June 29, 2021

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Environmental Assessment Branch

Ministry of the Environment, Conservation and Parks

135 St. Clair Ave W  
Toronto, ON M4V 1P5

Attention: Ms. Dorothy Moszynski, Special Project Officer

Dear Ms. Moszynski:

**Re:** [***York Region Wastewater Act, 2021* | Environmental Registry of Ontario**](https://ero.ontario.ca/notice/019-3802)

The following are comments on Bill 306, the *York Region Wastewater Act, 2021* and related ERO posting (ERO #019-3802), submitted by staff of The Regional Municipality of York.

The Regional Municipality of York is extremely disappointed with the Ontario government’s proposed legislation and does not support the proposed Bill. The Minister has an obligation to render a decision on the Upper York Sewage Solutions Environmental Assessment. We oppose the introduction of legislation that removes this obligation. Decisions regarding servicing in York Region need to be made in direct discussions with the Region. Finally, we oppose the Government’s intention to strip the right of anyone, including the right of York Region to seek recourse for the Province’s actions and inaction.

We respectfully request the Government withdraw both Bill 306 that is before the Legislature and the proposal posted on the Environmental Registry. Furthermore, we request that the Minister immediately deliver a decision on the Upper York Sewage Solutions (UYSS) Environmental Assessment, following the process laid out in provincial law, a decision for which York Region has been waiting for 7 years as of July 25, 2021.

**A Principled Approach**

Our position is based on the following fundamental principles

1. The Provincial Government must follow its own legislation and policy.
2. The Provincial Government must render a decision based on science.
3. The Provincial Government must live up to its commitment to support increased housing supply.
4. The Provincial Government must avoid decision-making paralysis.

***The Provincial Government must follow its own legislation and policy***

From the moment it initiated the UYSS EA back in 2009, York Region has faithfully followed the process laid out in the *Environmental Assessment Act*. It proposed this infrastructure to service growth that was forecast in York Region’s first Official Plan in 1994, almost 30 years ago, and approved by the Province of Ontario. This growth representing about 153,000 people (residential and employment) in Aurora, East Gwillimbury and Newmarket was also forecast in provincial policy through the Growth Plan for the Greater Golden Horseshoe and incorporated into the Official Plans of these municipalities.

Having originally considered a sewage solution connected to Lake Ontario, York Region changed course, **as directed by the Minister of the Environment**, to consider innovative wastewater treatment solutions such as wastewater purification systems and water recycling facilities located within York Region. York Region determined using the publicly transparent and comprehensive regulatory environmental assessment process it was required to follow that a proposed solution in the northern end of the Region was superior to a sewage solution connected to Lake Ontario.

Rather than render a decision through the process laid out in the *Environmental Assessment Act*, instead the Government has opted to circumvent the process by changing the law and intending to insulate itself from any lawsuit. This is a disturbing trend that does not instill confidence in Government decision-making among municipalities.

***The Provincial Government must render a decision based on science***

Peer reviewed studies completed during the UYSS EA were reviewed and validated by Ministry of the Environment staff and many other provincial and federal regulatory agencies. Further, the Ministry of the Environment published a positive review of the UYSS EA after it was submitted for approval by the Minister. The proposed Water Reclamation Centre, which would employ membrane and reverse osmosis treatment technology, is a world-class facility that would be a first in Ontario and Canada, replacing 1960s-era sewage lagoons and demonstrating a strong commitment to environmental sustainability.

If this EA decision were rendered on a scientific and technical assessment of the proposed facility design and its impact on Lake Simcoe, the Minister and Provincial Government would have approved it long ago. Instead, we believe that the decision has been delayed due to the Government’s reluctance to anger those who are opposed to the growth that this facility is meant to service. A decision should be made supported by Conditions of Approval that fairly and transparently allow for meaningful collaboration between the Region and parties having valid concerns with the project.

As we have argued through consultations on modernization of the provincial environmental assessment process, the Government should not allow the process to hold up approved growth. There are other earlier consultation processes in which opponents to growth can make their case. Once the decision about growth is rendered, the environmental assessment for servicing that growth must focus on the infrastructure or facility itself and its impact on the surrounding environment as required by the *Environmental Assessment Act*.

