

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

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DATE 20 August 1997

TO/DEST. Co-ordinator
 Planning and Environment Committee

FROM/EXP. Regional Solicitor

 Director, Solid Waste Division
 Environment and Transportation Department

SUBJECT/OBJET **DELEGATION OF AUTHORITY FOR CERTIFICATE OF
APPROVAL APPLICATIONS AND CONSENTS**

DEPARTMENTAL RECOMMENDATION

That the Planning and Environment Committee recommend that Council approve the authority to provide comments to the Ontario Ministry of Environment and Energy on Certificate of Approval Applications and to grant Regional Consents be delegated to the Environment and Transportation Commissioner, and the Corporate Policy Manual be amended accordingly.

BACKGROUND

On 10 March 1993, Regional Council adopted policies for commenting on the Ontario Ministry of Environment and Energy (MOEE) Certificate of Approval (C of A) applications, and on 14 April 1993 for the granting of Regional Consents for the operation of waste facilities in the Regional Municipality of Ottawa-Carleton (RMOC). On 11 December 1996, Regional Council revised the Consent policy to ensure that all Consents granted are subject to conditions that support the Region's needs.

On 24 June 1997, the Planning and Environment Committee approved the following motion:

“That staff be directed to examine ways of transferring the delegated authority regarding approval of applications for Certificates of Approval for waste transfer and processing facilities to the Environment and Transportation Commissioner, and report back to Committee.”

The purpose of this report is to respond to Committee in accordance with the 24 June 1997 motion and to recommend the delegation of authority to the Environment and Transportation Commissioner for both commenting on C of A applications and granting of Regional Consents.

DISCUSSION

As directed, staff have examined the issue of delegation of authority to the Environment and Transportation Commissioner for both commenting on C of A applications and granting of Regional Consents. In both cases, Regional Council has the ability to delegate authority to the Environment and Transportation Commissioner.

C of A Applications

The Regional Municipality of Ottawa-Carleton routinely responds to the MOEE requests for comments on C of A applications. The MOEE, in fulfilling its responsibilities under the *Environmental Protection Act*, requests the RMOC and the local municipality in which the facility is located whether or not there is an objection to a proposed facility. The RMOC, in commenting on C of A applications, limits its review to matters within its jurisdiction. The MOEE considers these comments when it decides whether or not to issue a C of A.

Regional departments and the municipalities affected provide comments which are included in a report for the Planning and Environment Committee's approval. The comment gathering period is relatively short, two to three weeks. However, the report process can easily double the time required to provide comments to the MOEE. Businesses awaiting MOEE approval are not permitted to operate during this commenting period.

In delegating the authority for C of A comments, the process will continue to gather comments from departments and the local municipality but will also include the Regional Ward Councillor. Once gathered and summarized, the Environment and Transportation Commissioner will then notify the MOEE of the RMOC position. This process will significantly reduce the time required to provide comments to the MOEE. Information on applications which receive an objection will be circulated to Regional Councillors.

Regional Consents

During the last four years, standardized Consent conditions for the operation of waste facilities have been developed. The Consent Policy of 14 April 1993, as amended on 11 December 1996, is amended by this report to establish standardized conditions for Regional Consents for the various types of waste management facilities and services as outlined in Annexes A, B and C.

Regional Consents to operate waste services and facilities are granted by the RMOC in accordance with "Part X" of the *Regional Municipalities Act*. The Region may give its consent for the provision of waste management services or facilities upon such terms, including the payment of compensation, as may be agreed upon. In accordance with the Consent policy, the Region's goals in granting Consents for waste facilities and services are to ensure genuine waste diversion from landfill to protect the landfill capacity and that each facility/service development is

consistent with Regional Council's 3Rs plan. These goals continue to be the primary purpose of the Consent policy.

The types of waste facilities that have currently been established in the Region include composting, construction and demolition, material recovery, soil, liquid waste and short-term remediation/recycling facilities. The waste material that is encompassed by this Consent policy includes ashes, garbage, refuse, domestic waste, industrial waste, municipal waste, commercial waste, liquid waste, blue box waste and recyclable waste and such other material as may be designated by the Environment and Transportation Commissioner.

In granting Consents, the current process starts when the RMOC receives a Consent request from a proponent. A draft Consent is prepared from information provided by the proponent. The terms and conditions are then discussed and agreed upon. Following this, a Council report is prepared and submitted for approval. Once again, a business is not permitted to operate without the RMOC's Consent.

