



Regional Municipality of Durham
To: The Works Committee
From: Commissioner of Works
Report: 2005-WR-27
Date: November 16, 2005

HANDOUT

SUBJECT:

Contingency Plan for Waste Disposal in the Event of Michigan Border Closure

RECOMMENDATIONS:

THAT subject to the approval of the Finance and Administration Committee (recommendation b) the Works Committee recommends to Regional Council that:

- a) Staff be authorized to continue discussion on solid waste disposal options for Durham Region in Ontario landfills with the MOE and any willing host municipality;
 - b) Staff be authorized to retain all necessary consulting and other resources and to proceed immediately with a technical evaluation of the viability of utilizing the existing Brock Township Landfill and assessing the possible expansion of the Landfill as a contingency option for the Region of Durham subject to the approval of the Commissioner of Finance and Commissioner of Works with financing of up to \$200,000 from the Solid Waste Management Reserve Fund; and
 - c) Staff be authorized, upon completion of the technical assessment, to finalize submissions to the Ministry of the Environment (MOE) for amendment to the C of A to allow the receipt of Durham waste and for possible landfill expansion.
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REPORT:

1. BACKGROUND

The Regional Municipality of Durham relies on the Pinetree Acres landfill site located just outside Detroit in Michigan for the majority of its waste disposal capacity. The annual capacity requirement for the Region of Durham is 150,000 tonnes. Last year there were two (2) attempts by the State of Michigan to close or restrict the United States (US) border to Ontario waste. The current attempt is the most serious. On November 1, 2005 Michigan Senate passed House Bill 5176 and Senate Bill 783, which are enabling bills subject to Federal approval. If the proposed regulation is passed by the Federal Government the Michigan legislators can close their border to our waste within ninety (90) days of passage.

It is still unclear what will be the content of the final bill passed by the U.S. Federal Government. However, one possibility is that the current contracts will be grand fathered and as such will allow Durham's waste to be shipped into Michigan state until the end of the current contract 2011. The second option is that there will be additional fees imposed on waste from Ontario as well as penalties for loads containing any degree of contamination. Preliminary evaluations of available options indicate that there are no viable long-term options available to the GTA municipalities.

2. ACTIONS TAKEN BY THE REGION

In order to remain in good standing with the Michigan State Bureau of Environmental Quality the Region staff has implemented the following:

- Amendments to the Region's Waste Disposal By-Law to not allow materials such as recyclables, hazardous waste and leaf and yard waste to be shipped and disposed of at any landfill site;
- Introduction of a waste-screening program at Miller Waste Systems transfer stations to remove any visible contamination from our waste stream;
- New Regional initiatives included a Request For Proposal (RFP) for increased green bin program and a Request for Proposal for a new recycling facility; and
- Staff contacted Miller Waste Systems and requested information regarding possibility of utilizing other landfill sites identified in their submission for the Waste Management Disposal Contract;

3. CURRENT REGIONAL CONTRACTS

Region of Durham has two (2) contracts for its waste disposal. The main one is with Miller Waste Systems for receiving and hauling of residential waste from six (6) municipalities. The other contract is with Waste Management to haul and dispose residential waste from the Municipality of Clarington. Both contracts utilize the Waste Management facility in Michigan (Pinetree Acres landfill). The length of the contract with Miller Waste Systems is eight (8) years ending in 2011 with the option of two (2) five (5) year extensions until 2021. Waste Management's contract is a six (6) year contract ending in 2008, with no extensions identified, unless agreed upon by Regional Council and Waste Management.

In Miller Waste's submission disposal contingency was identified as follows:

- 1) Provided that Canadian Waste Services is successful in obtaining regulatory approvals necessary to expand capacities at their Richmond and Warwick landfills in Ontario, the Contractor will make air space available to the Region subject to negotiation. At both of these sites, Environmental Assessments (EA) are still not approved.

- 2) Six (6) additional contingency sites were identified in the US in the event of an interruption of services at the Pinetree Acres site in Michigan. Two (2) of these sites are located in Michigan.

Regional staff has already advised Miller Waste to identify a contingency landfill location and will negotiate a disposal price. If such contingency landfill space is available, the haulage and disposal price must be brought back to Council for approval. This price may prove to be uneconomical.

4. SHORTAGE OF LANDFILL DISPOSAL CAPACITY IN ONTARIO

There is a general shortage of disposal capacity available in Ontario for residential waste at active landfill sites. If all Ontario residential waste generated in Ontario stays in Province, this disposal capacity will be consumed within about six (6) months.

There is significant additional disposal capacity available in Ontario at facilities currently inactive. This capacity may be available pending completion of various permitting processes.

The reasons for the decision not to complete approvals and/or construction of additional cells at these inactive sites appears to be generally due to public opposition and associated difficulties in completing the EA process. In all cases, these facilities are subject to service area restrictions that do not allow for the receipt of waste originating in other municipalities.

