

# DurhamCLEAR submission re IncineratorEA

**DurhamCLEAR**

Durham Citizens Lobby for Environmental Awareness & Responsibility Inc

3452 Courtice Rd., Courtice, ON L1E 2L6

**DurhamCLEAR**@gmail.com

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Ms. Agatha Garcia-Wright, Director  
Environmental Assessment and Approvals Branch  
Ontario Ministry of the Environment

2 St. Clair Avenue West, Floor 12-A  
Toronto, Ont. M4V 1L5  
c/o: Gavin.Battarino@ontario.ca

## **Re: Durham-York Incinerator (Residual Waste) Environmental Assessment**

Dear Ms Garcia-Wright,

*DurhamCLEAR* is a new broad based environmental organization in Durham Region. Many of our members have been involved in the fight to stop the incinerator over the last few years, and this submission is a reflection of their frustration.

We call upon the Minister to reject the EA on the numerous grounds laid out below.

Failing outright rejection, we would urge the Minister to refer the entire EA to the Environmental Review Tribunal at which the many issues can be dealt with in a public forum *for the very first time*.

Incineration was banned in the early 90s by the government of the day. It was the right decision at the time and the reasons for that ban are as true today as they were then.

Considering that this is the first incinerator built in Ontario in over 20 years, it bears far closer scrutiny than the whitewash before you that passes for an EA.

Incineration is fundamentally at odds with the Ministry's shift towards Extended Producer Responsibility. While producers are going to want to remove their end-of-life products from the waste stream in order to maximize resource and revenue recovery, Durham Region is going to want to burn them.

In our view, the central question under the EA Act is: have the Regions of York and Durham satisfactorily proven that the proposed incinerator will provide for the protection, conservation and wise management of the environment?

On the available evidence, the answer to this question must be a clear and resounding “NO”.

The Ministry Review has failed to identify a number of fundamental problems with the Regions’ EA documentation, including:

### CONSULTATION

- that the Regions did not adequately inform, consult and respond to citizens’ and peer reviewers’ concerns on air quality issues and the Regions failed to respond to the actual findings of their own ambient monitoring;

that the public consultation program was neither sufficient, meaningful nor effective;  
that the proponents failed to respond to public and expert reviewer concerns, and selected Courtice 01 as the preferred site without first addressing the fundamental deficiencies identified.

### ToR & PROCESS

- that the EA study does not comply with the approved EA Terms of Reference (ToR) and fails to adequately address key issues, requirements and commitments within the EA ToR;

that the deviation from the approved EA ToR to separate technology selection from site selection prevented adequate and proper consideration of site specific air quality issues in the Site Evaluation stage. The decision to deviate from the ToR was made without any public input nor did MOE publicly explain their opinion on this matter;

that the proponents failed to strike an advisory committee at the inception of the EA process;

that the EA study fails to adequately consider health and environmental impacts of long term ash management, transport and ultimate disposal. Furthermore, the current proposal exposes the proponents to uncertainties and risks associated with cross-border shipments of waste;

that human health impacts were not properly addressed and evaluated at the ‘Alternatives to’ phase;

that the qualitative weighting system determined by the Regions’ consultants and used in the ‘Alternatives to’ and the site selection process resulted in an assessment that did not adequately reflect the identification of air quality/public health concerns as a top public priority;

that air quality considerations were not adequately weighted or represented in the Step 7 Site Selection report; the Site Selection report was severely criticized by citizens and by expert peer reviewers retained by the Municipality of Clarington.

### NEED/PURPOSE OF THE UNDERTAKING

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When addressing the purpose and rationale for the undertaking, the proponents failed to show there is a demonstrable need for this undertaking, or that the incineration proposal is in any way environmentally superior to alternatives. This is a critical deficiency in the EA that should have been flagged in the Ministry Review.

### EA STUDY CONCLUSIONS NOT SUPPORTED BY DATA

The conclusions of the EA study and the Ministry Review do not fairly and accurately represent key findings of the EA study. Numerous conclusions in the EA regarding potential adverse effects to human health and the environment are not technically sound, scientifically defensible or properly supported by credible evidence.

The proponents failed to adequately recognize and describe existing baseline environmental conditions.

The proponents and the Ministry failed to appropriately consider the already compromised Courtice airshed (e.g. PM<sub>2.5</sub>, NO<sub>2</sub>, ozone) in the EA study and in the Ministry Review conclusions, and how the addition burden would impact human health and the natural environment.

The data gathering, modeling and analysis within the EA study is generally incomplete and inadequate for the purposes of identifying and evaluating the environmental impacts of the undertaking and the alternative methods of carrying out the undertaking.

The decision-making process reflected within the EA is not logical, traceable or replicable, and many key assumptions made by the proponents are unreasonable or unverified  
The EA study fails to accurately consider the effects on climate change of incineration.

The EA study fails to consider the management of ash residues.

Claims in the EA study of electricity production are exaggerated and would result in higher emissions of CO<sub>2</sub> than any existing generation technology on the Ontario grid. Incineration displaces baseload (nuclear, hydro) at the low point of the diurnal cycle.

### EXCESSIVE FINANCIAL COSTS

Actual waste volumes for the planning horizon will not be sufficient to justify the extraordinary capital and operating cost of incinerator unless current diversion initiatives are frozen at near current levels for the next 25 years.

Durham Region Council, the decision making body for the main proponent, has consciously decided that it will not review the long term contract with the preferred vendor prior to execution. This clearly indicates a lack of fiscal due diligence and appropriate oversight. This will expose Durham residents to unnecessary financial risks.

Fundamental flaws in the 2008 business case were not rectified and therefore negate claims of economic benefits in the EA study.

### MITIGATION & MONITORING

The EA study fails to specify an appropriate environmental monitoring program to verify the accuracy of the EA study assumptions and predictions, and to ensure compliance with EA commitments and other regulatory requirements.

The EA fails to describe sufficient mitigation measures that would be reasonable, feasible and effective in protecting the environment and public health from the impacts of the proposed incinerator;

### CONCLUSIONS

Given the fundamental nature of the foregoing deficiencies, this is not a case where EA Act terms and conditions should be used to remedy the fundamental inadequacies of the EA study, or to resolve the unacceptability of the undertaking.

Similarly, because of the deficient EA, it would be unacceptable to grant a conditional EA Act approval that purports to defer critical technical/design and other details to other statutory regimes (i.e. Environmental Protection Act), which appears to be what the Ministry is proposing in their Review.

In summary, the proposed undertaking is contrary to the purpose of the EA Act and inconsistent with provincial goals and objectives regarding environmental protection, resource conservation and public health and safety.

Therefore, the Minister must refuse to grant approval to proceed with the undertaking, or, in the alternative, the Minister should refer the entire EA application to the ERT for a public hearing and decision, particularly in light of the numerous unresolved issues and concerns identified to date.

Sincerely,

Doug Anderson  
President, *Durham*CLEAR