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The Regional Municipality of Durham Report

To: Committee of the Whole
From: Commissioner of Works
Report: #2021-COW-28
Date: October 13, 2021

Subject:

Status of the Pending Provincial Position on the Upper York Sewage Solutions Environmental Assessment

Recommendations:

That Committee of the Whole recommends to Regional Council:

- A) That the Regional Municipality of Durham confirms its support for the preferred alternative as documented in the Upper York Sewage Solutions Environmental Assessment which includes an advanced treatment system in the Lake Simcoe watershed within the Regional Municipality of York; and,
 - B) That a copy of this report be provided to the City of Pickering, Town of Ajax, the Ajax and Pickering Board of Trade, the Mississaugas of Scugog Island First Nation and all the Members of Provincial Parliament within Durham.
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Report:

1. Purpose

- 1.1 The purpose of this report is to inform Regional Council of the status of the pending provincial decision on the Upper York Sewage Solutions Environmental Assessment.

2. Background

- 2.1 On October 5, 2021, the Regional Chair received a letter from the Minister of the Environment, Conservation and Parks regarding the Upper York Sewage Solutions Environmental Assessment (Attachment #1).
- 2.2 The Province plans to enact the York Region Wastewater Act 2021 which will effectively pause the Environmental Assessment (EA) for the Upper York Sewage Solutions.
- 2.3 The Province will establish an Advisory Panel of experts to examine the alternatives and documentation related to the Upper York Sewage Solutions (UYSS) EA. The province has noted that more information from technical and other experts is needed to better understand the changing environmental, social, and financial implications of the proposed servicing solution.

3. Letter of Response

- 3.1 A draft letter of response is attached reiterating the Regional Municipality of Durham's (Durham) position on the UYSS EA (Attachment #2).
- 3.2 The response highlights the fact that the Regional Municipality of York (York) has invested substantial resources to conduct a thorough Individual Environmental Assessment including the development of an innovative wastewater solution to service the Upper York service area.
- 3.3 The letter of response notes that no studies, environmental or otherwise have been done to support a Lake Ontario solution.
- 3.4 The letter of response also notes that it is important that broad consultation be conducted with Durham stakeholders and that the Advisory Panel be transparent in their review of this project file.

4. Financial Implications

- 4.1 The UYSS EA does not require any financial commitment by Durham except for senior staff resources to attend meetings, review documentation and advocate Durham's position.

5. Previous Reports

- 5.1 Report #2020-W-50 Pending Provincial Decision on Upper York Sewage Solutions Environmental Assessment was presented to Regional Council on November 25, 2020.

6. Relationship to Strategic Plan

- 6.1 This report aligns with/addresses goals and objectives in the Durham Region Strategic Plan related to Environmental Sustainability.

7. Conclusion and Recommendation

- 7.1 The Regional Municipality of Durham's position supports the preferred solution within the Individual Environmental Assessment for an innovative wastewater treatment facility located within the Regional Municipality of York to service planned growth within the Lake Simcoe watershed.
- 7.2 Regional Municipality of Durham staff will continue to participate in future consultation related to the Advisory Panel and review future documentation related to the province's examination of the Upper York Sewage Solutions undertaking.
- 7.3 This report has been reviewed by the Legal Services Division of the Corporate Services Department.
- 7.4 For additional information, contact John Presta, Director, Environmental Services, at 905-668-7711 extension 3520.

8. Attachment

Attachment #1: Letter from the Minister of the Environment, Conservation and Parks regarding the Upper York Sewage Solutions Environmental Assessment received by the Regional Chair on October 5, 2021.

Attachment #2: Draft Letter of Response to the Minister of the Environment, Conservation and Parks regarding Upper York Sewage Solutions, October 13, 2021.

Respectfully submitted,

Original signed by:

Susan Siopis, P.Eng.
Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

Elaine C. Baxter-Trahair
Chief Administrative Officer

Ministry of the Environment,
Conservation and Parks

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



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357-2021-3270

October 5, 2021

John Henry
Chair and Chief Executive Officer
Regional Municipality of Durham
Email: john.henry@durham.ca

Dear John Henry:

I trust this letter finds you well. I am writing to you today to advise you that today our government will introduce legislation that, if enacted, would pause the Upper York Sewage Solutions environmental assessment application. While the regulatory process is paused, the government will establish an advisory panel (the "Advisory Panel") to provide expert and up to date advice on options to address wastewater servicing capacity needs for the upper areas of York Region. Bill 5, *the York Region Wastewater Act, 2021*, is substantially the same as former Bill 306, which received First Reading June 2021 but died on the Order Paper when the Ontario Legislature was prorogued on September 3, 2021.

While we recognize the need to improve infrastructure in the rapidly growing region, almost a decade has passed since the environmental assessment application for this project was submitted, and more information from technical and other experts is needed to better understand the changing environmental, social and financial implications of this proposal.

It is expected that the membership of the Advisory Panel will be finalized in the coming weeks and will include persons who are expert in a variety of areas, including land-use planning and wastewater infrastructure. The Advisory Panel will provide objective advice to the government on:

- The need and timing for additional sewage servicing capacity to accommodate forecasted population and development growth in the Upper York wastewater service area.
- Alternatives to the Upper York Sewage Solutions Undertaking, including alternatives that would provide additional sewage capacity necessary to accommodate future population and development growth in both the Regional Municipality of York and the Regional Municipality of Durham.
- The costs of developing and implementing the Upper York Sewage Solutions Undertaking and any alternatives.
- The sustainability and efficiency of the Upper York Sewage Solutions Undertaking and any alternatives, including consideration of the use and optimization of existing wastewater services and the protection of human health and the environment.
- And the feasibility and financial viability of the Upper York Sewage Solutions Undertaking and any alternatives.

