

DELIVERED BY EMAIL TO: lbowman@ecojustice.ca

April 19, 2018

Ecojustice
1910 – 777 Bay Street
P.O. Box 106
Toronto, ON M5G 2C8

Attention: Laura Bowman

Dear Ms. Bowman,

**Re: Upper York Sewage Solutions Individual Environmental Assessment
EcoJustice Letter dated February 13, 2018**

We have received and reviewed your letter dated February 13, 2018. Your letter provided comments on a report approved at Regional Council on January 25, 2018 titled "Upper York Individual Environmental Assessment Approval Status Update and expressed the views of your client, the Chippewas of Georgina Island First Nation. The Regional Council report addressed the status of York Region's Upper York Sewage Solutions Individual Environmental Assessment and related issues. York Region's response to your letter is provided below.

York Region had wished to respond sooner. However to properly and accurately prepare our response to the range of topics and issues contained in your letter, we had to review many documents and records. This review included the Upper York Individual Environmental Assessment report, consultation materials and other records dating back to 2009.

York Region and the Chippewas of Georgina Island First Nation have a long-standing relationship

We believe that The Regional Municipality of York (York Region) has an important relationship with the Chippewas of Georgina Island First Nation. We are engaged in a variety of positive and significant activities and services spanning numerous York Region Departments that involve health, environment, transportation, economic development and policing cooperation and assistance.

We do regret the differences of opinion between York Region and the Chippewas of Georgina Island First Nation about the proposed Water Reclamation Centre outlined in the Upper York Sewage Solutions Environmental Assessment. The Water Reclamation Centre has been discussed at many meetings involving York Region and the First Nation over several years, which at times have also included representatives of the Ministry of the Environment and Climate Change and other Williams Treaties First Nations. York Region respects the position of the Chippewas of Georgina Island First Nation with the proposed Water Reclamation Centre.

This otherwise positive relationship between York Region and the First Nation is not reflected in your letter's critique of York Region, the Regional Council report and the Upper York Sewage Solutions Individual Environmental Assessment.

Our understanding of the facts and legal requirements are different than yours

After our review, it is clear that we have a different understanding of the facts and legal requirements connected to a number of the statements made in your letter. Our response summarizes information gathered from our review that you may not have been aware of. We hope that this information will help inform the understanding of the events and legal requirements connected to this project. As a result, we maintain that the Regional Council report is accurate.

The following comments address various statements in your letter. As background, this letter also has a summary of the Ontario environmental assessment process that applies to this project. This is the same process that applies to municipal, provincial and, more rarely, provincially designated private sector projects that are defined as “undertakings” for the purpose of Part II of the *Environmental Assessment Act* (“Act”).

The Upper York Sewage Solutions Environmental Assessment (“UYSS EA”) was completed under Part II of the Act and is the most detailed, rigorous and comprehensive level of environmental assessment included in the Act

Sometimes called an “individual” or “full” environmental assessment, an environmental assessment under Part II of the Act has two separate stages that must be completed: development of “Terms of Reference” (a framework plan for how the environmental assessment will be completed); and completion of the actual environmental assessment by following the Terms of Reference. Both stages require mandatory points of consultation with the public, including Indigenous peoples and regulatory agencies. At the end of each stage, review and approval by the Minister of the Environment and Climate Change is required. In addition, the environmental assessment also requires the approval of Provincial Cabinet.

The Terms of Reference for a project require approval by the Minister

The Terms of Reference include background information and the rationale for the proposed project, a description and rationale of potential alternatives that may be potential solutions, a description of the methods to be used to evaluate each stage of the assessment, and a consultation plan. The Act states that the Minister of the Environment and Climate Change is required to approve the Terms of Reference. The Act also authorizes the Minister to independently add new conditions or amend parts of the Terms of Reference without completing any additional consultation. After the Minister approves the Terms of Reference, the proponents of a project are legally required by the Act to follow the Terms of Reference when completing the environmental assessment. In order to complete an environmental assessment, the proponent of the project is required to consult with the public, Indigenous peoples and regulatory agencies following the consultation process established in the Terms of Reference.

