

THE REGIONAL MUNICIPALITY OF YORK

Solid Waste Management Committee
May 11, 2005
Report of the
Commissioner of Transportation and Works

WASTE TRANSFER AND PROCESSING FACILITY APPROVAL WASTE EXCELLENCE CORPORATION

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council not object to the Ministry of the Environment (MOE) re-instating and amending Provisional Certificate of Approval No. A230634, issued to Waste Excellence Corporation, for the operation of a waste transfer and processing facility located at 10525 Keele Street in the City of Vaughan, subject to the following conditions:
 - 1.1 Waste Excellence Corporation submit to the Commissioner of Transportation and Works, at three-month intervals, sufficient records to document the quantities of materials received and processed by the facility; the municipalities of origin of these quantities; and the quantity of waste transferred to disposal facilities.
 - 1.2 All discharges from this operation to the sanitary and storm sewer systems meet the requirements of The Regional Municipality of York's By-Law No. S-57-92-155 and any existing and/or future amendments to it.
2. The MOE undertake a detailed analysis of the cost for the clean up, transportation, disposal and supervision of all quantities of waste on the site at any one time as a result of any occurrence requiring such action including, but not limited to, fire, spills, or any other emergency and ensure that it requires and maintains sufficient financial assurance for site clean up as per Section 131 of the *Environmental Protection Act*.
3. The Regional Clerk forward copies of this report to Waste Excellence Corporation, the Clerk of the City of Vaughan, and the Ministry of the Environment.

2. PURPOSE

Waste Excellence Corporation has a waste transfer and processing facility located at 10525 Keele Street in the City of Vaughan. The Ministry of the Environment (MOE) has suspended the Certificate of Approval for the facility. The company has:

- Requested that the MOE re-instate the Certificate.
- Submitted an application to the MOE to amend the Certificate.

This report responds to the MOE's requests for comments with respect to both the re-instatement and the amendment of the Certificate.

3. BACKGROUND

The MOE issued Certificate of Approval No. A230634 to Rail Cycle Incorporated on March 21, 1994 for the operation of a waste transfer and processing facility located at 10525 Keele Street in the City of Vaughan. Prior to issuing this Certificate, the MOE requested the Region to provide comments with respect to the company's application. Regional Council considered the application through the adoption of Clause 13 of Report No. 5 of the Transportation and Environmental Services Committee by Regional Council on March 10, 1994. As explained in that report, the Region did not object to the company's proposed operation, subject to the Region's standard considerations.

The facility was recently purchased by Waste Excellence Corporation. Accordingly, Rail Cycle Incorporated assigned the Certificate to Waste Excellence Corporation in December 2004.

4. ANALYSIS

4.1 Description of Location, Facility and Operations

Attachment 1 is a map showing the location of the facility. The Site has an area of 2.47 hectares (6.12 acres). There are neighbouring industrial businesses on the north, south and east sides of the site. A residential development is located to the west of the site on the opposite side of Keele Street.

The Certificate was based on the operation being carried out within an existing industrial-type building, which has an area of 1,125 square metres (12,100 square feet). There is an existing truck weigh scale outdoors, as well as an existing brick building that served as an office for the facility.

The operation was to receive non-hazardous solid waste and recyclable materials from industrial and commercial sources throughout southern Ontario.

The incoming truck loads of waste were to be weighed and then unloaded onto the floor of the processing building. The waste was then to be sorted by manual labour and by mechanical equipment, such as front-end loaders and backhoes. Materials such as wood, metal, cardboard, paper, plastic and roofing shingles were to be kept separate for recycling and the remaining waste was to be reloaded into tractor-trailers for transport to disposal facilities.

Some of the separated wood was to be processed into chips by a tub grinder. Other materials, such as cardboard and paper, were to be possibly mechanically baled for shipment to markets. These processing operations were to be carried out within the processing building.

The processed recyclable materials were to be stored outdoors in the rear part of the site. There were to be individual piles of separated wood, wood chips and shingles having a maximum height of 3 metres. The other types of recyclable materials were to be stored in covered roll-off containers, each having a nominal capacity of 52 cubic metres (40 cubic yards).

