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**WASTE TRANSFER AND PROCESSING FACILITY APPROVAL  
WASTE EXCELLENCE CORPORATION**

**The Solid Waste Management Committee recommends the following;**

- 1. The following communications be received:**
  - (a) Maple Springs Home Owners Group, February 7, 2006 to the Ministry of the Environment, regarding concerned citizens in the Maple area in response to the amendment to the Provisional Certificate of Approval for Waste Excellence Corporation.**
  - (b) Sue Perrella, Co-President, Vaughan C.A.R.E.S. and Donna Teggart, Co-President, Vaughan C.A.R.E.S., February 10, 2006 to the Ministry of the Environment, regarding Draft Certificate of Approval Waste Disposal Site.**
- 2. Regional Council support the City of Vaughan's position as set out in the attached Vaughan Council Extract dated January 30, 2006 and in section 4.6 of the following report, February 28, 2006, from the Commissioner of Transportation and Works.**
- 3. Regional Council 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, unless the following conditions are met:**
  - 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-0064-2005-009 and any existing and/or future amendments to it.**
  - 1.3 The conditions set out in Vaughan Council Extract dated January 30, 2006 and the following conditions set out in the letter from Loopstra Nixon, December 28, 2005 to the Ministry of the Environment referred**

**to in section 4.6 of this report have been resolved to the satisfaction of the City of Vaughan:**

- 1. The terms of the Amended Provisional Certificate of Approval be revised to incorporate the comments set out herein.**
- 2. Waste Excellence Corporation provide evidence to the Ministry that the City lien in the amount of \$854,190.27 plus accrued interest has been satisfied and discharged.**
- 3. Waste Excellence Corporation provide evidence that the City's orders issued pursuant to the Fire Protection and Prevention Act, 1997 have been complied with.**
- 4. Waste Excellence Corporation provide evidence that it has obtained site plan approval and that it has entered into a site plan agreement that is in conformity with the site plan on which the amended Provisional Certificate of Approval is based.**
- 4. 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.**
- 5. 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.**
- 6. The recommendations contained in the following report, February 28, 2006, from the Commissioner of Transportation and Works, be received.**

**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.

- 1.3 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-0064-2005-009 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. It also responds to a request by the Solid Waste Management Committee for Regional staff to report back on this matter as explained in the following section.

## **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 MOE suspended the Certificate of Approval on October 25, 2004 as explained in section 4.2 below.

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

Regional staff previously prepared a report regarding the application by Waste Excellence Corporation for the re-instatement and amendment of its Certificate. The above-referenced report was considered by the Solid Waste Management Committee at its meeting held on May 11, 2005. The report outlined the City of Vaughan's position and provided recommendations for a Regional position. The Committee recommended that:

- The report be deferred until such time as the MOE has dealt with the concerns of the City of Vaughan.
- Regional staff report back on any outstanding issues at that time.

The Committee's recommendation, referred to as Clause 3.4 in Report No. 4 of the Solid Waste Management Committee, was adopted by Regional Council on May 19, 2005.

## **4. ANALYSIS**

### **4.1 Description of Location, Facility and Operations**

Attachment 1 is a map showing the location of this 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 original Certificate of Approval 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 three metres. The other types of recyclable materials were to be stored in covered roll-off containers, each having a nominal capacity of 31 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 A230643 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 Orderees were not in compliance with the 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 re-instate 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 Provincial 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 show possible future locations of berms that are designed to improve the visual and acoustic screening of the Site”*

#### **4.5 Draft Certificate of Approval**

The MOE issued a letter to the Region dated June 23, 2005 which was copied to the City of Vaughan. The letter states the following:

*“The April 14, 2005 letter from the City of Vaughan included a request that this matter be referred for a hearing by the Environmental Review Tribunal. Please be advised that this request remains under consideration by the Director.*

*The letter also included a request that the Ministry not re-instate the certificate until such time that the municipality has issued the Site Plan Development Approval. As you are aware site plan development and planning is a municipal issue and is beyond the scope of this approval. The Ministry is satisfied that the operation of the site as a waste processing facility meets the zoning requirements of the City of Vaughan and as such will continue proceeding with our review of the application.”*

Furthermore, the MOE has prepared a draft Certificate of Approval which it has reviewed at respective meetings with the City of Vaughan and with Regional staff. The MOE posted the draft Certificate on its website on January 16, 2006 for a 30-day period (until February 15, 2006) in order to provide the public with an opportunity to provide comments. It is understood that the MOE will be in a position to make a decision on the re-instatement of the Certificate at the end of this period for receiving comments.

#### **4.6 City of Vaughan's Position**

The MOE has also requested the City of Vaughan to provide comments regarding the Waste Excellence Corporation approvals matters. As outlined in the previous report from Regional staff, 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.”*

In December 2005, Loopstra Nixon reviewed the draft Certificate of Approval that was recently prepared by the MOE. Accordingly, the firm issued a letter to the MOE dated December 28, 2005 that states the following:

*“Further to the recent meeting held between representatives of the City of Vaughan and the Ministry, we have now had an opportunity to review the draft amendment to Provisional Certificate of Approval No. A230634 by Waste Excellence Corporation.*

*The City continues to oppose reinstatement of the Certificate of Approval on the grounds set out in the submissions made on behalf of the City dated April 12, 2005 and supplementary submissions made by letter dated November 3, 2005.*

*Notwithstanding these submissions, should the Ministry decide to reinstate the CofA as per the proposed amended Provisional Certificate of Approval, the City submits that the reinstatement should be conditional upon the following:*

- 1. That the terms of the Amended Provisional Certificate of Approval be revised to incorporate the comments set out herein.*
- 2. That Waste Excellence Corporation provide evidence to the Ministry that the City lien in the amount of \$854,190.27 plus accrued interest has been satisfied and discharged.*
- 3. That Waste Excellence Corporation provide evidence that the City’s orders issued pursuant to the Fire Protection and Prevention Act, 1997 have been complied with.*
- 4. That Waste Excellence Corporation provide evidence that it has obtained site plan approval and that it has entered into a site plan agreement that is conformity with the site plan on which the amended Provisional Certificate of Approval is based.”*

#### **4.7 Recommendations for a York Region Position**

As stated in the previous section, the City of Vaughan still opposes the re-instatement of the Certificate of Approval and has documented its concerns in correspondence to the

MOE. The City has also stated its preferred conditions if the Certificate is re-instated. Notwithstanding the City's position, the Region must now take the opportunity to provide comments as it appears the MOE may soon re-instate the Certificate of Approval. Accordingly, it is the opinion of Regional staff that the Region's position should be identical to the one that was provided in the previous report that was deferred by the Solid Waste Management Committee on May 11, 2005, as outlined below.

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.
- The provision of adequate financial assurance for site clean up.

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 the recommendations of this report. However, as outlined in Section 4.6, the City of Vaughan has advised the MOE that:

- The City is opposed to the re-instatement of the Certificate of Approval to Waste Excellence Corporation.
- Should the MOE decide to re-instate the Certificate anyway, then it should be conditional upon several requirements of the City including payment of the City's lien for \$854,190.27 plus accrued interest.

## **7. CONCLUSION**

This report responds to the MOE's request for comments regarding the 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.

*(The attachment referred to in this clause is included with this report.)*