Potential alternatives are considered and evaluated following the approved Terms of Reference

In order to successfully finish the environmental assessment process, potential alternatives that could be reasonable solutions have to be developed and reviewed. These alternatives are evaluated by the project team using evaluation criteria that have been outlined in the Terms of Reference and assessed and ranked using criteria that has been publicly reviewed. The alternative that ranks the highest overall is commonly referred to as the recommended alternative. All of the alternatives and the identified recommended alternative, the scoring and results are presented for public review and consultation,

including consultation with Indigenous peoples and regulatory agencies. Comments from this round of consultation are evaluated and any necessary changes are made.

If the recommended alternative still is the best alternative after this review, the recommended alternative becomes the preferred alternative and undergoes the next review step. This further review studies different ways that the project could be built, including an impact assessment. As mentioned, the evaluation process has several stages and looks at not just one, but many criteria. In no particular order, these include the natural, cultural, social, built and economic environments. This evaluation process involves balancing all of these criteria.

With the UYSS EA, the Minister independently added a new alternative to the approved Terms of Reference

When York Region developed the UYSS EA Terms of Reference, York Region had proposed two alternatives that could be potential solutions to the need to provide further servicing for residents. One alternative involved a discharge to Lake Simcoe and the second involved a discharge to Lake Ontario. A third “do nothing” alternative was included, which is normal with environmental assessments, to act as a benchmark to compare potential impacts of the other alternatives. York Region completed the necessary consultation process and submitted the formal Terms of Reference for approval by the Minister. The Act authorizes the Minister to approve the Terms of Reference with any amendments the Minister considers necessary. The Minister’s approval is an indication that the Minister is satisfied that if the Terms of Reference are followed, the completed environmental assessment will be consistent with the purposes of the Act and the public interest. As mentioned, the Act does not require any further consultation to occur during the process of the Minister’s review and decisions on whether or not to approve the Terms of Reference.

With the UYSS EA Terms of Reference, the Minister independently made the decision to add one new alternative. The alternative as part of the approval of the Terms of Reference on March 22, 2010 and is quoted below:

“Innovative Wastewater Treatment Technologies (Innovative Alternative) such as development and use of a wastewater purification system and water recycling facilities to be located in The Regional Municipality of York”.

Your letter stated that the Minister’s decision to add this alternative “was added by the Minister in secret”. We do not understand why “secret” would be used to describe this process. The Act authorizes the Minister to make their decision independently and it is our understanding that this is the normal way for the decision to be made. York Region accepts that the Minister had the right to make the decision this way and did not expect to be consulted on it. Like everyone else outside of the Ministry, York Region did not have any knowledge of the Minister’s decision, including the addition of this alternative, until the approved Terms of Reference were received.

The environmental assessment process compelled the Region to consider and evaluate the “Innovative Alternative”

Your letter refers to the “Innovative Alternative” as “the Lake Simcoe” option. This is not correct. The alternative was called the “Innovative Alternative” by the Minister (see above) when it was added to the approved Terms of Reference. The description of the “Innovative Alternative” does not link it to Lake Simcoe or any water body or refer to it as a “Lake Simcoe option”. The alternative was only required to be located within the boundaries of York Region. As a result, the alternative could be located in the

Lake Simcoe watershed, the Lake Ontario watershed or possibly both watersheds. Around the time of the approval of the Terms of Reference, there had been a significant economic decline in Ontario and the Provincial Government was working on initiatives to make Ontario a leader in water technologies and services. The Minister's inclusion of this alternative appears to be connected to that policy direction.

With the "Innovative Alternative" being added to the Terms of Reference, York Region was legally required to study this alternative to comply with the Act. As a result, four separate alternatives were to be included in the completed environmental assessment: "do nothing", "discharge to Lake Ontario", "discharge to Lake Simcoe" and the "Innovative Alternative".

