

Jack Heath

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-----Original Message-----

From: Linda Gasser [mailto:lagasser@netrover.com]

Sent: June 25, 2008 3:34 PM

To: Cheryl Bandel

Cc: info@durhamyorkwaste.ca; clerks@region.durham.on.ca; council@clarington.net; Crome, David; gavin.battarino@ontario.ca; doris.dumais@ontario.ca; "agatha garcia-wright"@ontario.ca; Heath, Jack; barb.hodgins@townofajax.com

Subject: [June 24.08 Joint Waste Mgmt Group delegation comments

Hello Cheryl:

I have attached yesterday's delegation comments to Joint Waste Management Group to this to this email from the Project Team Coordinator, to which I refer in my delegation along with my Reg. Council delegation comments of May 7th.

Regards.

Linda Gasser

----- Original Message -----

Subject: Re: May 7.08 delegation comments to Reg. Council

Date: Wed, 21 May 2008 17:31:09 -0400 (EDT)

From: Durham York Residual Waste Study <info@durhamyorkwaste.ca>

Reply-To: info@durhamyorkwaste.ca

To: lagasser@netrover.com

CC: jim.mckay@jacqueswhitford.com, david.payne@jacqueswhitford.com, david.merriman@genivar.com

References: <482DA3CD.90009@netrover.com> <4847.99.231.152.232.1211169281.squirrel@wm2> <4832F2E0.7040101@netrover.com>

Good afternoon,

Thank you for your email. As requested, I have passed on your delegation comments to the appropriate people for review. We will provide you with a response shortly.

Sincerely,

Andrea Stoner
Project Coordinator
Durham York Residual Waste Study

> Ms. Stoner:

>

> Tks for your confirmation.

>

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> I would appreciate a confirmation my comments would actually be
> addressed by the Project Team - as we were led to believe they would be-
> as opposed to simply adding to your records collection.

> Please note that my delegation makes specific points and requests for
> information.

> When is public consultation around EFW emissions criteria/MACT etc
> leading to the RFP going to occur? Do recall human health impacts
> arising from same were identified by your team as being a priority.
> What consultation activities have been planned and on what topics.

> Do please pay particular attention to my specific requests in the second
> section - Consultation Record and Responding to public input.

> I look forward to your written response at your earliest convenience.

> Linda Gasser
> (905) 983-5249

> Durham York Residual Waste Study wrote:

>> Good evening,

>> Thank you for your email. We will keep a copy of your delegation
>> comments for our records.

>> Sincerely,

>> Andrea Stoner
>> Project Coordinator
>> Durham York Residual Waste Study

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07/07/2008

June 24, 2008 Delegation to Joint Waste Management Group

Re: Monitoring Program, Public Consultation, EA Next Steps

Good Afternoon Chairs Ferri and Trim, Committee members, ladies & gentlemen:

Wendy Bracken asked me to let you know she cannot appear today, as one of her children is sick.

I take this opportunity to express a personal frustration. At times, this committee operates in a manner that makes it difficult for the public to bring forward relevant concerns. Often complex reports are only released at the meeting itself thus precluding review, never mind considered comment. It also likely means that Committee members themselves are not properly prepared to participate in productive discussion and developing proper recommendations. We must guess at what decisions might be before you. We know there is a huge gap before your recommendations would get to Works Committee. How does this contribute to generating productive dialogue and fostering confidence in how you are managing this EA Study?

As you know, the public has consistently identified human health and environmental issues as a top concern. That costs for monitoring were not included in the business case raised a number of red flags as to accuracy of the cost estimates, and also whether or not Durham Council was willing and prepared to assess and include costs for a comprehensive monitoring program.

Notwithstanding the many platitudes and hollow promises from some staff and council members, when it came to Durham putting our money where their mouths supposedly were, Durham council dropped the ball again, and did not support Councillor Jordan's motion to include costs for monitoring in the business case. If a monitoring program wasn't developed and costs estimated, then Council should not have rushed to bring forward an incomplete business case. In my mind this may be evidence of a cavalier attitude towards the public in terms of how you manage our finances and how you address our health concerns. Instead, Council passed the buck and sent the monitoring issue back to this committee. Our Medical Officer of Health and Health and Social Services Committee must be involved in **and leading the development of a comprehensive monitoring program**. This matter is too important to be left to consultants whose priority is to secure EA approval for the Region.

An essential component of a proper monitoring program would be for baseline studies to begin now regardless of how you think the EA process might unfold. Pre-op monitoring must occur for a long enough period for it to provide sufficient information to allow for comparison of pre-op and operating conditions over the life of the facility and possibly for some time beyond that because of the long latency period for many illnesses. Since much of human contaminant uptake also occurs through consuming food, a proper food sampling protocol must be developed with expert agencies, not just DAAC.

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It seems to me that either incinerator proponents have been remarkably successful at avoiding undertaking baseline studies, or that governments have been incredibly lax and irresponsible by not requiring these for long enough periods to allow incinerator impacts to be identified and isolated. Recall at the January meeting, we learned that no baseline soil studies were done for the Brampton facility.