Given Consent delegated authority, the revised Consent process will achieve the same goal but take less time. Once a company requests a Consent, the applicable standardized conditions, as outlined in the attached annexes, can be forwarded to the proponent. These Conditions include reporting requirements and residual limits. Once agreed upon, both the proponent and the Environment and Transportation Commissioner can sign the "Conditions of Consent". Furthermore, the Environment and Transportation Commissioner will be able to establish or modify conditions provided they reflect the goals established by Regional Council.

CONSULTATION

Public consultation by the RMOC is not required.

FINANCIAL IMPLICATIONS

There are no financial implications to the RMOC.

CONCLUSION

The delegation of authority to the Environment and Transportation Commissioner establishes a procedure that will benefit the RMOC, the MOEE, and proponents requesting Consents. A proponent will be able to have comments made by the Region on its MOEE C of A application within the allotted 30-day comment period. The MOEE should then be able to complete its C of A application process within a shorter time frame. With respect to Regional Consents, the application processing period will also be more time efficient while maintaining the goals established by Regional Council.

*Approved by
J. Douglas Cameron*

*Approved by
T. Johnson Cover on behalf of
P. McNally, P.Eng.*

Attach. (3)

Conditions of Consent for Solid Waste Facilities1. DEFINITIONS

- 1.1. For the purposes of these conditions, the following definitions shall apply:
 - 1.1.1. "Certificate of Approval" means all Certificates of Approval or Provisional Certificates of Approval issued by MOEE for the Recycling Facility;
 - 1.1.2. "Designated Materials" means the non-hazardous solid wastes that may be received for processing at the Recycling Facility as approved in the Certificate of Approval;
 - 1.1.3. "MOEE" means the Ontario Ministry of the Environment and Energy;
 - 1.1.4. "Recycling Facility" means the machinery, equipment, buildings, structures, facilities, processes and operations located at the Site and used in the recycling operation and more particularly described in Schedule "A";
 - 1.1.5. "Recycled Materials" means Designated Materials which have been processed to enable the Designated Materials to be utilized in an ongoing agricultural, commercial, manufacturing or industrial process, enterprise or operation and are transferred directly for such use;
 - 1.1.6. "Residue" means waste generated from the processing operation or any other non-hazardous solid material that is not processed or is not disposed of as Recycled Materials and that may be disposed of at any approved landfill located in the Regional Municipality of Ottawa-Carleton according to the certificates of approval issued from time to time to the operators of those facilities pursuant to the *Environmental Protection Act* (Ontario);
 - 1.1.7. "Site" means the location of the Recycling Facility described in Schedule "A".

2. OPERATION

- 2.1. The Recycling Facility shall be operated in accordance with all requirements of the Certificate of Approval and all applicable laws, rules and regulations now or hereafter in effect.
- 2.2. The Company shall receive only Designated Materials at the Recycling Facility. The Company may accept, at the Site, the maximum quantities of Designated Materials set out in Schedule "A".

3. TERM

- 3.1. The Consent and these conditions are limited to the operation of the Recycling Facility at the Site. The Consent and these conditions shall automatically renew on an annual basis from the date the Consent is granted by the RMOC, but shall be subject to review prior to the renewal date by the RMOC.

4. DISPOSAL REQUIREMENTS

- 4.1. The maximum allowable Residue from the Recycling Facility which is to be disposed of within the Regional Municipality of Ottawa-Carleton shall not exceed the limits set out in Schedule "A".

5. REPORT

- 5.1. The Company shall provide to RMOC a monthly (*or annual*) report and an annual statement depicting the following information in a form and content satisfactory to the RMOC:
- 5.1.1. the tonnage of each category of Designated Materials received at the Recycling Facility and the name of the municipality, regional municipality or county, as applicable, from which the Designated Materials were received;
 - 5.1.2. the quantities of Recycled Materials shipped to market;
 - 5.1.3. the quantities of Residue per category of Designated Materials;
 - 5.1.4. the percentage of the tonnage of Residue to the total tonnage of Designated Materials received at the Recycling Facility.
- 5.2. Submission of the monthly reports shall set out the above information for the immediately preceding month and reporting shall commence the first month following the granting of the Consent and shall be provided no later than fifteen (15) days after the end of the month to be reported. For the purposes of the annual statement, the above information shall reflect the twelve-month period immediately preceding the submission date of the report together with cumulative totals for each item from the date of the granting of the Consent. Annual statements shall be submitted within thirty (30) days following completion of the first twelve month period and each subsequent twelve month period (*if annual, amend accordingly*).
- 5.3. Upon granting of the Consent, the Company shall submit to the Environment and Transportation Commissioner of the RMOC a copy of every approval, permit or licence required under provincial, federal, and municipal statutes, regulations or by-laws to permit the operation of the Recycling Facility.
- 5.4. The Company shall submit to the Environment and Transportation Commissioner of the RMOC:
- 5.4.1. a copy of any application by the Company for modification or renewal of any approval, permit or licence referred to in condition 5.3;
 - 5.4.2. a copy of any modification or renewal received by the Company for any approval, permit or licence referred to in condition 5.3;
 - 5.4.3. a copy of each annual report for the Recycling Facility submitted to the MOEE.