In 2010, York Region tried to remove the "discharge to Lake Simcoe" alternative from the approved Terms of Reference

At the time the UYSS EA Terms of Reference were approved, York Region staff were concerned with the ability of a potential "discharge to Lake Simcoe" alternative to legally comply with the *Lake Simcoe Protection Act, 2008*, O. Reg. 60/08 – *Lake Simcoe Protection*, the Lake Simcoe Protection Plan and the draft Lake Simcoe Phosphorous Reduction Strategy announced in February 2010 (collectively, "LSPA"). The Lake Simcoe Protection Plan referred to O. Reg. 60/08 and stated in Plan Policy 4.3 that no new municipal sewage treatment plants could be built in the Lake Simcoe watershed except in very limited circumstances. This resulted in uncertainty about the viability of a "discharge to Lake Simcoe" alternative. As a result, York Region staff approached the Ministry with a request to remove the "discharge to Lake Simcoe" alternative from further consideration and narrow the Terms of Reference to the three other alternatives. After assessing York Region's request and understanding its aim, the Ministry could not permit York Region's request because of the way the Terms of Reference had been prepared and approved under the Act.

Conventional treatment technologies could not have adequately addressed the problem

Conventional thinking in 2010 would have been concerned that the "discharge to Lake Simcoe" alternative would not be successful due to the various requirements of the LSPA. York Region agrees that conventional wastewater treatment technology would not have been able to provide a feasible alternative. This is supported by the results contained in the UYSS EA. The "discharge to Lake Simcoe" alternative could not achieve the limits on phosphorous required by the Phosphorus Reduction Strategy. The "discharge to Lake Simcoe" alternative would have replaced the Holland Landing (Lagoons) Water Pollution Control Plant and operated under the plant's existing regulatory phosphorous loading limit of 124 kg/yr even though the alternative would have a much larger treatment capacity and provide servicing to many more people. Operating under the plant's existing phosphorous loading limit would restrict the amount of phosphorous this alternative could discharge and, more importantly, would not result in any net increase in the amount of phosphorus discharged to the Lake Simcoe watershed. This is important because there have been efforts over many years to decrease the amount of phosphorous that enters Lake Simcoe each year. After studying this alternative during the environmental assessment process, it was determined that at full operation, this alternative would exceed the phosphorous loading limit of 124 kg/yr and discharge additional phosphorus resulting in additional phosphorus loading to the Lake Simcoe watershed. As a result, work on the "discharge to Lake Simcoe" alternative was stopped.

This then left two alternatives of potential solutions for further study: the "discharge to Lake Ontario" alternative and the "Innovative Alternative".

The “Innovative Alternative”, with a location in the Lake Simcoe watershed, was identified to be viable

As part of work to assess the feasibility of an “Innovative Alternative”, the project team, to the surprise of many at York Region, did indeed find a viable solution involving a treatment plant that would be located within the boundaries of York Region in the Lake Simcoe watershed. As mentioned, the “Innovative Alternative” is not an alternative that York Region would have identified without the specific direction from the Minister. The reason is that this type of project had never been completed in Canada before.

Even though a potential “Innovative Alternative” had been identified by the project team, it involved a discharge to the Lake Simcoe watershed and York Region wanted to know that it would meet the legal requirements of the LSPA. It was important to confirm this before moving forward with additional review. Despite your letter’s suspicions of York Region’s intentions, York Region was being proactive to bring the preliminary concept for the “Innovative Alternative” to the Ministry of the Environmental and Climate Change. The reason is that the Ministry is the provincial agency responsible for determining compliance with the LSPA.

As mentioned, Lake Simcoe Protection Plan Policy 4.3 does permit new municipal sewage treatment plants to be built in the Lake Simcoe watershed except under certain limited conditions. Policy 4.3 permits a new plant to be built if it is intended to replace an existing plant. Both the “discharge to Lake Simcoe” alternative and the “Innovative Alternative” involved replacing the Holland Landing (Lagoons) Water Pollution Control Plant with a new wastewater treatment facility and transferring the phosphorus loading limit from this plant to a new plant.

After review, the Ministry indicated that it was prepared to accept an “Innovative Alternative” located in the Lake Simcoe watershed, subject to York Region undertaking several commitments that were publicly disclosed and form part of the environmental assessment.