I wonder if perhaps this is a concerted effort to avoid accountability and/or liability, that would be detrimental to both the industry and any governments who support them. This also allows the myth that incinerators are safe to be perpetuated because there is limited data to the contrary. Surely if you were confident you were going to deliver “the best of the best” incinerators and that your assertions about safety would stand up to scrutiny, you would embrace baseline and comprehensive monitoring an opportunity to provide tangible evidence of that commitment to safety to the public.

If there are not already plans to do so, you must direct the consultants to consult broadly on the Monitoring Framework report. This must include public information sessions across the Region with the health experts to field questions, as well as thorough consultation with independent public health agencies at all levels of government. Monitoring programs must be developed with the assistance of independent experts whose mandate it is to protect public health and the environment. Public consultation did not occur for Emissions Criteria, though this too identified as a concern.

I would also urge you to be prepared to recommend that an independent and publicly accountable expert agency – perhaps a public health agency such as the Toronto Board of Health, peer review the Monitoring Framework and all related reports. In case anyone were thinking about it, it would not be appropriate to suggest that Dr. Lesbia Smith would undertake that peer review, as she is part of the Project Consultants team whose mandate is to secure EA approval for the proponents.

As far as the ongoing matter of Project Team responses to the public, last year I believe it was Chair Anderson who indicated that in addition to correspondence sent directly to the Project Team, that EFW related delegation comments received at Council or committees would be passed on to the Project Team to be dealt with. I believe Chair Anderson also appeared to direct the Project Team to respond within 72 hours.

Wendy Bracken reminded me this morning that she still has not received a response to some of her submissions, some of which are in your agenda. I receive the occasional confirmation from the Project Team that they will keep a copy of my comments for their records, though not for all committee or council delegations. I have requested an explanation of what they actually do with delegation comments besides add them to their paper collection, and I have received no response though on May 21st the Project Coordinator sent an email indicating my delegation comments would be passed to the appropriate people for review.

The public must be certain that all concerns and questions made available to the Project Team are being addressed and responded to as required. I will append my May 7th

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delegation to today's comments when I provide today's comments to the Clerk, as well as the May 21st email from the Project coordinator.

As far as next steps in the study process, Ecojustice has stated in their letter which is on today's agenda and I quote: *"we would expect that the Project Team will help to ensure that any instruments arising from the current EA process will be posted on the Environmental Bill of Rights Registry so that citizens of the regions will have truly been consulted, and included as part of the process to the greatest extent possible"*.

I ask that a notice be sent to everyone on the Project Team's Study mailing list announcing any related processes or instruments, so that interested parties would be aware of opportunities for further involvement.

In closing, I ask that you please direct the Project Team **today** to respond to the matters of public consultation around the monitoring program, **and to provide a clear statement on their website** that sets out how they respond to public concerns addressed to them directly, or via delegations to councils and committees, and how comments should be addressed for them to be considered part of the EA consultation record.

Thank you for considering my comments.

P.S. – it has not yet fully explained how Project Team would approach their commitment to examine "Cumulative Effects".

Linda Gasser

Encl.: May 7.08 Durham Council Delegation
May 21.08 email from D/Y Project Coordinator

Cc: D/Y EA Project Team
Durham Region Council
Clarington Council and Dir. Planning Dept.
Gavin Battarino, MoE Project Officer
Doris Dumais, MoE Dir. Approvals Program, EAAB
Agatha Garcia-Wright, MoE Director EAAB

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May 7, 2008. Delegation to Regional Council

Re: EFW Proposed Operational Limits, PIC re RFP

Good Morning Chair Anderson, Council Members, Ladies and Gentlemen:

Due to yet another Emissions report brought forward earlier that morning (WR-17) before the special Joint Health and Social Services/Works Committee meeting, I did not read out the first section of my comments below. Not having chance to read the report before the meeting I could not be certain how the most recent report could impact my comments based on the previous report (WR-16).

Instead I commented that the Region must develop a communications strategy to better communicate ongoing changes to proposed criteria and provide a rationale for same to all stakeholders. Without that, it could be impossible for both decision-makers and stakeholders to understand what is being proposed as information is being released in dribs and drabs with little notice by way of separate and in part contradictory reports and verbal presentations, with little supporting rationale.

I wish to address 3 matters this morning.

Proposed EFW Operating Criteria

By now you know you cannot capture ultra-fine particles i.e. nanoparticles with any pollution control technology, those being so fine they enter the blood stream where they accumulate over time with the potential to affect immune, endocrine and reproductive systems. You should know there are approximately 200 known chemicals of concern and pollutants identified in incinerator emissions, and who knows how many as yet unidentified compounds. You propose to attempt to control, sample and monitor maybe a dozen of those? Do you really think that's enough to protect the health of Durham residents? If you do, prove it.

With no secondary sorting proposed, we know what you are proposing will be a massive uncontrolled experiment that only the most callous and/or ill-informed decision-makers could possibly inflict on their citizens – especially when everyone in this room knows that could be implemented, and that there are more sustainable, flexible and cheaper option for dealing with our waste. Any avoidable risk is an unacceptable risk.

