

Ministry
of the
Environment

Ministère
de
l'Environnement

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SEP 25 2006

Mr. Chado Brcic, Director
Water and Wastewater Services
Regional Municipality of Niagara
Public Works Department
3501 Schmon Parkway, PO Box 1042
Thorold ON L2V 4T7

Dear Mr. Brcic:

Between July 8 and September 2, 2005, I received requests from members of the public that the Regional Municipality of Niagara (Region) and the Township of Wainfleet (Township) be required to prepare an individual environmental assessment for the proposed Wainfleet Water and Wastewater Servicing Plan (Project), located in the Township of Wainfleet.

I am taking this opportunity to inform you that a decision has been made 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 Engineers Association Municipal Class Environmental Assessment* (Class EA), and other relevant matters required to be considered under subsection 16(4) of the *Environmental Assessment Act* (EAA). The reasons for my decision may be found in the attached letter to the requesters.

Despite my not requiring an individual environmental assessment be prepared, in reviewing the requests I noted that there are concerns with respect to the cost evaluation used to evaluate the alternatives, the social impact of the Project, effects to the natural environment, consultation with the public, and areas of archeological potential which do warrant further consideration.

Therefore, to ensure that the environment is protected, I am, pursuant to my authority under subsection 16(3) of the EAA, imposing the following conditions on the Project.

... 2



Mr. Chado Brcic

Page 2

Cost Evaluation and Sharing Plan

1. The Region and/or Township shall prepare a refined cost evaluation and sharing plan for the Project. The cost plan shall include a detailed cost estimate with the most up-to-date information available, various cost-sharing scenarios between the government, Region, Township, and individual property owners for the alternatives identified in the Wainfleet Water and Wastewater Servicing Plan Class Environmental Assessment Environmental Study Report (ESR) and private on-site systems, and contingency measures if funding grants are not secured. The cost-sharing scenarios shall clearly outline the property owners' financial obligations resulting from the Project. The plan shall be completed in advance of any construction related to the Project and provided for information purposes to the property owners.

Social Impact Assessment

2. The Region and/or Township shall prepare a social impact assessment that evaluates and documents in detail (in addition to what has already been completed in the ESR) the potential social impacts, both positive and negative, including financial impacts from the cost-sharing scenarios developed in Condition 1, that could result from the Project. The consideration of potential social impacts shall include a determination of whether any property owners will be caused long-term hardship as a result of the Project. The Region and Township shall consider mitigation measures to address any long-term hardship. The assessment shall be completed in advance of any construction related to the Project.

Natural Resources Impact Assessment

3. The Region and/or Township shall prepare as part of the Project's detailed design a natural resources impact assessment that builds upon the ecological investigations completed as part of the ESR. This will include the Environmental Monitoring Program committed to by the Region and Township in the ESR. The natural resources impact assessment will be developed in consultation with the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority and submitted to those agencies for review and comment for a minimum 30-day period. The assessment shall include a comprehensive evaluation of potential

Mr. Chado Brcic
Page 3

impacts to the natural resources and features along the preferred alignment and pumping station sties as refined during detailed design. The assessment will evaluate impacts during construction and any permanent impacts within the study area and identify the specific mitigation measures that will be implemented. The assessment shall be completed in advance of any construction related to the Project.

