

To: Development Services Committee

From: Warren Munro, HBA, RPP, Commissioner,
Development Services Department

Report Number: DS-22-62

Date of Report: March 2, 2022

Date of Meeting: March 7, 2022

Subject: Correspondence DS-21-232 concerning the decision of the
Ministry of the Environment, Conservation and Parks regarding
1515 Thornton Road North

Ward: Wards 1 and 2

File: 12-05

1.0 Purpose

On December 13, 2021, Council considered Correspondence DS-21-232 (formerly INFO-21-274 – see Attachment 1) concerning the decision of the Ministry of the Environment, Conservation and Parks (“M.E.C.P.”) with respect to the Environmental Compliance Approval (“E.C.A.”) application for the proposed anaerobic digestion facility located at 1515 Thornton Road North (the “Evergreen A.D. Facility”), submitted by RIC (1515 Thornton) Inc. and Evergreen Environmental Inc. (“Evergreen”). After considering the matter, Council passed the following motion:

“That Item DS-21-232 be referred to staff to report back on the following:

1. The determination of the difference between the materials accepted by the Evergreen private anaerobic digester at 1515 Thornton Rd North named in the correspondence and what is accepted at the Region’s digester and whether the City can enforce restrictions on the materials;
2. Whether the City can designate truck routes to and from the anaerobic digester; and,
3. To investigate the operational linkage between the 1515 Thornton Rd North anaerobic digester and the other Oshawa properties under the control of Evergreen in the Oak Ridges Moraine.”

The purpose of this Report is to respond to Council’s request for more information as noted above.

Attachment 1 is a copy of Report CNCL-20-98 dated May 20, 2020. Owing to its size, the report is not attached but can be viewed at the following link:

http://www.oshawa.ca/agendas/city_council/2020/05-25/REPORT_CNCL-20-98.pdf.

Attachment 2 is a copy of Item DS-21-232, being correspondence dated October 27, 2021 from the M.E.C.P. concerning its decision with respect to the E.C.A. application for the Evergreen A.D. Facility. Owing to its size, Item DS-21-232 is not attached but can be viewed at the following link: <https://pub-oshawa.escribemeetings.com/filestream.ashx?DocumentId=1123>.

2.0 Recommendation

That the Development Services Committee recommend to City Council:

1. That Report DS-22-62 dated March 2, 2022 concerning Correspondence DS-21-232 concerning the decision of the Ministry of the Environment, Conservation and Parks regarding 1515 Thornton Road North be received for information.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following have been consulted in the preparation of this Report:

- Legal Services
- M.E.C.P.
- Region of Durham

5.0 Analysis

5.1 City Comments on Environmental Compliance Approval Amendment Applications for the Evergreen Anaerobic Digestion Facility

On May 25, 2020, Council considered Report CNCL-20-98 dated May 20, 2020 concerning City comments on three E.C.A. amendment applications for the proposed Evergreen A.D. Facility, and endorsed the following recommendations:

- “1. That, pursuant to Report CNCL-20-98 dated May 20, 2020, and in accordance with those reasons identified in Section 5.4.2 of said Report, staff be authorized to request the Ministry of Environment, Conservation and Parks to not approve Environmental Compliance Approval applications ERO 019-1538, ERO 019-1539 and ERO 019-1540 submitted by RIC (EOR) Inc.; and,
2. That, pursuant to Report CNCL 20-98 dated May 20, 2020, and in the event the Ministry of Environment, Conservation and Parks chooses to continue to advance the approval of Environmental Compliance Approval amendment applications ERO 019-1538, ERO 019-1539 and ERO 019-1540 related to a

proposed anaerobic digestion facility at 1515 Thornton Road North, staff comments contained in Section 5.4.2 and Attachment 8 of said Report be endorsed as the City's comments.; and,

3. That, pursuant to Report-CNCL-20-98 dated May 20, 2020, staff be authorized to forward a copy of the Report and any related Council resolution to the Ministry of the Environment, Conservation and Parks as the City's response to the postings on the Environmental Registry website with respect to Environmental Compliance Approval applications ERO 019-1538, ERO 019-1539 and ERO 019-1540 for waste, sewage and air, respectively, submitted by RIC (EOR) Inc. in support of their Anaerobic Digestion Facility proposal at 1515 Thornton Road North.
4. That, pursuant to Report CNCL 20-98 dated May 20, 2020, a copy of the Report and the related Council resolution be sent to the Region of Durham and the Central Lake Ontario Conservation Authority."