Two viable alternatives were assessed with the “Innovative Alternative” ranking higher

At the same time that work on the “Innovative Alternative” was underway, the project team was diligently working on the “discharge to Lake Ontario” alternative. Both the “Innovative Alternative” and “discharge to Lake Ontario” alternative were identified as being viable. Both alternatives were publicly disclosed, the subject of meetings with the public and Indigenous peoples and available for comment by all parties.

The two alternatives were evaluated using criteria that had been provided publicly and commented on, with the “Innovative Alternative” ranking higher than the “discharge to Lake Ontario” alternative. One of the benefits with the “Innovative Alternative” is that it achieves a better overall water balance in the Lake Huron/Lake Simcoe watershed. At the maximum operating capacity of the proposed Water Reclamation Centre, the volume of treated water returned to the Lake Huron/Lake Simcoe watershed approximates the volume of groundwater drawn from the Lake Huron/Lake Simcoe watershed from Regional municipal wells connected to the Yonge Street aquifer and sent down the existing YDSS as wastewater that is treated and then flows into Lake Ontario.

The Lake Ontario option would simply extend a practice, initiated by the Province in the 1980s, of exporting water from the Lake Simcoe watershed into the Lake Ontario watershed

The transfer of water between two Great Lakes watersheds is called an “intra-basin transfer”. The pre-existing transfer of groundwater from the Lake Huron/Lake Simcoe watershed to the Lake Ontario watershed was grandfathered under an agreement between the governments of Ontario, Quebec and eight Great Lakes states, initially under the *Great Lakes Charter*, and now under the *Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement*. The amount of groundwater drawn from the Yonge Street aquifer in the Lake Huron/Lake Simcoe watershed is capped under York Region’s Permit to Take Water issued by the Ministry of the Environment and Climate Change. York Region is not seeking to increase this limit and does not have any long-term plans to increase this limit. Drinking water required for new residents of Aurora, East Gwillimbury and Newmarket will be obtained from Lake Ontario. It is intended that the existing “intra-basin transfer” to the YDSS would ultimately be off-set by flows into the East Holland River and possibly reclaimed water from the proposed Water Reclamation Centre. The reasoning is that drinking water sourced from Lake Ontario and brought to the Lake Huron/Lake Simcoe watershed to service new residents then becomes wastewater sent to the proposed Water Reclamation Centre for treatment before flowing into the Lake Huron/Lake Simcoe watershed. There seems to be some misunderstanding about this in your letter. York Region has not said that the water drawn from municipal wells in the communities of East Gwillimbury, Newmarket and Aurora is being returned molecule for molecule to the Lake Simcoe/Lake Huron watershed. We have said that the water returned from the “Innovative Alternative” would be balancing the volume of wastewater sent down the existing YDSS sourced from municipal wells in the Lake Huron/Lake Simcoe watershed. York Region does not agree that our past statements have been misleading about this and our review of the UYSS EA and related materials confirms this.

The environmental assessment process as a whole must be neutral, impartial, open and transparent in order to be effective with proper points of contact with the public, regulatory agencies and Indigenous peoples. The allegation in your letter that York Region “proceeded to craft an EA that advocated for the Lake Simcoe option” is not true. To suggest that York Region would seek to manipulate this regulatory process or had developed its own preference for one alternative over another is not correct and disregards the professionalism exercised by York Region staff and the project team to comply to the requirements governing the environmental assessment process.

Overall, the proposed project will remove more phosphorus from Lake Simcoe than would be discharged from the proposed Water Reclamation Centre

In terms of the phosphorous concentration of 0.02 mg/L cited in your letter in connection with the treatment that could be provided by the proposed Water Reclamation Centre, York Region has addressed this on several occasions. This concentration is the expected operating level that was used for the environmental assessment and was factored into the proposed objective and compliance limits for phosphorous for the proposed Water Reclamation Centre. York Region continues to support the values published in the environmental assessment. We strongly disagree that the work undertaken to assess the potential impact of phosphorus is not realistic.

