



Ministry of the Environment, Conservation and Parks  
777 Bay St, College Park 5th Flr  
Toronto, ON  
M7A 2J3  
enviropemissions@ontario.ca

September 19, 2024

**Re: ERO #019-9084: Urgent Request for Supporting Documentation and Detail About Proposed Amendments to Environmental Compliance Approval**

I am writing to formally object to the paucity of detail included in Environmental Registry Posting #019-9084. Algoma Steel Inc. is transitioning from its current steel-making process to the use of an electric arc furnace. The posting seeks public comment pursuant to the *Environmental Bill of Rights, 1993*, SO 1993, ch 28 (“EBR”) on unknown amendments to Algoma Steel’s Environmental Compliance Approval (ECA) for air and noise for “all emissions” by October 21, 2024. Despite the broad application of the purported amendments to the ECA and the environmental significance of the proposal for Algoma Steel to transition to an electric arc furnace, absolutely no detail has been provided in the Environmental Registry posting.

There has been no disclosure of supporting documents for the amendments to the ECA, no disclosure of detail on what emissions are expected during the transition period or after the transition period, what emissions are expected as a result of construction activities, how the proposal relates to outstanding applications by Algoma Steel for site specific standards for air emissions, or any detail about what is proposed to be amended in the ECA.

We are therefore urgently requesting:

- 1- Unredacted copies of all supporting documentation filed by Algoma Steel Inc. for this proposal;
- 2- A copy of the proposed amendments to Algoma Steel’s Environmental Compliance Approval;
- 3- Unredacted copies of Ministry of Environment, Conservation and Parks’ records to review this application to date;
- 4- Detailed information about the environmental impacts of the proposal, including ongoing emissions during the transition period, emissions from construction activities, expected emissions after the transition to an electric arc furnace, and detailed information on how this proposal relates to outstanding applications for site specific standards for air emissions at the facility.

In order to remedy the deficiencies in the Environmental Registry posting, Canadian Environmental Law Association (“CELA”) is requesting that:

**Canadian Environmental Law Association**

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • [cela.ca](http://cela.ca)

- 1- The comment deadline, which is currently set for October 21, 2024, must be extended for at least 45 days after supporting documentation and the proposed amendments to the ECA are made available to the public;
- 2- The proposal should be re-posted on the Environmental Registry with supporting documentation and the details of the proposed amendments to the ECA;
- 3- A decision should not be made on this proposal until at least 45 days after supporting documentation and the details of the proposed amendments to the ECA are provided.

### **Environmental Significance of Proposal**

We note that the emissions to air from the facility are listed to include benzene, benzo(a)pyrene, total suspended particulate, sulphur dioxide, nitrogen oxides, carbon monoxide, manganese, nickel, aluminum, ferric oxide, metallic iron, magnesium, calcium carbonate, ethylene, fluorene, pyrene, hydrogen sulphide, and total reduced sulphur. Many of these pollutants are carcinogenic or otherwise harmful to human health. The environmental impact of the emissions on the local community must be assessed. The environmental impacts of the transition to new technology and ongoing emissions after the installation of an electric arc furnace must also be assessed.

We are particularly concerned about current air emissions from the site and emissions during the period for the proposed transition to an electric arc furnace, especially because no information has been provided with respect to proposed site-specific standards for benzene, benzo(a)pyrene, total suspended particulate, and sulphur dioxide during this period. These proposed site-specific standards cannot be assessed in isolation.

### **History of Requests for Disclosure**

On September 10, 2024 at 9:30 am, a law student from CELA called the MECP and spoke to Yasmin. CELA requested access to the supporting documents for the proposal to amend Algoma Steel's Environmental Compliance Approval (ERO #019-9084). The student was told by Yasmin to request these documents by emailing [enviopermissions@ontario.ca](mailto:enviopermissions@ontario.ca) and promptly did so on the same day. MECP client service representative, Andrea D'Souza, replied on September 10, 2024 stating that the Ministry must review the file prior to it being available for our viewing.

On September 11, 2024, CELA followed up with Ms. D'Souza to inquire when we might expect receipt of the requested documents. CELA was advised that it might "take some time to process" because this was done by the "client".

As of September 19, 2024, CELA has not received access to the requested supporting documents.

### **Environmental Bill of Rights**

The Environmental Registry Posting #019-9084 does not meet the requirements or intent of the *EBR*.

