

The disposal of American industrial waste to be permitted in the Natural Core Area of the Oak Ridges Moraine

After a year of review and public meetings the Ontario government is proposing that the disposal of industrial waste, including waste from the USA, to be a permitted land use in the Natural Core Area of the Oak Ridges Moraine.

The Oak Ridges Moraine Conservation Act, 2001 establishes the following objectives for the Oak Ridges Moraine Conservation Plan:

- (a) protecting the ecological and hydrological integrity of the Oak Ridges Moraine Area;
 - (b) ensuring that only land and resource uses that maintain, improve or restore the ecological and hydrological functions of the Oak Ridges Moraine Area are permitted;
- etc.

However, the Proposed Oak Ridges Moraine Conservation Plan (2016) has altered the definition of infrastructure to include waste management systems.

41.(1) "infrastructure" means all physical structures, facilities and corridors that form the foundation for development of an area including,
...
(g) waste management systems
...

"Waste management system" is not defined in the document. The Environmental Protection Act does define it to include the disposal of industrial waste.

Environmental Protection Act, R.S.O. 1990, c. E.19
Section 25 – Waste Management
"waste management system" means any facilities or equipment used in, and any operations carried out for, the management of waste including the collection, handling, transportation, storage, processing or disposal of waste, and may include one or more waste disposal sites.

"waste disposal site" means, (a) any land upon, into, in or through which, or building or structure in which, waste is deposited, disposed of, handled, stored, transferred, treated or processed, and (b) any operation carried out or machinery or equipment used in connection with the depositing, disposal, handling, storage, transfer, treatment or processing referred to in clause (a);

"waste" includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations;



The EPA also sets out the procedures for operating waste management systems. To operate a waste management system it is necessary to obtain an environmental compliance approval. An Environment Compliance Approval (ECA) is issued by the Ministry of the Environment and Climate Change (MOECC) describing, amongst other requirements, the service area. At least two of the ECAs issued by MOECC allow the importation of waste from outside Ontario.

*ECA NUMBER 8197-6NYJXP granted by MOECC April 7, 2016 for a waste disposal site (Processing) has a service area of Ontario, Quebec and New York State.
ECA NUMBER A680301 for a waste disposal site (transfer and processing) that receives tonnes of waste every day is limited to waste that is generated within the geographical boundaries of Canada and the United States of America.*

In the proposed Oak Ridges Moraine Conservation Plan (2016) Infrastructure uses are permitted in the Natural Core Areas, the Natural Linkage Areas, and the Countryside Areas.

*11. (3) The following uses are permitted with respect to land in Natural Core Areas, subject to Parts III and IV.
12. (3) The following uses are permitted with respect to land in Natural Linkage Areas, subject to Parts III and IV:
13. (3) The following uses are permitted with respect to land in Countryside Areas, subject to Parts III and IV:
...
Infrastructure uses.
...*

The uses are subject to Parts III and IV of the ORMCP(2016). Part III prohibits certain uses from Key Hydrologic Features, Areas of High Aquifer Vulnerability, and Wellhead Protection Zones. Key Hydrologic Features are defined as types of water bodies. Areas of High Aquifer Vulnerability are mapped in the Plan. Wellhead Protection Areas are those defined in municipal official plans related to municipal water supply wells. These do not cover all areas where private wells draw drinking water from the groundwater aquifers.

Infrastructure is permitted, with conditions, within or near a key hydrologic feature.

*26. (2) All development and site alteration with respect to land within a key hydrologic feature or the related minimum vegetation protection zone is prohibited, except the following:
...
3. Development of infrastructure in accordance with the requirements set out in section 41.
...*

Waste Management Systems are not prohibited in Wellhead Protection Areas nor Areas of High Aquifer Vulnerability, although snow storage and waste disposal are.



