

Ministry of the Environment

Office of the Minister

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Mr. Roger Anderson
Regional Chair
The Regional Municipality of Durham
605 Rossland Road East
Whitby ON L1N 6A3

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

Dear Mr. Anderson and Mr. Fisch:

Thank you for submitting your amended environmental assessment (EA) for the Durham and York Residual Waste Study on November 27, 2009. The Ministry of the Environment (ministry) has completed its review and I wish to inform you that I have approved the undertaking as described in the EA, subject to a number of stringent conditions which are attached.

I understand that the Durham and York Residual Waste Study EA process was initiated to find a new long term, sustainable and local waste management solution, and includes the recovery of energy and materials. This ministry and other government agencies have extensively reviewed the EA documentation. The amended EA contains a sufficient explanation of the problem and opportunities that prompted the EA study and demonstrates why and how the thermal treatment waste management facility was selected. I am satisfied with the decision making process presented in the amended EA.

The Regions have evaluated a sufficient range of alternatives, using criteria that considered the *Environmental Assessment Act's* (EAA) broad definition of the

environment (e.g. including natural, socio-economic, and cultural environments), while taking into consideration the purpose of the undertaking (problem or opportunity being addressed). The amended EA assessed the potential environmental effects of the alternatives and the proposed undertaking, and provided sufficient mitigation and monitoring measures to ensure that the potential negative environmental effects will be appropriately managed and minimized.

I have also concluded that there was sufficient time and opportunities for interested members of the public, the government agencies and Aboriginal communities to comment during the EA process. The Regions' consultation methods are in accordance with the requirements of the approved Terms of Reference (ToR) and the EAA. The amended EA sets out the issues and concerns raised by the public and government reviewers and how they have been considered. I am satisfied that the amended EA documents the consultation methods utilized by the Regions to engage the public, the Government Review Team and Aboriginal communities during the EA process.

In making my decision, I considered the numerous comments and concerns submitted by the many interested members of the public, government agencies and Aboriginal communities during the EA process. The majority of the submissions expressed opposition to the undertaking on the basis of the potential impacts to human health and the natural environment from the operation of the facility. The ministry also received numerous requests that I refer my decision on the amended EA to the Environmental Review Tribunal (ERT) for a hearing on the basis that potential impacts to human health and the natural environment have not been adequately determined or evaluated.

The ministry has reviewed and assessed the amended EA for consistency with the requirements of the EAA, the approved ToR and ministry guidelines, practices and procedures. The ministry also reviewed the comments received from the public, local interest groups and non-governmental organizations and the responses provided by the Regions to those comments. I am satisfied that these concerns have been adequately addressed during the preparation of the EA and that any concerns that remain outstanding will be addressed through conditions of approval and other applicable ministry legislation and regulations. Based on the foregoing, I am of the opinion that a hearing before the ERT would be unnecessary.

Based on the ministry and government agency review of the amended EA, I am satisfied that the potential environmental effects of the approved undertaking can be managed through the commitments made in the amended EA, and conditions of EAA approval.

In approving the Durham and York Residual Waste Study Amended EA, I have placed

stringent conditions on the undertaking that will ensure protection of the environment and the health of the local community. For example, to help protect human health, I have imposed conditions requiring air emissions monitoring from the facility; imposed stringent operating requirements for air emissions; and, the development of monitoring and reporting plans for air, water and groundwater. I have also required the Regions to develop and implement noise and odour mitigation plans to ensure appropriate measures are taken to mitigate significant impacts, if they arise.

To ensure that the facility operates as described in the EA in a transparent way, I am also requiring daily inspections and record keeping by the Regions, and third party independent audits of the facility. All required reports about operations, inspections and audits will be made available to a public and government agency advisory committee that I am requiring the Regions to establish.

I am satisfied that all comments received have been considered and addressed as appropriate in the EA and through these conditions of approval.

The government of Ontario is committed to diverting as much waste as possible from final disposal. I am pleased that the Regions have implemented successful programs and policies to reduce and divert the amount of waste from final disposal. The EA identifies the current waste diversion practices, in each Region, and examines how diversion programs and policies could be improved. The EA documents that the Regions will be able to achieve a diversion rate of 60 percent by 2011, and through the introduction of a number of new diversion policies and practices (such as diversion programs for household hazardous wastes, electronics, construction and demolition materials, and the introduction of a mandatory recycling by-law), achieve a diversion rate of 70 percent by 2016. This has resulted in the Regions achieving some of the highest residential diversion rates in the province.

It is my expectation that the Regions will meet the diversion commitments identified in the EA and the thermal treatment facility will not detract from these commitments.

Thermal treatment technologies are an option that municipalities can consider as a means to manage residual waste remaining after efforts to reduce, reuse and recycle. The EA gives consideration to how diversion would impact the amount of waste that would ultimately be collected for management and disposal at the thermal treatment facility. I commend the Regions for incorporating the role of waste diversion as a key consideration in determining the appropriate smaller size and capacity of the thermal treatment facility by taking into account existing local and provincial waste diversion programs, and potential new or improved waste diversion programs. Conditions imposed regarding

Mr. Anderson and Mr. Fisch

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waste diversion and the types of waste to be accepted by the thermal treatment facility reconfirm my expectations of the Regions for continued waste diversion leadership. The construction of the thermal treatment waste management facility will provide sufficient waste disposal capacity, as well as energy and material recovery, for the next 35 years, while ensuring protection of public health and minimizing impacts to the natural environment. Without the undertaking, the Regions will not have sufficient long term and local waste disposal capacity.

Attached is a signed copy of the Notice of Approval to Proceed with the Undertaking. The Regional Municipality of Durham and the Regional Municipality of York must ensure that the undertaking is designed, constructed and operated in accordance with the requirements of the EA and the conditions outlined in the Notice of Approval. Failure to do so is an offence under the EAA and subject to prosecution.

Should you require further assistance please contact Ms. Agatha Garcia-Wright, Director, Environmental Assessment and Approvals Branch, at 416-314-7288 or by e-mail at agatha.garciawright@ontario.ca.

Sincerely,



John Wilkinson
Minister of the Environment

Attachment

c: Mr. C. Curtis, P.Eng., Commissioner of Works, Regional Municipality of Durham
Ms. E. Mahoney, P. Eng., Commissioner of Environmental Services, Regional Municipality of York