



APR 21 2021

Ottawa, Canada K1A 0H3

Harry Dahme  
Certified Specialist (Environmental Law)  
Gowling WLG (Canada) LLP  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

Dear Harry Dahme:

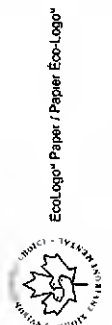
I am responding to the Notice of Objection and request to establish a Board of Review that you filed on behalf of Responsible Plastic Use Coalition, Dow Chemical Canada ULC, Imperial Oil, a partnership, by its managing partner Imperial Oil Limited, and NOVA Chemicals Corporation regarding the proposed Order to add plastic manufactured items to the *List of Toxic Substances* in Schedule 1 to the *Canadian Environmental Protection Act, 1999* (CEPA). The proposed Order was published in the *Canada Gazette*, Part I, on October 10, 2020.

Subsection 332(2) of the CEPA states that any person may file a Notice of Objection requesting that a Board of Review be established. As set out in subsection 333(1) of CEPA, the mandate of a Board of Review in this instance would be to inquire into the nature and extent of the danger posed by plastic manufactured items.

I have fully and carefully considered the issues set out in your Notice of Objection. As the scientific information provided in your Notice did not raise sufficient uncertainty or doubt in the scientific considerations underlying the proposed Order to warrant the establishment of a Board of Review, I am denying your request to establish a Board of Review. The scientific considerations that underlay the proposed Order are related to the ability of macroplastics to have an immediate or long-term harmful effect on the environment or its biological diversity as set out in section 64 CEPA.

In your Notice of Objection, you stated that the risks demonstrated by macroplastics are in relation to the presence of fishing gear. It is not the intent of the Science Assessment of Plastic Pollution to draw conclusions on specific items but rather to survey the state of science on plastic pollution. There is evidence reported in the Science Assessment that indicate that lost, abandoned, or discarded fishing gear is a common cause of entanglement of organisms, and there is further information that demonstrates that other plastic items may cause

.../2



harm to organisms. For instance, macroplastic items may become entangled with aquatic organisms that may lead to mortality. With regard to the ingestion of macroplastics, the Science Assessment summarised several studies that indicate that macroplastic items may harm organisms via ingestion.

You also stated that the Science Assessment did not use sound scientific principles. I can assure you that the Science Assessment reviewed the current state of science regarding plastic pollution, and clearly acknowledges that uncertainties exist and that high quality information is lacking in several study areas. Further, the report underwent an external peer review by both domestic and international experts, and was subject to a 90-day public comment period. Scientific studies discussed in the report were validated against a set of qualitative criteria, which are discussed in the relevant sections of the report. Where study limitations were identified, this is clearly indicated in the text.

In your Notice of Objection you further refer to the knowledge gaps in the Science Assessment of Plastic Pollution related to the lack of reliability in the use of visual identification of microplastics and stated that the estimate of 1% of plastic waste generated annually in Canada is unsupported. As this information was not related to the science supporting the proposed Order, I did not consider it in my decision regarding the establishment of a Board of Review.

With regard to the non-scientific issues raised in your Notice of Objection, as well as the non-scientific references provided, these are being considered alongside other comments received on the proposed Order and will be addressed in the Regulatory Impact Analysis Statement that is published with the final Order.

I appreciate your bringing the concerns of Responsible Plastic Use Coalition, Dow Chemical Canada ULC, Imperial Oil, a partnership, by its managing partner Imperial Oil Limited, and NOVA Chemicals Corporation to my attention.

Please accept my best regards.

Sincerely,



The Honourable Jonathan Wilkinson, P.C., M.P.

c.c.: Jennifer Danahy, Gowling WLG (Canada) LLP  
Jay Zakaib, Gowling WLG (Canada) LLP  
Anna Carso, Gowling WLG (Canada) LLP  
Liane Langstaff, Gowling WLG (Canada) LLP