



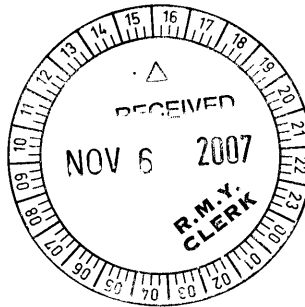
The Regional
Municipality
of Durham

Clerk's Department

605 ROSSLAND RD. E.
PO BOX 623
WHITBY ON L1N 6A3
CANADA
905-668-7711
1-800-372-1102
Fax: 905-668-9963
E-mail:
clerks@region.durham.on.ca
www.region.durham.on.ca

Pat M. Madill, A.M.C.T., CMM I
Regional Clerk

November 1, 2007



Mr. M. de Rond
Clerk
Town of Ajax
65 Harwood Avenue South
Ajax ON L1S 2H9

fol6

RE: REQUEST FROM THE TOWN OF AJAX FOR COMPENSATION FOR LEGAL AND CONSULTING FEES RELATED TO THE CLASS ENVIRONMENTAL ASSESSMENT FOR THE DUFFIN CREEK WATER POLLUTION CONTROL PLANT, IN THE CITY OF PICKERING (2007-W-109) (Our File: AOO)

Please be advised the Works Committee of Regional Council considered the above matter and at a meeting held on October 31, 2007 Council adopted the following recommendations of the Committee:

- "a) THAT the request from the Town of Ajax for compensation for legal and consulting fees be denied; and
- b) THAT a copy of Report No. 2007-W-109 of the Commissioner of Works be forwarded to the Regional Municipality of York, the Town of Ajax, and the Ministry of the Environment."

As directed, please find enclosed a copy of Report #2007-W-109 of the Commissioner of Works.

P.M. Madill, AMCT, CMM I
Regional Clerk

PMM/cb

Encl.

- c: Honourable J. Gerretsen, Minister of the Environment
D. Kelly, Clerk, Regional Municipality of York
C. Curtis, Commissioner of Works, Region of Durham





The Regional Municipality of Durham
To: The Works Committee
From: Commissioner of Works
Report: 2007-W-109
Date: October 23, 2007

SUBJECT:

Request from the Town of Ajax for Compensation for Legal and Consulting Fees Related to the Class Environmental Assessment for the Duffin Creek Water Pollution Control Plant, in the City of Pickering

RECOMMENDATIONS:

THAT Works Committee recommends to Regional Council that:

- a) The request from the Town of Ajax for compensation for legal and consulting fees be denied;
 - b) A copy of this report be forwarded to the Regional Municipality of York, Town of Ajax and the Ministry of Environment.
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REPORT:

1. BACKGROUND

The Duffin Creek Water Pollution Control Plant (WPCP) treats wastewater collected by the York-Durham Sewage System (YDSS), which services urban areas in the City of Pickering, Town of Ajax and Regional Municipality of York. The WPCP is located in the City of Pickering, and is co-owned by the Regional Municipalities of Durham and York (Regions).

In June 2004, the Regions initiated a Schedule 'C' Class Environmental Assessment (Class EA) to plan for additional process capacity at the Duffin Creek WPCP. This Class EA included an extensive Public Consultation Program over the sixteen (16) month period of June 2004 to September 2005. The many interested stakeholders that participated assisted in identifying and resolving all significant concerns directly related to the Duffin Creek WPCP.

In October 2005, the Town initiated active involvement in the Class EA by requesting clarification on whether the project would address a number of broad concerns that were of interest to the Town, to which the Regions promptly responded. Without further consultation, the Town engaged legal counsel who

subsequently acted on the Town's behalf to retain technical consultants to review the project documentation. Ongoing consultation between the Regions and the Town's consultants did not identify any significant need to revise the Regions' approach to addressing the Town's concerns, nor did they identify any additional valid concerns related to the Duffin Creek WPCP.

2. REQUEST FOR COMPENSATION

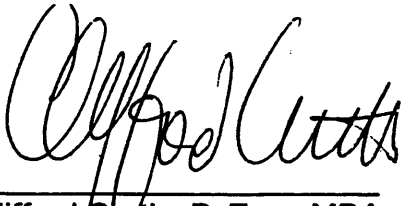
The Town of Ajax has requested compensation from the Regions for the legal and consulting fees incurred by the Town to review the documentation related to the Class EA. This request should be denied on the following basis:

- i) By carrying out an extensive Public Consultation Program (including the Town), the Regions fulfilled their obligation to educate interested stakeholders about this Class EA and facilitate meaningful input;
- ii) The Class EA process advocates consultation to resolve differences, and the Regions expressed a continued willingness to meet with the Town to try to mutually resolve the Town's concerns; however, prior to entering into any meaningful consultations with the Regions, the Town retained legal counsel to act on behalf of the Town;
- iii) The Minister of the Environment required that all technical studies prepared as part of this Class EA be independently peer reviewed by appropriate experts; therefore, the peer review by the technical consultants on behalf of the Town was a duplicative effort, not endorsed by the Regions or the Ministry of Environment, that did not raise any significant issues beyond those raised by the expert peer review team assembled for the Regions;
- iv) All concerns directly related to the proposed expansion of the Duffin Creek WPCP had been identified and resolved prior to the Town's involvement in the Class EA. Once the Town did express its concerns, the subsequent consultations between the Regions and the Town's consultants did not identify any significant need to revise the Regions' approach to addressing the Town's concerns, nor did they identify any additional valid concerns;
- v) The primary focus of the Town was frequency of health advisory postings at Rotary Park beach. The Regions initially advised the Town that the WPCP effluent is disinfected, and that the likely source of bacteria is waterfowl. However, the Town's consultants pursued this issue and the Regions ultimately used DNA testing to confirm that the source of bacteria at Rotary Park beach is not of human origin, conclusively identified geese as the primary source of bacteria, and also determined that the geese are primarily attracted by the expansive lawns along the Town of Ajax

waterfront upon which they graze. However, the Town's consultants then put forward a speculative hypothesis that suggested phosphorous discharges from the Duffin Creek WPCP were responsible for attracting the geese. Extensive scientific investigations failed to substantiate this speculative hypothesis and the results supported the Regions' initial conclusion that the existing WPCP is operating effectively.

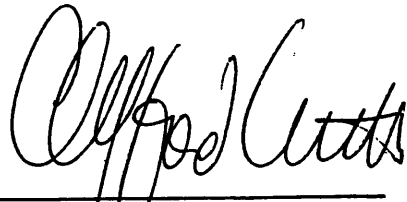
3. **CONCLUSION**

It is recommended that the request from the Town of Ajax for compensation for legal and consulting fees be denied.



Clifford Curtis, P. Eng., MBA,
Commissioner of Works

Recommended for Presentation to Committee



Clifford Curtis, P. Eng., MBA,
Commissioner of Works

EPS3/mp/dh