6. AMENDMENTS

- 6.1. In the event that the Company's Certificate of Approval, or any other approval, permit or licence for the Recycling Facility is modified or renewed or if the Company changes the processes or operations of the Recycling Facility in any way whatsoever after the date this Consent is granted, the RMOC may, in its sole discretion, revise these conditions or add conditions to this Consent.

7. INSPECTION

- 7.1. The Company shall permit the RMOC, its servants, or agents, upon the production of identification, to attend at the Recycling Facility or at places where the records of the Recycling Facility are kept, during reasonable hours to inspect and make copies of such of the records of the Company as are relevant to the verification and auditing of the tonnages of Designated Materials and Residue and attend at the Recycling Facility during reasonable hours to inspect the operation of the Recycling Facility for such purposes.

8. INDEMNIFICATION

- 8.1. Nothing in these conditions or the Consent granted by RMOC shall create or be the basis for any obligation or responsibility whatsoever by the RMOC for the collection or disposal of waste from, the clean-up of or any other reinstatement of any kind of the Site or the Recycling Facility.
- 8.2. The Company shall be liable for and shall indemnify the RMOC for any costs, expenses, damages or loss to the RMOC including but not limited to damages or loss to any person, animal or property resulting from the operation of the Recycling Facility and shall take all steps to repair or remedy any damage and to replace any animal or property which cannot be repaired.

9. TERMINATION

- 9.1. In the event that the Company breaches any of the terms or conditions contained herein, the RMOC shall deliver to the Company written notice of such breach. In the event that the Company fails or refuses to correct such breach within the notice period, if any, as provided in the written notice, the Consent and these conditions shall immediately be terminated.
- 9.2. The Consent and these conditions shall terminate in the event that the Company does not commence operations, or, upon the ceasing of operations of the Recycling Facility. The date of termination shall be ten (10) days from the date that RMOC confirms, in writing, that the Company will not commence operations, or that the Company is ceasing operations of the Recycling Facility.
- 9.3. Condition 8, Indemnification, shall survive the expiration or termination of the Consent and these conditions.

10. NOTICE

10.1. Any notice or communication to the Company or the RMOC shall be deemed to be given four (4) days after mailing by pre-paid registered mail or on the date of personal delivery. All such notices or communications shall be sent to the addresses indicated in Schedule "A".

11. GENERAL

11.1. The failure on the part of the RMOC to exercise or enforce any right conferred upon it under these conditions of the Consent shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

11.2. These conditions of the Consent are severable in all respects and any unenforceability of any one or more of them shall not affect the enforceability of any other of them.

11.3. The Consent and these conditions are personal to the Company and are not assignable or transferable.

11.4. Schedule "A" attached hereto shall form part of this Consent and the contents thereof shall be deemed to be conditions as those specifically recited herein.

Conditions of Consent for Liquid Waste Facilities

The Conditions of Consent for Liquid Waste Facilities shall be the same as the Conditions set out in Annex A, Conditions of Consent for Solid Waste Facility, with the following revisions:

1. All references to “Recycling Facility” in the Conditions of Consent set out in Annex A shall be changed to refer to “Facility” for the Conditions of Consent for Liquid Waste Facilities.
2. Delete Conditions 1, 2, 4, 5 and 7 and substitute the following:

1. DEFINITIONS

- 1.1. For the purposes of these conditions, the following definitions shall apply:
 - 1.1.1. “Certificate of Approval” means all Certificates of Approval or Provisional Certificates of Approval issued by MOEE for the Facility;
 - 1.1.2. "Designated Materials" means the wastes that may be received at the Facility as approved in the Certificate of Approval;
 - 1.1.3. “Diverted Materials” means Designated Materials which have been processed to better enable the Designated Materials to be utilized in an ongoing agricultural, commercial, manufacturing or industrial process, enterprise or operation and are transferred directly for such use;
 - 1.1.4. “Facility” means the machinery, equipment, buildings, structures, facilities, processes and operations located at the Site and used in the processing/transfer operations and more particularly described in Schedule “A”;
 - 1.1.5. "MOEE" means the Ontario Ministry of the Environment and Energy;
 - 1.1.6. "Refuse" means Designated Materials received at the Facility, stored or processed, as required, and transferred for final disposal;
 - 1.1.7. "Residue" means sludge or grits and screenings from the processing operation that the Company is permitted to dispose of at any approved landfill located in the Regional Municipality of Ottawa-Carleton according to the certificates of approval issued from time to time to the operators of those facilities pursuant to the *Environmental Protection Act* (Ontario);
 - 1.1.8. "Site" means the location of the Facility described in Schedule “A”.

