



YORK-SIMCOE NATURALISTS
PO Box 1464
Bradford, ON L3Z 2B7

April 27, 2007

Barbara Boffey
Durham/York Residual Waste Study Coordinator
605 Rossland Road East
Whitby, Ontario
L1N 6A3
info@durhamyorkwaste.ca

Re: York Durham Residual Waste Study

York-Simcoe Naturalists (YSN) is a local branch of Ontario Nature. The aims and objectives of the York-Simcoe Naturalists are: to further public awareness of the natural environment of the area; to identify and encourage the protection and preservation of environmentally significant habitat and species; to establish and maintain a permanent record of environmental change in the area; and to institute and advance a co-operative working relationship with other conservation-minded organizations. York-Simcoe Naturalists hereby submits comments on the Residual Waste Study.

Introduction

When York-Simcoe Naturalists first learned of the Durham-York residual waste study in June 2006, the project initially seemed harmless enough. York-Simcoe Naturalists has no entrenched position on the merits of incineration versus landfill.

However a careful examination of the residual waste study documents revealed a deeply flawed analysis approach, and numerous obvious attempts at hiding the process from the public and obfuscation of the potential environmental impacts of the project. It revealed a process that considered a narrow range of alternatives, using vague and indeterminate definitions such that no one could independently analyze them. It revealed weighting that emphasized cost and expediency and totally ignored the polling suggesting that environmental and public health criteria should be paramount.

York and Durham regions want us to believe that they are in the middle of a waste crisis, that can *only* be solved by placing a large EFW facility in our communities. York and Durham regions also want us to believe that once they have complied with air guidelines set out by the province, no further discussion on the environmental impacts of the facility is necessary. The proponents suggest to us as members of the public, that an open, transparent environmental assessment process is neither desirable, nor affordable in the context of the closing of the Michigan border in 2010. They also want us to believe that landfill is simply not a viable option without having to actually compare their proposal to it.

York-Simcoe naturalists believe that an open, transparent process to decide what to do with our waste is a fundamental core value of Ontario's environmental laws and policies. We also believe that an ecological approach is the *only* approach to deciding what to do with our waste.

YSN recognizes that the provincial government is in the process of streamlining waste approvals in Ontario. We question the merits of providing less disclosure and transparency to the public when deciding to invest large sums of money in long-term waste solutions. We also question the merits of using one set of air quality guidelines as the basis for the creation of a massive system of Ontario waste infrastructure that involves trucking garbage long distances through communities and creating waste sites with local impacts disproportionate the amount of waste generated in a single community. We question the merits of promoting incineration technologies without a provincial waste system that enforces diversion targets, or effectively manages hazardous waste and PVC materials.

We believe that Ontario's real waste crisis is the rapid removal of the environmental rights of the public to EPA and environmental assessment hearings. The use of a "global approach" by the ministry and municipalities ignores the local cumulative impacts of these facilities on real communities. Ontario's real waste crisis is embodied in an approach that entrenches disposal methods with no real commitment to reducing, reusing and recycling.

YSN also feels that there is still time for the province to fix the real waste crisis. The Ministry of Environment still has an opportunity to get the proponents to fix the approach to evaluating the environmental impacts of energy-from-waste facilities, redo badly needed public consultation, improve disclosure to the public, and reexamine landfill as an alternative.

Executive Summary:

1. The study does not examine all reasonable alternatives
2. The sites proposed by the proponents York and Durham Regions are unreasonable and do not conform to or respond to the public consultation process on site selection.

3. The public consultation process for this project is deeply flawed

York Simcoe Naturalists would like to express our ongoing dissatisfaction with the efforts made to evaluate alternatives to “thermal treatment”. The residual waste study has not been performed in accordance with the spirit and intent of the Ontario Environmental Assessment Act or the Terms of Reference set out by the Ministry of the Environment.

In particular the lack of effort made at evaluating the environmental impact of air deposition from the proposed facility, and the refusal to provide information on comparative stack emissions, the precise nature of the technologies considered, and the nature of any APC technology proposed for use and the unreasonable approach to public consultation used by the region make the study unacceptable.