***The Provincial Government must live up to its commitment to supporting increased housing supply***

In 2019, the Government released its *More Homes, More Choices Housing Supply Action Plan*. At the time, it promised to ‘tackle Ontario’s housing crisis and encourage our partners to do their part by starting now, to build more housing that meets the needs of people in every part of Ontario’. Yet it is the Province that stands in the way of building housing in York Region. Due to its unwillingness to render a decision on the UYSS EA, housing availability in Newmarket could be constrained in as few as five years, driving housing costs further from reach for the average Ontarian. The Province’s inaction will have equally harmful impacts on Aurora and East Gwillimbury.

***The Provincial Government must avoid decision paralysis***

Nearly $100 million has been spent on the UYSS EA project to date, including land acquisition and design advancement; this includes more than $25 million on the Environmental Assessment alone (including a year-long pilot treatment facility that successfully demonstrated the efficacy of the advanced treatment technology in a Canadian climate). This is the most expensive EA in York Region’s history, reflecting the significant level of review, technical and environmental work and consultation completed.

If indeed the Province continues suspending its responsibility to render a decision on the UYSS EA, and directs York Region to find a Lake Ontario solution, not only will this represent a loss of $100 million already spent, there will be the added millions of dollars in costs to conduct an entirely new EA and to construct the alternative servicing at potentially much higher cost to the public. This should not come from York Region. It is incumbent on the Province to pay back York Region for expenses associated with the UYSS EA and to compensate the Region for any higher costs to build and operate a new Lake Ontario solution.

Further information is not needed to understand the environmental, technical, social and financial implications of any wastewater servicing solution. This analysis was completed during the UYSS Environmental Assessment process in accordance with the *Environmental Assessment Act*. This analysis remains as valid today as it was on the date it was identified and recommended for use; membrane microfiltration and reverse osmosis treatment technologies remain accepted and widely used advanced technologies throughout the world for treating drinking water, and these same technologies proposed through the UYSS EA will treat wastewater. The UYSS EA already rigorously evaluated the alternatives and found the Water Reclamation Centre was the superior solution.

**Expected Outcomes**

The Province has delayed a decision on the Upper York Sewage Solutions Environmental Assessment since 2014. The delay has put approved Provincial growth under the Growth Plan for the Greater Golden Horseshoe in jeopardy and created significant financial risk and uncertainty to York Region, Aurora, East Gwillimbury and Newmarket. Given the financial impact and disruption caused by the Province’s actions and inaction, York Region has identified 7 outcomes that are needed.

1. The Province must provide York Region with long-term certainty for approved growth and servicing. The Province and Minister must agree to a framework that confirms servicing needs for approved growth and sets a transparent and certain path for municipal servicing projects to be advanced and completed.
2. Statements made in the ERO posting require clarification.

* The ERO posting suggests the UYSS EA is servicing all of York Region, when it is to provide wastewater servicing to Upper York only, specifically the communities of Aurora, Newmarket and East Gwillimbury
  + The ERO posting states “In 2011, York Region determined that discharging treated wastewater to either Like Ontario or Lake Simcoe were both viable”; York Region only determined that Lake Simcoe was a viable option after extensive discussions and confirmation of viability with the Ministry of the Environment and would be technologically acceptable to the Ministry and also comply in full with requirements of the Lake Simcoe Protection Act, 2008, Lake Simcoe Protection Plan and the Phosphorus Reduction Strategy
  + Further, the posting states “York Region decided to pursue the Lake Simcoe Innovative Solution and submitted the EA focusing on Lake Simcoe”; again, York Region only moved forward with a Lake Simcoe option after confirmation from the Ministry that this option was viable

1. The Province must introduce legislation to ensure that all provincial approvals and permits related to the agreed to servicing solution will be expedited and apply measures akin to those set out in the *Building Transit Faster Act, 2020* to address hearings of necessity, obstruction removal, danger removal, restricting

construction by others, entry and inspect powers, utility corridor access and relocation abilities, among other things, to guarantee an in-service date of 2026.