Comments on Co-ordinated Land Use Planning Review – 2016 Proposals

28. (1) Despite anything else in this Plan except subsection 6 (1) and subsection (3) of this section , the following uses are prohibited with respect to land in,

29. (1) Despite anything else in this Plan except subsection 6 (1) and subsection (1.1) of this section , the uses listed in subsection (5) are prohibited with respect to land in areas of high aquifer vulnerability,

Waste disposal sites and facilities, organic soil conditioning sites, and snow storage and disposal facilities.

ORMCP(2016) Part IV says that development of infrastructure in a Natural Linkage Area or Natural Core Area shall not be approved unless the need for the project has been demonstrated and there is no reasonable alternative.

41. (2) An application for the development of infrastructure in or on land in a Natural Linkage Area shall not be approved unless,

41. (3) An application for the development of infrastructure in or on land in a Natural Core Area shall not be approved unless the applicant demonstrates that,

(a) the need for the project has been demonstrated and there is no reasonable alternative;

However, a local citizens or a small municipality may not have much of a chance in an appeal to the Ontario Municipal Board against a corporation with thousands of pages of their consultants' reports demonstrating the need for a waste management system and the lack of reasonable alternatives.

At this point we have demonstrated that the proposed Oak Ridges Moraine Conservation Plan (2016) permits waste management systems, which includes the disposal of industrial waste, possibly including waste from outside Ontario, within the protected areas of the Oak Ridges Moraine.

Headline: The Ontario government to permit the disposal of American industrial waste in the Natural Core Area of the Oak Ridges Moraine



This was due to a re-definition in the ORMCP(2016) of “infrastructure” to be consistent with other plans.

ORMCP(2016) Part IV – Explanatory Text

Proposed changes/additions Part IV (Specific Land Use Policies) would include:

...

Changing terminology from “transportation, infrastructure and utilities” to “infrastructure,” to more closely align with the terminology used in the PPS, 2014, Greenbelt Plan and Growth Plan for the GGH;

...

However the Proposed Niagara Escarpment Plan (2016) has its own definitions of Infrastructure and Utilities that does not include commercial waste management systems.

Proposed NIAGARA ESCARPMENT PLAN (2016)

Appendix 2 Definitions

Infrastructure: Means physical structures (facilities and corridors) that form the foundation for development. Infrastructure includes green infrastructure and utilities as defined in this Plan, in addition to transportation corridors and facilities, including rights-of-way for the movement of people and goods.

Utility: A water supply; storm or sanitary sewage system;or any other similar works or systems necessary to the public interest,

but does not include:

- a) the establishment of a new waste disposal site;*
- b) any expansion or alteration to an existing waste disposal site*

...

In the Niagara Escarpment Plan the infrastructure uses are limited to public systems.

1.3.3 Permitted Uses

Subject to Part 2, Development Criteria, the following uses may be permitted:

...

7. infrastructure where the project has been deemed necessary to the public interest after all other alternatives have been considered;

...

1.4 Escarpment Protection Area ... 1.5 Escarpment Rural Area

Permitted Uses

Subject to Part 2, Development Criteria, the following uses may be permitted:

...

9. infrastructure, however, only linear facilities will be permitted in prime agricultural areas and specialty crop areas

...



Waste disposal in the NEP is limited to the existing municipal systems as they are.

Existing Waste Related Facilities

6. On existing waste disposal sites in the Escarpment Natural, Escarpment Protection, Escarpment Rural Areas and Mineral Resource Extraction Area designations, the following municipal waste-related facilities may be permitted

...

But does not include:

...

e) any expansion or alteration to an existing waste disposal site

...

OSRTF recommends that the Proposed Oak Ridges Moraine Conservation Plan (2016) be amended to be consistent with Proposed Niagara Escarpment Plan (2016) in its definitions of Infrastructure and Utilities and its prohibitions on commercial waste management systems and waste disposal.

The Ontario Soil Regulation Task Force is an incorporated not-for-profit organization representing a coalition of over 20 citizens groups and other interested parties seeking solutions to the problems of excess construction soil.