

CONSOLIDATED HEARINGS BOARD

IN THE MATTER OF Sections 2 and 3 and 6 (3) of the Consolidated Hearings Act, 1981, S.O. 1981, c.20;

— and —

IN THE MATTER OF Section 12(2) of the Environmental Assessment Act, R.S.O. 1980, c.140;

— and —

IN THE MATTER OF Sections 30, 35 and 38 of the Environmental Protection Act, R.S.O. 1980, c.141, as amended;

— and —

IN THE MATTER OF Sections 24 and 61 (2) of the Ontario Water Resources Act, R.S.O. 1980, c.361, as amended;

— and —

IN THE MATTER OF Section 28 (3) of, and Regulation 164 under, the Conservation Authorities Act, R.S.O. 1980, c.85, as amended;

— and —

IN THE MATTER OF Section 40(12) of the Planning Act, S.O. 1983, c.1, as amended; in connection with site plan control of the sanitary landfill site;

— and —

IN THE MATTER OF Section 22(1) of the Planning Act, 1983 in connection with a referral to this Board by the Honourable Bernard Grandmaitre, Minister of Municipal Affairs, on a request by the Regional Municipality of Halton to amend the Official Plan for the Town of Milton to redesignate a parcel of land comprising Part Lots 3 and 4, Concession 2 N.S. in the Town of Milton from "Agriculture" and "Conservation and Hazard Lands" to permit the construction, operation and maintenance of a landfill site, Minister's File No. 24-OP-0208-A01;

— and —

IN THE MATTER OF Section 34(11) of the Planning Act, 1983 in connection with an appeal to this Board by the Regional Municipality of Halton for an order directing an amendment to By-law 61-85 of the Town of Milton to rezone the lands situated at Lot 3 and part of Lot 4, Concession 2 N.S., in the Town of Milton from "Agriculture" to permit a regional sanitary landfill site and ancillary uses;

— and —

IN THE MATTER OF Section 15(1) of the Planning Act, R.S.O. 1980 ch.379 in connection with a referral by the Honourable Claude F. Bennett, Minister of Housing on a request by Tremaine Britannia Citizen's Group for consideration of part of the Official Plan for the Halton Planning Area with respect to Sections 1 to 5 inclusive, 7, 9 and 10 of Part III D3 Solid Waste Management, Minister's File No. OPC-0026;

— and —

IN THE MATTER OF Section 64 of the Ontario Municipal Board Act, R.S.O. 1980, c.347 as amended in connection with an application by the Regional Municipality of Halton for an order approving:

- a) the acquisition of land for the construction, operation and maintenance of a sanitary landfill site to contain 7.96 million cubic metres of waste in the Regional Municipality of Halton and to do so by one of two alternative methods as follows:
 - (i) landfilling at the site referred to in Halton's Environmental Assessment as Site F in the City of Burlington;
 - (ii) landfilling at the site commonly referred to in Halton's Environmental Assessment as Site D in the Town of Milton

at an estimated cost of \$12,775,000.00, and the borrowing of money by way of temporary advances not exceeding in the aggregate such estimated cost pending the sale of debentures, and

- (b) the issuance of necessary debentures to a maximum of \$12,775,000.00 for a term not to exceed fifteen years;

— and —

IN THE MATTER OF Section 193(5) and Paragraph 84 of Section 210 of the Municipal Act, R.S.O. 1980, c.302, as amended;

— and —

IN THE MATTER OF Sections 6, 7 and 8 of the Expropriations Act, R.S.O. 1980, c.148;

— and —

IN THE MATTER OF an undertaking of the Regional Municipality of Halton to provide facilities for the purpose of receiving, dumping and disposing of waste as required by section 137 of the REGIONAL MUNICIPALITY OF HALTON ACT, R.S.O. 1980, c.436, as amended, by acquiring the land for, constructing, operating and maintaining a landfill to contain 7.96 million cubic metres of waste in the Regional Municipality of Halton.

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DATE: June 22, 1987.

OFFICIAL REPORTERS
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Nethercut & Co. Ltd.

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BEFORE:	H. H. Lancaster, Q.C.	-	Chairman
	Dr. D.J. Kingham	-	Member
	S. Tanner	-	Member



Nelhercut & Co. Ltd.

Toronto, Ontario

Hearing conducted at The Oakville
Granary Commercial Centre, 105 Robinson
Street, Oakville, Ontario, on

June 22, 1987.

