



February 25, 2015

BY EMAIL AND MAIL

Hon. Glen Murray
Ministry of the Environment and Climate Change
11th Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario
M7A 2T5

Dear Minister Murray:

Re: Action Required on Cumulative Effects of Air Pollution

We write to urge you to take action to protect the health of Ontarians and Ontario's airsheds from the harmful cumulative effects of air pollution. Although several Ontario communities, such as Hamilton, Sarnia, and Windsor, bear a disproportionate burden of air pollution, the Ministry of the Environment and Climate Change (MOECC) does not consider cumulative effects in its regulation of industrial air emissions.

The Government Has a Duty to Take Action

In 2009, two residents of Aamjiwnaang First Nation, a reserve community located in the heart of Sarnia's heavily industrialized Chemical Valley, filed an Application for Review under section 61 of the *Environmental Bill of Rights*. This application requested that the Ministry of the Environment (as it was then called) regulate air pollution using a cumulative effects approach in pollution "hot spots" throughout the province, and identified Sarnia's Chemical Valley as one such hot spot.

In response to this Application for Review, the Ministry agreed in May of 2009 to review how cumulative effects are regulated throughout Ontario, including in air pollution hot spots. Such a review would also be in keeping with the Ontario Divisional Court's 2008 decision in *Lafarge v. Ontario (Environmental Review Tribunal)*, in which the Court confirmed that the Ministry has a duty to consider cumulative effects when it makes environmentally significant decisions, including decisions about air pollution.

Five years have passed since the Ministry's promise was made and yet the situation has not changed. New sources of air pollution continue to be approved in Aamjiwnaang and other pollution hot spots across the province without consideration of cumulative effects and associated health risks. In his 2014 Annual Report, the Environmental Commissioner of Ontario called the Ministry's continued failure to act "completely unreasonable." We agree.

Pollution Hot Spots and Related Health Risks

The risks posed to Ontarians by the Ministry's failure to adequately consider and regulate the cumulative effects of air pollution are serious. Many common pollutants – including benzene, sulphur dioxide, nitrogen oxides, polycyclic aromatic hydrocarbons, and particulate matter – are associated with adverse health risks including reproductive, cardiovascular, and developmental health risks, endocrine disruption, and cancer. Where a community hosts more than one polluting facility, the risks to that community's residents are compounded.

One such community is Aamjiwnaang First Nation, where there are approximately 38 major industrial facilities located in close proximity to the reserve. In 2013, these facilities collectively emitted tens of millions of kilograms of air pollutants, including 22.8 million kilograms of sulphur dioxide, 54,000 kilograms of benzene, 11.9 million kilograms of nitrogen oxides, and 1.6 million kilograms of particulate matter. According to data compiled by the World Health Organization, Sarnia has consistently ranked among the worst cities for particulate matter air pollution in Canada in recent years. Residents of Aamjiwnaang First Nation have reported disproportionately high rates of miscarriage, asthma, and certain cancers, and a skewed birth ratio in some years.

Another example of a community that is home to multiple major industrial facilities is Hamilton, where a 2011 Air Quality Health Assessment study estimated that commonly

emitted air pollutants – nitrogen dioxide, ground-level ozone, particulate matter, sulphur dioxide, and carbon monoxide – contribute to approximately 186 premature deaths, 395 respiratory hospital admissions, and 322 cardiovascular hospital admissions each year. A 2012 report, *Final Report: Health Impacts Exposure to Outdoor Air Pollution in Hamilton, Ontario* indicated that the air quality in Hamilton has improved since 2001 with the exception of ozone concentration. However, health outcomes for total respiratory hospital admissions have remained constant while total cardiovascular hospital admissions decreased. The study concluded that reductions in air pollution concentration should result in improved health outcomes for the people of Hamilton.

Assessing cumulative impacts of toxic air pollutants require consideration of both mobile and industrial sources of air emissions beyond the common air pollutants, as many are harmful carcinogenic compounds. We note that there has been no consideration of cumulative effects in recent government regulatory proposals pertaining to air emissions. The MOECC's proposal to allow large cement, steel and lime industries to burn waste as an alternative fuel source to coal, for example, will result in an increase in specific toxic emissions. However, the Ministry did not assess the environmental impacts of this proposal on cumulative air pollution in Ontario.

Examples of Cumulative Effects Regulations

Following the Divisional Court's *Lafarge* decision, noted above, the Environmental Commissioner of Ontario published two special reports on cumulative effects. These reports highlighted practices in other jurisdictions that consider cumulative effects when regulating air pollution and identified feasible approaches for regulating cumulative effects in Ontario.¹

These reports demonstrate that many other jurisdictions in North America and across the world regulate air pollution with a view to protecting health and the environment from cumulative adverse effects. For instance, cumulative effects of certain air pollutants are regulated under the *Clean Air Act* in the United States. This countrywide approach to considering cumulative effects is complemented in many states, including California, Louisiana, and Kentucky, by state-level regulatory efforts. Similarly, Alberta's Air Quality Modelling Guideline requires consideration of the cumulative effects of all pollution sources within 5 kilometres of a facility when modelling air emissions.

We the undersigned organizations call upon you to honour the Ministry's 2009 commitment and make the health of Ontarians and Ontario's airsheds a priority by ensuring that cumulative effects are consistently and adequately considered when new sources of air pollution are approved in this province.

We would be pleased to meet with you on this matter. Please do not hesitate to contact Fe de Leon, Researcher at CELA at (416) 960-2284. Thank you for your consideration.

¹ The reports are available online at http://www.eco.on.ca/index.php?page=cumulative-effects-of-air-contaminants-study&hl=en_US.

Yours truly,

Canadian Environmental Law Association

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Canadian Association of Physicians for the Environment

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Sierra Club Ontario

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- c. Gord Miller, Environmental Commissioner of Ontario
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