The Council-endorsed comments on the above-mentioned E.C.A. applications can be found in Section 5.4.2 and Attachment 8 of Report CNCL-20-98 dated May 20, 2020 (see Attachment 1).

M.E.C.P. approved the E.C.A. applications on October 27, 2021.

5.2 Background on 5052 Harmony Road North

On September 27, 2021, Council Considered Item DS-21-168 concerning City comments on a forthcoming Research and Development Environmental Compliance Approval ("R.D.E.C.A.") application by RIC (Harmony) Inc. and Evergreen for a temporary one-year digestate co-composting trial project located at 5052 Harmony Road North (the "Trial Project"), and adopted a recommendation to, among other matters, endorse the comments contained in said Item.

Pursuant to Council's direction on Item DS-21-168 given on September 27, 2021, staff submitted the comments contained in Item DS-21-168 to the M.E.C.P., the Region of Durham, the Township of Scugog, the Municipality of Clarington, the Central Lake Ontario Conservation Authority (C.L.O.C.A.), Kawartha Conservation Authority and Evergreen.

On December 13, 2021, Council considered Correspondence DS-21-232 concerning the decision of the M.E.C.P. with respect to the E.C.A. application for the Evergreen A.D. Facility, and directed staff to report back to the Development Services Committee on certain related matters, as outlined in Section 1.0 of this Report.

5.3 Investigation of Matters Pursuant to Correspondence DS-21-232

Staff have consulted with the appropriate agencies and City departments on the various matters identified by Council as put forth pursuant to Council's consideration of Correspondence DS-21-232.

5.3.1 Item 1 Pursuant to Correspondence DS-21-232

Under Item 1 of Council's motion pertaining to Correspondence DS-21-232, staff were directed to report back on the following:

"1. The determination of the difference between the materials accepted by the Evergreen private anaerobic digester at 1515 Thornton Rd North named in the correspondence and what is accepted at the Region's digester and whether the City can enforce restrictions on the materials."

Pursuant to reviewing this matter, staff note the following:

- The M.E.C.P. has advised that the materials received at anaerobic digestion facilities in Ontario is regulated through the E.C.A. process under the following Ontario Regulations ("O. Reg."):
 1. O. Reg. 347: General – Waste Management, under the Environmental Protection Act, R.S.O. 1990, c. E.19 ("Environmental Protection Act");
 2. O. Reg. 101/94: Recycling and Composting of Municipal Waste, under the Environmental Protection Act; and,
 3. O. Reg. 267/03: General, under the Nutrient Management Act, 2002, S.O. 2002, c. 4.
- The Amended Waste E.C.A (Number 6526-BZVPHT) issued on October 27, 2021 for the Evergreen A.D. Facility (see Attachment 2) states the following:
 - The Evergreen A.D. Facility may receive, temporarily store and process up to a maximum of 200,000 tonnes of Organic Waste (hereinafter defined below) per year;
 - "Organic Waste" means "solid and liquid non-hazardous organic waste derived from plants or animals, readily biodegradable and suitable for microbial biodegradation conducted under anaerobic conditions, and as further described in Condition 3.1 of this Approval. Solid Organic Waste means a municipal waste as defined in Regulation 347. Liquid Organic Waste means a liquid waste as defined in Regulation 347";
 - Section 3.1(2) provides that the Evergreen A.D. Facility is permitted to receive the following waste types:
 - (a) Organic waste from:
 - Bakeries;
 - Confectionary processing facilities;
 - Dairies and facilities that process dairy products;
 - Fruit and vegetable processing facilities;
 - Cereal and grain facilities;
 - Oil seed processing facilities;
 - Snack food processing facilities;

