



environmental
defence

May 10, 2024

Environmental Assessment Branch
135 St Clair Ave West, 4th floor
Toronto, On
M4V 1P5

RE: ERO 019-8417 Proposed designation under the Environmental Assessment Act of the landfill site and waste transfer and processing expansion, located in the former Town of Dresden, Municipality of Chatham Kent

Environmental Defence Canada (EDC) supports in principle the Ministry of Environment, Conservation and Parks' (MECP) proposal to designate York1 Environmental Waste Solutions Ltd's proposal to require a comprehensive Environmental Assessment of the project under the Environmental Assessment (EA) Act.

That is, while the EA designation is a step in the right direction, EDC's position is that unless significant environmental safeguards are put into place to protect nearby species-at-risk and the environment from potential severe harm, the only reasonable outcome for the Minister is to cancel the project.

Designation under the Environmental Assessment Act

York1's proposal raises a number of concerns that will need to be addressed when establishing the EA Terms of Reference. At a minimum, the MECP must require the completion of a comprehensive baseline characterization study of the site due to the uncertainties associated with potentially converting and expanding the former waste disposal site.

The baseline characterization study is a necessary step in order to understand the current and potential threats to human health and the environment that will occur from contaminants leaching through the soil, migrating to groundwater and surface water, and releasing to the air.



As you know, the Dresden dump operated as a landfill for fly ash without the use of leachate liners for many years in the 1980's. Landfill leachate plumes are a significant environmental concern due to their ability to transfer toxic materials, hazardous to groundwater resources. A full investigation of any existing leachate plume is required in order to understand existing leachate contamination in the aquifer and if the new operation's environmental safeguards are working. As you are aware, the proposed landfill could have significant impacts on groundwater and adjacent surface water quality if leachate is improperly collected, stored and treated.

As has been reported through media reports in regards to leachate produced on-site, it is our understanding that the Municipality of Chatham-Kent does not have the technology nor the capacity to properly store and treat the leachate. As a result, this proposal should not move forward without an in-situ water treatment plant to properly treat and store the leachate. An in-situ waste treatment facility will also prevent the real possibility that the proposed leachate treatment ponds could overflow into the adjacent Molly's Creek during a significant rainfall event.

York1 states that by building a new, engineered landfill along with the existing clay and two impermeable layers in the ground, seepage will not occur and the groundwater will be protected. However, the depth of the clay in the area where the proposed landfill will be developed is not known so how can we be certain that groundwater is protected? Again, a baseline characterization study will help the Ministry, proponent and others understand this important consideration.

Residents living in proximity to the landfill all currently rely on domestic water wells that are located in close proximity and up to 500 meters from the proposed site. Without a comprehensive baseline study that includes current well water conditions and volumes, residents and York1 will be unable to determine if well conditions have changed with the opening, operation and eventual closure of the Dresden facility.

Species-at-risk surveying

During the environmental assessment process, MECP must also require the completion of comprehensive species-at-risk assessment in order to achieve a baseline understanding of the species-at-risk located on and nearby the proposed landfill site. The proposed site is located on land adjacent to Molly's Creek, a naturally fed, spring-origin creek that flows directly into the eastern branch of the Sydenham River. This river is a biological hotspot home to at least 33 species at risk



such as the Eastern spiny softshell turtle and Salamander mussel. Species surveys must be conducted by biologists for a minimum of two years to assess population presence and critical habitat upstream and downstream of Molly's Creek and the eastern branch of the Sydenham river. The comprehensive species' surveys will provide an important baseline to understand if these critical species are being negatively impacted by the York1 landfill operation.

Upholding the duty to consult and the honour of the Crown

Environmental Defence is also concerned with our understanding of a lack of Indigenous engagement thus far by the proponent of this proposal. As the Ministry moves forward with an EA, we would underline that the Environmental Assessment Act of Ontario includes the provision that "...nothing in this Act shall be construed as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights" as recognized by section 35 of the Canadian Constitution. Consequently, we strongly advise that before the Terms of Reference of the Environmental Assessment are established, the Ministry engages with potentially affected Indigenous communities to discuss how the EA should be scoped to prevent or mitigate any potential impacts that the proposed project may have on their Aboriginal or treaty rights, established or asserted. A comprehensive environmental assessment process for the project should also allow for additional opportunities for consultation with Indigenous communities.

We thank you for the opportunity to comment on this proposal and ask that the full Environmental Assessment is scoped to include measures that protect nearby species at risk and the environment from potential severe harm including a comprehensive baseline characterization of the site, in depth species at risk surveys, and meaningful consultation with potentially impacted Indigenous communities and residents. Unless the Ministry is able to frame the EA to enable the most stringent environmental safeguards to be put into place, the Minister may have no choice but to reject York1's proposal as it may well be the wrong place for the wrong project.

Sincerely,

Rebecca Kolarich
Program Manager, Ontario Environment
Environmental Defence Canada