The original Certificate allowed the facility to receive up to 500 tonnes per day of solid waste and recyclable materials. The maximum amount of waste and processed recyclable materials stored at the site may not exceed 1,500 tonnes at any time. The Certificate also states that the amount of residual waste produced at the site shall be less than 200 tonnes per day.

4.2 Suspension of the Certificate of Approval

The MOE issued a notice dated October 25, 2004 to Rail Cycle Incorporated which suspended the Certificate of Approval. This action resulted from a fire that occurred at the site in October, 2004. The fire and subsequent site clean up is described in a letter from the MOE to the Region as follows:

“ On October 13, 2004, the Ministry received notice from the Vaughan Fire and Rescue Services that a fire had started at the Rail Cycle Inc./ 310 Waste Ltd. Site located at 10525 Keele Street in the City of Vaughan.

On October 25, 2004 the Ministry issued a Director’s order to a number of persons that had control of the property requiring those persons to remove and dispose of all excess waste at the site by December 13, 2004. The order was issued due to the persistent presence of more than 1,500 tonnes of waste on the site, the fire and the inability or failure of the site owners and/or operators to comply with the Certificate of Approval and previous orders. On that same date Provisional Certificate of Approval A230634 was suspended by the Director.

On November 23, 2004, a new fire broke out at the Site in a wood pile, a different location from the October 13, 2004 fire. As the Orderes were not in compliance with initial Director’s Order a second order was issued by the

Ministry that required the immediate removal of the excess waste. After issuance of this Order, the Director also gave notice under the provision of Section 147 of the EPA [Environmental Protection Act] of his intentions to cause things required by the second Director's Order to be carried out.

Between November 23, 2004 and December 17, 2004, the Director caused approximately 12,000 tonnes of waste to be removed from the Site by entering into direct contractual arrangements with Ontario waste management companies.

In December the Ministry was approached by Waste Excellence Corporation (WEC) with a proposal to clean up the Site more quickly and cost effectively than was being done by the Ministry. WEC appointed a receiver and manager of the property and experienced environmental waste managers were hired to carry out the waste removal. In order to provide an assurance that the clean up would be done properly, on December 16, 2004, the Ministry issued a Director's Consent Order to the receiver to immediately implement a Clean Up Plan which was included as an attachment to this Consent Order. The Consent Order required that the Waste be removed from the Site so that no more than the approved 1,500 tonnes of Waste remain on the Site.

In December 2004 WEC indicated to the Ministry that as assignee of the Certificate of Approval it was interested in purchasing, upgrading and operating the transfer facility. Accordingly, WEC and the Ministry's Director of Approvals exchanged correspondence on December 16 and 17, 2004 which sets out a process to be followed in deciding whether to re-instate the Certificate of Approval and the relevant factors in making that decision.

Between December 17, 2004 and January 26, 2005 the receiver removed approximately 35,000 tonnes in addition to the 12,000 tonnes that were previously removed by the Ministry. Since all action required to be carried out under the Consent Order was performed, the Ministry has acknowledged that the Consent Order has now expired in accordance with its terms and conditions.

All excess waste has been removed from the site as of January 26, 2005."

4.3 Request for Re-instatement of the Certificate of Approval

Waste Excellence Corporation has requested that the MOE begin to consider the Reinstatement of the Certificate of Approval. In support of this request, Waste Excellence Corporation committed to completing the following tasks as stated in the MOE's letter to the Region:

- “ 1. Provide evidence to demonstrate that before the site is able to reopen,
(a) The Site contains less than 1,500 tonnes of waste;

- (b) *The building will have been repaired so that future waste handling will occur indoors; and*
 - (c) *The building will have been equipped with hydrants and sprinklers in accordance with Fire Department Order No. 8917 dated October 27, 2004*
- 2. *Provide an up to date calculation of appropriate Financial Assurance for a 1,500 tonne operation;*
- 3. *Provide an up to date operations manual;*
- 4. *Provide a closure plan; and*
- 5. *Provide an improved inspection and reporting schedule to ensure that the site operates within the 1,500 tonne limit.”*

4.4 Request for Amendment of the Certificate of Approval

Waste Excellence Corporation also submitted an application to the MOE to amend the Certificate of Approval. The amendment would incorporate the following changes to the operation and management of the Site as stated in the MOE's letter to the Region:

- “
- 1. *The inclusion of an enhanced inspection and reporting plan. Independent third party inspections of the operations will be conducted to ensure that the requirements of the Provisional Certificate of Approval are being met. A third party consultant will conduct monthly inspections for the first year of operation with reports to be provided to the Ministry. The third party inspections may be reduced to quarterly inspections if compliance with the requirements of the Provisional Certificate of Approval is demonstrated.*
 - 2. *The use of an existing railway spur line located on the site to transport waste materials and residuals from the site using the Canadian Nation Railway (CNR) network.*
 - 3. *An increase in the amount of Financial Assurance for the operation of the site to \$135,000.*
 - 4. *Enhanced signage at the entrance and weigh scales at the site.*
 - 5. *An updated Operations and Management Plan, Contingency Plans, Closure Plan and Emergency Plan.*
 - 6. *A requirement to include a condition of compliance with Fire Department Order No. 8917, dated October 27, 2004.*
 - 7. *An updated site plan for the Site which shows possible future locations of berms that are designed to improve the visual and acoustic screening of the Site.”*

4.5 City of Vaughan's Position

The MOE has also requested the City of Vaughan to provide comments regarding the Waste Excellence Corporation approvals matters. The City has retained the law firm of Loopstra Nixon LLP to review the matters and provide comments directly to the MOE on behalf of the City.

Loopstra Nixon issued a document to the MOE under a cover letter dated April 12, 2005. This document provides the requested comments in a 30-page narrative. The document also contains 17 appendices which are referenced throughout the narrative.

The City's comments are summarized in a "Conclusion" section at the end of the 30-page document by Loopstra Nixon as follows:

- " The City remains opposed to reinstatement of the CofA at this time. There are numerous unresolved issues that support this position by the City including:*
- 1. the undisclosed relationship between WEC, Rail Cycle and Standard Mercantile;*
 - 2. the unresolved environmental issues;*
 - 3. the recent Site Plan Development Application that requires processing and may lead to conflict between the CofA and the final approved Site Plan;*
 - 4. the fact that no hearing has been held by an independent decision making body, such as the ERT [Environmental Review Tribunal] or a Joint Board;*
 - 5. the outstanding unpaid City lien in the amount of \$854,190.27;*
 - 6. the outstanding orders under the Fire Protection and Prevention Act, 1997;*
 - 7. the necessity to deal with reinstatement, amendment and municipal approvals concurrently, in order to avoid conflict; and*
 - 8. the public interest and the need for transparency.*

Even if the Ministry comes to the conclusion that reinstatement of the CofA ought to be granted, the Ministry ought not to proceed with reinstatement without:

- 1. substantial amendments to the CofA;*
- 2. final Site Plan Development approval pursuant to the Planning Act; and*
- 3. a hearing has been conducted by the ERT or the Joint Board to allow for an independent review of the entire process and to determine whether it is in the public interest to allow for the resumption of a waste disposal operation at this location and on what terms and conditions."*

4.6 Recommendations for a York Region Position

In commenting on approval applications, made under the *Environmental Protection Act*, for waste management facilities, Regional staff focus on the following key issues:

- The establishment or existence of a process to collect data to monitor diversion rates to assess the Region's progress toward diversion targets.
- The minimization of the risk of an accidental leak or spill.

Accordingly, standard conditions have been established to address these issues when commenting to the MOE and have been identified in the recommendations to this report.

This facility, if managed properly, would serve a useful role by diverting recyclable materials from disposal facilities. Therefore, it is recommended that the Region not object to the MOE re-instating and amending the Certificate of Approval, subject to the Region's standard conditions.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal implications associated with this report.

7. CONCLUSION

This report responds to the MOE's request for comments with respect to applications by Waste Excellence Corporation to re-instate and amend its Certificate of Approval with respect to the company's waste transfer and processing facility.

It is recommended that the Region not object to the MOE re-instating and amending the Certificate, subject to the Region's standard conditions as outlined in this report.

The Senior Management Group has reviewed this report.

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Chief Administrative Officer

April 27, 2005

Attachment (1)

JF/tp

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