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RE: Response to ERO number 019-3370 - Proposal for a new regulation for Ellsin Environmental Ltd. to increase tires for thermal treatment

The Canadian Environmental Law Association (CELA), Toronto Environmental Alliance (TEA), Health and Environment Justice Support (HEJSupport), and Citizens' Network on Waste Management (CNWM) are responding to the posting ERO 019-3370 outlining a proposal by Ellsin Environmental Ltd. (Ellsin) to increase the maximum amount of tire waste thermally treated from 10 tonnes to 20 tonnes per day. For the reasons detailed below, we are urging the Ministry to not approve the proposed exemption regulation to Ellsin for this proposed expansion.

CELA, TEA, HEJSupport and CNWM have the following concerns with this proposal:

- 1) The proposed EA exempting regulation is unjustified and inconsistent with the purposes of the *Environmental Assessment Act***

The environmental screening process for waste disposal projects has existed for years under Ontario Regulation 101/07. The prescribed thresholds are intended to facilitate timely review of smaller projects while ensuring that larger-scale projects remain subject to Part II of the Act. It should be further noted that the environmental screening process under this Regulation is not as robust, comprehensive or participatory as an individual environmental assessment. For these reasons, CELA, TEA, HEJSupport and CNWM are opposed to the Ministry's reliance upon the previous environmental screening report in this case as the basis for exempting an environmentally significant waste disposal proposal from the requirements of the Act. In our view, this represents an unprecedented and unjustified departure from current legal requirements, and is inconsistent with the public interest purpose of the *Environmental Assessment Act*. In particular, we submit that the proposed exempting

regulation will not result in the "betterment" of Ontarians, nor will it provide protection, conservation or wise management of the environment, as discussed below.

2) The 2018 and 2019 Environmental Screening Report is an inadequate basis for the proposal

The use of the 2018 and 2019 Environmental Screening Reports should not be accepted as sufficiently adequate analyses to approve the proposed expansion at the Ellsln facility. The facility claims "there will be no new infrastructure and the facility footprint will remain the same." This claim is insufficient and further requirements to validate this claim should be required as part of the process. It is challenging to accept that the proposed increase in the volume of tires to be processed by the plant (through microwave thermal treatment) will not result in additional or changes in emissions to the environment. For the proposal to be valid for consideration, the facility should be required to provide updated data that demonstrate the emissions and releases from this facility with the changes in processing volumes. More specifically, modelling data and actual monitoring data should be presented to show the expected emissions from the plant. Furthermore, additional details should be submitted by the facility to demonstrate how it plans to handle, store, process, and manage the waste associated with an additional 10,000 kg/day (10 tonnes/day) of tires to process.

3) The proposal undermines Ontario's Waste Strategy, Ontario Resource Recovery and Circular Economy Act (RRCEA) and O. Reg 225/18 (Tires)

Ontario passed its *Resource Recovery and Circular Economy Act* (RRCEA) in 2016 and under the RRCEA and Ontario's Waste diversion programs, the Province committed to an Extended Producer Responsibility framework that holds producers responsible for the end-of-life management of their products and packaging. Tires were the first designated materials under this program with the passing of O. Reg 225/18 under the RRCEA. With over 12 million used tires generated annually, the Tires Regulation was designed to prevent disposal and promote the efficient use of resources by holding tire producers responsible for ensuring used tires are collected for reuse or recycling.¹ Under this Tire regulation, producers are required to collect and recycle 85% of the tires they put on the market, and this recycling includes reuse, retreading and other mechanical recycling into new products, but section 11(4) specifically excludes tires that are incinerated or used as fuel:

*"The producer shall not include the following in the 85 per cent minimum: ...the weight of any products or packaging derived from tires or processed materials that are incinerated or used as a fuel or a fuel supplement."*²

¹ O. Reg. 225/18: TIRES

² <https://www.ontario.ca/laws/regulation/180225> Section 11 (4) (2).

As the Ellsin proposal is to expand the thermal treatment of tires to be used as fuel, the proposed exemption regulation for Ellsin undermines the aim of the RRCEA and Tire Regulation to collect, reuse and recycle 85% of Ontario tires. This is why the proposal which is being considered under the government's "*Made-in-Ontario Environment Plan commitment for supporting the use of advanced recycling and energy recovery technologies that can help ensure valuable resources, such as hard-to-recycle plastics, do not end up in landfill*" is problematic and out of sync with the tenets of the RRCEA and Tire Regulations.