To look at it another way, York Region has legally committed to remove more phosphorus from the Lake Simcoe watershed than would be discharged by the proposed Water Reclamation Centre. This would be achieved through the phosphorous off-set program summarized in the UYSS EA and achieve an overall net reduction in the amount of phosphorus entering the Lake Simcoe watershed. Your letter states that “the proposed off-sets have not been shown to be effective in off-setting the large amount of additional

phosphorous that would result" from the proposed Water Reclamation Centre. York Region does not agree because through the off-set program, our commitment is to remove three times more phosphorous than is needed.

The Regional Council report is not misleading about York Region's efforts to engage the Chippewas of Georgina Island First Nation

York Region cannot find any instance of Regional staff making "incorrect statements at public meetings stating the First Nation supported the project". This matter has been addressed before. At a meeting between York Region and the Chippewas of Georgina Island First Nation in April 2016, it was stated that York Region could not find any instance of Regional staff making any such statements either verbally in writing. This statement was based on a review of communications, slide presentations, publications, notices, meetings notes, agendas and minutes of meetings with the public, the Chippewas of Georgina Island First Nation and other Indigenous peoples dating back to 2011 before the recommended alternative had been identified. We have not found any additional information that would change this understanding. Indeed, the position of the Chippewas of Georgina Island First Nation became very clear when the Chippewas of Georgina Island First Nation Band Council resolution was presented by Kerry Ann Charles at a public meeting held in Keswick on November 16, 2011.

On review, it was determined that a representative from the Chippewas of Georgina Island First Nation did not attend the meeting in July 2011 where the "Innovative Alternative" was outlined and shared with other Williams Treaties First Nations. Materials from the July 2011 meeting were sent to the Chippewas of Georgina Island First Nation's representative and offers to meet were extended but unfortunately no response was received. After November 2011, in response to the Band Council resolution, specific consultation efforts were undertaken with the Chippewas of Georgina Island First Nation by York Region. These meetings were in addition to the meetings with the Williams Treaties First Nations. Records of these meetings are set out in the UYSS EA. Representatives of the Ministry of the Environment and Climate Change also periodically attended the joint and separate meetings. Efforts to meet with and respond to questions from the Chippewas of Georgina Island First Nation have continued beyond submission of the UYSS EA to the Ministry.

A missed communication to the Chippewas of Georgina Island First Nation to re-schedule remaining Stage 2 Archeological Assessment work due to a poor weather forecast at the proposed Water Reclamation Centre site was unintentional and addressed

We disagree that York Region's efforts to engage the Chippewas of Georgina Island First Nation on completing the archaeological work used, in your words, "evasive tactics". Efforts to include the First Nation's representative were sincere. York Region acknowledges that matters could have been handled differently. The issue that arose in respect of the request by the Chippewas of Georgina Island First Nation to participate with the completion of the remaining weather-dependent Stage 2 archaeological assessment work at the proposed Water Reclamation Site on June 27, 2016 was due to a poor weather forecast on Friday June 24, 2016 requiring the work by the consulting archaeologist to be re-scheduled from the following Monday morning (June 27th). This work involved assessing the remaining 10 per cent of the site that had not been previously assessed. It was unfortunate that the email and phone message sent to the Chippewas of Georgina Island First Nation contact and the phone message left with the Band Council office mid-afternoon on Friday June 24th regarding the need to re-schedule the work were not received in sufficient time to avoid the Chippewas of Georgina Island First Nation liaison attending the site the following Monday morning. Apologies were extended for this unfortunate inconvenience and compensation provided. The work was subsequently rescheduled and the

Chippewas of Georgina Island First Nation liaison attended the site July 15, 2016. No archaeological resources were found. As a result, no further archaeological work was required.

York Region fulfilled its obligations under the Technical Review Funding Agreement with the First Nation

We respectfully disagree with the statement that York Region has “failed to provide adequate technical review funding” to the Chippewas of Georgina Island First Nation while UYSS EA study was underway. An agreement was negotiated between York Region and the Chippewas of Georgina Island First Nation based on the First Nation’s own request for funding and the needs disclosed by the First Nation. Despite subsequent statements to the contrary, York Region fulfilled its obligations under this agreement.

