



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

December 4, 1998

Mr. Dave Griffin, EBR Coordinator
Ministry of the Environment
Environmental Assessment Branch
250 Davisville Avenue, 5th Floor
Toronto, Ontario
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VIA FAX 416-314-7271

Dear Mr. Griffin,

**RE: REGIONAL MUNICIPALITY OF YORK LONG TERM WATER PROJECT
TERMS OF REFERENCE FOR AN INDIVIDUAL ENVIRONMENTAL
ASSESSMENT: LAKE ONTARIO WATER SUPPLY VIA DURHAM WEST**

The Canadian Environmental Law Association is a non-profit, public interest organization established in 1970 to use existing laws to protect the environment and to advocate environmental law reforms. It is also a free legal advisory clinic for the public, and will act at hearings and in the courts on behalf of citizens or citizens' groups who are otherwise unable to afford legal assistance.

CELA has worked on issues of environmental assessment and water quality and quantity, particularly in the Great Lakes, for nearly 30 years. This work has included both legal representation and law reform advocacy. We have also conducted extensive research into the effects of trade agreements on natural resource law and policy as well as issues around the desire of private companies to take control of Canadian freshwater. We have also commented on the earlier work conducted by York Region and its various private sector partners towards a Class Environmental Assessment review of long term water supply plans. We called for a full environmental assessment.

In light of this background, we wish to comment on the Terms of Reference noted above. Our comments fall into two overall areas. First, we consider the Terms of Reference to be incomplete and inappropriately limited in four significant ways. Second, we find the consideration of key alternatives to be largely dismissed and self-serving of the private sector partner.

Incomplete Terms of Reference

1. The Nature of the Public-Private Partnership is not discussed. This partnership is

fundamental to this project as is the financing of the project. These issues should be part of the project description and should be subject to public discussion. The public needs to know, if this system is approved, who will run it? Who will own the water in the pipeline? Is this partnership going to amount to private ownership of a public good? The Terms of Reference only discuss the infrastructure component, yet the nature of this partnership is a fundamental aspect of this project and must be included as part of the Terms of Reference.

2. Where is all the sewage going to go? Again, the Terms of Reference consider only the infrastructure component and thereby ignore a central environmental issue. It is absurd to apply an environmental assessment of a massive increase in water supply in isolation from the increased sewage treatment requirements created by each of the alternatives being considered. The assumption, with no details provided, of a Great Lakes based sewage treatment solution deserves public scrutiny alongside decisions about massive increases in water supplies to service increased development. Such public scrutiny should occur in the communities that will be asked to accommodate this increased sewage treatment. The Ministry of Environment well knows that the creation or expansion of sewage treatment capacity in existing communities along the Great Lakes shoreline has been, justifiably, the subject of enormous controversy. In addition, since a Great Lakes solution is being assumed, broader consultation is necessary given the degraded condition of this shared, and essentially non-renewable resource.¹

3. Growth projections are not defended. The pipeline is premised upon growth projections in the regional plan. However, the pre-condition for the growth projected in the York Region plan is a large increase in water supply. York Region has decided to partner with a company that builds pipelines. Now the public is asked to accept Terms of Reference for an Environmental Assessment that insists on building a pipeline, the need for which is outlined in another document that assumes the pipeline will be built. This self-serving and circular logic does not meet the *Environmental Assessment Act* requirement to demonstrate the need for a project. The need for this proposal must be substantiated in the Terms of Reference and the subsequent Environmental Assessment document.

4. Inadequate consideration of cancer risk from trihalomethanes. The proposal, if approved, will mean a very long distance between the water treatment plant and the tap necessitating a very high chlorine residual under conventional water treatment methods. The result will be high levels of trihalomethane contamination. Recent studies showing an increased risk and causal relationship between trihalomethanes and bladder cancer are based on Great Lakes data. Health Canada has stated publicly that it is concerned that the

¹ As a "gift" from the last glacial melt, only 1% of the Great Lakes are annually renewed. Toxic pollution remains a serious insult to Great Lakes water quality and Great Lakes water levels are at a 34 year low due to the growing impacts of climate change.

current guideline for trihalomethane levels in drinking water may create a significant cancer risk. The result could well be a lowering of the allowable level of trihalomethanes or new requirements for alternative treatment methods. The appendix to these Terms of Reference states that this matter will be studied. However, this matter is of central importance to this proposal; careful study of these issues must be required as part of the Terms of Reference.

Inadequate Consideration of Alternatives

1. **Groundwater.** Scientists with the Geological Survey of Canada have stated that extensive groundwater supplies likely exist within the Oak Ridges Moraine in York Region. The Terms of Reference set up this option as a “straw man” to dismiss without adequate study. York Region’s historical and continued practice of refusing to accept the need to change land use planning practices to protect groundwater supplies and groundwater recharge represents a short-sighted squandering of a precious source of clean, renewable fresh water.

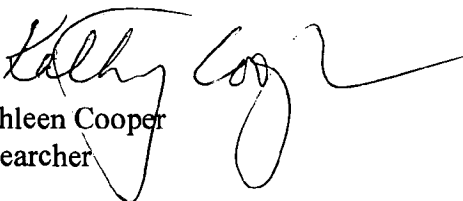
2. **Conservation.** This option is similarly set up as a “straw man” in these Terms of Reference without due consideration for potential water savings.

The inadequate treatment of alternatives in these Terms of Reference underscore both the self-serving nature of the private proponent in this partnership (a pipeline company) and the need for the nature of this partnership to be fully outlined in these Terms of Reference and subject to public scrutiny.

All of which is respectfully submitted.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION


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