Furthermore, section 17(1) of the O. Regs 225/18 requires registration with the Resource Productivity and Recovery Authority which states that:

On or before October 31, 2018, every tire hauler, tire processor and tire retreader shall register with the Authority through the Registry by submitting the information set out under subsection (4).³

As of April 26, 2021 Ellsin Environmental Ltd has not been registered as a tire processor.⁴ Based on the 2019 Environmental Screening Report, the facility noted that it could not access the needed quantity of tires for processing but claims that ongoing efforts to meet the requirements of Ontario's program. The absence of registration for this facility under RPRRA demonstrates the competing interest of this facility to that of the Province's commitment to the management of designated materials such as tires which has experienced successful and high rates of collection in the past. In addition, the proposed expansion at this facility to process tires will continue to undermine the efforts to promote and strengthen the circular economy framework for tires in Ontario by proposing to burn tires rather than fully recycle tires for new uses.

There are substantial impacts associated with thermal treatment processes that are not presented within the scope of this proposal. These include but are not limited to the amount of waste associated with the burning of tire waste including production of toxic fly ash, the management and disposal for toxic fly ash and bottom ash. The Ministry should require updated emissions data and management costs to the environment and the community associated with the burning of 20 tonnes of tire waste prior to considering any proposed exemptions.

Finally, the Environmental Screening Report completed in 2018 and 2019 relied heavily on the outdated and historical regulations: Ontario Waste Diversion Act and the Ontario Regulation 84/07 for its pilot project. This is not adequate and should not be considered sufficient for an exemption for the proposed facility expansion. Rather, the proposed request for expansion should be rejected and the proponent should be required to submit a new proposal that considers the objectives and requirements in the currently applicable and legally in force RRCEA and Tires Regulations.

³ O. Reg. 225/18: TIRES

⁴ Resource Productivity and Recovery Authority. Tires. Find a Tire Registrant (Processor), See: <https://rpra.ca/programs/tires/find-a-tire-registrant/>

4) Sources of Tire Wastes and Environmental Compliance Approvals

Ellsin Environmental Ltd holds two Environmental Compliance Approval which outlines what is considered acceptable tire waste. In Environmental Compliance Approval, Number 8820-BMUPJL (Issue Date: August 21, 2020) on Air and Noise (ECA Air and Noise), it states that "Waste Tire Materials" means used tires, off-spec tires, tire shred and tire crumb."

In Environmental Compliance Approval, Number 3848-BQUQV2 (issued date: August 21, 2020) as a waste facility (ECA Waste), a definition for "Tire Waste" is described as "solid non-hazardous waste limited to waste types listed in condition 3.1(2) of the ECA. Specifically, the ECA Waste outlines in Section 3.1 (Service Area and Approved Waste Types), that:

(1) The Owner is approved to receive solid non-hazardous waste generated from the sources within the Province of Ontario, the Province of Quebec, Province of Manitoba, and the State of Michigan.

(2) The Owner is approved to receive Waste limited to the following Tire Waste types:

- a. used tires;*
- b. off-spec tires;*
- c. tire shred; and*
- d. tire crumb.*

3.2 Prohibited Waste Types

(1) Waste prohibited from being accepted at the Site for processing, including thermal treatment, includes the following Waste types

a: Waste that has been generated or has been previously transferred to any facility in the Province of Ontario from outside of Ontario, except when the waste originates from Ontario, Quebec, Manitoba and the State of Michigan.

(2) Waste prohibited from being accepted at the Site for thermal treatment, includes the following Waste types:

- a. Recyclable Waste*

Section 3 specifically outlines that the province of Ontario could be a potential source of tire waste supply for Ellsin Environmental Ltd. and would not strictly be limited to tire fluff. The conditions of the ECAs suggest that Ellsin should be required to register with RPPRA as a processor.

