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Ms. Kirsten Walli, Board Secretary
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IN THE MATTER OF the Ontario Energy Board Act,
1998, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by York
Energy Centre LP for an electricity generation licence.
EB-2009-024

**RESPONSES to YORK ENERGY CENTRE'S RESPONSES TO HARTEN
CONSULTING'S INTERROGATORIES**

Regulatory/ Environmental Issues

York Energy Centre's ability to operate the facility is of course contingent on obtaining the necessary regulatory licenses, consents and compliance with environmental and planning requirements.

The Township of King had in 2005 and 2008 after extensive public meetings passed Motions which in effect stated that the Township of King would oppose a location of the proposed gas fired generator within its municipality.

With a disregard for these approved Motions the Ontario Power Authority nevertheless selected a location in the Township of King for a proposed 435 MW generator.

At a January 11, 2010 meeting at the Township of King, a Motion was proposed and supported unanimously by Town Council to approve, and implement an interim control by-law under the *Ontario Planning Act* RSO1990, Chapter P 13, 38 (1) (2).

This interim control by-law if implemented would in effect not allow any construction activity to proceed on the natural gas generator for a period of one year, with the possibility of its being extended for a second year. A similar interim control by-law in similar circumstances was passed by The Town of Oakville as, ICBL 2009-065. It prohibits the construction or expansion of power plants greater than 10 MW until the Municipality is able to complete a study outlining what can be done to accommodate power plants.

The Ontario Municipal Board which upheld the by-law and stated that, *“The Board finds that Oakville had a legitimate planning reason to revert to this action...there was no compelling evidence that Oakville acted irrationally or arbitrarily in passing the interim control by-law.”*

The passage of such a by-law in the Township of King could result in a potential one to two year delay in the commencement of construction. YEC should indicate what effect that delay would have on the feasibility of their project?

Other regulatory issues in the Township of King may involve the question of permission for needed road allowances.

In response to the Harten Consulting interrogatory #13 YEC has not provided any significant information on issues of environmental and planning compliance that may require regulatory approval other than to suggest the Ministry of the Environment has approved their consultant’s Environmental Screening Report.

The Lake Simcoe Region Conservation Authority appears to have serious concerns as do others, on the flood plain aspect of the site even if it is demonstrated to apply only to the access road. The danger of severe flooding is not simply a matter of the generating plant being rendered inoperable. There remains the question of the impact of severe flooding on the high pressure/high volume gas supply lines that connect to the plant. These may be particularly vulnerable to stress and fracture under extreme conditions.

The *York Region Official Plan* states as its objective, *“To identify protect and restore the Region’s Greenland System composed of natural areas and connecting links as an essential constitutional component of the Region.”*

Further, YEC in their submissions indicate that the Greenbelt Plan supports this project as an example of infrastructure which is permitted within the Protected Countryside and it will serve “... *the significant growth and economic development expected in southern Ontario beyond the Greenbelt by providing for the appropriate ‘infra structure connection’ among urban growth centres and between these centres and Ontario’s borders.*”

The YEC facility is not an “infra structure connection” but an industrial generation project inappropriately inserted in to the Greenbelt area.

The Ministry of the Environment, in an August 17, 2009 letter to the Township of King has stated even if it is found that the proposed facility might somehow be permitted under York Region and Greenbelt legislation in the final analysis, “*It will be up to the relevant planning authorities to determine whether or not the project fits within infra structure connections. The EA process is not the appropriate mechanism through which to do this and an individual EA would not resolve this question.*”

Therefore it appears that municipal planning authorities have a significant role to play in the process by their approval or rejection of facilities.

Despite the fact the MOE has approved the Environmental Screening report municipalities may have the right to legislate by-laws controlling emissions. On December 22, 2009 a proposed by-law to assess and control major emissions of fine particulate matter (fine PM) in Oakville was released for public review and comment by Oakville’s Town Council. “*In the absence of effective regulation of fine PM by either the provincial or federal governments, we’re taking action to protect the health of Oakville residents,*” said Mayor Rob Burton. He continued, “*Under the proposed by-law facilities that emit fine PM would undergo a rigorous approval process and be subject to reporting requirements on an ongoing basis.*”

It is conceivable that the Township of King could adopt a similar by-law, the effect of which could result in the need for extensive studies.

YEC should have an alternative timetable based on impending regulatory hurdles.

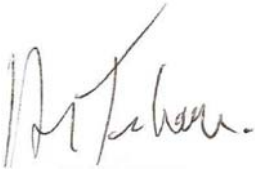
Where an environmental evaluation has indicated that the development would have an overall negative effect on the environmental functions, attributes, or linkages for which the Protected Countryside were identified, the application will not be supported or approved. There is undisputed evidence that the plant will generate toxic and harmful emissions including NO₂ CO₂ fine particulate matter as well as impact on proximate endangered fauna and flora.

The Dillon Environmental Screening fails to consider the sensitive and unique character of the location and the question of negative impact is only one of degree not of occurrence. Such negative environmental impact undermines the spirit and intent of existing legislation and mandates this application should not be approved.

The Dillon Environmental Screening Report contains substantive elements of literature searches which could enable a proponent to selectively extract information.

We note that the voluminous studies and documentation in existing literature indicate that adverse environmental effects are inherent in large gas fired electrical generating facilities. The Dillon Report disregards these findings.

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