

STAFF REPORT: ENGINEERING & PUBLIC WORKS SOLID WASTE DIVISION



REPORT TO: Council
MEETING DATE: December 12, 2011
REPORT NO.: EPW.11.110
SUBJECT: **Aboriginal Consultation and
Accommodation Letter of Agreement –
Landfill Expansion and Mining**
PREPARED BY: **Jeffery Fletcher, Manager of Solid Waste
and Environmental Initiatives**

A. Recommendations

THAT Council receive report entitled “Aboriginal Consultation and Accommodation Letter of Agreement – Landfill Expansion and Mining” EPW.11.110; and

THAT Council approves providing additional capacity to the Saugeen Ojibway Nations’ review of the Environmental Screening Process in the sum of \$19,300 as outlined in the Letter of Agreement; and

THAT the Mayor and Clerk be authorized to execute the Aboriginal Consultation and Accommodation Letter of Agreement, upon approval of the Director of Engineering and Public Works and the Town’s Solicitor.

B. Background

As part of the Town’s project to study the potential expansion and mining of The Blue Mountains’ Landfill through an Environmental Screening Process (ESP), the Town seeks to engage Aboriginal stakeholders in continued meaningful consultation.

Saugeen Ojibway Nations (SON) has expressed a desire to be meaningfully involved in the planning, review and development of the landfill project. The Town entered into an “Interim Aboriginal Consultation and Accommodation Agreement” in July 2011. The purpose of the agreement was to confirm the commitment of the Town to an appropriate and adequate consultation, including provision of resources. The Agreement also confirmed commitment of the Town to enter into a future agreement that deals with any mitigation and accommodation measures required. The Agreement and this process are intended to promote reconciliation by establishing a cooperative and mutually beneficial working relationship between SON and the Town with respect to the project.

In March of this year an initial round of capacity was provided to the SON as part of the Interim Consultation and Accommodation Agreement. The SON’s initial project analysis has been completed and it has been determined, due to the complexity of the project, that some areas of investigation require more detailed review by the SON’s technical review team.

The Town has received a letter (Attached 1, Dated November 18, 2011) outlining the work completed and the additional work required. Town Staff with Mayor Anderson also met in-person with SON representatives on December 6, 2011 to review the scope of the additional work in detail and discuss next steps and timelines. One area of interest, cultural heritage, has been satisfied and the SON archaeologist has concluded that due to the disturbance that has happened at related to pit and landfill operations any pre-landfill era cultural deposits that may have existed in this area are no longer present.

An initial review was completed in three other areas and additional work and capacity has been determined necessary in the following areas:

- Natural Heritage - \$11,000;
- Hydrogeology - \$5,500; and
- Aquatic Ecosystems and Limnology - \$2,800.

The additional capacity totals \$19,300. With this second round of review the SON is requesting that the Town execute a Letter of Agreement that will connect the existing Interim Agreement to a future final consultation agreement. A final consultation agreement will form a long lasting relationship with the SON that will be linked to further consultation during the design phase of the project and even the ongoing operation of the Site. It has become best practise to establish a committee with local aboriginal groups to facilitate continual opportunity for consultation and input into projects of interest such as solid waste disposal sites.

A draft letter of agreement is being prepared and approved by SON's representatives. A draft of the letter of agreement could be seen as early as December 15. However, to ensure the continued forward momentum of this project including Site visits and detailed review by the SON's technical team, approval of the release of the capacity as soon as possible as described in this report is imperative, and Town Staff recommend the release of the \$19,300 in additional capacity.

SON and their technical team are most concerned with the cumulative effects on the local ecosystem of various projects and land use and in this case specific to the Indian Brook. In the recent meeting with SON Mayor Anderson and Town Staff agreed with those concerns and outlined that in the Town's view the landfill project is one step in reducing those existing impacts on the brook. SON did not disagree that the notion that the mining and lining aspect of the proposed landfill project should increase the protection of the brook and the related ecosystems.

Town Staff intend to provide the SON's technical team with additional information including flood plain mapping, surrounding land use and other current conditions to put the project into better context for SON representatives reviewing the landfill project.

And, in addition to providing documentation, the Town's landfill project must provide SON with capacity included sufficient funding to ensure they can participate fully in the consultation process itself, including expert review of the Environmental Screening

Process, legal expenses and SON Staff costs. This continued consultation is important and approval of the Landfill Environmental Screening Project will not be granted by the Ministry of the Environment without this type of meaningful consultation and accommodation with SON.

Timing on this project is becoming critical therefore pre-approved execution of the Letter of Agreement, upon review and approval by the Director of Public Works and the Town's Solicitor, is necessary to ensure the SON's review continues in a timely manner.

