



Ministry of the Environment, Conservation and Parks
Ministère de l'Environnement, la Protection de la nature et des Parcs

Program Approval

Sections 10 and 132 of the *Environmental Protection Act*, R.S.O. 1990, c. E.19

This Program Approval is issued to:

Algoma Steel Inc. (f/k/a 1076318 B.C. Ltd.) (hereafter “**Algoma**”), established under the laws of British Columbia.

Part 1: Definitions

For the purposes of this Program Approval, the interpretation of all terms shall be the same as those contained in the legislation and the regulations made thereupon, unless defined below:

“**Agreement**” means the “Framework Agreement concerning Environmental Issues at the Algoma Steel Mill in Sault Ste. Marie” dated November 30, 2018 between Algoma, Her Majesty the Queen in Right of the Province of Ontario as represented by the Minister of the Environment, Conservation and Parks, Algoma Steel Holdings Inc., Algoma Docks Limited Partnership, and Algoma Docks GP Inc.

“**District Manager**” means the District Manager for the Sudbury District of the Ministry.

“**Environmental Laws**” means applicable environmental legislation and related instruments, including orders and environmental compliance approvals, issued under said legislation, within the jurisdiction of the Ministry.

“**Legacy Environmental Contamination**” means any contaminant present in soil, sediment or groundwater at the Site prior to November 30, 2018.

“**Legacy Environmental Action Plan**” or “**LEAP**” has the meaning as defined in Section 4.1 herein.

“**Ministry**” means the Ministry of the Environment, Conservation and Parks.

“**Qualified Professional**” means a professional practitioner or practitioners with expertise in the assessment of groundwater, soil, soil vapour, sediment and/or surface water contamination necessary to carry out the work who is a licensed member of the

Professional Engineers of Ontario, as required by the *Professional Engineers Act*, R.S.O. 1990, c. P. 28 and its regulations, as amended, and/or the Association of Professional Geoscientists of Ontario, as required by the *Professional Geoscientists Act*, S.O. 2000, c.13 and its regulations, as amended;

“**Site**” means the lands located in Sault Ste. Marie, Ontario, Canada, as more particularly described in Schedule “A”, and generally shown on the map provided in Schedule “B”, and for the avoidance of doubt shall include the steel mill and related works, the 320 ha landfill site, and the port, port lands, docks, storage areas and related buildings, all located at 105 West Street, Sault Ste. Marie, Ontario, and the natural gas-fired power generation facility located at 102 West Street, Sault Ste. Marie, Ontario.

Part 2: Legal Authority

- 2.1 This approval is made under sections 10 and 132 of the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended (“**EPA**”).
- 2.2 Subsection 1(1) of the EPA defines a "**contaminant**" as any solid, liquid, gas, odour, heat, sound, vibration, radiation, or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect.
- 2.3 Subsection 1(1) of the EPA defines a "**source of contaminant**" as anything that discharges into the natural environment any contaminant.
- 2.4 Subsection 1(1) of the EPA defines "**discharge**" as “when used as a verb, includes add, deposit, leak or emit and, when used as a noun, includes addition, deposit, emission or leak”.
- 2.5 Subsection 1(1) of the EPA defines “**natural environment**” as the air, land and water, or any combination or part thereof, of the Province of Ontario.
- 2.6 Subsection 1(1) of the EPA defines "**person responsible**" as the owner, or the person in occupation or having the charge, management or control of a source of contaminant.
- 2.7 Subsection 10(1) of the EPA provides that a person responsible for a source of contaminant may submit to the Director a program to prevent or to reduce and control the discharge into the natural environment of any contaminant from the source of the contaminant.
- 2.8 Subsection 10(3) of the EPA provides that the Director may issue a program approval, directed to the person who submitted the program.
- 2.9 Subsection 11(1) of the EPA provides that the Director shall, in a program

approval,

- (a) set out the name of the person to whom the approval is directed;
- (b) set out the location and nature of the source of contaminant;
- (c) set out the details of the program; and
- (d) approve the program.

