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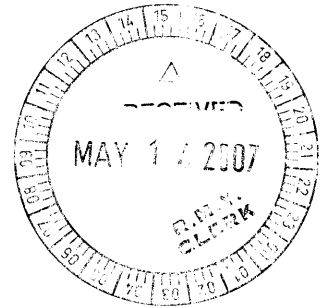
TOWN OF AJAX

65 Harwood Avenue South
Ajax ON L1S 2H9
www.townofajax.com

May 8, 2007

P. Madill, Regional Clerk
Regional Municipality of Durham
605 Rossland Road East
P.O. Box 623
Whitby, ON L1N 6A3

D. Kelly, Regional Clerk
Regional Municipality of York
17250 Yonge Street, Fourth Floor
Newmarket, ON L3Y 6Z1



**RE: Duffin Creek Water Pollution Control Plant Environmental Assessment
Summary Report**

On April 23, 2007, Ajax Town Council endorsed the following resolution:

"That the report entitled "Duffin Creek Water Pollution Control Plan Environmental Assessment - Summary Report" be received for information; and

That staff prepare a request for compensation from the Region of Durham and the Region of York for the legal and consulting fees incurred by the Town of Ajax to review the Regions' documents related to the environmental assessment for the Duffin Creek Water Pollution Control Plant."

The Town of Ajax is located immediately to the east of the Duffin Creek Water Pollution Control Plant (WPCP) and, as a result, has actively participated in the environmental assessment process. The WPCP is a significant project, being collectively driven by the Regions of York and Durham, that could impact the Town of Ajax. To undertake its due diligence and provide informed and meaningful input, the Town retained legal and consulting environmental experts to review the material prepared by the Regions' consultants. As part of the document review, the Town's consultants suggested many recommendations, several of which have been included by the Minister of the Environment as conditions of approval for the project.

The Town has incurred substantial consulting costs in the amount of \$284,476.89 in order to provide recommendations for the Regions' and the Minister of the Environment's review and consideration. A copy of the Town's Duffin Creek Water Pollution Control Plan Environmental Assessment - Summary Report is attached for your information. These costs incurred by the Town should not be borne exclusively by a local municipality. Instead, the Regions of York and Durham have an obligation to assist a local municipality in this regard. We are municipal partners that work in the public interest to ensure that infrastructure projects do not adversely affect the environment and contribute towards the well-being of the overall community.

...2

The Town of Ajax respectfully requests that this correspondence be considered by Durham Regional Council and York Regional Council and that the Town be reimbursed for its expenses incurred as part of the environmental assessment process. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Martha A. Pettit". The signature is fluid and cursive, with the first name being the most prominent.

Martha A. Pettit
Manager of Legislative Services/Deputy Clerk
Town of Ajax
65 Harwood Avenue South
Ajax, ON L1S 2H9
905-619-2529, ext. 342
martha.pettit@townofajax.com

Copy: Ajax Town Council
P. Allore, Director, Planning & Development, Town of Ajax
K. Heritage, Policy Planning Co-ordinator, Town of Ajax
B. Hodgins, Policy Planner, Town of Ajax

TOWN OF AJAX REPORT



Report To: General Government Committee

Submitted By: Paul Allore, MCIP, RPP
Director of Planning and Development Services

Prepared By: Barbara Hodgins, MCIP, RPP
Policy Planner

Subject: **Duffin Creek Water Pollution Control Plant Environmental Assessment - Summary Report**

Ward(s): All

Date of Meeting: April 19, 2007

Reference: Strategic Plan; Guiding Principle: Environmental Awareness

Recommendation:

That the report entitled “Duffin Creek Water Pollution Control Plant Environmental Assessment - Summary Report” be received for information.

Background:

The purpose of this report is to:

- 1) present Council with the Minister of the Environment's decision of March 21, 2007, regarding the Duffin Creek Water Pollution Control Plant expansion proposed by the Regions of York and Durham (see Attachment 1);
- 2) identify the objectives achieved by the Town through effective participation in the associated Municipal Class Environmental Assessment process (see Attachment 2); and
- 3) provide a summary of the total financial expenditures (see Attachment 3).

On November 24, 2005, Council passed a resolution advising the Ministry of the Environment (MOE) and the Regions of York and Durham that the Town has a direct interest in the proposed expansion of the Duffin Creek Water Pollution Control Plant (WPCP) to treat 630 million litres of sewage per day (MLD) through the Municipal Class Environmental Assessment (EA) due the proposed scale of the existing WPCP (doubling its size) and its proximity to Ajax.