Even though the UYSS EA has been completed, York Region is, voluntarily and in good faith, proceeding with a Health Impact Assessment for the First Nation

The request by the Chippewas of Georgina Island First Nation in March, 2017 to complete a Health Impact Assessment (HIA) to respond to concerns of the First Nation occurred well beyond of the UYSS EA review and comment timelines applicable to the UYSS EA that was filed in July 2014. Even so, York Region has voluntarily agreed to fund this study and incorporate Traditional Ecological Knowledge from the Chippewas of Georgina Island First Nation (TEK). The TEK and HIA work presumes continued cooperation from the Chippewas of Georgina Island First Nation to obtain information from Chippewas of Georgina Island First Nation Knowledge Keepers relevant to the HIA. The HIA has not been “put on hold”. There has been a delay due to discussions between York Region and the consultant retained to help provide TEK to the HIA team. Differences between the consultant’s initial and revised proposal and scope of work required further review by York Region. This development was not clearly understood at the time the Regional Council report was prepared and submitted to York Regional Council. York Region fully intends to move forward with the TEK work and HIA study once these procurement issues are resolved. York Region staff are continuing their work to resolve these issues.

York Region provides treated Lake Simcoe water to almost 40,000 residents and understands concerns about water quality

In terms of the background surrounding this matter, York Region has no indication that the undertaking resulting from the UYSS EA will have any adverse health impacts to users of Lake Simcoe, including members of the Chippewas of Georgina Island First Nation. York Region also draws water from the Lake to supply drinking water to over 40,000 residents in Georgina. York Region residents also use Lake Simcoe for sporting and recreational purposes. York Region would not be proceeding with the project if it would adversely affect the health of York Region residents. We understand and respect that the Chippewas of Georgina Island First Nation still have concerns with trace substances present in wastewater even with the high level of treatment that would be provided by the proposed Water Reclamation Centre. The proposed Water Reclamation Centre would more effectively remove these substances beyond the level of treatment provided by any other wastewater treatment plant currently on the Lake, other than the York Region Keswick facility.

York Region respects and supports the Duty to Consult and the Constitutional protection of Indigenous rights

Regarding the use of quotations around the words “Duty to Consult” as it appears in the Regional Council report, this was simply used to denote a short form reference for the obligation that rests with the Federal or Provincial Crown to consult and accommodate, as required, a Chippewas of Georgina

Island First Nation or other Indigenous peoples when the Crown is contemplating a decision or action that may affect Treaty rights or Indigenous rights. No disrespect or insult was intended and the Region fully respects and supports the rights of Indigenous peoples and the Duty to Consult and accommodation commensurate to the degree that a right may be affected. The Region also recognizes and supports the rights of Indigenous peoples secured by section 35 of the *Constitution Act, 1982* and developments in Indigenous law resulting from legal jurisprudence. In York Region materials, quotations are often used to denote short forms instead of restating a longer principle throughout a document.

We are troubled that it is the First Nation's view that their rights to hunt and fish in Lake Simcoe were not respected in the preparation of the UYSS EA and that this issue is now being raised by EcoJustice. York Region always responded to concerns raised by the Chippewas of Georgina Island First Nation during the UYSS EA process. It was never York Region's intention to be disrespectful.

The UYSS EA YDSS modifications and phosphorus off-set program can only proceed if exempted or approved under the *Environmental Assessment Act*

There is some misunderstanding involving the need to complete an environmental assessment process for the "YDSS sewage forcemain twinning" referred to in your letter. New modifications, repairs and expansions to the existing built and operating YDSS require completion of the applicable environmental assessment process under the *Act*. This is the reason why the work referred to in the UYSS EA as the "YDSS Modifications" was included in the UYSS EA. This new infrastructure has not been approved before so it is not accurate for your letter to state that it has been approved.

