

# Environmental Assessment – Aboriginal Consultation Experience in Niagara Region

MEA Annual Workshop

Building Bridges

November 23, 2016

# About Niagara Region

- Located in Southern Ontario, between Lake Ontario and Lake Erie
- Total Area – 1,852 km<sup>2</sup>
- Population – 427,421
- Municipal Government made up of 30 elected representatives from 12 area municipalities
- The Niagara Region has many departments to serve the residents of Niagara, which include Community Services, Corporate Services, Economic Development, Planning and Development Services, Public Health and Public Works.



# About Niagara Region

The Public Works Department includes:

Waste Management, Water and Wastewater, and  
Transportation Services Divisions

- **Waste Management**

Responsible for waste collection, diversion and disposal services

- **Water and Wastewater**

The Water and Wastewater Division provides drinking water to 11 area municipalities across the region.

Provides operation and maintenance of 6 water treatment plants, 38 water reservoirs and elevated tanks, 23 booster and chlorine booster stations, 300km of trunk watermains and 11 wastewater facilities

- **Transportation Services**

Responsible for the planning, design, operation and maintenance of the 800 km regional road network.

# Landfill EA – Project Information

- Currently operating 2 landfills, striving for 65% diversion
- Humberstone Landfill site is in the south end of the City of Welland
- Waste disposal commenced at the landfill in 1940's
- The approved volume is 2.2M m<sup>3</sup> of waste and cover material
- Niagara Region needed to expand the Humberstone Landfill to provide convenient disposal for south Niagara residents and businesses for the next 25 years, equivalent to 2.4M m<sup>3</sup>
- No need to develop Greenfield Landfill in Niagara Region and/or disturb undeveloped land
- Humberstone Landfill Site already has all necessary infrastructure in place (LCS, Stormwater Management Ponds and LGCCS)

# TOR Consultation

## Objective – Satisfy Duty to Consult

- Notice of Commencement – May 2012
- 11 Aboriginal Groups
- Only response – HDI for HCCC
- July 2012 – Documentation request from HDI
- September 2012 – NR attempts to reach HDI without submission of application
- October 2012 – Another request from HDI
- November 2012 – After significant internal discussions, meeting scheduled with HDI and Application set to HDI minus fee

# TOR Consultation

- November 2012 – Meeting with HDI – presentation by NR met with requests
- Nothing from HDI for months
- March 2013 – Additional attempt to consult issued letter to HDI re: meeting with our legal counsel
- April 2013 – Letter received from HDI – no further correspondence due to NR involving legal counsel

# TOR Consultation

- May 2013 - TOR Submission
- MOECC reaches out to all Aboriginal Groups
- Six Nations – Lands and Resources
- Do not respond to letters without call or further discussions
- August 2013 – Meeting with Six Nations L&R, NR and MOECC
- Approval – November 2013

# Consultation Observations – TOR

- Do not just send letters – may not meet duty to consult
- Make calls
- Schedule Meetings
- Build Relationships
- Avoid Paying Application Fees where possible

# EA Consultation - Results

- EA Notice of Commencement – June 2014
- Reduced Aboriginal Groups to 5
- Regular communications with NR Metis Council, Six Nations Land and Resources Team
- Held site tours and made presentations to both
- Offered assistance
- Submitted EA
- HDI Letter – MOECC confirmed duty was met
- Six Nations – Letter no further comments
- EA Notice of Submission – June 2015
- EA Approval with limited comments – May 2016

# Municipal Class EA Aboriginal Experience in Niagara Region

- Environmental Assessment (EA), for a project in the Township of West Lincoln
- 30 day review period comment was received from the MOECC that indicated a Phase 2 Archeological Study was required - a letter was received from the Mississauga of the New Credit First Nations (MNCFN).
- The letter received from the MNCFN indicated a low level of concern about the project.



- This letter noted requirements to notify the MNCFN if any changes are proposed and requested copies of any reports pertaining to Environmental and Archaeological studies/ reports.
- Letter stated the MNCFN must have a Field Liaison Representative (FLR) on location when any field work for environmental and/or Archaeological Assessment work is being undertaken.
- Communication was received from other First Nation Communities.



- Reviewed this need with our consultant
- Advised to meet with the MNCFN to discuss their involvement in this particular project.
- Determined that the MNCFN needed to be onsite during the required Stage 2 Archaeological field investigation
- Final Archaeological report was required to be submitted to the MNCFN.
- An Agreement was entered into between the MNCFN and the Niagara Region which outlines the requirements, duties and compensation for the FLR involvement.



- Stage 2 field work was complete (1 day event) - contract was paid out and the final report was provided to the MNCFN
- A Stage 3 was not required for this project, so no further involvement was required from the MOECC and the MNCFN on this project

# Experiences with MNCFN

- Dealing with the MNCFN was fairly straight forward, although this particular project was minor in nature. The staff with MNCFN are passionate about their work, and are always willing to discuss any questions you may have regarding their involvement and what they view as a requirement.
- Overall experience was straight forward.

# Working with the MOECC

- Following this particular project and the involvement with the MNCFN, the Niagara Region reached out and had a dialogue with the MOECC.
- MOECC were approachable and presented the Region with what they require relating the owners Duty to Consult with the Aboriginal Communities.
- In order to satisfy Duty to Consult, sending a letter to the Aboriginal Communities is no longer sufficient.

# Working with the MOECC

- The MOECC considers the Duty to Consult as being fulfilled once multiple methods of contact are attempted. This may include but not limited to emails, regular mail, registered mail, phone calls, site meeting, etc.
- If the MOECC is satisfied with the methods and attempts and no response is provided by the Community then your Duty has been fulfilled as far as the MOECC is concerned.

# Working with the MOECC

- MOECC requires Owner to provide reasonable resources to Aboriginal Communities to review reports, allow the Community to participate in EA and/or Archaeological studies
- Could include financial compensation, providing reports in alternate formats, reviewing report with Communities, allowing access to Owner owned resources (meeting rooms, documents, construction sites, etc.)

# Other Experiences in the Niagara Region

- Other projects - involved 2 Communities to participate in a Stage 2, 3 and 4 Archaeological Studies
- Substantial financial compensation to the Communities, more time involved for the FLR and there were 2 separate communities that required to be onsite
- Our experience has been limited to 2 Aboriginal Communities , MNCFN and the Six Nations.
- Communities have a slightly different method of dealing with their requirements and their compensation.
- This may be a little confusing as the aboriginal Communities differ from Community to Community.
- Each have their own requirements.

# Considerations for Aboriginal Communities and the MOECC.

- Early consultation with the Aboriginal Communities can avoid project delays,
- The MOECC can assist to determine which Aboriginal Communities should be consulted based on the geographical area of the proposed project,
- Communication with other Municipalities to assist in determining what is the current practice with the Aboriginal Communities and the MOECC.

# Final Comments

- Information provided is based on past experiences working with the Aboriginal communities in Niagara area.
- Aboriginal Communities and MOECC “requirements” are subject to change as more Aboriginal Communities become involved and Owners follow the “required” consultation procedures.