Many potential issues and concerns were subsequently refined and documented by expert consultants retained by the Town with respect to direct and indirect environmental impacts on Lake Ontario water quality (for recreational and drinking water use), air quality and potential effects on the health of Ajax residents.

These issues and concerns were conveyed to the Regions and the MOE throughout the EA process, however, many had not been satisfactorily address by the time the Regions filed a Notice of Completion and issued a final Environmental Study Report (ESR) on September 23, 2006.

As a result, the Town had no choice but to continue to exercise diligence by filing a comprehensive “bump-up” request with the MOE within 30 days. Two environmental groups also filed bump-up requests.

Staff subsequently negotiated directly with MOE staff, who indicated they shared many of Ajax’s concerns.

Minister’s Decision

On March 21st, 2007, the Minister of the Environment released a decision regarding the WPCP expansion in response to the Town’s and other’s bump-up requests (see Attachment 1).

The decision identified the MOE have outstanding concerns about the project, particularly with respect to the WPCP’s odour impacts and its outfall within Lake Ontario. In order to ensure that those concerns are addressed by the Regions, the Minister imposed 13 conditions of interest to Ajax on the project, as briefly described below and set out in Attachment 2.

Odour Impacts

An Odour Impact Program is to be prepared by the Regions and approved by the MOE that, as a minimum:

- addresses existing and expanded WPCP operations;
- involves off-site air monitoring in the vicinity of the WPCP;
- assesses WPCP-wide odour impacts; and
- provides a revised Odour Management Plan, including a schedule indicating when the monitoring of existing and expanded WPCP operations will occur.

An Odour Complaint Log is to be prepared and made available to municipalities for inspection upon request.

An Annual Report on the results of the odour impacts program, management and monitoring is to be provided to the MOE.

EA for the Outfall/Diffuser Facility

The Regions are to initiate “EA activity” to address the limitations posed by the WPCP’s existing outfall/diffuser pipe (presently submerged in Lake Ontario and extending one kilometre offshore) within six weeks of obtaining the necessary approvals for this project. Senior MOE staff indicate that this EA activity is to commence in the summer of 2007.

Plant Capacity Limitations

The Regions will not be permitted to operate the WPCP at a rated capacity above 520 MLD.

Notwithstanding the above condition, the MOE may allow the WPCP to be operated at a rated capacity of up to 540 MLD if satisfied that effluent limits imposed in the WPCP's Certificate of Approval for Sewage Works (including total phosphorus loading limits) can still be met and adequate reason has been provided as to why the "preferred alternative" resulting from the EA activity for the WPCP's outfall/diffuser has not yet been implemented.

The MOE will not grant approval for operation of the WPCP above 540 MLD until the Regions have implemented the "preferred alternative" for the WPCP's outfall/diffuser.

Also, an Annual Report from the Regions to the MOE is required to provide clear statements of the expected completion dates for each stage of the EA and describe how the Minister's conditions are being fulfilled.

The Minister's decision also refers to various other commitments made by the Regions subsequent to the issuance of their final ESR. While not further explained, it would appear that those commitments will result in enhanced protection of the Ajax community and local environment.

Financial Implications:

External factors, such as the lack of technical reports about off-site impacts for review in late 2005, resulted in additional expenses to protect the Town's interests. Those factors necessitated the retention of legal experts for EA process advice and consultants specializing in WPCP-related issues, to prepare much-needed gap analyses and omissions reports, and to conduct expedited reviews of technical reports and the draft ESR once available to the Town. The total financial expenditures for this work (summarized in Attachment 3) remained within the amount estimated.

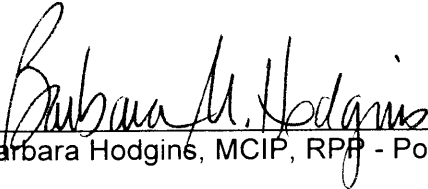
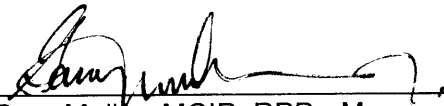
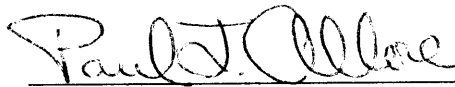
Communication Issues:

The Minister's decision of March 21, 2007, in response to Ajax's bump-up request, clearly states that concerns remain at the MOE with respect to this WPCP expansion and, as a result, she has exercised her authority to impose additional conditions on the large infrastructure project to service projected population growth in York and Durham Region to protect the Ajax community and the environment.