2.10 Sections 131 and 132 of the EPA provide that the Director may include in a program approval in respect of a works a requirement that the person to whom the program approval is issued provide financial assurance to the Crown in right of Ontario for any one or more of the following environmental measures:

- (a) the performance of any action specified in the program approval;
- (b) the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by the works to which the program approval is related; and,
- (c) measures appropriate to prevent adverse effects upon and following the cessation or closing of the works.

2.11 Section 134 provides that upon request, part or all of the financial assurance given in respect of a works may be returned or released pursuant to an order in writing by the Director.

Part 3: Background

3.1 A steel mill has been operated at the Site in Sault Ste. Marie, Ontario, Canada since 1902.

3.2 The steel mill operations consist of three coke oven batteries, two blast furnaces, two basic oxygen furnaces, and a direct strip mill in addition to specialized ladle metallurgical furnaces, cold mill, hot strip mill, and a plate mill.

3.3 On November 9, 2015, Essar Algoma Steel Inc., the owner of the Site, initiated insolvency protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended, pursuant to an initial order of the Ontario Superior Court of Justice.

3.4 On September 21, 2018, the Superior Court approved the purchase of the Site by Algoma.

3.5 On November 30, 2018, Algoma (a) acquired, inter alia, the Site, and (b) entered into the Agreement.

Part 4: Approval

- 4.1 Further to the Agreement, Algoma applied for this program approval, which consists of a risk-based plan (“**Legacy Environmental Action Plan**” or “**LEAP**”), prepared by a Qualified Professional, which is required to be updated on an annual basis, and which will (i) identify, assess, manage and mitigate off-Site risks associated with Legacy Environmental Contamination, (ii) target the areas of the Site from which a discharge of Legacy Environmental Contamination is likely to cause an adverse effect off-Site, and (iii) at a minimum, set out:
- (a) a formal action and implementation plan for the first year and indicative action plans for the following 4 calendar years;
 - (b) an ongoing monitoring plan for soil, groundwater and sediment, including scope, frequency and duration, to be carried out by a Qualified Professional;
 - (c) the environmental investigations, where appropriate, to be carried out by a Qualified Professional, targeted and scoped to the risk areas identified;
 - (d) risk management, mitigation or remediation measures to be implemented by a Qualified Professional to prevent or reduce the risk of an off-Site discharge of Legacy Environmental Contamination; and
 - (e) any activity, facility, thing, or undertaking necessary to implement this program approval.
- 4.2 Pursuant to the Agreement, in the event of a discharge of a contaminant into the natural environment that is abnormal in quality or quantity in light of all the circumstances and causes or is likely to cause an adverse effect off-Site, Algoma shall carry out all appropriate and practicable actions to stop, abate or contain the discharge until such time as the significant environmental incident is no longer causing or likely to cause an adverse effect.
- 4.3 I am satisfied that implementation of the program in conjunction with Algoma’s commitment described in Section 4.2 herein will prevent or reduce and control the discharge of any contaminant into the natural environment from the Site.
- 4.4 For the above reasons, I hereby approve the program. The details of the program are as follows:
1. submit a LEAP to the District Manager in accordance with the Agreement;
 2. upon acceptance of the LEAP by the District Manager, implement the LEAP;

3. update the LEAP on an annual basis in accordance with the Agreement and implement such updates upon acceptance by the District Manager.

- 4.5 For the purpose of s. 132 of the EPA, I direct that the financial assurance provided to the Ministry in accordance with the Agreement be held for the purposes of carrying out some or all of the work described in this program approval.

- 4.6 For the purpose of s. 134 of the EPA, Algoma waives its right to request a return or release of the financial assurance held in accordance with this program approval except in accordance with the Agreement

- 4.7 The issuance of this Program Approval in no way abrogates the responsibility of Algoma to comply with any applicable provincial regulatory requirements that are not addressed as part of this Program Approval.

Issued at Thunder Bay, Ontario, Canada, this 3rd day of May, 2019.



Frank Miklas
Director, EPA sections 10 & 132
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Northern Region
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