

H. Kreplin, WBCA - SWMC

April 3, 1986

To T. Vigod / F. Gierow:

RECEIVED 108 2-1086

Additional information you may wish to use in responding to the Ministerial Review of Hallett's EA/landfill application:

(A) 1983 statement by WVR "Diopores at the slope face of the Niagara Escarpment will not be contoured"

(B) Reference to our earlier requests to WVR to use a weighting system of evaluating E.A. factors. (Plus other OBJECTIVITY items).

(C) Response by City of Burlington to Ministerial Review of Hallett's E.A. as placed on agenda of Council Mgt. Committee, Mar. 22, 1986.

Regards

Hein Kreplin

deliberately avoided addressing the objectivity problem.

- Walker very much stressed the great importance of conducting the EA in a fair and objective manner. He is credible; he was therefore highly aware of this question, yet refused to resolve it in his actions.

2. Candidate site 'F' was added to the other candidate sites selected by (a) including "P1b and Quenneville" as an additional type of site, not previously considered, but (b) eliminating all other P&Q sites by methods that have no traceable logic (see item 1. above).

Objectivity / Transparency

July '83

(A)

Agricultural Capability

Impact

Class 1, 2, 3

High impact on agriculture

Class 4, 5

Moderate impact on agriculture

Class 6, 7

Low impact on agriculture

A.2 TOPOGRAPHY AND LANDFORMS

Niagara Escarpment

Disposal at the slope face of the Niagara Escarpment will not be contemplated.

Slope

Terrain conditions suitable for landfill operations will be examined. Generally, slopes exceeding 20 percent are considered unsuitable for landfill because of the difficulty of operating equipment on such slopes.

The specific evaluation factor would be Slope. It would be rated as follows:

Slope

Impact

Greater than 20%

Unacceptable impact

0 - 20%

Low - moderate impact

A.3 SURFACE WATER

Drainage

In the overview process, a buffer zone between the landfill and major surface water courses would be judged as desirable. The setback distance

From AGENDA for Mar. 27 '86 of Envir'l Mgt. Committee (C)
(to Council Mar. 31 '86)

Item No. EM-36-86

Attached:

CITY OF BURLINGTON

MOE's E.A. approval procedure
logic diagram

C.A.O 31/86

March 20, 1986

Chairman and Members of the
Environmental Management Committee

Subject: City's Response to Government Review of the
Region of Halton Landfill Environmental Assessment
File: 760-04

RECOMMENDATION:

THAT the Chief Administrative Officer be directed to advise the Minister of the Environment of the following in response to the circulation of the government review of the Region of Halton Landfill Environmental Assessment (No. 1-82-0006-000):

- (i) The City of Burlington concurs with the findings and conclusions reached by the Ministry of Environment staff that the Halton Landfill Environmental Assessment ~~does not fulfill the requirements of sub-section 5 (3) of the Environmental Assessment Act;~~
- (ii) The City of Burlington recommends that the Halton Environmental Assessment ~~not be accepted by the Minister of the Environment since it does not fulfill the requirements of sub-section 5(3) of the Environmental Assessment Act;~~
- (iii) The City of Burlington considers a hearing before the Environmental Assessment Board premature since the Region of Halton's submission ~~does not fulfill the requirements of the Environmental Assessment Act, and therefore does not provide an adequate basis on which to approve or reject the undertaking;~~
- (iv) The City of Burlington requests a hearing before the Environmental Assessment Board pursuant to sub-section 7(2) of the Environmental Assessment Act;
- (v) The City of Burlington recommends that prior to any hearing the Minister of the Environment direct the Region of Halton, pursuant to sub-section 11 of the Environmental Assessment Act, ~~to undertake such study or research as may be necessary to bring the Environmental Assessment to an acceptable form;~~

and that a copy of C.A.O. Report 31/86 be forwarded to the Environmental Assessment Branch of the Ministry of the Environment and to the Region of Halton.

REPORT:PURPOSE

To summarize and recommend a response to the government review of the Region of Halton's Landfill Environmental Assessment.

