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DURHAM/YORK RESIDUAL WASTE ENVIRONMENTAL ASSESSMENT UPDATE

The Solid Waste Management Committee recommends the adoption of the recommendation contained in the following report, May 3, 2007, from the Commissioner of Transportation and Works:

1. RECOMMENDATION

It is recommended that this report be received for information.

2. PURPOSE

The purpose of this report is to provide an update on the Environmental Assessment process staff is following to site an energy from waste facility in partnership with the Regional Municipality of Durham and the potential impact of new Ontario Regulation 101/07.

3. BACKGROUND

On April 21, 2005, Regional Council adopted Clause 1 of Report No. 3 of the Solid Waste Management Committee to initiate a partnership with Durham to jointly undertake a Residual Waste Environmental Assessment Study.

On June 23, 2005, Regional Council adopted Report No. 4 of the Commissioner of Transportation and Works to enter into an agreement with Durham for the Durham-York Residual Waste Environmental Assessment Study.

The preferred technology for the study has been identified as thermal treatment of mixed solid waste and recovery of energy, followed by the recovery of materials from the ash or char. The next steps in the project are to:

- Identify the preferred site for the development of an energy from waste processing facility by late 2007.
- Complete the Environmental Assessment and Environmental Protection Act studies to be submitted to the Ministry of the Environment in 2008.
- Select the vendor to build and operate the proposed facility by June, 2008 (with work to commence subject to receipt of Ministry of the Environment and other approvals).
- Obtain approval from the Ministry of the Environment for the proposed project in spring, 2009.
- Once the necessary approvals received, put the facility into operation by late 2010/early 2011.

4. ANALYSIS AND OPTIONS

Durham and York are undertaking this project following the Individual Environmental Assessment process required for waste management projects. This is the most rigorous Environmental Assessment process a waste management project of this type can be subjected to. The Terms of Reference for the study were approved by the Minister of the Environment in March 2006.

4.1 New Waste Regulation

The Ministry of the Environment released Waste Regulation (101/07) and the accompanying *Guide to Environmental Assessment Requirements for Waste Management Projects* on March 26, 2007. The new regulation places waste projects into one of the three following process streams:

1. No requirement for Environmental Assessment Act approval.
2. Exemption from an Individual Environmental Assessment based on the completion of an Environmental Screening Process.
3. Individual Environmental Assessment.

Thermal processing facilities with an energy from waste component may proceed under the new Environmental Screening Process. The consulting team for the project and staff have reviewed this option to determine the implications of completing the Individual Environmental Assessment or switching to the potentially more streamlined Environmental Screening Process. During the review, the consulting team and staff spoke to Ministry of the Environment staff to better understand the potential implications to Durham and York of the new Regulation. The new Regulation permits projects underway using the Individual Environmental Assessment process to switch to the new Environmental Screening Process. The last day that this switch may occur is May 22, 2007.

4.2 The Environmental Screening Process and Applicability to the Durham-York Study

The potential benefits to Durham and York Regions of switching to the screening process are as follows:

- The Environmental Screening Process is a more streamlined process. There is the potential to reduce the overall approvals schedule compared to an Individual Environmental Assessment.

- The decision to elevate the project from an Environmental Screening Process to an Individual Environmental Assessment lies with the Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment.

The potential risks and challenges to Durham and York, associated with switching to the Environmental Screening Process are as follows:

- It could create a negative impact to the credibility and trust that has been established with the public and other stakeholders who could perceive the switch as a means to reduce their input into the process.

- Both processes have a relatively similar degree of uncertainty regarding the overall outcome of the project.

- There is no precedent for switching, so the process would require a learning curve for all parties involved, including the two Regions and the Ministry of the Environment.

- Because there is no precedent, the Ministry of the Environment could use this switch as a test case for setting a precedent, which could create potential delays to the overall timing of the project completion.

- The issues and opposition to the project will remain the same and will still have to be addressed with the public and environmental groups.

- The potential exists that at the end of the Environmental Screening Process, the project could still be 'bumped up' to an Individual Environmental Assessment which could result in an addition to the time that is required for approval.

- The entire screening process in the new Regulation must be followed. As such the engineering studies completed to date are applicable but the Ministry of the Environment has advised that new public consultation will be required.

The Terms of Reference for the Durham-York Environmental Assessment study include all aspects of the environmental screening process required in Regulation 101/07. In a simplistic way the new Regulation allows the proponent to start the approval process by choosing a technology and site and then do the detailed analysis on only that option, whereas the Individual Environmental Assessment process requires an evaluation of alternative options and Terms of Reference. As such the Regions' have exceeded the requirements of the new Regulation.

Based on the current status of the project, the level of effort completed to date, the potential for negative public response if a change occurred, the lack of precedent for switching, and the uncertainty of the potential benefits that could be realized by switching processes, the consulting team and staff strongly view continuing with the current individual environmental assessment process for the project as the better approach. Staff believe that the new environmental screening process may be a more beneficial option for an individual EA if the project was just starting and not two years into the study.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications related to this information report.

6. LOCAL MUNICIPAL IMPACT

By continuing with the current individual environmental assessment process, the local municipalities that are on the short list for the preferred site on which to develop the proposed facility, will continue to have an important and clearly defined role in the review of documents and active participation in the public process.

7. CONCLUSION

Based on discussions with Ministry of the Environment staff and the review of the risks and challenges associated with the switching of environmental assessment processes at this time, the consulting team and staff are continuing on with the current approvals process to complete this project.

For more information on this report contact Angelos Bacopoulos, Senior Project Manager of the Solid Waste Management Branch at 905-806-5544 in the Transportation and Works Department.

The Senior Management Group has reviewed this report.