VOLUME 24

APPEARANCES:

T.R. Lederer and H.D. Hodgson	for the Regional Municipality of Halton (Proponent)
J.R. Tidball	for the Ministry of the Environment
T. Vigod J.F. Castrilli	for the West Burlington Citizens Group
D. Estrin, F.E. Leitch and H. Dahme	for the Corporation of the Town of Milton
S.R. Garrod and A. Nurvo	for the Milton Area Citizens Coalition and several affected Milton area landowners
R.B. Tuer, Q.C. E.A. Cronk and F. Perrier	for National Sewer Pipe Limited
L.F. Longo	for Azova Investments Limited
M.J. McQuaid, Q.C. and C.J. Tzekas	for the City of Burlington
C. Mansfield	for the Ministry of Natural Resources
P. Renaud	for Cumis



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APPEARANCES (Cont'd):

1	C. Stevenson	for Framgard Holdings,
2	P. Hancock	Fosseri Investments
3		Limited, Seriphos
4		Investments Limited and
5		Topic Investments
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J.H. Olah for the Halton Region
Conservation Authority

* * * * *

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Official Reporters
185 Richmond St. W.
Toronto, Ontario
M5V 1V3

Per: P.D. McQueen



1 --- Upon commencing at 9:25 a.m.

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DR. KINGHAM: Thank you. Please
be seated.

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We have a problem. We learned
on the weekend that the Chairman, Mr. Lancaster,
has suffered a severe heart attack and is now
in the hospital. That is going to force us
all into considering the courses of action that
we should take for the next week -- the next
few weeks and the rest of this hearing. We are
not quite certain what the course of action should
be at this stage, so we thought we would get as
much information as we can here and now that will
help the OMB Chairman and the EAB Chairman in
deciding on what the future course of action should
be.

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One of the questions that comes to
our minds, is the question of whether or not the
evidence we have heard, which has a bearing on the
Planning Act is sufficiently well defined that we
could re-hear it at some subsequent time.

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Associated with that question would
be the question of whether the evidence you intend
to bring with regard to the Planning Act



1 subsequently can be brought in an appropriately
2 organized fashion so that we could, if necessary,
3 reconstitute this Board by deferring the Planning
4 Act aspects to a specific time so that we would
5 still be a joint Board but we would be hearing
6 matters related to the OMB at one time and the
7 hearing matters relating to the EAB for much of
8 the rest of the time.

9 I would be interested in the views
10 of counsel on this matter, and when I have heard
11 your views, I would proposed to call Mr. Jeffery
12 who will be in touch with Mr. Stewart and the two
13 of them can discuss how they might put the pieces
14 together at this stage of the game.

15 So, maybe, Mr. Lederer, you might
16 tell me what you think on the two questions; first
17 of all ---

18 MS CRONK: Excuse me, I am
19 sorry to interrupt ---

20 MR. LEDERER: Mr. Chairman,
21 obviously this has caught everyone by surprise.
22 I wonder if we might adjourn for a few moments
23 to allow counsel ---

24 DR. KINGHAM: Fifteen minutes,
25 half-an-hour.



1 MR. ESTRIN: I think we can
2 safely assume we are not hearing any evidence
3 today.

4 DR. KINGHAM: I think that is
5 probably a safe assumption. Depending on the
6 answers to these questions, I guess there is
7 an outside possibility that one might continue
8 with the assessment kind of evidence, but it is
9 too early to say. Maybe it is the safest
10 thing to have the witness take the day off. I
11 will leave it for at least half-an-hour.

12 MR. LEDERER: I am not really
13 certain. Perhaps you could give us half-an-hour
14 to consider what to do. I suspect that what
15 we are going to have to do -- counsel will talk
16 as a group and they will split off in their own
17 little groups and this will take us a while to
18 assess where we are.

19 DR. KINGHAM: In the meantime,
20 we will review all the sections of the various
21 Acts we are looking at to see what sense we can
22 make of it at the same time.

23 MR. LEDERER: I hope you can
24 remember them, I can't.

25 DR. KINGHAM: We will reconvene



1 then, let us say at twenty-after-ten to be on the
2 safe side.

3 MR. LEDERER: Mr. Chairman, I
4 wonder as well -- I am not sure how many people
5 are here from the public and there are not very
6 many large rooms here and I think this is something counsel
7 should meet over in the absence of anyone else
8 and perhaps asking that this room be cleared.

9 DR. KINGHAM: Does that pose any
10 problems for anybody? I will ask that this room
11 be cleared except for counsel and the counsel can
12 use this room for their gathering.

13 MS CRONK: Excuse me, sir, just
14 before we adjourn, I know I speak for all counsel,
15 I wouldn't want the Board as it is presently
16 constituted, to leave without knowing that counsel
17 treat this with great regret. I don't know if
18 the Board can help us at this early stage as to
19 when he will return or any information is available.

20 DR. KINGHAM: I appreciate that
21 message and we are trying to find out in fact, but
22 we don't know how serious the situation is, but we
23 know where he is. Susan knows in fact.