Conclusion:

It is readily apparent that the Town's participation on behalf of the Ajax community in the Municipal Class EA for the Duffin Creek WPCP expansion brought about substantial changes to the outcome, as evidenced by the conditions imposed in the Minister of the Environment's order.

There is further work ahead as the Regions move forward with the implementation phase of this EA, as well as participation in the imminent EA activity for the WPCP's outfall/diffuser facility within Lake Ontario and the Regions' ongoing Water and Wastewater Infrastructure Master Plan Updates.


Barbara Hodgins, MCIP, RPP - Policy Planner
Gary Muller, MCIP, RPP - Manager of Planning
Paul Allore, MCIP, RPP - Director of Planning & Development Services

Ministry
of the
Environment

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ENV1283MC-2007-364

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.

Mr. Bruce Macgregor and Mr. Cliff Curtis

Page 5

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,

A handwritten signature in black ink, appearing to read "Laurel Broten". The signature is fluid and cursive, with the first name "Laurel" written in a larger, more prominent script than the last name "Broten".

Laurel C. Broten
Minister of the Environment

Attachment

c: 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

Attachment 2

Objectives Achieved Due to Ajax's Bump-Up Request Filed in York & Durham Regions' Municipal Class Environmental Assessment for the Duffin Creek Water Pollution Control Plant Expansion

Additional MOE Requirements		
Town Issues/Concerns	Commitment in the Regions' ESR Report (September 2006)	Town Objectives Achieved through Additional MOE Conditions and Requirements in MOE Decision Letter (March 21, 2007)
Off-Site Impacts of the WPCP's Odours, Air Emissions and Noise	Air Emissions, Noise, Vibration and Odour Control Studies have been Completed to the Level of Detail Required for a Certificate of Approval under the Environmental Protection Act	Outstanding Concerns remain and 6 New Conditions to be met by the Regions were Imposed: 1. Within 6 months of this Decision, the Regions are to Prepare an Odour Impacts Program describing how Emissions from the Operation of the WPCP will be Monitored, Evaluated and Controlled. 2. This Odour Impact Program shall, at a Minimum, Address both Current and Expanded facility Operations; involve Off-Site Surrounding Air Monitoring at sensitive receptors (e.g. residences); assess WPCP-wide Odour Impacts, including certain on-site sources, such as the headworks, tanks, process, exhaust stack, septage receiving station and new solids processing facilities; provide a Revised Odour Management Plan using Odour Units; and include a Schedule documenting when Monitoring of Current and Expanded facility Operations will occur. 3. Submit this draft Odour Impact Program to the MOE for approval. 4. Once approved by MOE, implement the Program. 5. Prepare an Odour Complaint Log and permit the public and municipalities to inspect it upon request. 6. Submit an annual report to the MOE reporting on results of this Odour assessment, management and monitoring program.

