

Ministry
of the
Environment

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MAR 21 2007

Mr. Bruce Macgregor
Commissioner of Transportation and Works
Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Mr. Cliff Curtis
Commissioner of Works
Regional Municipality of Durham
605 Rossland Road East
Whitby ON L1N 6A3

Dear Mr. Macgregor and Mr. Curtis:

Between October 14 and October 23, 2006, I received requests from members of the public and the Town of Ajax that the Region of York and the Region of Durham (Regions) be required to prepare an individual environmental assessment for the proposed Duffin Creek Water Pollution Control Plant (WPCP) Expansion (Project), located in the City of Pickering.

I am taking this opportunity to inform you that a decision has been made that an individual environmental assessment is not required. This decision was made after giving careful consideration to the issues raised in the requests, the Project documentation, the provisions of the *Municipal Engineers Association Municipal Class Environmental Assessment (Class EA)*, the October 1, 2004 Minister's Order, and other relevant matters required to be considered under subsection 16(4) of the *Environmental Assessment Act*.

The reasons for my decision may be found in the attached letter to the requesters.

The Regions are responsible for ensuring that environmental impacts of projects of this type are prevented or mitigated. I am aware and appreciative of the measures that the Regions have developed to manage the potential impacts of this Project. Despite my not requiring an individual EA be prepared, there remain outstanding concerns with respect to odour impacts and the proposed extension of the outfall. In light of this and to ensure that the environment is fully protected, I am imposing the following conditions on the Project:



Odour Impacts Program

- 1. Within six months of this decision, the Regions shall prepare a program that describes how emissions from the Duffin Creek WPCP's operations will be monitored, evaluated and controlled.**
- 2. The program shall, at a minimum**
 - (i) utilize the Odour Units (OU) concept;**
 - (ii) address both current and expanded facility operations;**
 - (iii) involve off-site ambient air monitoring of OUs at sensitive receptors;**
 - (iv) assess plant-wide odour impacts using OUs focusing on key process operations including:**
 - i. headworks area,**
 - ii. primary tanks,**
 - iii. process exhaust stack,**
 - iv. septage receiving station and,**
 - v. new solids processing facilities,**
 - (v) include a revised odour management plan using OUs; and,**
 - (vi) include a schedule documenting when the monitoring of the current and expanded facility operations will occur.**
- 3. The Regions shall submit a draft program to the Regional Director, Central Region, Ministry of the Environment for approval.**
- 4. Once approved by the Regional Director, the Regions shall implement the approved program.**
- 5. The Regions shall prepare an Odour Complaint log for the facility and permit the public and municipalities to inspect it upon request.**
- 6. The Regions shall submit an annual report to the Regional Director, Central Region, Ministry of the Environment, reporting on the results of the odour assessment, management and monitoring program.**

Outfall Expansion

- 7. The Regions shall initiate the environmental assessment activity required to address the limitations in the existing outfall/diffuser within six (6) weeks of obtaining all necessary approvals for the Stage 3 plant expansion.**
- 8. The Regions shall notify the Environmental Assessment and Approvals Branch and the Regional Director, Central Region, Ministry of the Environment when the Notice of Commencement has been issued, outlining the timelines associated with the completion of all technical studies necessary to carry out the environmental assessment activity.**
- 9. The Regions shall commence construction of the preferred outcome of the outfall/diffuser within one (1) year of obtaining the necessary approvals.**

Project Limitations

- 10. The Regions shall not operate the Duffin Creek WPCP at a rated capacity above 520 million litres per day (MLD).**
- 11. Notwithstanding condition 10, the Regions may operate the Duffin Creek WPCP at a rated capacity of up to 540 MLD if the Regional Director, Central Region, Ministry of the Environment, is satisfied that the effluent limits imposed in the sewage works Certificate of Approval (including the total phosphorus loading limits) can still be met, adequate reason is provided as to why the preferred solution to address the limitations of the outfall/diffuser has not yet been implemented and provides written consent.**
- 12. No approval to operate the Duffin Creek WPCP above 540MLD shall be granted until the Regions have implemented a preferred alternative to address the outfall/diffuser limitations associated with the Project, and Conditions 10 and 11 shall cease to apply at that time.**
- 13. The Regions shall submit an annual report to the Director, Environmental Assessment and Approvals Branch, providing clear statements on expected completion dates for each stage of the environmental assessment and indicating when and describing how the above conditions are being fulfilled.**

Archaeological Resources

- 14. In the event that deeply buried archaeological remains are encountered during construction, the Regions must cease construction immediately and contact the office of the Regulatory and Operations Group at the Ministry of Culture.**
- 15. In the event that human remains are encountered during construction, the Regions must cease construction immediately and contact both the Ministry of Culture, and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Business Services.**

With this decision having been made, the Regions may now proceed with the Project, subject to the conditions I have imposed and any other permits or approvals required. The Regions must implement the Project in the manner it was developed and designed, as set out in the Environmental Study Report (ESR) and inclusive of all mitigating measures and environmental and other provisions therein.

I would like to remind you that, as a result of the requests for an individual environmental assessment having been made, applications for approval under the *Ontario Water Resources Act* (OWRA) and the *Safe Drinking Water Act* (SDWA) for works associated with the Project will not be reviewed under the ministry's Transfer of Review program. The Transfer of Review program allows the Regions to conduct the administrative and technical review of certain types of municipal water and sewage works under the OWRA and SDWA. All applications and supporting documents for sewage, stormwater, and water works to be constructed in the City of Pickering, which are part of the above-noted Project, must be made as direct submissions for review and approval by this ministry.

It is understood that, subsequent to the issuance of the ESR for public and agency review, the Regions made a number of commitments with respect to protective measures to address environmental impacts, and specifically to address concerns raised in the Part II Order requests. In accordance with the Class EA, any commitments made to affected agencies or members of the public must be fulfilled and implemented as part of the proposed Project.

I would also encourage you to add the Huron-Wendat First Nation to your contact list for future projects in your Regions, given their expressed interest in aboriginal cultural heritage and archeological sites.

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Lastly, I would like to ensure that the Regions understand that failure to comply with the *Environmental Assessment Act*, the provisions of the Class EA, and the conditions I have imposed, and failure to implement the Project in the manner described in the ESR, are contraventions of the *Environmental Assessment Act* and may result in prosecution under section 38 of the Act. I am confident that the Regions recognize the importance and value of the *Environmental Assessment Act* and will ensure that its requirements and those of the Class EA are satisfied.

Yours truly,



Laurel C. Broten
Minister of the Environment

Attachment

cc: Requesters
Ms. Debbie Korolnek, General Manager, Water and Wastewater, Region of York
Mr. John Presta, Director, Environmental Services, Region of Durham
Mr. Euan Ferguson, Senior Project Manager, Region of York
Mr. Rich Tindall, Project Manager, Region of Durham
EA File No. EA03-03-03 Duffin Creek Water Pollution Control Plant Expansion