INTRODUCTION:

The Region of Halton filed its Landfill Environmental Assessment submission with the Minister of the Environment on October 28, 1985. ~~The undertaking for which Halton is requesting approval involves landfilling 11.3 million cubic yards of solid waste at either Site D in Milton or Escarpment Site F in Burlington.~~

In accordance with the provisions of the Environment Assessment Act (EA Act) the Minister circulated Halton's submission to a broad range of provincial and regional agencies. The purpose of this 90-day government review was to assess and evaluate Halton's submission. The Environmental Assessment Branch of the Ministry of the Environment co-ordinated the review for the Minister. At the conclusion of the review period the Environmental Assessment Branch prepared a review document summarizing all the comments received.

On February 28, 1986 the Environmental Assessment Branch published the findings and conclusions of the government review. A 42-day period is now provided for any interested or affected party to review and comment on Halton's submission. In addition, any party may, during this public review period, request a hearing before the Environmental Assessment Board (EA Board).

Appendix 1 contains the Minister's Notice of Completion of the Government Review.

SUMMARY OF GOVERNMENT REVIEW REPORT:

The review report is a summary of the findings and conclusions of the government review. ~~The report assesses Halton's Environmental Assessment submission by determining if the requirements of sub-section 5(3) of the EA Act have been fulfilled. This sub-section sets out, in broad terms, the minimum requirements the government expects from the proponent submitting an Environmental Assessment. Two criteria are used by the government reviewers in assessing if sub-section 5(3) has been fulfilled. The first criterion involves evaluation of the scope of the inquiry and the methods of analysis employed to select the preferred undertaking. The second criterion relates to the technical quality of the information presented and the adequacy of the level of detail.~~

(i) First Criterion:

The government review report has concluded that the proponent has considered all the components that the EA Branch interprets are required by the first criterion of sub-section 5(3). Notwithstanding this conclusion the review report has identified a number of areas where the scope of the Environment Assessment and the methods of analysis of Halton's submission are weak.

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For example, the report states that it is difficult to trace the proponents' planning process in this Environmental Assessment because of the lack of both clarity and consistency in the documented decision-making process. This problem is particularly evident in Stage 2C which deals with the selection of the preferred site. In this stage the EA Branch has criticized the use of the pairing ("fuzzy set") analysis and states that "it is difficult to conclude that there is clearly a superior site based upon the generalized information collected".

A second example relates to the treatment of Transfer Stations in the Environmental Assessment. The review report has indicated that if Transfer Stations are part of the undertaking, the facilities should be evaluated in accordance with the provisions of the EA Act.

A third example involves the lack of consideration given to possible mitigation measures in the evaluation process. The Environmental Assessment Branch interprets sub-section 5(3) of the EA Act to mean the proponent must consider how the adverse effects on the environment may be reduced. Therefore mitigation measures are to be taken into account during the evaluation phases of the Environmental Assessment process. The review report cites examples from Stage 1 and Stage 2 where consideration of site-specific mitigation would have improved the evaluation of candidate sites. The EA Branch concludes that the planning approach taken by Halton would have been considerably improved had mitigation measures been used as part of the method of analysis.

(ii) Second Criterion:

Several of the review agencies expressed concern with the level of detail and the technical quality of Halton's submission. As a result the government review report has concluded that Halton's submission does not fulfill the second criterion of sub-section 5(3). The following is a partial listing of the major areas identified by the reviewers where further work is required or where improvement to the technical quality of the reports is needed:

- The data is not adequate at this stage of the environmental assessment to demonstrate that Site F is preferable to Site D (MOE).
- Recommend the definition of the undertaking include a Transfer Station or Stations and that the analysis of Transfer Stations should be included as a supplement to the Environmental Assessment (MOE).
- A schedule for the development of the EFW component is recommended. Consideration should be given to including EFW in the definition of the undertaking (MOE).
- The pairing analysis is difficult to follow and creates uncertainty as to how the final rankings were decided. Decision logic should be understandable, rigorous, reproduceable and easy to follow (MOE, HRCA, NEC).

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- It is inappropriate to rule out the necessity of a liner for Site F at this time (MOE).
- Greater importance should have been placed on recreation concerns in the evaluation of Site F. Mitigation measures, including the relocation of the equestrian facilities, do not appear to be sufficient (Tourism and Rec.).
- Hydrogeological components should have been expanded to consider, on a conceptual basis, the adequacy of the surface drainage system at Site F (HRCA).
- Biophysical mitigation measures for Site F are not adequate and the specific recommendation to transfer rare plant species is inappropriate (HRCA).