John Henry
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In developing its advice, the Advisory Panel will seek your input and engage with First Nations and other key stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "David Piccini". The signature is stylized with a large, looped "D" and "P".

David Piccini
Minister of the Environment, Conservation and Parks

Sent Via Email

October 13, 2021



The Honourable David Piccini
Minister of the Environment, Conservation and Parks
5th floor, 777 Bay St,
Toronto, ON M7A 2J3
david.piccini@pc.ola.org

Dear Minister

RE: Upper York Sewage Solutions (UYSS)

**The Regional
Municipality of
Durham**

Office of the Regional
Chair

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John Henry
Regional Chair and CEO

On behalf of the Region of Durham, I am writing to express our deep concern regarding the Province's recent action to pause the Upper York Sewage Solutions Environmental Assessment.

We have long supported the preferred servicing alternative, which includes an advanced treatment system in the Lake Simcoe watershed within the Region of York, as the best alternative to service the area.

Prior to the introduction of the York Region Wastewater Act, 2021 we were engaged in discussions initiated by the Province on a provincially preferred Lake Ontario alternative involving conveyance to the south with treatment at the Duffin Creek Water Pollution Control Plant (WPCP).

In our view, pausing the Environmental Assessment (EA) and considering a Lake Ontario option is irresponsible for many reasons.

A decade of study and investment is being ignored

York Region has invested in a decade of study and planning under the process set out in the Province's Environmental Assessment Act, at a cost exceeding \$100M to date.

The proposed project has been planned based on an Individual EA including a provincially approved Terms of Reference. Substantial time and resources have been invested to develop the preferred solution for proposed growth within the Lake Simcoe watershed.

The Upper York Sewage Solutions EA conducted in-depth studies, a year-long technology demonstration project and significant consultation with Indigenous Peoples, stakeholders, residents, community groups, and regulating agencies to develop a Lake Simcoe-based solution that was feasible and compliant with the Lake Simcoe Protection Plan as a replacement for the existing Holland Landing sewage lagoons.

The Province should be accountable for the potential waste of funds and resources of up to \$100M that could have been directed to other environmental servicing projects.

The decision reverses previous Provincial direction

In 2010, the Minister of the Environment prescribed a condition to its approval of the Terms of Reference for the UYSS EA which included, “Innovative Wastewater Treatment Technologies (Innovative Alternative) such as development and use of a wastewater purification system and water recycling facilities to be located in The Regional Municipality of York”.

Prior to this recommendation by the Minister, a Lake Ontario option that would connect to the existing York-Durham Sewage System and conveyed to the Duffin Creek WPCP was considered. It was not the preferred option compared to the innovative alternative with a Water Reclamation Plant discharging to Lake Simcoe.

To date communications with the Province has failed to indicate the technical, financial, or environmental reasoning why i) a Lake Ontario solution is being considered and ii) a decision has not been made on the preferred solution as recommended within the Upper York Sewage Solutions EA.

The UYSS preferred servicing option considers environmental protection

Based on the thorough work conducted during the EA, the preferred UYSS option will improve water quality in Lake Simcoe since it is more than a wastewater treatment plant. Having advanced treatment technologies, such as microfiltration and reverse osmosis, the facility will convert wastewater into clean, treated water that will help improve the water quality and habitat of the East Holland River that feeds into Lake Simcoe.

The advanced treatment facility combined with provincial support for the proposed Holland Marsh Phosphorus Recycling Facility will serve to protect the ecological health of Lake Simcoe.

It is important to highlight that a Lake Ontario option would require an alignment that would cross the Oak Ridges Moraine to get to Lake Ontario. The impacts of crossing the environmentally sensitive area of the Greenbelt with this major infrastructure have not yet been examined.

Recommended next steps

As part of the next steps, the Region of Durham makes the following recommendations:

- The Province expedite the establishment of the Advisory Panel and that expert members from Durham Region be included on the panel. We can provide a list of experts to be considered.
- The Advisory Panel undertake broad engagement and consultation that includes Indigenous Peoples, environmental organizations, Conservation Authorities, Durham Regional Council, York Regional Council, officials from Pickering and Ajax, and Durham residents.
- The Advisory Panel be transparent in their process to collect information and provide advice to the government.
- If a Lake Ontario option is recommended by the Advisory Panel, the Province dedicate equivalent study time and financial investment to ensure protection of the environment and the community.

The Region of Durham is aligned with York Region in our support of the UYSS EA preferred servicing alternative including an advanced treatment system in the Lake Simcoe watershed. As the Regions of Durham and York continue to experience tremendous growth and development, it is critical that we work together with the Province to ensure we have the proper infrastructure in place to support our continued long-term growth.

We look forward to working with you and your Ministry towards a solution.

Yours truly,

John Henry
Regional Chair and CEO

c: Elaine Baxter-Trahair, Durham Region CAO
Susan Siopis, Commissioner of Works
John Presta, Director Environmental Services
Jason Hunt, Director Legal Services