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***RE: Comments on Nomination of Sulphates as Chemical of Mutual Concern***

Dear GLEC Co-Chairs:

As you know, in August 2016, the Fond du Lac Band of Lake Superior Chippewa and the Great Lakes Indian Fish & Wildlife Commission (GLIFWC) nominated Sulphate as a Chemical of Mutual Concern (CMC) under Annex 3 of the Great Lakes Water Quality Agreement (GLWQA).

In December 2024, the Annex 3 co-leads responded to this request by making the following recommendation to the Great Lakes Executive Committee (GLEC). The Annex 3 co-leads recommendation is as follows:

Based on weight of evidence, Annex 3 co-chairs propose that Sulphate should not be designated as a candidate CMC [Page 17, Annex 3: Chemicals of Mutual Concern: State of Sulphate in the Great Lakes: A Review.].

In a letter to you from GLIFWC dated January 28, 2025, GLIFWC concluded: “GLIFWC staff respectively disagree with the recommendation that sulfate not be a CMC under this Agreement.”

The Great Lakes Ecoregion Network and the Canadian Environmental Law Association are writing this letter in support of GLIFWC’s position. This is not a detailed letter because GLIFWC has very capably pointed out the inadequacies of the bases for the decisions that the Annex 3 co-leads have made.

**Precautionary and Preventive Approach:**

In assessing whether a substance should be a CMC in the Great Lakes, it is not good enough to say that currently it isn’t a problem or is only a limited problem. Instead, if there

are indicators of problems and potential problems, we should list it as a CMC so that we commit to monitor it and on whether its use is increasing, etc. and take preventive measures to avoid creating a worsening situation. The standards and guidelines are often limited in their suitability for protecting life in the Great Lakes.

In its recommendation document, the Annex 3 co-leads state “Measured concentrations of sulphate meet the benchmarks/guidelines, where they exist” [page 17]. The phrase “where they exist” in this sentence takes away any reassurance.

Also, there is a potential for increased sulphate releases from new or expanded hard rock mining, especially around the Lake Superior basin, fossil fuel plants and waste water treatment plants.

The Annex 3 co-leads conclude their recommendation with the following statement: “Knowledge gaps do exist, and additional actions may be warranted for identified impacted areas” [Page 17, Annex 3: Chemicals of Mutual Concern: State of Sulphate in the Great Lakes: A Review]. Despite this conclusion, they recommend that Sulphate not be designated as a CMC.

Past experience with the CMC process has shown that substances that were not designated because additional research is needed were dropped from further consideration and have not returned to the table.

This is contrary to a preventive and precautionary approach that is entrenched in the Great Lakes Water Quality Agreement.

### **Mercury & Sulphates**

One of GLIFWC and Fond du Lac Band’s reasons for concern is the significant role that the presence of sulphate in water plays in the methylation of mercury, which escalates the amounts of mobile toxics in the wild rice fields. Their letter of Jan 28 refers to several recent studies on this subject.

The Annex 3 co-leads agree that this is a serious problem and say that they will deal with this problem as follows: “Mercury methylation, including associations to sulphate emissions and levels, will be addressed as appropriate through the binational CMC strategy for mercury” [Page 16, Annex 3: Chemicals of Mutual Concern: State of Sulphate in the Great Lakes: A Review.].

This is a good intention but not adequate. The workplan for the Great Lakes Binational Strategy for Mercury Risk Management of June 28, 2021 is focused on sources and reducing sources of mercury. This is good, but the aspect of how to avoid methylation is not included. The only related recommendation is “conduct additional research on methylation dynamics ...” [p. 29, Great Lakes Binational Strategy for Mercury Risk

Management]. It is inadequate to rely on the Binational Strategy on Mercury to address sulphates.

In addition to reducing the sources of mercury, to reduce methylation it is essential to also reduce the sources of sulphates and other substances that result in the escalation of the methylation of mercury. This means that it is essential to designate sulphates as a CMC.

GLEN and CELA urge GLEC to confirm sulphates as a candidate CMC.

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**Organizational Description:**

The Canadian Environmental Law Association (CELA), established in 1970, is incorporated under federal law and is also a provincial legal aid clinic under Ontario law providing legal assistance to low-income and disadvantaged individuals and groups experiencing environmental problems who are otherwise unable to afford legal representation. Potential clients come to CELA seeking legal assistance with respect to problems caused by the creation, use, or release of toxic substances in their communities. Our assistance to them may come in the form of summary advice, legal representation, law reform advocacy, or community outreach.

Great Lakes Ecoregion Network (GLEN) works to empower public constituencies across the Great Lakes and St. Lawrence Basins to drive transformational strategies and actions that will restore and safeguard the health and resilience of the Great Lakes and St. Lawrence ecoregions. We seek to become a transboundary advocate, an ecoregional community “think tank,” a constituency builder, and a knowledge network and wisdom keeper. Our actions will include policy analysis and critique, galvanizing public input, oversight of and participation in public agencies, as well as workshops, webinars, and resources to support regional collaboration among established leaders and new constituents.