

November 6, 2020

**BY EMAIL**

The Hon. Jeff Yurek  
Minister of the Environment, Conservation and Parks  
777 Bay Street, 7<sup>th</sup> Floor  
Toronto, ON M7A 2J3

Sharifa Wyndham-Nguyen  
Client Services and Permissions Branch  
Ministry of the Environment, Conservation and Parks  
135 St. Clair Avenue West, 1<sup>st</sup> Floor  
Toronto, ON M4V 1P5

Dear Minister Yurek and Ms. Wyndham-Nguyen:

**RE: PUBLIC CONSULTATION ON THE PROPOSED PROJECT LIST UNDER THE  
AMENDED ENVIRONMENTAL ASSESSMENT ACT (ERO 019-2377)**

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We are in receipt of Ecojustice's letter to you dated October 29, 2020 in relation to the above-noted matter. We note that six other environmental organizations co-signed the Ecojustice letter.

Please be advised that CELA and the non-governmental organizations listed below fully support and agree with Ecojustice's comments about the fundamental inadequacy of the Ministry's consultation efforts on the proposed project list regulation under the recently amended *Environmental Assessment Act (EAA)*.

In our view, the public consultation on the *EAA* project list falls considerably short of satisfying the prescriptive requirements of Part II of the *Environmental Bill of Rights (EBR)*.

For example, the ERO posting does not provide sufficient particulars about this regulatory proposal, its evidentiary basis, or its potential environmental effects, contrary to sections 16 and 27(4) and (5) of the *EBR*. For example, the posting does not provide an adequate description of:

- the Ministry's objectives for the regulatory proposal;
- the Ministry's preliminary assessment of the environmental, social and economic consequences of implementing the regulatory proposal; and
- the Ministry's explanation of why the environmental objectives of the proposal (if any) would be appropriately achieved by making the *EAA* project list regulation under consideration.

In addition, we note that section 11 of the *EBR* imposes a mandatory duty on the Minister to take “every reasonable step” to ensure that the Ministry’s Statement of Environmental Values (SEV) under the *EBR* is considered “whenever decisions that might significantly affect the environment are made.” In our view, the threshold decision about which projects should – or should not – be subject to Comprehensive EAs under the *EAA* has significant environmental implications, which is presumably why the regulatory proposal was posted on the Registry in the first place.

However, neither the Registry posting nor the proposal itself contains any evidence indicating how – or whether – the important environmental principles in the Ministry’s SEV have been considered while the regulatory proposal was being developed within the Ministry.

In making these submissions, we note that the public comment period for this proposal runs for 60 days, not the minimum 30 days allowed under the *EBR*. We further acknowledge that the Ministry has held short public webinars on the proposed project list in early October.

However, these steps do not remedy the overall deficiency of the Registry posting itself, or the sparse level of detail in the proposal that is linked to the posting. In our submission, the above-noted shortcomings of the Registry posting do not permit meaningful public participation in the critically important exercise of determining which types of projects should be caught by the *EAA*.

Accordingly, the undersigned organizations agree with Ecojustice et al. that this regulatory proposal must be re-posted with sufficient information and supporting documentation (including a proper regulatory impact statement and draft regulatory text), and it must provide an extended public comment period, in order to meet the purposes and provisions of the *EBR*.

We look forward to your timely response to this urgent request.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**



Richard D. Lindgren  
Counsel

cc. Mr. Jerry DeMarco, Commissioner of the Environment/Assistant Auditor General

Endorsed by:

Jeremy Milloy  
Lead, Integrity of Creation  
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Vincent de Paul

Gord Miller  
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