24 MS TANNER: It was quite a
25 serious heart attack. They can't tell anything



1 within the first 48 hours for sure. The prognosis
2 is not good for complete recovery. I guess there
3 is an outside possibility that he may be able to
4 rejoin us, but I wouldn't expect that to be in the
5 near future.

6 MS CRONK: Thank you.

7 MR. LEDERER: Thank you very much.

8 DR. KINGHAM: Ten-twenty.

9

10 --- Recess

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12 DR. KINGHAM: Well, Mr. Lederer,
13 we have tried to go through some of these without
14 too much success. Have you had more success down
15 here?

16 MR. LEDERER: I am not sure what
17 the measure of success is in the circumstances. We
18 have certainly looked at the Act as a group and
19 I think we have determined there are several options.

20 Obviously, for each of us this is
21 a difficult problem. It is something that we are
22 going to want to consider with some care. I think
23 as a group we have determined the safest approach
24 is the cautious approach, and what we would like
25 to do is to have the Board now adjourn until



1 Thursday. The Board will recollect that Thursday
2 was to be the last day of sitting for this period
3 of time in any event, and I think we all believe
4 there would be some advantage in resolving this
5 matter in some fashion prior to that two-week
6 adjournment.

7 On the other hand, we would like as
8 much time as possible to think about it and obtain
9 instructions.

10 Our idea is, with the Board's
11 agreement of course, that we adjourn now until 11:30
12 on Thursday morning. Our reason for asking for a
13 late start point is that we felt there may be some
14 need for us to speak as a group and that would be
15 the best time to do that.

16 I suppose I should say two other
17 things. We think there are two other options
18 without canvassing them all.

19 Secondly, it has occurred to us
20 that this might be an occasion when it would be
21 to the Board's advantage if Mr. Marshall might be
22 asked to return so that the Board could have some
23 direct legal advice.

24 DR. KINGHAM: Yes, we are
25 interested in making sure that whatever we do is



1 solid and iron-clad. We don't want to go through
2 eight months of hearing to find that we have made
3 some procedural error at this stage and we were
4 consulting with the Attorney-General's office this
5 morning as well.

6 MR. LEDERER: Perhaps if I could
7 just add something to what Ms Cronk
8 said. If the Board has the opportunity to pass
9 on our sympathy too.

10 DR. KINGHAM: We will be doing it
11 on behalf of ourselves and we will do it on behalf
12 of everyone who participated.

13 MR. LEDERER: Thank you.

14 DR. KINGHAM: Does anyone else
15 have anything to add?

16 MR. LEDERER: Mr. McQuaid isn't
17 here, but he is in agreement with what I have said
18 but it may be wise to have a submission.

19 MS TANNER: Do you have any sense
20 at all of the options you have considered now?

21 MR. LEDERER: There are generally,
22 it seems to us at the moment, two options.

23 I think practically we have agreed
24 there are two options. There may be certain
25 derivatives that fall out.



1 The two options are that we continue
2 with the present members of the Board and simply go
3 on. The other frankly is, that we start all over
4 again with a different Board. We have considered
5 other things, none of them appear to be particularly
6 appropriate in the circumstances. I think for
7 the moment it is better I not say anything else.

8 DR. KINGHAM: Does anyone have
9 anything else they would like to add to what
10 Mr. Lederer has said regarding in particular this
11 question of adjourning until 11:30 on Thursday?

12 I assume everyone is in agreement
13 with that?

14 MS CRONK: We are all in agree-
15 ment sir, and one of the reasons is that in addition
16 to considering amongst ourselves and some counsel
17 in particular, we have to get specific instructions
18 from our clients and we need the accommodation and
19 require the time.

20 DR. KINGHAM: I assume -- and do
21 we assume correctly, that you would like to have
22 Mr. Marshall here maybe at 9:30 on Thursday morning,
23 if you would require consultation before 11:30?

24 MR. LEDERER: That might be quite
25 appropriate. Perhaps he could be asked to come



1 at 10:30 so he is not waiting. I may say, if
2 counsel will permit me, I will call Mr. Marshall
3 and give him our thoughts to this point.

4 DR. KINGHAM: All right.

5 If there is no other comment, I
6 guess we will adjourn. We will adjourn until
7 Thursday morning at 10:30 a.m.

8 MR. LEDERER: Eleven-thirty.

9 DR. KINGHAM: Excuse me, you are
10 quite right, 11:30, and Mr. Marshall here at 10:30.

11 MR. ESTRIN: I think it is
12 understood by everyone if it gets to the press that
13 there will be no evidence called that day.

14 MR. LEDERER: Our idea is to resolve
15 this issue and we will start again.

16 DR. KINGHAM: That sounds perfectly
17 suitable to us. Good, we are adjourned.

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19 --- Adjournment at 10:32 a.m.
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23 CERTIFIED CORRECT
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P.D. McQueen

