

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement,
de la Protection de la nature et des
Parcs

Office of the Minister

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357-2018-781

Mr. Barry Laverick, P. Eng.
Project Engineer, Environmental Services
Regional Municipality of Durham
605 Rossland Road East, Box 623
Whitby, ON L1N 6A3

Mr. Mukund Padhye, P. Eng., MBA
Senior Project Manager
The Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1

Dear Mr. Laverick and Mr. Padhye:

Between November 19, 2013 and February 17, 2014, the Ministry of the Environment, Conservation and Parks received 90 requests from the Town of Ajax, Ecojustice (on behalf of Pickering Ajax Citizens Together Protecting Our Waterfront, Lake Ontario Waterkeeper, and Environmental Defence), and members of the public that the Regional Municipality of Durham and the Regional Municipality of York (Regions) be required to prepare an Individual Environmental Assessment for the Class Environmental Assessment to Assess Outfall Capacity Limitations at the Duffin Creek Water Pollution Control Plant, located in the City of Pickering.

I am taking this opportunity to inform you that I have decided that an Individual Environmental Assessment is not required. This decision was made after giving careful consideration to the issues raised in the requests, the project documentation, the provisions of the Municipal Class Environmental Assessment, and other relevant matters required to be considered under subsection 16(4) of the Environmental Assessment Act. The reasons for my decision may be found in the attached letters to the requesters.

It is understood that, subsequent to the issuance of the environmental study report for public and agency review, the Regions made a number of commitments with respect to protective measures to address environmental impacts, and specifically to address concerns raised in the Part II Order requests. In accordance with the Municipal Class Environmental Assessment, any commitments made to affected agencies or members of the public must be fulfilled and implemented as part of the proposed project.

Despite my not requiring an Individual Environmental Assessment be prepared, in reviewing the requests I noted that there are concerns with respect to this project which do warrant additional scientific study and additional consultation to be undertaken. In order to ensure that the environment is protected, I am imposing conditions on the project that would ensure the environment is protected as the project proceeds:

1. General Requirements

- 1.1 The proponents shall implement the commitments made in the Phosphorus Reduction Action Plan Study, except as provided in these conditions or as provided in an environmental compliance approval.
- 1.2 The proponents shall provide the Director of the Environmental Assessment and Permissions Branch with annual updates in writing on the implementation of the commitments outlined in the Phosphorus Reduction Action Plan Study, until such time that the director indicates to the proponents in writing that further updates are not required.

2. Monthly Monitoring and Public Reporting

- 2.1 The proponents shall post on the project website, on a monthly basis, the average total phosphorus and soluble reactive phosphorus effluent concentrations for the Duffin Creek Water Pollution Control Plant.

3. Advisory Committee

- 3.1 The proponents shall establish and manage an advisory committee for the purposes of consultation on the implementation of the Phosphorus Reduction Action Plan Study.
- 3.2 Within one month of the date of the Minister's decision, the proponents shall invite representatives from the following list to participate on the advisory committee:
 - i. The Town of Ajax
 - ii. The City of Pickering
 - iii. Pickering Ajax Citizens Together Protecting Our Waterfront

- iv. Other local municipalities within Durham Region and York Region with an interest in the project
 - v. Local conservation authorities
- 3.3 The advisory committee shall include at least one representative from each of the Regional Municipality of York and the Regional Municipality of Durham.
- 3.4 The Ministry's Central Region, through the Regional Director's Office, shall be invited to attend all advisory committee meetings as an observer.
- 3.5 The first advisory committee meeting shall be held within three months of the date of the Minister's decision. Draft terms of reference for the advisory committee shall be circulated to the advisory committee for their input at this meeting.
- 3.6 A notice of the advisory committee meetings shall be posted on the project website two weeks prior to a meeting, and sent directly to all advisory committee members.
- 3.7 The proponents shall produce minutes for each of the advisory committee meetings within two weeks of each advisory committee meeting. The advisory committee minutes shall include, at a minimum:
 - i. A summary of information provided by the proponents at the meeting;
 - ii. All concerns raised or comments made by the members of the advisory committee;
 - iii. The proponents' response at the meeting to the concerns raised or comments made, if any; and
 - iv. Any follow-up or steps to be taken by the proponents or advisory committee members as a result of the meeting.
- 3.8 Within six months of the date of the Minister's decision, the proponents shall submit to the Director of the Ministry's Environmental Assessment and Permissions Branch a final terms of reference for the advisory committee. The final terms of reference shall include:
 - i. A description of the membership and structure of the advisory committee, including a list of all members;
 - ii. A description of the advisory committee's mandate; and
 - iii. The frequency of advisory committee meetings.
- 3.9 The proponents shall provide the following information to the advisory committee:
 - i. The monthly average total phosphorus and monthly average soluble reactive phosphorus effluent concentrations for the Duffin Creek Water Pollution Control Plant;

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- ii. An explanation for any exceedances of the monthly total phosphorus objective in the environmental compliance approval;
 - iii. A verbal or written report on any research undertaken and results with respect to water quality and Cladophora algae in the nearshore of Lake Ontario at the Ajax-Pickering waterfront; and
 - iv. Updates on the implementation of the Phosphorus Reduction Action Plan Study.
- 3.10 The proponents shall publish the minutes from the advisory committee meetings required by Condition 3.7 on the project website.
- 3.11 The proponents shall continue the advisory committee until the project has been in operation for three years or the parties invited pursuant to condition 3.2 to participate on the advisory committee no longer wish to participate on the advisory committee.

4. Conditions Reporting

- 4.1 The proponents will submit a written report to the Director, Environmental Assessment and Permissions Branch, on how it has fulfilled conditions 1 to 3.

With this decision having been made, the Regions may now proceed with the project, subject to the conditions I have imposed and any other permits or approvals required. The Regions must implement the project in the manner it was developed and designed, as set out in the environmental study report and inclusive of all mitigating measures and environmental and other provisions therein.

Lastly, I would like to ensure that the Regions understand that failure to comply with the act, the provisions of the Municipal Class Environmental Assessment, and the conditions of my decision, and failure to implement the project in the manner described in the environmental study report, are contraventions of the act and may result in prosecution under section 38 of the act. I am confident that the Regions recognize the importance and value of the act and will ensure that its requirements and those of the Municipal Class Environmental Assessment are satisfied.

Sincerely,



Jeff Yurek
Minister of the Environment, Conservation and Parks

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c. Requesters

Mr. John Presta, Director of Environmental Services, Durham Region

Ms. Erin Mahoney, Commissioner, Environmental Services, York Region

Ms. Susan Siopis, Commissioner of Works, Regional Municipality of Durham

Mr. Mike Rabeau, Director, Environmental Services, Regional Municipality of York