1. The servicing solution that is agreed to does not cost York Region more than the estimated cost of the UYSS EA project. The estimated cost to complete the UYSS EA project is $650 million. If any provincial solution exceeds this amount, the Province must compensate the Region for the additional amount, as well as pay the Region for the nearly $100 million spent on the UYSS EA and UYSS EA project advancement permitted under the *Environmental Assessment Act*.
2. Regardless of whatever solution is directed by the Province, the Province assumes full responsibility to promptly complete the Holland Marsh Polder project for Lake Simcoe, including funding ($24 million). This project, consisting of treating runoff from a 7,000-acre area, has the potential to remove up to 5,000 kg of phosphorus from the watershed (10 times more than required for UYSS EA). York Region had committed to completing this project as part of the implementation of the UYSS project and received a commitment of $16 million in funding from the Federal Government towards the project.
3. The Province develops and implements a time-bound (10-year) and target-based clean-up plan (with Provincial supporting funds for watershed municipalities) for Lake Simcoe that focuses on measurable removal of agricultural and stormwater contributions of nutrients to the lake.
4. York Region retains the 124 kg/year total phosphorus loading limit to Lake Simcoe from the Holland Landing Lagoons for the UYSS EA project or for future use after the lagoons are decommissioned, that may be applied to future project needs by York Region in the Lake Simcoe watershed.

**Conclusion**

The Regional Municipality of York is extremely confident the preferred solution recommended in the Upper York Sewage Solutions Environmental Assessment is the superior alternative to service this area and will provide a lasting benefit to Lake Simcoe and the Lake Simcoe watershed.

Continuous delays, and now the proposed suspension of decision-making responsibility, is disrupting planned employment and residential growth within Aurora, East Gwillimbury and Newmarket, undermines the integrity and confidence in the environmental assessment process, and has put the Province’s own Growth Plan for the Greater Golden Horseshoe in jeopardy.

Regards,

**Original signed by**

Erin Mahoney, M. Eng.

Commissioner of Environmental Services

Attachment: Appendix: Environmental Assessment Chronology

cc The Honourable Steve Clark, Minister of Municipal Affairs and Housing

The Honourable Dave Piccini, Minister of Environment, Conservation and Parks

Kate Manson-Smith, Deputy Minister, Ministry of Municipal Affairs and Housing

Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks

Wayne Emmerson, Regional Chair, York Region

Lina Bigioni, Chief of Staff, York Region

John Henry, Regional Chair, Durham Region

Bruce Macgregor, Chief Administrative Officer, York Region

Elaine Baxter-Trahair, Chief Administrative Officer, Durham Region

**ATTACHMENT**

**Environmental Assessment Chronology**

* The Upper York Sewage Solutions Environmental Assessment was publicly launched in June 2009: in 2010, the Minister of the Environment directed York Region to consider innovative wastewater treatment solutions such as wastewater purification systems and water recycling facilities located within York Region.
* In July 2014, after more than five years of extensive scientific study and consultation with Indigenous communities, government agencies and the public, York Region submitted the project’s Environmental Assessment report to the Province for approval.
* After submission of the UYSS Environmental Assessment report in 2014, the approval was anticipated in February 2015 based on adhering to regulatory timelines.
  + The EA explored the viability of discharging to Lake Simcoe only, as the preferred alternative, and not to Lake Ontario as is suggested in ERO posting #019-3802.
  + York Region decided to pursue the Lake Simcoe Innovative Solution and submitted the EA focusing on Lake Simcoe *only after receiving confirmation of its viability from the Ministry.*
* In January 2016, the Ministry of the Environment completed its review of the Environmental Assessment; the provincial ministry review stated it was satisfied the Region had properly completed the Environmental Assessment process and complied with the *Environmental Assessment Act.*
* In December 2016, the Province informed York Region the Province needed to complete its own provincial Crown Duty to Consult obligation with Indigenous communities; the Region was advised this process would delay project approval and anticipated a decision being made in the summer 2017.
* To date, this work has not been completed and the Region has been awaiting a decision by the Province. A Peer Review of the UYSS EA was submitted to the Province in June 2020 by the Chippewas of Georgina Island First Nation. Based on the Region’s review, the Peer Review summarized issues that had already been addressed by the Region with the First Nation and no new information was identified that would change the positive conclusions of the Ministry Review of the UYSS Environmental Assessment released in 2016.
* On July 17, 2020, the Minister of Environment, Conservation and Parks (Jeff Yurek) sent a letter to York Region Chairman Emmerson advising the Region the Province is considering options, including a potential southern trunk sewer as an alternative to the preferred alternative identified by the UYSS EA.
* One year later, the Region has received no information on this proposal or confirmation of its validity.
* The Region was not consulted on the current proposal as outlined in Bill 306 and ERO posting # 019-3802.