

June 23, 2004

The Honourable Leona Dombrowsky
Minister of the Environment
12th Floor, 135 St. Clair Avenue West
Toronto, Ontario M4V 1P5
FAX: (416) 314-6748

**RE: Red Hill Creek Expressway and Lake Ontario WaterKeeper's
Request for Review Under Section 11.4 of the Provincial
Environmental Assessment Act.**

Dear Minister Dombrowsky,

My name is Dr. Lynda Lukasik. I served as the private informant in a prosecution against the City of Hamilton related to violations of the federal Fisheries Act for contamination discharging from the city's old Rennie Street landfill. The City of Hamilton was found guilty of knowingly allowing the unlawful deposit of a deleterious substance into waters frequented by fish, contrary to Section 36(3) of the Fisheries Act. The Red Hill Creek was the water body impacted by the discharges. Contaminants discharged included high levels of PCBs and ammonia.

As you are likely aware, we also contacted the Investigation and Enforcement Branch of your Ministry once our investigation confirmed that there was evidence of violations of both provincial and federal environmental laws. The IEB launched an investigation that led to additional charges against the City of Hamilton. The Ministry's investigation generated evidence confirming that other contaminants were being discharged into Red Hill Creek, including the now-banned pesticides aldrin, heptachlor, DDE, and BHC. The Ministry subsequently laid charges against the city for violations of Section 30 (1) of the Ontario Water Resources Act.

On September 18, 2000, the City of Hamilton entered a guilty plea to both sets of charges and paid a total of \$487,000 in fines. The Fisheries Act charges led to a \$300,000 fine while the OWRA charges led to a \$187,000 fine. In addition, the municipality committed to undertake a complete remediation of the old Rennie Street landfill site. That remediation is now complete.

Given the history of the Rennie Landfill case, I was interested in viewing comments you made in the Legislature in December of last year. The exchange was between MPP Toby Barrett and yourself. Mr. Barrett questioned you about a request for review under Section 11.4 of the Ontario Environmental Assessment Act submitted by Mr. Mark Mattson, the Lake Ontario WaterKeeper, in August of 2003. Mr. Barrett asked whether you had arranged to meet with Mr. Mattson and others concerned about the Red Hill Creek expressway to discuss the new information that Mr. Mattson is arguing warrants a review of the original approval of the roadway project via the 1985 consolidated board hearing and 1997 exemption order. You responded by stating that 'No new information has been brought to my ministry' but that you 'will be very open to receiving any new information around this project'.

I am both confused and concerned by your response. I know for a fact that 'new information' related to this project and the City of Hamilton's negative actions towards the Red Hill Valley environment was extensively documented and submitted to your predecessor by the Friends of Red Hill Valley in September of last year. The Lake Ontario Waterkeeper resubmitted this same package of information to you in March of this year. The submission consisted of a package of sworn affidavits. One of those affidavits is mine, and it details the Rennie Landfill scenario, along with some other issues related to neglect of the Red Hill Valley environment. I can provide you with another copy of my affidavit if you do not have a copy.

I also understand that Mr. Mattson has been engaged in on-going correspondence with Mr. James O'Mara, Director of the province's Environmental Assessment & Approvals Branch. Mr. Mattson has explained to me that the EAAB indicated back in the autumn of 2003 that a response to the Section 11.4 request for review would be provided in a matter of weeks. When he received no response, he wrote again only to be told that staff were still reviewing the file. As of today, Mr. Mattson has received no response from the EAAB or yourself to his request for review.

I am writing to urge you to provide Mr. Mattson with a response to his request for a review under Section 11.4 of the provincial Environmental Assessment Act. There are many concerned Hamiltonians who want to know whether you and your Ministry believe new evidence warrants such a review. You and relevant Ministry staff have either come to the conclusion that the new information we have provided warrants a review of the 1985 Consolidated Board Hearing decision on the expressway project or it does not warrant a review. The community deserves to know what your decision is on this request.

I look forward to seeing a decision from you and your Ministry on this important matter. Please do not hesitate to contact me if you would like to discuss my concerns further.

Yours truly,

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Cc Ms. Andrea Horwath, MPP – Hamilton East
Mr. Mark Mattson, Lake Ontario WaterKeeper
Mr. Gord Miller, Environmental Commissioner of Ontario
Mr. James O'Mara, Director, Environmental Assessment & Approvals Branch