

Port Perry, Ont.

June 1, 2011

Mr. Greg Jenish
Program Support Coordinator
Ministry of the Environment
Operations Division
2 St. Clair Avenue West, Floor 12A
Toronto, Ont. M4V 1L5

Re: EBR Registry Number 011-2709: Comments on Durham/York EFW Certificates of Approval Applications

Dear Mr. Jenish:

Please consider the following as my comments on the Durham/York EFW Certificates of Approval Applications (C of A) which are currently under consideration by the MOE.

To begin I would like to advise you that my daughter Wendy and I, along with others, have been heavily involved in researching the incinerator proposal since 2007. I personally have made numerous delegations to councils, committees of councils, and public information sessions as well as submissions to the MOE. Over this period of time I have become more and more convinced that this project should not move forward and suggest that the Ministry has an obligation **to not** approve the C of A applications before them. My reasons are outlined below.

I am aware of the submission Wendy made to Ms. Dumais May 6, 2011 providing some of her comments on the C of A applications. I presume Ms. Dumais has passed this on to you as it was prior to the EBR posting directing the public to send their comments to you. I also know that Wendy will be submitting additional comments for you to consider. I am fully aware of the huge effort and the quality of the work that has gone into her research. As a result I want you to know that I agree with her completely. This will eliminate the need for me to repeat all of the detail that she has and will be providing to you. Instead, I will limit my comments to summarizing what I think are the most salient points in her research and will also provide you with some of my own additional concerns.

First of all, how can the Ministry consider approving a C of A application where the emissions proposed are significantly higher than those approved in the EA? The EA Act (section 12(4)) prohibits proponents from proceeding with an undertaking in a manner that is inconsistent with EA terms and conditions. In the case of PM2.5 Covanta is proposing emissions more than two times the levels approved in the EA. Considering the current high level of concentrations and the serious health implications of fine and ultra fine particles this is very troubling. Further, these increased emissions have not been assessed for health risk and there has been no medical review of them. Why weren't stakeholders and reviewers told of these emission levels before the EA was submitted? It

is absolutely unacceptable that the operator has been assessed for risk for PM2.5 stack concentrations of 9mg/Rm³ but is now proposing to be allowed to operate and be regulated at 21mg/Rm³! The proponents have been and are well aware of the importance of particulate matter emissions. They chose to ignore the comments in the Health Canada review. After all the allowances given to the proponents to make revisions in the EA, surely the Ministry has exercised enough tolerance. It seems that when you give the proponents an inch they will take a mile. Enough is enough!

I would like to draw your attention now to Clarington Planning Services Report PSD-052-11 and the Senes Consultants Limited Preliminary Report Peer Review Durham York Energy Centre ESDM Report which was prepared for the Municipality of Clarington. I have attached the reports for your convenience. I read the reports and attended the Clarington General Purpose and Administrative Committee meeting where these reports were recommended (with a minor amendment) to Clarington Council. I believe you are aware of these reports and understand that they will, if approved by Council, be sent to the Ministry as part of their comments on the C of A applications. I am glad that the committee supported the staff report and the Senes peer review and hope that the Ministry will act on their recommendations as well as others made by the public. In the Executive Summary, commenting on the ESDM Report submitted by Golder Associates, Senes says “the ESDM Report was reasonably well done”. They then follow with ten recommendations. Since this is a consultant reviewing the work of another consultant, I interpret it to mean there was a lot lacking.

The Minister’s Conditions of Approval states that only non-hazardous municipal waste will be received at the site. How can the Ministry approve the C of A application when, despite the spin, the proponents have not demonstrated they are able to achieve this goal? However, if the project should proceed it is essential that a continuous mercury sampling system be made mandatory and should be used for compliance verification in addition to stack testing.

Inadequate monitoring is very high on my list of concerns. I have already referred to the need for continuous mercury measurement. Another example is that the C of A application only proposes opacity monitoring. Given the huge concerns with particulate matter emissions, the C of A application is obviously inadequate. Your own A-7 Guidelines encourage continuous monitoring of particulate matter over opacity monitoring, encourage continuous mercury sampling and list organic matter as a parameter that already can be continuously monitored. It is extremely important that the Ministry set the bar high for this project because, if it succeeds in gaining approval, rest assured you will be dealing with a flood of similar requests. As brought forward by Senes, it is not clear that the data collected by the continuous dioxin sampling device will be used for compliance. Senes recommend the frequency/duration of sample collection be shortened for the purpose of being used on an operational basis. Please act on this recommendation appropriately and please insure that the data collected will not only be publicly available, but used to aid compliance verification together with stack testing. I am further troubled and puzzled why the ambient air and monitoring plan have not been completed nor available to the public prior to the C of A application. I firmly believe that

details regarding the ambient air monitoring should have been available and that specific commitments regarding the ambient air and emissions monitoring should have been included in the C of A application and that these commitments should be conditions of approval. I am very concerned to see that Durham, York, and Covanta have all filed C of A applications separately. Why is Covanta filing an application when Durham and York Regions are the owners? Commitments made by the regions, including ambient air and soil monitoring and dioxin sampling could go by the wayside if in the future the incinerator is sold to private interests and Covanta has Certificates of Approval which do not capture these commitments. The public needs assurance that these commitments will be conditions of any C of A and that the owners and operators will be regulated to abide by these commitments and that monitoring results be used to demonstrate compliance.

I could never understand how bottom ash and fly ash were excluded from the EA Terms of Reference. Since day one we (the public) have tried to get details with respect to quantities, disposal etc.. Slowly the information has come forward. Only fairly recently we have learned that these residuals will be going to landfills in New York state. What happens if New York takes action similar to Michigan sometime in the future? Up to now we have considered the amount of residuals being equal to approximately 30% by mass of the waste processed (140,000 tonnes). The C of A application has now made the public aware that with the addition of cement etc. the residuals could approach 56,000 tonnes (40%). Why did it take so long for us to learn this? There has been insufficient information given on the environmental and health impacts of the ash and how and if the operating and testing procedures are adequate. There has been no expert health assessment/input or medical review of the ash implications and whether what is proposed in the C of A (Waste) application for storage, testing and disposal of the ash is sufficient and protective of human health and the environment. This remains a huge question.

Finally, I would suggest that it is the Ministry's job to NOT allow the unacceptable practices, gaps, omissions and monitoring proposals we have identified.

In conclusion, it is sad to have to suggest that, after reviewing the C of A applications, it is clear that the proponents have not lived up to their commitment for a state of the art facility with state of the art emission and ambient air monitoring. Rather, it seems they are only willing to offer the bare minimum in the hope that no one notices. I hope that the Ministry recognizes the game they are playing and takes the appropriate action.

I can't leave this without saying that there is a safer, more sustainable way to deal with the waste problem. That way is to reduce, reuse, recycle, encourage producer responsibility and make use of well engineered landfills free of compostable material to deal with reducing quantities of residuals as we work toward the goal of zero waste.

Incinerators are not necessary and are certainly not part of a "green" solution.

Thank you for allowing me to comment.

Barry D. Bracken (beav201@yahoo.ca)