Recommendations:

1. The MOE should hold an environmental assessment hearing under the Environmental assessment act to ensure accurate, complete information on the project and process is available to the public.
2. The MOE should send the proponent to revisit its site-selection process to conform to the extensive public consultation requirements set out in the terms of reference.
3. The MOE should revise the terms of reference to conform to the Environmental Assessment Act requirements to evaluate alternatives to thermal treatment, including landfill.
4. The MOE should force the proponent to actually confirm the nature of the “thermal treatment” technology it proposes to use.
5. The MOE should impose strict terms and conditions in the EPA process.

1) The study does not consider all reasonable alternatives

The full range of alternatives to “thermal treatment” were not considered in the study. I submit that s.6.1(2)(c) of the Ontario Environmental Assessment Act requires these issues to be fully considered in the assessment, the failure to do so should be fatal to the approval of this assessment. The terms of reference approved by MOE are not in accordanceWorse, even within the broad term “thermal treatment” no relevant comparative information is provided to the public about stack emissions and air deposition. They ask us to accept the term “thermal treatment” as the preferred technology, a term which as it is intended to mean all things to all people, ultimately means nothing to anyone.

The proponents representative have consistently refused to disclose the nature of environmental impacts from air deposition to the public

Even with the best available technology "thermal treatment" has the real potential impair air and water quality and have the potential to kill birds and fish. Despite this well-known reality of air-deposition into water, there is no air-deposition data in the study and no description of the impacts from air-deposition. Mercury emissions are now known to enter leaves and soil and contaminate small animals that birds feed on, adversely impacting bird species, this is not mentioned in the study and is not weighed in the consideration of alternatives. This issue was also not factored into the site-selection process.

At both of the two public consultations attended by YSN representatives in Newmarket in September 2006 and April 2006, Regional officials consistently refused to disclose to inquiring members of the public any information about the environmental impacts of air deposition.

Although representatives for the proponent and the consultants said that this would be considered later in the study, this is an inadequate response for two key reasons.

The appropriate phase for comparative consideration of the environmental impact of air deposition is at the "alternatives to" phase of the study. This is the phase where the public can consider the comparative environmental impacts of the proposal and its alternatives and make meaningful comments about it. The proposed process means that the environmental impacts of the proposed facility will only be disclosed at the end of the environmental assessment, when a contract has been signed with a builder/operator, and a site has been selected.

Further, the information gathered from a health impacts analysis is highly relevant to siting considerations and therefore cannot be postponed until *after* a site has been selected. In September 2006 we commented that the process proposed for site selection effectively shuts the public out of participating or being consulted at a key phase of the process. York and Durham regions refused to disclose the long-list of potential sites for public consideration. If the study shows that there will be impacts on fish habitat or agricultural lands for example, the site should include buffers and buffers should be a site selection criteria. This is not possible where the public already has a short list of sites, none of which would meet this criteria.

2) The sites on the short-list present difficult cumulative impacts issues.

York-Simcoe naturalists would like to focus on the East Gwillimbury site cumulative impacts issues. However we note that the sites in Clarington pose similar issues.

The site in East Gwillimbury has been contentious for many years. First, residents have had to deal with issues arising from the management of the Halton facility. Later,

residents were assured that the bales drive site would not be built on by the Region to any further extent.

The Bales drive site is located within the provincial greenbelt plan. The site sits in close proximity to a major area of forest buffering the black river. It is also surrounded by meadows and significant agricultural lands. The site is also on the cusp of the oak ridges moraine.