Archaeological Assessment

4. The Region and/or Township shall prepare a Stage 1 and, if required, a Stage 2 Archaeological Assessment of the preferred alternative alignment and locations of pumping stations and other associated infrastructure 30 days prior to the commencement of construction to determine whether the Project will impact areas of archaeological potential in accordance with the guidelines of the Ministry of Culture. If areas of archaeological potential are identified that will be affected by the Project, then the Region and/or Township shall carry out a field assessment by a licensed archaeologist to identify the presence of any intact archaeological sites.
5. The Region and/or Township shall ensure immediate contact with the office of the Regulatory and Operations Group of the Ministry of Culture if deeply buried archaeological remains are encountered during construction activities and land development.
6. The Region and/or Township shall ensure immediate contact with the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services if human remains are encountered during construction activities and land development.
7. The Region and/or Township shall provide the Six Nations of the Grand River First Nation and the Mississaugas of New Credit First Nation as well as all such potentially affected aboriginal communities as may be warranted by the findings of the Stage 1 and, if required, Stage 2 Archaeological Assessments with:
 - a) a copy of the Archaeological Assessment prepared under Condition 4 and the field assessment, if any, undertaken for the purpose of identifying an intact archaeological site; and
 - b) the notices, if any, provided under Conditions 5 and 6.

Mr. Chado Brcic

Page 4

Public Consultation

8. The Region and/or Township shall continue to consult the public through to completion of construction of the Project. The consultation shall include, at a minimum, one public open house to present the findings of draft copies of the additional studies required by Conditions 1 through 4, respond to public inquiries resulting from the studies, and seek public input on those studies.
9. The Region and/or Township shall issue newspaper notices on two occasions in at least one local newspaper having general circulation in the area of the Project to provide notification of the public open house required by Condition 8. The Region and/or Township shall also notify the Part II Order requesters (see attached list) about the open house in writing. The notices shall be posted and letters sent at least two weeks prior to the open house.
10. Following the open house, the Region and Township shall allow a 30-day comment period for the public to review the reports required by Conditions 1 through 4. The reports shall be made available in at least two public locations. At least one location should have extended business/evening hours.
11. At the end of the 30-day comment period the Region and/or Township shall review the public comments and incorporate them into the studies as necessary. The Region and/or Township shall prepare a binder with the final studies required by Conditions 1 through 4, and the geotechnical studies previously completed, to supplement the ESR.
12. The Region and/or Township shall submit a copy of the finalized studies required by Condition 11, with a covering letter explaining how Conditions 1 through 11 have been fulfilled, to the Director of the Ministry of the Environment's Environmental Assessment and Approvals Branch, within one month of the studies being finalized for inclusion in the Public Record for the Part II Order requests for this Project.

Mr. Chado Breic

Page 5

13. The Region and/or Township shall consult with the Environmental Assessment and Approvals Branch upon submission of the letter and studies required by Condition 12 for compliance with the conditions of this letter prior to construction of the Project.
14. As part of the ongoing public consultation, the Region and/or Township shall prepare a binder to include all studies as they are completed that have not been included since the ESR was published in July 2005. The binder of updated studies shall be made available to the public for a minimum of two years following the completion of construction.
15. If the Region and Township determine that modifications are required to be made to the Project in response to the reports and assessments required by Conditions 1 through 7, public consultation required by Condition 8, or for any other reason determined by the Region or Township, these modifications shall be reviewed in accordance with the provisions of the *Municipal Engineers Association Municipal Class Environmental Assessment* governing modifications to projects.

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

It is understood that, subsequent to the issuance of the ESR for public and agency review, the Region and Township 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 Class EA, any commitments made to affected agencies or members of the public must be fulfilled and implemented as part of the proposed Project.

Mr. Chado Brcic

Page 6

Lastly, I would like to ensure that the Region and Township understand that failure to comply with the *Environmental Assessment Act*, the provisions of the Class EA, and the conditions of my decision, and failure to implement the Project in the manner described in the ESR, are contraventions of the *Environmental Assessment Act* and may result in prosecution under section 38 of the Act. I am confident that Region and Township recognize the importance and value of the *Environmental Assessment Act* and will ensure that its requirements and those of the Class EA are satisfied.

Yours truly,



Laurel C. Broten

Minister of the Environment

c: Requesters

Mr. Michael Benner, Township Clerk/Planner, Township of Wainfleet

Mr. Karl Grueneis, EA & Approvals Planner, Earth Tech Canada Inc.

EA File No. EA03-03-03 Wainfleet Water and Wastewater Servicing