(iii) Overall Conclusions:

Based upon the assessment of the two evaluation criteria the government review report has concluded that the Halton submission has not met the requirements of sub-section 5(3) of the EA Act. This conclusion therefore implies the Halton Environmental Assessment does not provide an adequate basis on which to approve or reject the undertaking. Several review agencies have identified areas where further work is required by the proponent.

EA ACT APPROVAL STEPS:

With the completion of the government review, two significant decisions under the Environmental Assessment Act must be made by the Minister or the EA Board. The first decision relates to the acceptability of the Environmental Assessment. This involves a determination as to whether the information contained in the Environmental Assessment is an acceptable basis on which to make a decision to approve or reject the undertaking. In making this decision the Minister or the EA Board rely upon the findings and conclusions of the government review report and any submissions received from affected parties and the general public. If satisfied with the content and quality of the Environmental Assessment the Minister may accept it. However, if the Minister considers the Environmental Assessment unacceptable he may require the proponent to do more research. Alternatively, the Minister may propose amendments to the Environmental Assessment to bring it to an acceptable form.

The second decision relates to the approval of the undertaking. This decision is the most critical one of all as it involves the approval, approval with conditions, or refusal of the undertaking.

According to the EA Act, the Minister, the proponent, or any interested or affected party, may request a hearing by the EA Board to make these determinations.

Appendix 2 contains a flow chart outlining the various approval steps of the EA Act.

RECOMMENDED CITY RESPONSE:

The City of Burlington now has an opportunity to submit comments to the Minister of the Environment on the acceptability of Halton's submission, and whether or not a hearing should be held.

In July, 1985, the City advised the Region that the selection of Escarpment Site F as the most preferred landfill site was based upon incomplete information and inadequate analysis. At that time, in an effort to provide constructive comment, the City also outlined in detail the inadequacies of Escarpment Site F and areas where additional work was required in order to rectify the shortcomings of the Environmental Assessment. The findings and conclusions of the government review report reinforce the City's position. As noted above the review report has found the work completed by the Region does not provide an adequate basis on which to make a decision to approve or reject the undertaking.

City staff are of the opinion that the landfill decision must not be based upon incomplete information and inadequate analysis. We therefore recommend that the Halton Environmental Assessment, as submitted on October 28, 1985, be considered unacceptable by the Minister of the Environment. Furthermore staff believe the Minister should direct the Region, pursuant to sub-section 11 of the EA Act, to carry out the additional studies and research work required to bring the Environmental Assessment to an acceptable form. We are confident that the results of this additional work will confirm our earlier comments to the Region that Escarpment Site F is not the preferred site for landfill in Halton.

City staff also believe it is premature to request a hearing before the Environmental Assessment Board until the Minister considers Halton's Environmental Assessment acceptable. Any hearing held to consider only the information available to date would not be in the best interest of any of the affected parties. The Region, as the proponent, has the obligation to satisfactorily complete all the necessary work prior to any decision being made regarding a hearing.

Staff also recommend that the City of Burlington request a hearing pursuant to sub-section 7(2) of the EA Act. This must be done at this time to meet the requirements of the statute and preserve the City's right to have a hearing held by the EA Board in the event the Region continues to advance Escarpment Site F as a possible location for the regional landfill site.

CONCLUSION:

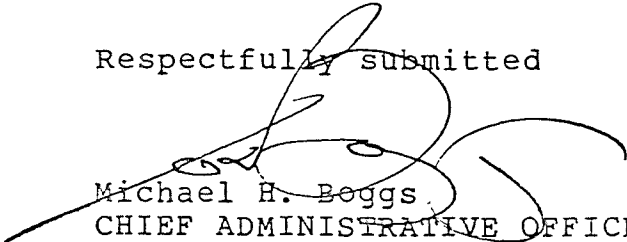
The government review report has concluded that the Halton Environmental Assessment has not fulfilled the requirements of the EA Act and does not provide an adequate basis on which to approve or reject the undertaking. Staff concur with these findings and conclusions and feel that they substantiate the City's position that Escarpment Site F is not the preferred location for the regional landfill site. Staff recommend that the Minister of the Environment not accept the Environmental Assessment until the required additional work is undertaken to rectify the shortcomings identified by the City of Burlington and the provincial and regional review agencies. Similarly, staff recommend a hearing should not be held until the Environmental Assessment is considered acceptable.