C. The Blue Mountains' Strategic Plan

This solid waste project addresses the Town's Municipal infrastructure needs and addresses Strategic Action 2.5 "develop a waste management strategy to meet diversion targets and address landfill capacity".

D. Environmental Impacts

The SON Agreement allows for additional environmental review of the landfill project.

E. Financial Impact

The Letter of Agreement will identify a maximum financial reimbursement totalling \$19,300.

The expense related to the SON review of the project will be expensed out of the Landfill Mining and Expansion capital project budget (6-460-5007).

F. In Consultations With

None.

G. Attached

Attachment 1 – Letter Re: Blue Mountains Landfill – SON Technical Review, dated November 18, 2011, from Jesse C. McCormick of Olthuis Kleer Townshend LLP Barristers and Solicitors.

Respectfully submitted,

Jeffery Fletcher

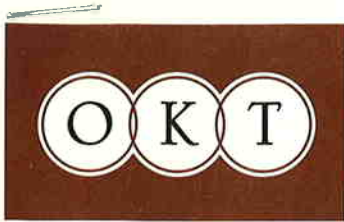
Jeffery Fletcher
Manager of Solid Waste and Environmental Initiatives

Reg Russwurm

Reg Russwurm
Director of Engineering and Public Works

For more information, please contact:

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(519) 599-3131 x238



OLTHUIS
KLEER
TOWNSHEND LLP
BARRISTERS AND SOLICITORS

EPW.11.110
Attachment #1

Jesse C. McCormick
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416.981.9445
72756

November 18, 2011

BY EMAIL and REGULAR MAIL

Jeffery Fletcher
Manager of Solid Waste and Environmental Initiatives
The Blue Mountains Engineering and Public Works Department
Town of the Blue Mountains
32 Bridge Street E P.O. Box 310
Thornbury, ON N0H 2P0
Canada

Dear Jeffery:

Re: Blue Mountains Landfill - SON Technical Review

Further to the terms established in the Interim Consultation Agreement between the Town of The Blue Mountains and the Saugeen Ojibway Nation ("SON") on July 21, 2011 ("Interim Consultation Agreement"), please find attached initial analysis of the Blue Mountains Landfill Expansion ("Project") prepared by the SON consultants.

In accordance with paragraph 31 of the Interim Consultation Agreement, additional work has been determined to be necessary by the SON consultants. I provide below a brief summary of their primary recommendations and the additional work required.

- *Cultural Heritage* – Engagement of a licensed archaeologist for future projects. no further cultural heritage assessments required.

Estimated Cost of Additional Work: \$0

- *Natural Heritage* – Seasonal wildlife surveys, monitoring of aquifer health (five year audits and monitoring data review), full multidisciplinary document review and evaluation of ground and surface water monitoring data on five year intervals).

Estimated Cost of Additional Work: \$ 11,000

- *Hydrogeology* – Technical review of reports, site visit, integration of groundwater assessment with biological assessments, team meeting, a reporting letter and a meeting to present the results of the assessment.

Estimated Cost of Additional Work: \$5,500

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- *Aquatic Ecosystems and Limnology* – Site visit and review of government data on fish populations in the Beaver River and Indian Brook.

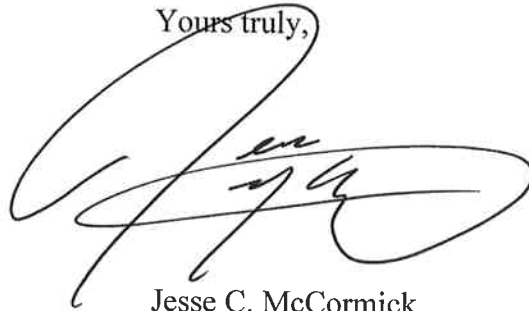
Estimated Cost of Additional Work: \$2,800

These measures are required to identify any necessary mitigation measures to avoid or minimize adverse impacts on the rights and interests of SON.

The funding provided pursuant to the Interim Agreement will be applied to the costs incurred to date. Any remaining surplus will be applied to the recommended technical work identified above and the costs of further negotiations of a final agreement.

The Saugeen Ojibway Nation seeks a meeting to discuss the completion of the above noted technical assessments, the associated costs and the negotiation of a final consultation agreement. Kindly advise as to the availability of the Town of the Blue Mountains for a meeting in the first two weeks of December.

Yours truly,

A handwritten signature in black ink, appearing to read 'Jesse C. McCormick', written over a large, stylized loop.

Jesse C. McCormick

JCM/jcm

Encls.

c. Jake Linklater, Saugeen Ojibway Nation Environment Office (*via email*)
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