The *EBR* establishes that to fulfil the purposes of the Act, it provides means by which residents of Ontario may participate in the making of environmentally significant decisions by the Government

of Ontario and increase accountability of the Government of Ontario for its environmental decision-making.<sup>1</sup> The purpose of the Environmental Registry is to provide a means of “giving information about the environment” to the public.<sup>2</sup>

In the Auditor General of Ontario’s latest report on the *EBR*, it raised concerns that ministries did not always give the public complete or accurate information in Environmental Registry notices. It noted that a proposal notice should include:

- a clear and accurate explanation of what the ministry is proposing;
- an explanation of potential environmental implications of the proposal (including expected benefits, risks and impacts) and how the ministry intends to manage any negative impacts (or an explanation if the ministry does not expect any environmental impacts);
- information about any related proposals or decisions necessary to fully understand the proposal;
- the geographic location where the proposal would apply (if applicable); and
- links or attachments to key supporting information, such as draft policies, regulations or legislation, discussion papers, studies, maps or any other documentation necessary for a reader to understand the proposal.<sup>3</sup>

Those criteria have not been met in this Environmental Registry posting. There has been no clear and accurate explanation of what the Ministry is proposing, no explanation of the potential environmental implications of the proposal and how the Ministry intends to manage any negative impacts, no information on related proposals or decisions, and no links or attachments to key supporting information.

The Law Commission of Ontario’s report, *A New Environmental Bill of Rights for Ontario*, also highlights ongoing non-compliance with the *EBR*, including insufficient access to information on the Environmental Registry.<sup>4</sup>

### **The Importance of Disclosure**

In order for the public to provide effective and meaningful comments, there must be public access to the reports and information that underpin the Ministry’s decisions.<sup>5</sup> In *Greenspace Alliance of Canada's Capital v Ontario (Director, Ministry of the Environment)*, the Tribunal elucidated the duties of Ontario ministries in providing information to the public, stating that the MECP is:

“required to provide notice, access to information, and an opportunity to comment on the proposals for instruments... To make this comment opportunity meaningful, members of

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<sup>1</sup> *Environmental Bill of Rights, 1993*, SO 1993, c 28, ss 2(3)(a)(b) [*EBR*].

<sup>2</sup> *EBR, ibid*, ss 5(1), 6(1).

<sup>3</sup> Office of the Auditor General of Ontario, “Operation of the *Environmental Bill of Rights, 1993*” (December 2023) at 25, online (pdf): <auditor.on.ca/en/content/annualreports/arreports/en23/AR\_EBR\_en23.pdf>.

<sup>4</sup> Law Commission of Ontario, “A New Environmental Bill of Rights for Ontario” (March 2024) at 24, online (pdf): <lco-cdo.org/wp-content/uploads/2024/03/LCO-Environmental-Accountability-Final-Paper-compressed.pdf>.

<sup>5</sup> *1301578 Ontario Inc. v. Director, Ministry of the Environment*, 2014 CarswellOnt 3808, 85 C.E.L.R. (3d) 256 at para 81. [“*1301578 Ontario Inc.*”]

the public have to have sufficient information about the proposal. In addition, there has to be sufficient information to allow them to make a meaningful analysis of whether the Director's decision was reasonable in order to decide whether to seek Leave to Appeal.”<sup>6</sup>

When the public is made to comment with incomplete information, they are being “misled about the process, denied proper notice and denied timely access to relevant documentation upon which to base a meaningful leave application.”<sup>7</sup> It is therefore essential that the MECP provides the public with all information relevant to its decision and it is essential that this disclosure is done in a timely manner such that the public is not misled as to the content or scope of the proposal. To do otherwise would be to undermine the purpose of the *EBR* and the Environmental Registry.

## Conclusion

A sparse Environmental Registry posting with no detail about the proposed amendment to Algoma Steel’s ECA and no supporting documentation does not provide sufficient information to the public or a meaningful opportunity to participate in environmental decision-making.

We are therefore urgently requesting:

- 5- Unredacted copies of all supporting documentation filed by Algoma Steel Inc. for this proposal;
- 6- A copy of the proposed amendments to Algoma Steel’s Environmental Compliance Approval;
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- 4- The comment deadline, which is currently set for October 21, 2024, must be extended for at least 45 days after supporting documentation and the proposed amendments to the ECA are made available to the public;
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<sup>6</sup> *Greenspace Alliance of Canada's Capital v. Ontario (Director, Ministry of the Environment)*, [2009] OERTD No. 38, 44 C.E.L.R. (3d) 216 at para 32. [“Greenspace”]

<sup>7</sup> *1301578 Ontario Inc, supra*, note 5, at para 81.

We look forward to your prompt attention to this matter.

Sincerely,  
**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

A handwritten signature in blue ink that reads "Jacqueline Wilson". The signature is written in a cursive style.

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Jacqueline Wilson  
Counsel

cc. Tyler Schulz, Assistant Auditor General, Commissioner of the Environment