- Snack food manufacturing facilities;
 - Breweries and distillers grain;
 - Wineries;
 - Beverage manufacturing facilities;
 - Food processing facilities;
 - Grocery stores;
 - Food distribution companies;
 - Milling facilities;
 - Fruit and vegetable packing facilities;
 - Pet food manufacturing;
 - Production of ethanol or biodiesel;
 - Any other source allowed in writing by the District Manager;
- (b) Source separated organics (S.S.O.) from the residential (domestic) curbside collection programs operated by a municipality or on behalf of a municipality and that may contain soiled diapers, soiled incontinence products, soiled sanitary products and pet wastes; and,
- (c) S.S.O. from the institutional generators including airports, hospitals, long-term homes and schools.
- In accordance with the Amended Waste E.C.A., under Section 3.0 “Service Area, Approved Waste Types and Rates”, the Owner shall only accept the approved waste generated in the Province of Ontario.
 - The M.E.C.P. has advised that the Region of Durham will be required to obtain an E.C.A. for the proposed Clarington Anaerobic Digestion Facility (“Clarington A.D. Facility”) at the appropriate time, which will be subject to the same Ontario Regulations listed above.
 - As of March 2, 2022, the Region of Durham has not submitted an E.C.A. application for the Clarington A.D. Facility. Consequently, the exact amount and/or type of waste that will be received at this facility is unknown at this time. However, staff note that the Region of Durham’s project website for the Clarington A.D. Facility states that “waste will only be accepted from Durham Region, including waste collected from the Region’s curbside waste collection program and from multi-residential buildings”.
 - Given that the materials accepted at anaerobic digestion facilities is regulated through Provincial legislation, as noted above, the City does not have the authority to enforce restrictions on the materials received at anaerobic digestion facilities, as described in Section 5.3.1.

5.3.2 Item 2 Pursuant to Correspondence DS-21-232

Under Item 2 of Council’s motion pertaining to Correspondence DS-21-232, staff were directed to report back on the following:

- “2. Whether the City can designate truck routes to and from the anaerobic digester.”

Pursuant to reviewing this matter, staff note the following:

- The Amended Waste E.C.A. (Number 6526-BZVPHT) issued on October 27, 2021 for the Evergreen A.D. Facility (see Attachment 2) addresses trucks and traffic. Specifically, Section 9.1.9 of said E.C.A. states the following:

“The Owner shall determine the Site access truck traffic routes and shall ensure that all drivers of vehicles making deliveries and removing waste from to [sic] the Site are made aware of the traffic routes restrictions and requirements.”

- Given that the waste materials accepted at the Evergreen A.D. Facility may be sourced from other jurisdictions (i.e. across the Province) and that truck routes and traffic are addressed in the Amended Waste E.C.A., the City does not have the authority to impose truck routes to and from the Evergreen A.D. Facility.

5.3.3 Item 3 Pursuant to Correspondence DS-21-232

Under Item 3 of Council's motion pertaining to Correspondence DS-21-232, staff were directed to report back on the following:

“3. To investigate the operational linkage between the 1515 Thornton Rd North anaerobic digester and the other Oshawa properties under the control of Evergreen in the Oak Ridges Moraine.”

Pursuant to reviewing this matter, staff note the following:

- Evergreen has expressed an interest in submitting a R.D.E.C.A. for the Trial Project located at 5052 Harmony Road North. However, the M.E.C.P. has advised that as of March 2, 2022, no such application has been submitted by Evergreen.
- The M.E.C.P. has advised that the E.C.A. application for the Evergreen A.D. Facility did not include any reference to the Trial Project at 5052 Harmony Road North.
- The source for the digestate at the R.D.E.C.A. is anticipated to be City of Toronto as noted in Item DS-21-168.
- Given that construction of the Evergreen A.D. Facility has not begun and that Evergreen has not submitted an R.D.E.C.A. for the Trial Project to the M.E.C.P., it is not possible to assess, based on the limited information available at the current time, whether or not there may be an operational linkage between the Evergreen A.D. Facility and 5052 Harmony Road North in the future.

6.0 Financial Implications

There are no financial implications associated with this Report.

7.0 Relationship to the Oshawa Strategic Plan

This Report advances the Environmental Responsibility goal of the Oshawa Strategic Plan.

A handwritten signature in blue ink, appearing to read "Tom Goodeve".

Tom Goodeve, M.Sc.Pl., MCIP, RPP, Director,
Planning Services

A handwritten signature in blue ink, appearing to read "Warren Munro".

Warren Munro, HBA, RPP, Commissioner,
Development Services Department