



December 9, 2020

The Honourable Jonathan Wilkinson, P.C., M.P.
Minister of the Environment
c/o The Executive Director Program Development and Engagement Division
Department of the Environment
Gatineau, Quebec K1A 0H3
eccc.substances.eccc@canada.ca

Re: Notice of Objection and Request for Board of Review in relation to the Proposed Order to add plastic manufactured items to Schedule 1 to the *Canadian Environmental Protection Act, Canada Gazette, Part I, Volume 154, Number 41: Order Adding a Toxic Substance to Schedule 1 to the Canadian Environmental Protection Act, 1999*

Please accept this submission by Plains Midstream Canada ULC (Plains) in response to the October 10th, 2020 Gazette Notice (“Notice”) in which the Governor in Council, on the recommendation of the Minister of the Environment (“Minister”), proposed an Order to add “Plastic Manufactured Items” to Schedule 1 of the *Canadian Environmental Protection Act, 1999* (“CEPA”) (hereafter referred to as “Proposed Order”). Plains formally objects to the Proposed Order and requests the establishment of a Board of Review to review the recommendation.

Plains Midstream Canada ULC (Plains) is a transportation and midstream service provider. We specialize in transportation, storage, processing and marketing solutions for crude oil, natural gas, and natural gas liquids (NGLs). Plains is headquartered in Calgary, Alberta and has more than 1,500 employees in Canada and the U.S. We are an indirect subsidiary of Plains All American Pipeline, L.P. (Plains All American), a publicly traded master limited partnership headquartered in Houston, Texas.

Plains is a member of the Canadian Energy Pipeline Association, which consists of transmission pipeline companies responsible for transporting the majority of Canada’s natural gas and crude oil to markets across North America. CEPA members work together to deliver Canada’s energy in the safest, most responsible way. Based on current operations alone, Canada’s transmission pipelines are expected to add \$175 billion to Canada’s economy over the next 30 years. Plains is also a member of the Canadian Propane Association, the national association for Canada’s propane industry, representing over 400 member companies in every region of the country.

Draft Screening Level Risk Assessment Requirement

The Science Assessment of Plastic Pollution submitted in October 2020 in support of the Proposed Order does not fulfill the requirement for a screening assessment as required by s.74 of the Act, as it is simply a literature review and recognizes uncertainties in the available science that should be rectified.

A draft screening level risk assessment (DSLRA) would lead to a different conclusion and would not have led to such a broad designation. The DSLRA would show a significant weight of evidence to suggest that the risk to the environment is not from plastic manufactured items and is not related to the physical/chemical properties of the designated items.



Incorrect/Imprecise Toxic Designation

The Proposed Order is not as specific as a Science Assessment, which correctly identifies the potential harm of plastic pollution in the environment. The proposed order also applies to every single piece of plastic in Canada, without exception, regardless of how it is disposed. As drafted, the Order is overly broad, and would benefit from public comment on the draft to make it more precise.

Risk to the environment

Risk to the environment does not come from the item, but from behaviors, decisions and/or contract obligations of consumers, waste management groups and municipalities. Intervening steps that must occur before alleged risk to environment is present are:

- the plastic manufactured item has to be used by a consumer;
- the plastic manufactured item has to be improperly disposed of;
- poor municipal waste management practices could also contribute

Declaring plastic manufactured items as toxic when these acts contribute to the adverse outcome ignores the true cause(s) of the unacceptable risk and the true cause(s) of the unacceptable risk are disregarded in this proposal. The tradition of Chemicals Management Plan (CMP) screening assessments leads to the conclusion materials are not found to be toxic when the exposures of concern do not emanate from an intended use. The identified risk does not come from the plastic item itself; it comes from disposal after intended use.

Science Approach Document

The document lacks a comprehensive review of scientific literature. A DSLRA approach would have led to a more fulsome review of scientific literature and application/contextualization to pollution in Canada, and would not have concluded all manufactured plastic items have the potential to cause ecological harm. The designation must be more precise to target individual concerns

Supporting Sound Science in Decision Making

The Prime Minister's instructions in the Minister's mandate letter was to ensure that "the Government of Canada is committed to strengthening science in government decision-making and to support scientists' vital work." A Board of Review of recognized experts should be empaneled to review government's work. The panel should be independent and have no vested political interest in the outcome of the investigation. The government admitted to scientific gaps in Science Assessment which precluded the ability to conduct a quantitative risk assessment; a Board of Review could fill these gaps. Moving ahead with significant data gaps is unwise and will lead to unintended consequences.

We would be pleased to provide additional comments on an amended draft Order and provide names of experts for consideration for a Board of Review.

Sincerely,

A handwritten signature in blue ink that reads "Sterling Koch". The signature is written in a cursive style with a large, looping initial 'S'.

Sterling Koch
Vice President, Legal & Land
Plains Midstream Canada ULC