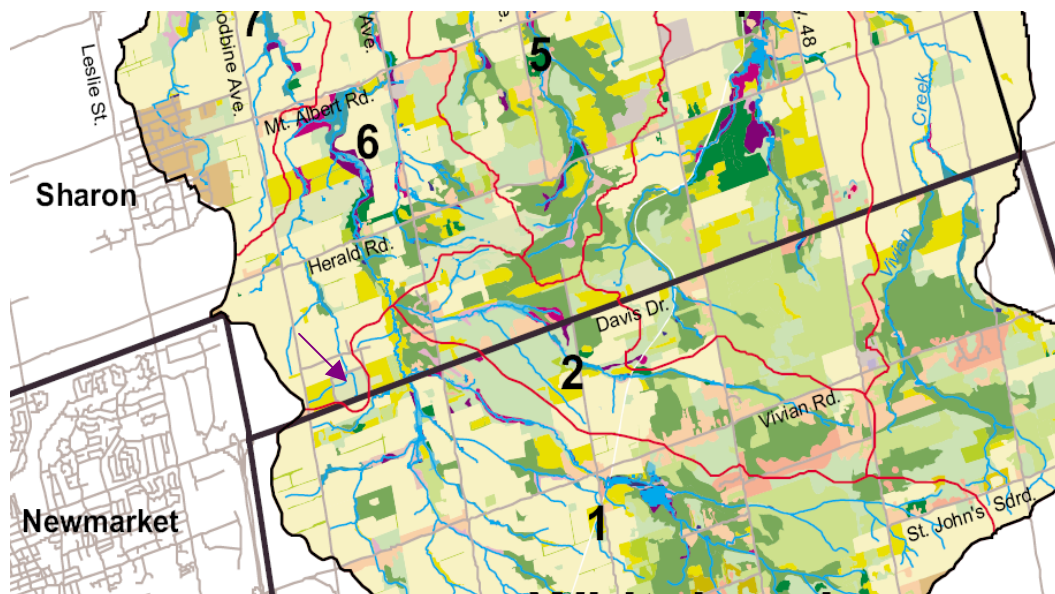
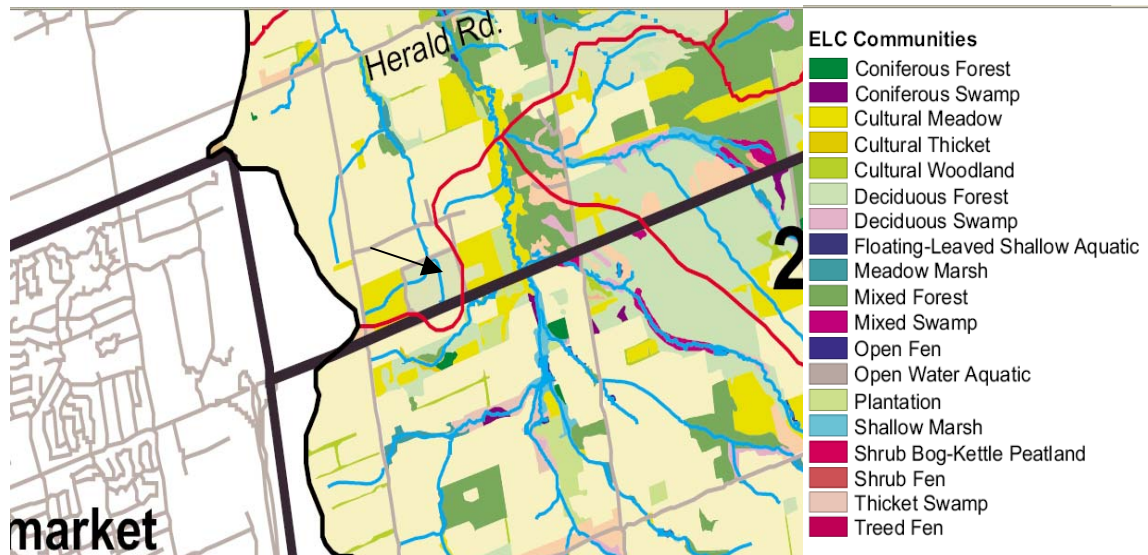
The Bales drive site has been used by York Region for a variety of waste management activities. Over the years, highway 404 has been extended and industrial areas on the other side of highway 404 have expanded. However the areas surrounding areas have maintained their rural character during this time. Provincial growth and greenbelt policies were later implemented which characterized the area of great value and part of the non-growth greenbelt areas.

The existing zoning for the site dates back to before the provincial government put weight and value on its growth planning and greenbelt policies. The Bales drive site stands out as a mistake from what should now be a bygone era of leapfrogging developments into key natural areas.

Further development on the site may seem like a discrete and logical move, but further investigation shows that further development of that site is part of a bigger plan in East Gwillimbury to convert greenbelt lands to “employment lands” along the 404.

The Lake Simcoe Region Conservation authority studies of the Black River tell a tale of serious environmental pressures on that river, including in 2001 the spill of almost a million litres of York Region sewage. In 2002, the LSRCA produced a state of the watershed report for the Black river.