March 20, 1986

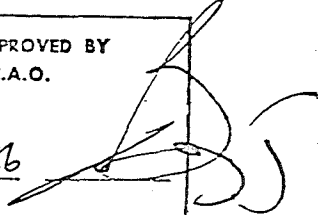
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In view of the statutory requirement that a hearing be requested by an interested party prior to April 11, 1986, the City of Burlington should now request a hearing before the EA Board.

Respectfully submitted


Michael H. Beggs
CHIEF ADMINISTRATIVE OFFICER

MHB:sb
attch: Appendices

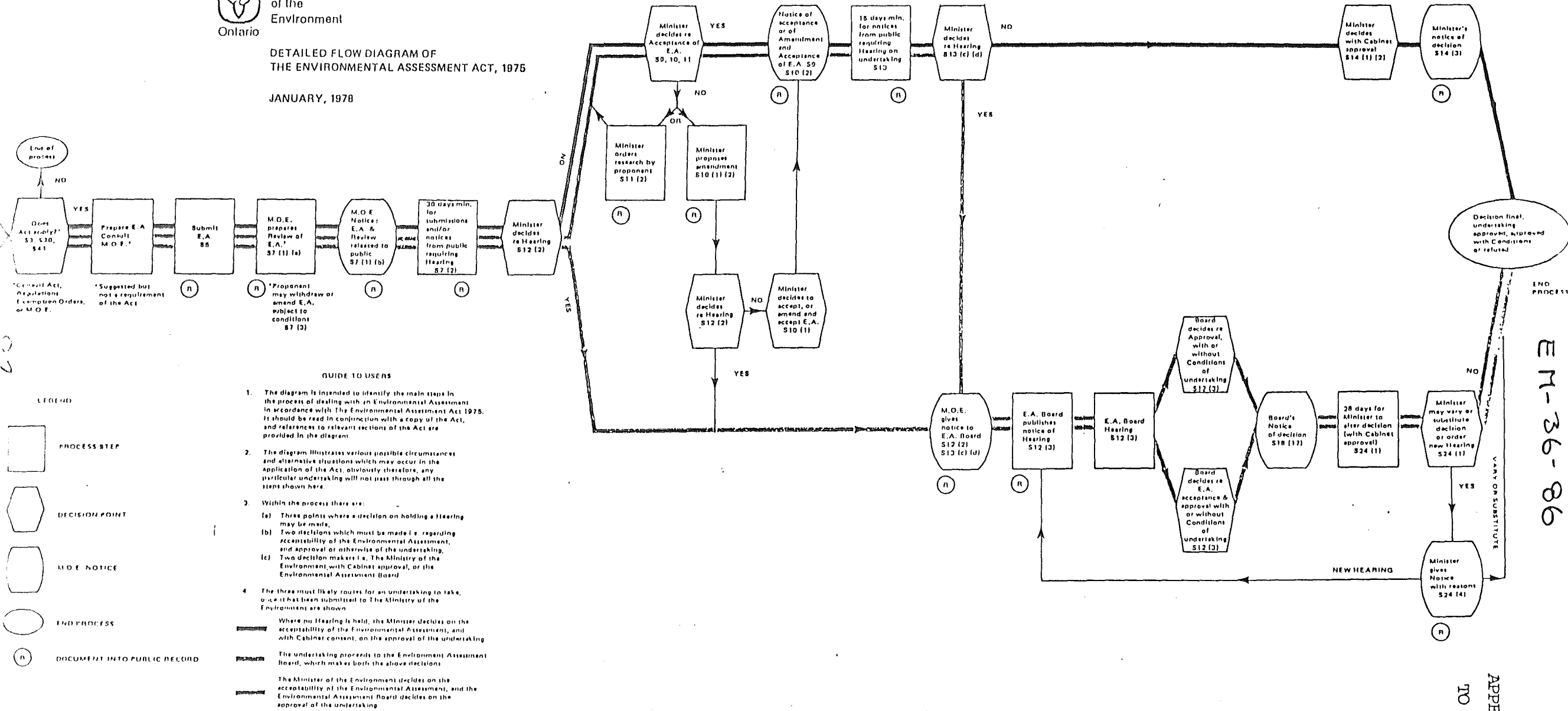
APPROVED BY C.A.O.

MAR 21/86 Date



Ministry
of the
Environment

DETAILED FLOW DIAGRAM OF
THE ENVIRONMENTAL ASSESSMENT ACT, 1975

JANUARY, 1978



END PROCESS

EN-36-86