

Ministry of
the Environment

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February 25, 2014

Mr. Peter Pickfield LLP
9 Norwich St. W
Guelph ON N1H 2G8

Dear Mr. Pickfield:

Thank you for your letter dated February 14, 2014 about the proposed Walker Environmental Group (Walker) landfill located in Oxford County in Southwestern Ontario. I am pleased to respond to your questions on the Terms of Reference (ToR) 'time out' process.

In your letter you raised a number of concerns pertaining to the ToR 'time out' process, the need for on-going consultation, and concerns around the Ministry of the Environment's (Ministry) decision-making process. You also raised a number of specific questions that I have answered below.

As outlined in section 7.1 of the Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario (Code of Practice), it is standard procedure for the Ministry to send all comments received during the formal comment period on ToR to the proponent for a response. The proponent is provided with this opportunity to clarify how it perceives the issues have been addressed to facilitate the Ministry's review of the ToR. As an additional step a proponent may determine that, based on comments received, the proposed ToR would benefit from amendments to address issues that have been raised when amendments are being contemplated, this occurs through a 'time out'. When proponents undertake a 'time out', Ministry staff directs the proponent to consult with affected stakeholders on the amendments as outlined in the Code of Practice. This consultation is expected to be undertaken by the proponent during the allotted 'time out' period before an amended ToR and updated Record of Consultation are submitted to the Ministry for a decision. A recent example of a landfill ToR that was amended during a 'time out' is the ToR for the Future Solid Waste disposal needs of the Town of St. Marys.

The 'time out' provision is based on the proponent making amendments to the ToR, but it does not provide any stipulation on the magnitude or nature of those amendments. It is up to the proponent to determine what amendments will be made, and then submit the amended ToR to the Ministry for review and decision.

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The guidance given to proponents by the Ministry is to consult with those persons who may be affected by the proposed amendments, and the Ministry may provide more detailed guidance in this respect if required. In addition to the general guidance provided for this project, the Ministry has indicated an expectation that Walker's proposed amendments will be made publically available for 30 days during the 'time out' period. During this time, the proponent is expected to provide public notification that all comments on the amendments to the ToR should be sent to the Ministry, and will be considered along with the amended ToR before a decision is made by the Minister. The Joint Municipal Coordinating Committee (JMCC) will have a chance during this 30-day period to comment on the proposed amendments to the ToR. The JMCC is also encouraged to engage directly with Walker to discuss the proposed amendments.

The 'time out' period is not counted as part of the 15-week decision time that the Minister has to make a decision on the proposed ToR. The Deadlines Regulation indicates that the Minister shall notify the proponent of a decision by the last business day of the seventh week after the amendments are submitted. The regulation does not limit the 'time out' requests to just one, and the Ministry may, in extenuating circumstances, allow additional time for the amendments to be finalized. One example of this is if an extensive stakeholder base must be consulted. Additionally, even if a decision is made by the Minister outside of the 15-week period, it is not considered invalid.

Walker currently has until March 31, 2014 to amend its ToR and consult on those amendments. However, Walker may request additional time if necessary. Once an amended ToR is submitted to the Ministry, Ministry staff will consider all comments that were provided, and will also consider if Walker adequately addressed the concerns that were identified by the public, stakeholders and government reviewers. For your reference, the link to the Code of Practice referenced above can be found here:


http://www.ene.gov.on.ca/stdprodconsume/groups/lr/@ene/@resources/documents/resource/d01_079523.pdf

Please be assured that the Ministry is committed to supporting sustainable, environmentally responsible options for managing waste. Through the environmental assessment process, the Ministry will ensure that both the benefits and potential environmental impacts of the project are carefully studied and comprehensively assessed before any decisions are made.

For more information about the Walker project, including the ToR document, consultation opportunities and contact information for the Walker study team, please visit the project website at www.walkerea.com.

The Ministry would be pleased to meet with the JMCC to provide an overview of the EA process, should this be of interest to the committee. If you have further questions about the EA process or would like to arrange a meeting, please contact Ms. Michelle Whitmore, Special Project Officer at the Environmental Approvals Branch. Ms. Whitmore may be contacted by phone at 416-314-7225 and/or e-mail at SWLandfillProposal.MOE@ontario.ca.

Yours sincerely,


Agatha Garcia-Wright
Director
Environmental Approvals Branch