



YDSS Servicing

YORK DURHAM SEWAGE SYSTEM
Municipal Partners Protecting the Environment Since 1971



Friday, November 18, 2005

Media Release

Attorney General of Canada halts private prosecution against the Regional Municipality of York

Investigation halts charges that Region harmed fish and fish habitat

NEWMARKET – The Attorney General of Canada announced in Ontario Court today that it would be intervening and halting the private prosecution against the Regional Municipality of York initiated by Mr. Jim Robb under the federal *Fisheries Act*.

The private prosecution alleged that Robinson Creek and fish in the area were unlawfully harmed during construction of the now completed Phase I sewer project along 16th Avenue in the Town of Markham.

“The Attorney General of Canada conducted its own lengthy and detailed investigation in conjunction with investigators and staff from Environment Canada and the Department of Fisheries and Oceans,” said Regional Chair and CEO Bill Fisch. “The analysis conducted by these separate Ministries has confirmed that the case made against the Region did not reflect the full facts and information regarding this infrastructure project.”

The Attorney General of Canada has the power under the *Criminal Code* to intervene in a private prosecution and either takes over the court case from the private prosecutor or may decide to allow the private prosecutor to proceed on their own. Alternatively, the Attorney General of Canada may end the court proceedings outright.

In announcing the Attorney General's decision, Mr. Andrew Sabbadini, Senior Counsel for the Federal Department of Justice, advised, “Given that the Regional Municipality of York has a compelling defence to the charges brought by Mr. Robb, and given that there are serious deficiencies in the private prosecutor's evidence, the Attorney General is of the view that there is no reasonable prospect of conviction to those charges. The Attorney General will, therefore, be intervening and staying the charges.”

A private prosecution was initiated against York Region in July 2004. It alleged that the pumping of groundwater near the area where Robinson Creek intersects 16th Avenue in Markham during Phase I construction of the 16th Avenue trunk sewer had resulted in the “harmful alteration, disruption or destruction of fish habitat” and “unlawfully deposited or permitted the deposit of a deleterious substance into water”.

These acts are prohibited under of the federal *Fisheries Act*, and it was alleged that these events took place over more than two years between March 2002 and July 2004.

“York Region takes environmental matters seriously, including work that improves our environment and creates sustainable communities,” added Chairman Fisch. “Our Region works hard to limit or mitigate environmental impacts during construction of Regional infrastructure. In fact, we continue to commit significant staff and financial resources as we comply with or exceed strict conditions imposed by our regulatory partners.”

All charges against the Regional Municipality of York stemming from the private prosecution have been halted.

... Continued on Page 2

York Region has worked closely with the Department of Fisheries and Oceans, the Ministry of the Environment, the Ministry of Natural Resources and the Toronto and Region Conservation Authority to develop a comprehensive \$30 million Environmental Monitoring and Mitigation Program to assist residents who may be impacted.

Any time a pipe is installed underground, there is a good chance that groundwater will be encountered. In such cases, it is necessary to pump the aquifer down to temporarily lower the water level in the immediate vicinity while the sewer is being constructed. Dewatering helps to ensure the safety of the workers during tunnelling and construction. Some of this water is returned to area streams to ensure that base flows are maintained. The balance of flows that cannot be accommodated by area streams is discharged into the York Durham Sewage System.

When construction is complete, the aquifer levels always return to the original levels. Credible, scientific evidence proves this. In fact, aquifer levels have already recovered in areas where construction has been recently completed.

A number of leading aquatic biologists and fisheries experts have completed fish population surveys, and have concluded that fish stocks are thriving and that no fish populations or habitats have been or will be adversely impacted by dewatering. Monitoring of Robinson Creek and other water bodies conducted as part of the Environmental Monitoring and Mitigation Program for Phase II of the 16th Avenue sewer project also indicates that fish populations and diversity are healthy. Mitigation of creek banks and surrounding areas has taken place and will continue after completion of construction.

- 30 -

For more information on the York Durham Sewage System, please visit www.york.ca and follow the links on the main page titled "York Region wastewater infrastructure projects".

Media Contact: Patrick Casey, Director, Corporate Communications, York Region
Phone: (905) 830-4444, ext. 1235 or cell (905) 715-8211
Email: patrick.casey@york.ca