A map of land use around the site tells a different story than the consultant's report, a story of meadows, wetlands, rivers and forests:



Groundwater from under the proposed EG site flows north along the Black river watershed towards wells located in Mt. Albert and Sharon and is located in a zone of

strong downward flow to a deep aquifer.¹ The stretches of the Black river around the site are home to coldwater and warmwater fish including trout.

The site chosen presents the problem of several important impacts that are not considered or dealt with in the study:

- Stormwater management: further warming and contamination of the nearby stretch of the Black River from the creation of stormwater ponds.
- Use of cooling water and the impacts of any permits to take water from ground or surface sources on the river.
- Existing mercury and heavy metal contamination in the Black river and the cumulative impact of adding more mercury and dioxins from air deposition on fish health and habitat. (Resulting Fisheries Act compliance issues).
- Surveys of watershed users to determine the frequency of fish-eating and local produce eating by local residents on the Black River and Holland River and a health impacts analysis.
- Impacts on birds from the decomposition of leaves contaminated by air pollution, and subsequent ingestion of worms by local bird populations.
- Impacts of climate change from greenhouse gas emissions from the facility.
- Impacts on regionally rare plant species in the Black and Holland River watersheds.
- Impacts on regionally rare birds and fish in the watersheds.
- Scope of site specific impacts analysis (air deposition typical pattern of several kilometer radius vs. study limited to the site area).
- Information justifying the approach to residential buffer zones.

The proponents descriptions of the sites chosen for the short-list, fail to address these issues or describe them in sufficient detail. The EA documents therefore do not form a sufficient basis for public comment on the appropriateness of the proposed short list of sites. The site is simply described as “industrial” in the EA documents. At public consultations, the proponent would only describe the potential impact as “certain contaminants will be emitted in very small amounts”. This cannot possibly form the basis for public comment and consultation.

YSN reiterates that we feel that absent cogent evidence to the contrary, a several kilometer radius buffer for bird and fish habitat, greenbelt and agricultural lands is necessary to preserve the integrity of the natural environment in York Region. As the proposed site in East Gwillimbury fails to accomplish this radius buffer, we ask that the Ministry not approve it as a site.

¹ <http://www.lsrca.on.ca/PDFs/bk7b.pdf>

3) The public consultation process for this EA is deeply flawed, and does not conform to the terms of reference for the Environmental Assessment or the spirit of the Environmental Assessment Act.

In March 2006 the MOE approved the terms of reference for the York Durham Residual Waste Study. The study did not involve a “proposal” for an incinerator for York Durham but purported to be a study of “residual waste” generally. Public notices were placed in newspapers very shortly before the public consultation sessions, with confusing titles and information in them. Public comment was solicited in relation to the terms of reference in late 2005, and again in April and May of 2006. As the records on the study website show, there was little effort at soliciting public comment, and meetings were poorly attended. The public meeting notices for the selection of an incinerator in spring 2006 made no mention of incineration and merely invited the public to come and learn about waste management in general, these were typically published only a few days prior to the meeting. York-Simcoe Naturalists were unaware of the study, or the public meetings until the summer of 2006. In some cases public consultation meetings took place only in Durham not in York, in other cases such as September 2006, they occurred during a major flood and few residents were able to attend. Other times members of the public asked for longer comment deadlines and were ignored (ex. May 2006, September 2006).

(i) Public consultation information was incomplete and misleading

(A) Site Selection process information was directly misleading

In September 2006 York Simcoe Naturalists commented on the site selection process. At the public consultations in Newmarket Region staff assured us that greenbelt sites would not be included on either the short or the long list of sites, but that they would be “screened out.” This claim was grossly misleading and undermines totally our participation in the consultations on the site selection process.

After making this claim, York Region went on to consider its own site, which it knew all along was part of the Provincial greenbelt plan. This site made the short list and this fact was not made known until March 2007. Therefore for approximately six months the Region knew it had changed its approach to site selection to include consideration of greenbelt sites contrary to what it said in public consultations. No attempt of any kind was made to inform the public that the Region had changed its site selection approach until after the site selection process for a short list was over. When the short list was released in March 2007 the Region offered no justification for changing its approach after the end of public consultations. In our view, such a major change to the site selection approach by the Region merited public consultations on the new approach. Not only were these not undertaken, their absence has never been explained.

(B) Air deposition information was obfuscated, omitted and consistently denied.