2. OPERATION

- 2.1. The Facility shall be operated in accordance with all requirements of the Certificate of Approval and all applicable laws, rules and regulations now or hereafter in effect.
- 2.2. The Company shall receive only Designated Materials at the Facility in the quantities specified in Schedule “A”.
- 2.3. The Company may store at the Site the quantities of Designated Materials specified in Schedule “A”.

4. DISPOSAL REQUIREMENTS

- 4.1. Disposal or transfer of all Designated Materials which are received at the Facility shall be governed by the following:
- 4.2. The maximum allowable annual Residue from the Site which is to be disposed of within the Regional Municipality of Ottawa-Carleton shall not exceed the limits set out in Schedule "A";
- 4.3. No Refuse from the Site shall be disposed of within the Regional Municipality of Ottawa-Carleton;
- 4.4. Despite subcondition 4.1.2, Designated Materials comprised of solid non-hazardous wastes received at the Facility collected from spill clean-up operations of the Company within the Regional Municipality Ottawa-Carleton may be disposed of as Residue within the Regional Municipality of Ottawa-Carleton; and
- 4.5. Without limiting the generality of subcondition 4.1.2, Designated Materials comprised of solid non-hazardous waste generated outside the Regional Municipality of Ottawa-Carleton and received at the Site shall not be disposed of within the Regional Municipality of Ottawa-Carleton.

5. REPORTS

- 5.1. The Company shall provide to RMOC an annual report depicting the following information in a form and content satisfactory to the RMOC:
 - 5.1.1. the tonnage of Designated Materials received at the Facility and the name of the Regional Municipality, municipality or county, as applicable, from which the Designated Materials were received;
 - 5.1.2. the quantities of Diverted Materials transferred from the Site;
 - 5.1.3. the quantities of Residue and the disposal location;
 - 5.1.4. the quantities of Refuse and the disposal location; and
 - 5.1.5. the percentage of the tonnage of Residue to the total tonnage of waste oil and waste fuels received at the Facility.
- 5.2. The above information shall reflect the twelve (12) month period immediately preceding the submission date of the report. The submission date shall be March 31 of each year in which this Consent is in effect.
- 5.3. Upon granting of the Consent, the Company shall submit to the Environment and Transportation Commissioner of the RMOC a copy of every approval, permit or licence required under provincial, federal, and municipal statutes, regulations or by-laws to permit the operation of the Facility.
- 5.4. The Company shall submit to the Environment and Transportation Commissioner of the RMOC:
 - 5.4.1. a copy of any application by the Company for modification or renewal of any approval, permit or licence referred to in condition 5.3; and
 - 5.4.2. a copy of any modification or renewal received by the Company for any approval, permit or licence referred to in condition 5.3;
 - 5.4.3. a copy of each annual report for the Recycling Facility submitted to the MOEE.

7. INSPECTION

- 7.1. The Company shall permit the RMOC, its servants, or agents, upon the production of identification, to attend at the Facility or at places where the records of the Facility are kept, during reasonable hours to inspect and make copies of such of the records of the Company as are relevant to the verification and auditing of the tonnage of Designated Materials, Diverted Materials, Refuse and Residue and attend at the Facility during reasonable hours to inspect the operation of the Facility for such purposes.

Conditions of Consent for Short-Term Waste Facilities

1. The Company must be issued a Certificate of Approval (C of A) from the Ontario Ministry of Environment and Energy for the construction and operation of the facility;
2. The facility is constructed and operated in accordance with the C of A;
3. The facility does not dispose of any solid non-hazardous waste within Ottawa-Carleton;
4. the Company shall submit reports to the Environment and Transportation Commissioner of the Region which indicate, for the reporting period, the amount of (*soil, or other waste material*) received, the amount of (*soil, or other waste material*) remediated and any residue from the facility's operation. If the facility operates for twelve months or less, the Company shall submit a final report for the period of operation. If the facility operates for more than twelve months, the company shall submit annual reports for the immediately preceding twelve month period for each year the facility is in operation and a final report upon completion of the operation;
5. The Consent shall terminate immediately on the breach of any of the above conditions or on the revocation of the C of A, or on the completion of the operation of the facility, or on cessation of the operation of the facility, whichever first occurs.