



Lakeridge Citizens for Clean Water
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Mr. Dave Fumerton
District Manager
York-Durham District Office
Ontario Ministry of the Environment
230 Westney Rd. S., Ajax

[By e-mail to dave.fumerton@ontario.ca]

Dear Mr. Fumerton,

This letter is in response to your email of June 4th concerning the January 18th letter from GFL with its workplan proposals and the results of the Supplementary Phase 2 Site Assessment dated February 2012 for the Earthworx site on Lakeridge Road.

We wish to make it clear that while LCCW feels that it is absolutely necessary that the contaminated fill be removed from the Earthworx property, but we object to the condition that it will be done if they obtain a new permit to subsequently refill the site.

Although the Ministry is seeking comments on the proposed work plan, it must also consider the fact that the implementation of the work plan and the acquisition of a fill permit from the municipality are inextricably linked in this particular case and therefore must be considered together. LCCW believes it is unethical to base the removal of the contaminated material on permission to further fill the site. We believe it is inappropriate for the Ministry to give comment on the acceptability of the proposed work plan without commenting on the appropriateness of additional filling. We believe the Ministry only has jurisdiction to consider how it will proceed in order to deal with the contravention of the EPA. If the Ministry decides that it is necessary that the contaminated soils be removed, than it is hoped the Ministry would use its authority to order that it is done. Polluters need to be held accountable and the Ministry needs to be firm and consistent when there are contraventions of the EPA.

A significant amount of waste material was deposited at the Earthworx site, yet the site does not have a Compliance Approval from the Ministry to accept the waste of soil with contaminant levels above Table 3 that were deposited at this site. Those responsible should be held accountable for contravening the EPA.

As mentioned, although we believe the contaminated material should be removed, we are being asked to comment on the proposed work plan, submitted by GFL, which will not happen unless a

permit is issued. Therefore, we must first comment on this aspect of the proposal. Below are listed reasons why another permit should not be issued.

Fill permit comments

1) Exceeding disturbed area limits

The Scugog site alteration by-law indicates that an application must comply with the Oak Ridges Moraine Conservation Plan (ORMCP).

Section 30 of the ORMCP indicates that no more than 50% of a property can be disturbed. This includes grading and filling. The Earthworx site is located in an area to which this policy applies. While the pads as shown on the maps in the reports may be less than 50% of the property's area, aerial photographs that also show the side slopes of the pads indicate that approximately 50% of this rehabilitated gravel pit has already been disturbed. Filling any more than 50% would be in direct non-compliance with the ORMCP and the Township's by-law.

The site is within ORMCP landform conservation area where landform characteristics of the moraine, such as hills, are to be maintained. The rehabilitation of the former gravel pit at this site had been an excellent example of how this could be accomplished. However the landform that typically results from a fill operation is flat and level land, which would be contravention of this requirement of the ORMCP.

2) In protected areas

The site is located directly adjacent to a Natural Core Area on the Moraine, the most stringent land use designation on the Moraine. A review of the permitted land uses demonstrates how inconsistent a large industrial fill project would be adjacent to this area.

The site is located in an area of High Aquifer Vulnerability (HAV), leaving the underlying groundwater particularly vulnerable to contamination. In the ORMCP, waste handling facilities and snow dumps, for example, are listed as prohibited uses in HAV areas. We believe that commercial fill operations are equivalent and should not be in an HAV area.

The changing regulations for concentration levels for various contaminants, such as the cyanide levels found on the Earthworx site, are another reason why the location of large fill sites should be strictly limited. In 2004 the acceptable level for cyanide in soil was 100 ppm but now the 2011 standard is only 0.051 ppm. Fourteen of the 21 samples in the ESA had cyanide above the 2011 limits, including one with cyanide levels 3000 times the currently acceptable limit.

3) Concerns with GFL

We have concerns with the company GFL as a supplier of fill.

In terms of accountability, GFL has had repeated involvement with soil dumps operating without necessary permits. This includes the Earthworx site.

We have concerns about GFL's repeated involvement in several sites that were found to have contamination issues, the Earthworx site being only one.

And we have concerns regarding the treatment, or lack of treatment, of certain contaminants at the GFL facility, such as salt and metals, which are not remediated by the techniques they use. This could prove significant at the Earthworx site in an HAV area in the quantities that would be dumped.

Comments on the proposed remediation plan

The proposed remediation plan from GFL has, in our view, some serious weaknesses.

4) 2004 Table 3 Standards inappropriate

The remediation component of the GFL workplan proposes to excavate and remove soils around boreholes that had sample results that exceeded 2004 Table 3 Industrial standards. We find this to be unacceptable to leave in place soils at the Table 3 2004 standards for non-potable groundwater conditions, standards that for some components are significantly higher than the 2011 standards for Table 3. For example, borehole 24 with 95 ppm cyanide, almost 2000 times the 2011 limit, is not slated for excavation. Cyanide exceeds the 2011 Table 3 (Industrial) limit in boreholes 24, 28, 31, 32, 35, and 38 which are not proposed for excavation. Also not slated for excavation are boreholes 24 and 35 which exceed 2011 Table 3 (Industrial) for Zinc, Anthracene, Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, and Trichloroethane,1,1,2.

Remediating to 2004 Table 3 levels would leave the site unusable for any residential, agricultural or industrial use under a Record of Site Condition. Leaving soils that are only acceptable for a non-potable groundwater area is an obvious concern for nearby residents drinking from their water wells.

It may be the case that the township originally permitted Table 3 but it must be acknowledged that this was in error, as evidenced by Earthworx complying with the MOE order to limit the soils to Table 1 and Table 2.

5) Unknown confidence in the sampling

The Environmental Site Assessment report does not provide a confidence level that can be statistically quantified in order to ascertain if sufficient testing was done on this non-

homogeneous site in order to determine areas of contamination. In other words, there is no measure of the confidence that all the remaining untested areas are “clean”. We would like to see a statistical analysis documenting a confidence level on the environmental assessment.

6) **Limited well monitoring**

The groundwater monitoring component of the workplan proposes to monitor the groundwater wells on the property and water supply wells within 1 kilometer of the northern edge of the site. Because the groundwater flow appears to be towards the south, the emphasis should be on testing in that direction. The supply wells identified for monitoring do not include properties on Mast Road and Pine Grove Road that are within 1 km of the south east corner of the site. They should be included. Because hydrogeology occurs within three dimensions we would also like to see the characterisation of the supply wells in a wider circle around the site to determine if they may be within the same hydrogeological formations as the Earthworx site.

Considering that the Chalk Lake Spring on Lakeridge Road is used by residents unsure of their well quality and by hundreds of people a day from as far away as Toronto, it would be advisable to reassure them by having the spring tested on a regular basis for the contaminants that might be at Earthworx.

7) **No contingency plan for relief from contaminated wells**

The contingency plan in the groundwater monitoring plan does not cover how persons with affected wells would be supplied with uncontaminated drinking water and how they would be compensated for the loss of property values.

We hope that you will find these comments to be useful in assessing the proposal and remediation plan from GFL. We can provide you with more supporting information.



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cc Mayor Mercier, Township of Scugog