In September 2006 York Simcoe naturalists made it clear to the study proponents that simply not placing the facility in or over top of greenbelt and natural areas was not sufficient due to the impacts of local air deposition of mercury and dioxins. This comment has never been responded to with any explanation of why there is no buffer around the proposed sites to protect natural areas, greenbelt and agricultural lands and waterways. The environmental impact of local air deposition should have played a fundamental role in site-selection. The proponents ignored these comments in favour of a site-selection approach which did not factor this impact into its analysis.

In our view the failure of the proponents of this project to either amend the site selection process or respond to these comments with an explanation shows a tremendous flaw in the public consultation process used in this environmental assessment.

All of the proposed sites on York and Durham's shortlist fail to adequately account for the impacts on local waterways and agricultural areas. These sites should all have been screened out using initial criteria of environmental impact from air deposition due to their proximity to important fish and bird habitat. The East Gwillimbury site since it is on the greenbelt is not in accordance with the terms of reference for this assessment, it does not conform to the site selection criteria put forward for public comment in September 2006 and it is unreasonable due to the nature of the provincial greenbelt area surrounding the site. The sites chosen in Clarington and East Gwillimbury are all close to agricultural areas. In the case of East Gwillimbury, many residents get local foods from the Holland Marsh which is close enough to the proposed facility that there is the potential for foods from the Marsh to be contaminated.

Members of the community who may be denied the right to fish in their waterways and eat local foodstuffs due to the impacts of air deposition have a right to know that this is a potential outcome of site selection. The mere fact that such a facility may be in compliance with provincial guidelines is no answer to the loss of enjoyment that could be effected by the proposed site. The environmental assessment process is properly designed to raise these issues and put them forward for comment by the public.

A public consultation process which obfuscates these impacts, and refuses to disclose and discuss them in a public forum is unacceptable. We propose that the MOE force the proponent to redo these aspects of the public consultations to conform to the terms of reference approved by the MOE last year.

(C) The study title "residual waste" is misleading

The study does not actually deal with residual waste. "Residual waste" implies that it considers waste that cannot be recycled, diverted, composted, or reused. On the contrary the chosen alternative deals with waste that clearly can and should be recycled, diverted, composted, or reused. York Region for example has estimated that it could divert 85% of

its waste, however the proposed incinerator plans to burn as much as 60% of the waste generated in York and Durham regions. The study title also seeks to disguise the environmental assessment process, rather than describing the project as a mass burn incinerator, or landfill study – the study uses a title that does not speak to any hint of a planned disposal method. It is clear from the study that the Region was committed to mass burn early in the process.

Conclusion

The failure to consider the full range of environmental impacts and a reasonable, clear consideration of alternatives renders the study incomplete and therefore, the study does not establish that the environmental impacts of the proposal for an incinerator are acceptable compared to other options. The citizens of York and Durham regions deserve to know what they are trading off and what their options are. This EA denies them that right, by failing to genuinely consider all reasonable alternatives and by failing to adequately explore the environmental impact of the proposal and alternatives. The proposed site-selection process only exacerbates this important problem by denying opportunity for public comment at the long list site selection phase and at the phase where the proponent considers further alternatives including the nature of the APC technology.

I would like to object to the truncated comment period on the site selection process, with the proponent giving a presentation to council in only a week from the public information session.

I recommend that the Ministry of Environment reject this Environmental Assessment unless it is radically improved.

Reccommendations:

6. The MOE should hold an environmental assessment hearing under the Environmental assessment act to ensure accurate, complete information on the project and process is available to the public.
7. The MOE should send the proponent to revisit its site-selection process to conform to the extensive public consultation requirements set out in the terms of reference.
8. The MOE should revise the terms of reference to conform to the Environmental Assessment Act requirements to evaluate alternatives to thermal treatment, including landfill.
9. The MOE should force the proponent to actually confirm the nature of the “thermal treatment” technology it proposes to use.
10. The MOE should impose strict terms and conditions in the EPA process.

Submitted by,

Laura Bowman
Public Consultation Coordinator
York-Simcoe Naturalists
April 27, 2006

Cc: Ed Candolini, Communities First
Hon. Minister of the Environment Laurel Broten
Director, Environmental Assessment and Approvals Branch
Environmental Commissioner of Ontario
Serena Willoughby, York Region Newspaper Group.