We now know from Report 2008-WR 16 that some pre-qualified vendors would be prevented from competing if Council met its commitments because they could not meet the EU Directive for Hydrogen Chloride –I do not recall that this information was provided to Joint Waste Management Group at their April 15th meeting. Were RFQ criteria set low because Durham Region had no real intention last spring of going much beyond A-7 guidelines? Or, was the RFQ process rushed with no clear idea what Council commitments were? Or is there a preferred bidder? Or is there some other explanation? Though we asked for RFQ bid details these have not been provided. On January 23rd when Council unanimously passed the motion to meet or exceed EU standards, did your

staff and Project Team already know then that some pre-qualified vendors couldn't make the cut? If they don't qualify, why are they still on the list?

We all know what is proposed already does not meet Council's commitments so what is Council's tactic here. Is close on some parameters good enough? Are you starting low as a negotiating position, and maybe, after much pleading by citizens and haggling amongst yourselves you'll maybe open up the purse strings and maybe control or sample a few more chemicals? Or will you hold your noses and take your chances?

You're probably confident Clarington's regional representatives won't give you any real trouble-they've toed the line so far. They are an anomaly. Durham residents who are becoming aware in greater numbers despite your efforts to avoid scrutiny are outraged at the magnitude of the folly you are contemplating.

Regional councillors have repeatedly said they wouldn't approve an incinerator if they did not believe it was safe. Not good enough. The onus is on you to **prove** that the incinerator would be safe and financially viable. If this project is so great, so safe, so technically sound, why are you not consulting? Table 7.1 of the EA ToR shows the RFP as an EA Project Milestone and the final emissions criteria will be incorporated into the RFP. Your project schedules form the basis of public expectations around your obligations to consult during the EA, but the Project website says no events are scheduled. Why not? Meet your obligations and have the courage to face your residents in public information sessions. Prove how sound you think this project is by sending the business case to municipal councils for review.

Who among you is really ready to explain to your residents that either **a)** you will not protect them at least to the same degree as residents of other countries are now and would be in the future, and that what we could be getting here is an outdated low-end dirty economy model that doesn't even meet 2000 EU standards or **b)** will you commit to spending whatever it takes to upgrade the facility over its operating life to be consistent with the highest possible operating criteria elsewhere over that period – none of this being quantifiable now. I would ask you to consider how you would explain your actions in 2010.

EA Consultation Record – Responding to Public Input

I recently received the first of three confirmations from the Project Team confirming receipt of my delegation comments. The confirmations simply indicate they would keep the correspondence for their records. Since I've probably made at least ten delegations to various committees and Councils over the last few months alone and sent copies to the consultants directly, I was curious why the confirmations now, but not earlier.

I recall Chair Anderson stating at various meetings last year that all correspondence and delegations received by Durham would be provided to the Project Team – from this we were led to believe the Project Team would respond to comments, as opposed to simply keeping these documents for their records. Clarington staff indicated they had provided

copies of all input they had received at one point last year to ensure those concerns would be addressed by the Project Team. Further, Chair Anderson directed the Project Team to respond within 72 hours to queries -does this commitment still hold?

I would like Chair Anderson and the Project Team to confirm immediately –is all stakeholder input sent directly to the Project Team or received at a Durham Committee or Council meeting, forwarded to the Project Team and considered EA input no matter when it is received? If this has not occurred to date then I suggest that the Region now collect ALL comments received since the inception of the EA study and refer these to the Project Team immediately, directing them to respond formally as we were led to believe would be the case. If the Region wishes to act as a hostile proponent and the Project Team does not intend to respond to input submitted outside certain specified consultation periods, consultation protocols detailing commitments over the course and balance of the study must be clearly posted on their website, and restated at all council or other presentations.

Site Liaison Committee

Prior to adopting Report 2008-WR-15 that includes the Site Liaison Committee Terms of Reference, I urge you to circulate it to the Clarington Council. The host community must have confidence that the Site Liaison Committee has a structure and membership that would permit local and site issues to be identified and addressed – otherwise, why bother? Further, the committee should not be dominated by members as suggested by Chair Anderson recently when on Talk Politics, i.e. individuals from across the Region who would be opposed to landfill – that is hardly the purpose of this committee.

The Report states the Committee Chair would be the Regional Chair and Mayor of Clarington. Either staff and politicians do not have confidence in the ability of citizens to provide leadership, or there may be a desire to improperly control the work of citizens, which would be inconsistent with the rationale for establishing this committee in the first place. When asked about this when recently on Talk Politics, Chair Anderson attempted to distance himself from the Chair appointment, indicating those were staff recommendations.

Some of you may be aware of the sustained public backlash against Mayor Abernethy's orchestrating his acclamation as chair of a Clarington Community Advisory Committee. Anything connecting Mayor Abernethy to the chair of any citizens' committee is certain to become a communications and operational nightmare. For better or for worse, those two gentlemen are the faces of this incinerator project. In case you think I'm making this stuff up I will append a recent editorial and article from Clarington This Week when sending my delegation to the Clerk.

Thank you for your attention.

Linda Gasser

Cc: Clarington Council/Planning Dept.
Durham/York EA Project Team
Gavin Battarino, MoE Project Officer

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