

Ministry
of the
Environment

Office of the Minister

135 St. Clair Ave. West
12th Floor
Toronto ON M4V 1P5
Tel (416) 314-6790
Fax (416) 314-6748

Ministère
de
l'Environnement

Bureau du ministre

135, avenue St. Clair ouest
12^e étage
Toronto ON M4V 1P5
Tél (416) 314-6790
Télééc (416) 314-6748



ENV1283MC-2008-1282

JUN 13 2008

Mr. Bill Fisch
Chairman and Chief Executive Officer
The Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Dear Mr. Fisch *Bill*

The Regional Municipality of York's (Region) Environmental Assessment (EA) for Transportation Improvement in the Markham Bypass Corridor South of Highway 407 is currently before me for a decision.

As you are aware, the ministry Review of the Ea, published on January 25, 2008, concluded that the Region prepared its EA in accordance with the requirements of the Environmental Assessment Act (EAA), and that the EA provides sufficient information to enable a decision to be made about whether or not approval should be given to proceed with the preferred undertaking.

The ministry Review also concluded that an outstanding jurisdictional issue remains that must be considered in making my decision about the preferred undertaking. The issue is the opposition by the City of Toronto (City) to the proposed continuous alignment of the Markham Bypass to Morningside Avenue. This issue is significant, and if it is not resolved, it is unlikely that the proposed undertaking can be successfully implemented as contemplated in the EA if approved under the EAA.

I understand that as recently as May 1, 2008, you and the Region's chief Administrative Officer provided information to senior ministry officials that indicated significant progress has been made in bringing the Region and City together to resolve this jurisdictional issue through the Office of the Provincial Development Facilitator. I also understand that the Region and the City have agreed in principle to a road alignment that differs from the preferred alternative described in the EA. This different alignment is a discontinuous alignment which was an alternative that ranked third out of nine in the EA that is currently before me for a decision. In the material shared with ministry staff, the Region requested approval of the EA, conditional on submission of an addendum or a separate class EA for the area of the alignment which has been in dispute.

...2



Mr. Bill Fisch
Page 2.

In respect of the request to approve the discontinuous alignment, I have reservations about issuing such an approval in the absence of an EA that reflects an understanding of the environmental effects associated with this alignment and with no public consultation about this specific alignment. I believe that it is in the public interest that the outstanding jurisdictional issue not be left to be resolved in a subsequent approval process.

In addition, an approval that would leave over 40 percent of the preferred undertaking to be determined in a subsequent approval process would be unprecedented. Moreover, structuring the approval in this nature was not identified in the EA and as a result the public and government review team have not had the opportunity to comment on it. Under these circumstances I have reservations entertaining approvals of the nature described above and question whether such approvals are consistent with the purpose of the EAA.

However, I appreciate that there are transportation needs that need to be addressed and That progress has been made towards resolving the outstanding dispute between the Region and the City. Under these circumstances, I am willing to postpone my decision On the current EA application to allow the City and Region to continue the ongoing self-directed mediation so that a formal resolution can be finalized. I understand that the Provincial Development Facilitator is amenable to continue assisting in the mediation process.

If the resolution to the jurisdictional issue results in any change to the preferred undertaking that is currently described in the EA, I would expect the Region to prepare an amendment to the EA that would include, but not be limited, to the following:

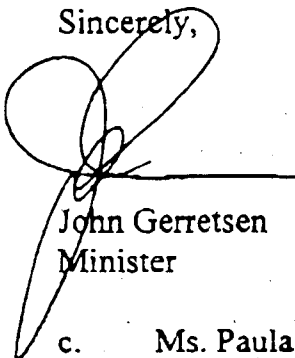
- A work plan which sets out time lines for the completion of all work related to any proposed changes;
- A comparative evaluation of each alternative in the EA;
- Any additional supporting information or studies required to assess the potential environmental effects of a different preferred undertaking, if the preferred undertaking were to change from what is currently before me;
- A public, Aboriginal, and government consultation plan and the results of any consultations;
- A public and ministry notification protocol related to any proposed changes; and,
- Compliance with the provisions of the approved Terms of Reference and EAA.

Mr. Bill Fisch
Page 3.

I would appreciate a response by Wednesday, July 2, 2008 indicating how the Region wishes to proceed. If I do not hear from you by that date, I will proceed to make a decision based on the EA I currently have before me.

If you have further questions on this, please contact Mr. Gavin Battarino, Project Officer, Environmental Assessment Project Coordination Section, Environmental Assessment and Approvals Branch at 416-314-8214.

Sincerely,



John Gerretsen
Minister

- c. Ms. Paula Dill, Office of the Provincial Development Facilitator
Mr. Bruce Macgregor, CAO, York Region
Mr. Bryan Tuckey, Commissioner of Planning, York Region
Ms. Kathleen Llewellyn-Thomas, Commissioner of Transportation and Works,
York Region
Mr. Paul May, Director, Infrastructure Planning, York Region
Mr. Paul Jankowski, General Manager Roads, York Region