Need to Consider planning "Alternatives" to address the WPCP's Outfall in Lake Ontario now to Address Increasing Effluent Outflows	Initiate a Municipal Class EA and a Federal EA under the Canadian Environmental Assessment Act to Address the Need for a New or Extended Outfall when WPCP flows approach 560 MLD between 2022 and 2025	Outstanding Concerns remain and 3 New Conditions to be met by the Regions were Imposed: 7. Initiate the "EA activity" required to address limitations in the existing outfall/diffuser within 6 weeks of obtaining all necessary approvals for the WPCP capacity being approved at this time. This means the necessary EAs will be commenced some time this year (not within 6 weeks of completion of construction of the WPCP expansion) advancing the EA start date for the outfall by some 15 to 18 years. 8. Regions to Notify the MOE when Notice of Commencement of the EA activity is issued, outlining associated timelines associated with completion of all technical studies necessary to carry out the EA activity. 9. Regions to Commence Construction of the Preferred Outcome (solution for the outfall/diffuser) within 1 year of obtaining the necessary approvals.
Absence of assessment of limitations posed by the existing outfall in Lake Ontario on the proposed WPCP facility	Increasing the capacity of the WPCP to 630 million litres per day (MLD) but only operating it up to 560 MLD until the Municipal Class/Federal EA Study for the new or extended outfall is implemented	Outstanding Concerns remain and 4 New Conditions to be met by the Regions were Imposed: 10. Regions shall not Operate the WPCP at a Rated Capacity above 520 MLD. 11. Notwithstanding Condition 10, Regions may Operate the WPCP at a Rated Capacity of up to 540 MLD if the MOE is Satisfied that the Effluent Limits imposed in the Sewage Works Certificate of Approval (including 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 MOE Provides Written Consent. 12. No approval to operate the WPCP above 540 MLD shall be granted until the Regions have implemented a preferred alternative to address outfall/diffuser limitations associated with the project (and Conditions 10 and 11 shall cease to apply). 13. Regions to submit an annual report to the MOE providing clear statements on expected completion dates for each stage of the EA and indicating how the above conditions are being fulfilled.
Obtaining Applications for Approval under the Ontario Water Resources Act and the Safe Drinking Water Act	Such applications would have been reviewed under MOE's Transfer of Review program (which allowed the Regions to conduct the administrative and technical review of certain types of municipal water and sewage works)	Due to the Bump-Up Requests (of the Town and other environmental groups), all such Applications and Supporting Documents for Sewage, Stormwater and Water Works which are Part of this Project must be Submitted Directly to the MOE for Review and Approval. Subject to the MOE's conditions and obtaining any other permits and approvals required, the Regions can Proceed with this Project.

Proposed effluent compliance limit for phosphorus too high (not protective enough) - existing levels sampled exceeded the Provincial Water Quality Objective (by 9X and 15X) and also the International Joint Commission's Objective	Regions initially requested an Objective of 1.0 milligram per litre (mg/L), then revised to 0.8 mg/L	MOE requires the Regions to achieve an Objective of 0.6 mg/L, with an effluent compliance limit of 0.8 mg/L.
Increased total phosphorus loadings will increase algae blooms in Lake Ontario	Existing Certificate of Approval contains a phosphorus limit of 1.0 mg/L	Regions and MOE agreed to operate the WPCP to achieve an Objective of 0.6 mg/L within an effluent Compliance Limit of 0.8 mg/L and to add phosphorus loading reduction technologies to limit total phosphorus loadings (to remain below the maximum loading permitted).
Elevated levels of E.coli at the Ajax waterfront	Current phosphorus loading compliance limit is 420 kg/day	Phosphorus loading limit during the interim period (prior to the outfall extension) was further reduced to a maximum of 311 kg/day on an average annual basis (similar to levels exhibited over the past three to four years). Regions agreed to take part in the following initiatives to collect and assess data: - continuing water quality sampling to assist in determining causes of elevated nutrients and developing future control measures; - working with Ontario Power Generation to study further causes of algae growth and accumulation in the nearshore in the vicinity of the Pickering Nuclear Station (e.g. cooling water intakes have been clogged in past decade); and - continuing research on impacts of phosphorus on the north shore of Lake Ontario and examining potential control measures through the Ontario Water Works Research Consortium.
Potential Impacts on Drinking Water from the Ajax Water Supply Plant		Regions required to meet MOE effluent quality requirements and follow strict regulations.
Impact of WPCP's Mixing Zone in Lake Ontario on Swimming Beaches, Water Supply Intakes and Fish Spawning Areas		MOE required Regions to perform more calculations and simulations of various conditions and concluded that adequate mixing for flows up to 560 MLD can be achieved using the existing outfall and levels of un-ionized ammonia will be consistently below the acutely toxic concentration.

Attachment 3

Summary of Total Financial Expenditures
Re: Duffin Creek Water Pollution Control Plant Expansion EA
(January 2, 2006 to March 31, 2007)

Vendor	Estimated Amount	Amount Paid
	\$ 297,400.00	
Gowling Lafleur Henderson, Barristers & Solicitors (Environmental Law Specialists)		\$ 189,439.35
EcoMetrix Incorporated (Lake Ontario Modeling and Effluent Movement, Science and Microbiology)		\$ 58,390.49
Steven Rowe Environmental Planner (Environmental Assessment Processes)		\$ 15,840.37
AMEC International (Odour and Air Emissions)		\$ 10,743.68
Aqua Technix (Wastewater Treatment Infrastructure)		\$ 9,063.00
Ambient Environmental Consulting (Treatment Options for Domestic Wastewater)		\$ 1,000.00
Total Expenditures		\$ 284,476.89