5) Implications for greenhouse gases have been overlooked

The Environmental Screening Report for Greenhouse Gas reduction in sections 4 is incomplete and does not provide adequate data and details related to reduced greenhouse gas emissions related to the burning of 20 tonnes of tires. The section and chart (in section

4.1) present projected GHG releases comparing the use of virgin materials to thermal treatment but does not provide additional data associated with GHG releases from the transportation of tire waste to the facility and the GHG releases related to the management and disposal of any toxic waste associated with the burning processes. This section mentions the absence of the GHG related to transportation and processing required of used tires outside of the facility but does not provide necessary details to support these statements.

In addition, we recommend the Ministry require further data related to GHG releases associated with landfills that accept toxic waste. Specifically, GHGs associated with the burning of tire waste should be presented to demonstrate the impacts of burning as associated with tire wastes. Responsibilities to monitor and document GHG releases should not only focus at the plant site but be considered throughout its life cycle to consider the GHG impacts of collection, processing, and wastes' end of life treatment for final disposal. Without the cumulative GHGs of these stages considered, it is inevitable that an underestimation of GHG reductions associated with the use of thermal treatment processes will result.

6) Cumulative health and environmental impacts should be a requirement

The Ellsin facility is in close proximity to other facilities including Algoma Steel in Sault Ste. Marie. Consideration of cumulative impacts from toxic releases to the environment and to the community should be considered in the facility's analysis. Currently, the proposal does not include any consideration of cumulative impacts.

7) Emission Summary and Dispersion Modelling data do not include impacts to health

The data on contaminants considered in section 4.3 of the Environmental Screening Report 2018 and Section 5.1 of the Environmental Screening Report 2019 are inadequate as the analyses focused on a limited number of pollutants and does not include any information on health effects associated with each contaminant.

It is unclear why Criteria Air Contaminants were the only air pollutants included in the Environmental Screening Report 2019. While the CAC data is relevant, the full list of toxic contaminants associated with this facility should be analyzed and updated monitoring data be provided in a transparent manner to the public. Furthermore, no health effects details associated with the CACs are presented in the report. The absence of data and health effects associated with the full list of contaminants associated with the facility operations are major gaps in the proposal.

For example, carbon black has been identified as a principle product from the thermal treatment of tires. While carbon black has many applications including its use as a filler mixed in plastics, elastomer, films, adhesives, and paints, these applications are not fully analysed and presented in this report to determine if their applications are considered high

valued products. Carbon black is also associated with significant health effects. Carbon black is associated with the release of fine particulate matter and a major component of “soot.” Fine particulate matters (including PM10 and PM2.5) including carbon black have been associated with serious impacts to public health. Particulates penetrate deep into the lungs and can be associated with premature death and adverse cardiovascular health. The table in Section 4.3 (2018) and Section 5.1 (2019) present emissions for Carbon black emission but does not explain or provide how this level of emission may impact the surrounding community.

The Environmental Screening Reports do not provide any analysis of health impacts associated with contaminants focused in the report. The absence of this information is a glaring gap that should be addressed in this proposal.

Section 5.1 (2019) should be expanded to include the full list of toxic substances that are expected to be released from thermal treatment of tires, including heavy metals, dioxins, VOCs, etc.

Background:

The Canadian Environmental Law Association is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment. For nearly 50 years, CELA has used legal tools, undertaken ground-breaking research and conducted public interest advocacy to increase environmental protection and the safeguarding of communities. CELA works towards protecting human health and the environment by actively engaging in policy planning and seeking justice for those harmed by pollution or poor environmental decision-making.

The Toronto Environmental Alliance is a non-profit environmental organization in Toronto that advocates for a healthy, green and equitable Toronto. For over 30 years, TEA has worked with concerned individuals, community groups, workers and elected officials to research and promote zero waste solutions. TEA monitors, researches and advocates for waste policies and programs at the municipal and provincial level that move towards zero waste and a non-toxic circular economy.

Health and Environment Justice Support is a non-profit organization dedicated to achieving a healthy environment and environmental justice for people and communities affected by chemical pollution and related environmental degradation. HEJSupport provides long term technical, policy, legal and awareness support for environmentally deprived groups to enable them to make their problems heard and to strive for solutions.

The Citizens’ Network on Waste Management is a network of citizens’ groups throughout Ontario working on municipal waste, radioactive waste, and hazardous waste issues since 1981. The CNWM is dedicated to minimizing material and energy consumption, maximizing reuse of used materials, eliminating waste disposal, and eliminating toxic contamination of the environment.

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