future, such as coal or natural gas power plants that are not equipped with carbon capture technology, and become impediments to reaching our goal of a net-zero carbon emission future by 2050. Young people believe the time to act is now; 70% of young people consider the speed of transition to be either stagnant or too slow; our future agriculture consumers are willing to pay for faster change and also willing to accept the lifestyle that changes require.<sup>10</sup>

Great change in global and Canadian business, industry, sectors and supply chains is in the future as the risk of climate change is addressed. The energy supply chain will very likely be different and this will have impacts on agriculture. To achieve Paris commitments the International Energy Agency concludes renewables will not be enough on their own. Solar, wind, nuclear energy, low-carbon hydrogen, batteries and carbon capture and storage (CCUS) should be a part of governments’ plans. The transport sector and agriculture will need to be decarbonized.<sup>11</sup> Many countries, regions, cities, and businesses have legislated or declared goals of achieving net-zero emissions by 2030 or 2050, and many more are considering them.<sup>12</sup>

Decision-making on how to address climate change is not an exercise only of single individuals, nor is it linear or simple. There will be complex tradeoffs between adaptation policies (to reduce climate change impacts) and mitigation (to reduce the rate of climate change), and competing interests such as forestry (storing carbon) and agriculture (advancing food security). A key question is how to optimize these decisions in the face of increasingly legally binding global, Canadian, provincial, and municipal commitments. Rigid national, provincial, territorial or sectoral targets give rise to burden-sharing decisions. The Government of Canada set out its climate change objectives as part of its 2017 Pan-Canadian Framework on Climate Change. British Columbia and Manitoba have legislated climate accountability frameworks, along with New Zealand and the United Kingdom.<sup>13</sup> At the federal level, the government of Canada is embarking on achieving net-zero carbon emissions by 2050. The Canadian Net-Zero Emissions Accountability Act was introduced to Parliament in November 2019 and assented to in June 2021 to make the goal legally binding by 2050.

Changing public sentiment about corporate responsibility is also paralleled by changing legal responsibility. Youth public trust claims are increasing against governments for inadequate climate efforts, but so are lawsuits against private entities for failure to adapt to climate change, failing to

incorporate climate change risks into investments and planning, failing to report climate change risks, or weak, misleading or inadequate disclosure surrounding planning for climate risk including, climate scenarios for limiting global warming well below 2°C.<sup>14</sup> Calls for increased obligations surrounding planning for net 2°C and communicating it (akin to net-zero by 2050)<sup>15</sup> has been endorsed by the G20,<sup>16</sup> the American Bar Association,<sup>17</sup> and the European Commission.<sup>18</sup> These international and national developments are building momentum and proactive consideration by the agriculture sector would ensure sector-appropriate decisions, regulations, and strategy.

## **B THE ROLE OF DIRECTORS**

Agricultural producers have always managed and adapted to variable weather and changing climate conditions. Prairie farmers have deep experience adapting to drought conditions, managing water and drainage on their farms, salinity issues, as well as weeds and pests. With a changing climate, new weather conditions, or climate impacts including more intense and frequent droughts and floods, and faster switchover between droughts and floods brings new challenges. Compounding risks, or the experience of two risks such as drought as well as a global pandemic with associated supply chain failures, adds new frontiers to potential agricultural risk. Further, cascading risks might ricochet through supply chains as regional conflicts impact agricultural inputs (their availability and price), or influence the pricing of agricultural products and access to foreign markets.

While international policy has always had implications on the trade of agricultural products, increasingly climate policy will have implications in the future. Global, national and regional changes in insurance may creep into agricultural insurance schemes. Commitments to reduce greenhouse gases that have had implications for power production and large industrial emitters are also changing the transportation sector, with implications for farm machinery and agricultural product transport. In the horizon of addressing climate change and meeting climate mitigation commitments to reduce GHGs, agriculture will not be exempt.

*Planning for this future and future climate change risks, beyond the farmgate, and beyond the immediate crop season, will be increasingly important for agricultural producers and directors of farm corporations.*

This guide focuses on small farm corporations (below 5,000 ha) that increasingly need to implement effective climate governance and risk management practices. It aims to highlight the climate risks and opportunities to agricultural corporations, the legal duties of directors and officers in Canada's agriculture sector in the transition to a net-zero economy, the current and upcoming regulations, and the best practices in climate governance.

## C GUIDE STRUCTURE

The full guide is organized in six parts. After the executive summary, section II outlines climate change risks (physical, transition, and systemic), section III provides a legal overview of directors' duties and their standard of care, section IV outlines climate opportunity and highlights some agriculture climate action leadership, and section V provides practical information about responding to climate risk and fulfilling directors' duties and standard of care through effective climate governance. The report ends with a conclusion.





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