5. IMPLEMENTATION ISSUES

In order to allow for disposal of municipal waste anywhere in Ontario, all potential Ontario operators would be required to amend their Certificate of Approval (C of A), including amendments to waste type, quantities and service areas. Only the MOE has the authority to approve changes to the C of A for municipally owned sites to accept waste from other jurisdictions during an emergency situation.

The main difficulty in the event of border closure is the time delay at all potential sites for cell excavation and construction of liner and leachate collection systems. It is estimated that active and inactive landfills have sufficient cell capacity for a period of two (2) years. This capacity had been allocated exclusively to the current landfill users.

6. REGION OF DURHAM LANDFILLS

The Region of Durham provides perpetual care for five (5) closed landfill sites, one (1) inactive landfill site (Ritson Road) and operates one (1) active landfill in Brock Township. All sites were established in the past prior to regulatory

requirements for the development of waste management systems. In the event of an emergency, two (2) of these sites can provide a viable solution to the Region, subject to site-specific improvements. Currently all sites are monitored by Durham Region staff and monitoring results are reviewed by consultants (Gartner Lee and Jagger Hims Ltd.). Results of landfill monitoring are reported annually to the MOE.

However, it is staff opinion that at present, only Brock Township landfill should be considered for expanded usage. The remaining Brock Township landfill capacity available for the Region is estimated to be in excess of 115,000 tonnes. The Brock Township landfill site, which is still operational, can be utilized in the event of an emergency by vertical or horizontal extension. However before utilizing this landfill, the Regional Municipality of Durham would be required to carry out substantial site improvement and investigative work. Outstanding issues include conformation of suitable hydrogeology, buffer zone, leachate and gas collection systems and groundwater protection systems. Additionally, before this site can be utilized, the current C of A will have to be reviewed and, if necessary, amended.

The approval process in the case of the Regional Municipality is subject to provisions of Regulation 347. Section 5.2 of this Regulation enables municipalities, which have responsibilities for waste disposal to modify the service area or rate of fill of their landfill sites without hearings. The degree of approvals under the Environmental Assessment Act will still need to be addressed with the MOE. It is possible that more substantial changes to the site operation will require an EA hearing, which can be fast tracked or waived in case of emergency.

7. **STRATEGY**

Since the fall of 2004 Regional staff has been working towards developing a strategy for waste disposal in case of Michigan (or US border closure). Below are the main elements of the proposed strategy:

- a) Negotiate with Miller Waste to provide an alternate disposal site under a current agreement.
- b) Obtain all necessary approvals from the MOE to use another landfill site in Ontario;
- c) Immediately proceed with technical evaluation of the Brock Township landfill to allow for further expansion horizontal or vertical of its capacity. and prepare all necessary documentation in anticipation of C of A amendment.

- d) In the event of border closure, file all necessary documentation with MOE. In the short term utilize all necessary capacity at Brock Township Landfill.
- e) Fast track the EA for Residual Waste. In case of emergency MOE may allow already submitted plans to proceed. Staff is investigating the possibility of reducing the length of time required under the Environmental Assessment Act in order to complete the process by early 2007;
- f) Optimize and continue to expand on all diversion initiatives.

Regional staff have met with the MOE and discussed options available for landfill disposal. Durham Region will continue to explore disposal options, which will include expansion of Brock Township Landfill and securing landfill capacity elsewhere.

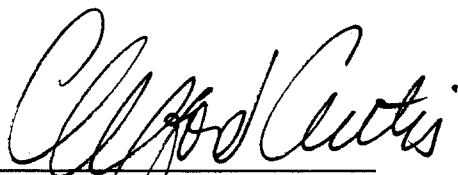
8. CONCLUSION

Staff evaluation has indicated there is a possibility to use one (1) of our sites in the event of an emergency situation however; this is subject to site-specific improvements. In case of an emergency and inability to use any of the privately owned sites the Region would be required to find other means to provide for disposal capacity. The most beneficial option will be to utilize the Brock Township Landfill and seek any required approvals to enter into a partnership agreement with other willing landfill operators.

Staff is recommending that:

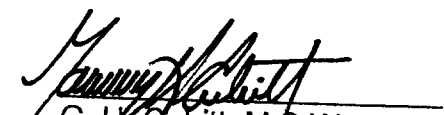
- 1) Staff be authorized to continue discussion on disposal options in Ontario landfills with the MOE and any willing host municipality;
- 2) Staff be authorized to retain necessary consulting and other necessary resources and to proceed immediately with a technical evaluation of the viability of utilizing the existing Brock Township Landfill and assessing the possible expansion of the Landfill as a contingency option for the Region of Durham subject to the approval of the Commissioner of Finance and Commissioner of Works with financing of up to \$200,000 from the Solid Waste Management Reserve Fund; and
- 3) Staff be authorized upon completion of the technical assessment to finalize submissions to the Ministry of the Environment (MOE) for amendment to the C of A to allow the receipt of Durham Waste and for landfill expansion.

Works and Finance staff will report further on the technical and financial implication of the contingency options once more information is available.



Clifford Curtis, P. Eng., MBA,
Commissioner of Works

Recommended for Presentation to Committee



G. H. Cubitt, M.S.W.,
Chief Administrative Officer

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