The YDSS Modifications involve the "twinning" or construction of two new forcemains in the same geographic area as the existing forcemain servicing the Town of Newmarket and related pumping station infrastructure. York Region would not be able to construct the YDSS Modifications without an exemption from the requirements of the *Act* (e.g., a Declaration Order) or approval of the project in accordance with the *Act*. For example, please refer to section 3.2 and subsection 5(3) of the *Act*. Proceeding to construction of the YDSS Modifications without an exemption or approval would be illegal.

At the time your letter was written, as mentioned, it would have been illegal for York Region to proceed with construction of the YDSS Modifications. Subsequently, following Provincial Cabinet approval, a Declaration Order was issued exempting the YDSS Modifications from the requirements of the *Act*. The Declaration Order was published on March 12, 2018. As a result, construction of this critical work can now proceed.

The statements in your letter about implementation of the UYSS EA phosphorus off-set program are also incorrect. Until the UYSS EA undertaking is approved by the Minister, it would also be illegal for anyone to proceed with the phosphorus off-set program because it is a component of the undertaking submitted to the Minister for approval. The same legal requirements under the *Act* that applied to the YDSS Modifications also apply to the phosphorous off-set program.

Proceeding with the twinning of a YDSS (Newmarket) forcemain (YDSS Modifications) became critical as delays to the UYSS EA approval process continued

The Regional Council report indicates that there was an urgent identifiable risk connected to the approval of the UYSS EA that was communicated to the Ministry in December 2016 in addition to January, March and June of 2017. This involved the risk of spills posed by the existing single YDSS forcemain in the Town of Newmarket as evidenced by spills recorded during a storm on June 23, 2017.

York Region sought an exemption under the *Act* for the YDSS Modifications (supported by the review and consultation that had already been completed) or approval of the UYSS EA in order to proceed with this critical project.

The notion that York Region is somehow “blaming past sewage spills on the First Nation” is simply not correct. The issue was the delay experienced while awaiting the Minister’s decision on the UYSS EA.

Your statements about the Holland Landing (Lagoons) Water Pollution Control Plant, York Region’s financial risk and issues associated with the UYSS EA are incorrect

The decommissioning of the Lagoons has always part of the “discharge to Lake Simcoe” alternative and the “Innovative Alternative”. Assuming that the UYSS EA is approved, York Region is obligated to maintain servicing to residents until the new Water Reclamation Centre is operational. The Regional Council report clearly states that. We do not know what other documentation you are referring to, but as mentioned, the “Innovative Alternative” has changed the understanding of what servicing is possible for the Lake Simcoe watershed. The understanding documented in the Regional Council report and the UYSS EA is, to our knowledge, the most current and correct approach.

York Region respectfully disagrees with EcoJustice’s characterization of the financial risk with the UYSS EA that York Region has incurred to date. The cost of this environmental assessment is the highest in the history of the Region and the related costs are the most spent on a project that has yet to receive approval. It represents a significant investment reflecting the degree and thoroughness of work, study, consultation and design required to complete the UYSS EA and bring the “Innovative Alternative” forward to comply with the *Act* and other requirements. It also represents a belief by York Region in the merits of the undertaking and efforts to limit delays should approval be received.

With respect, York Region completely disagrees with the statement that these are typical financial issues associated with any major project. It is not typical for York Region to have invested this much time, money and staff resources on a project that is still waiting for approval more than three-and-a-half years after it was submitted, especially when the Ministry’s government review of the UYSS EA clearly states that York Region has met the requirements of the *Act*.

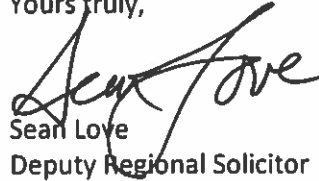
From York Region’s perspective, the level of consultation undertaken for the UYSS EA not only complies with York Region’s requirements under the *Act*, it surpasses them. It also surpasses the level of consultation and engagement undertaken on any prior environmental assessment completed by York Region. In terms of consultation during the UYSS EA with the Chippewas of Georgina Island First Nation, this included correspondence and meetings held with various Williams Treaty First Nations at Casino Rama, and in the case of the Chippewas of Georgina Island First Nation itself, many separate meetings, a separate peer review funding arrangement, correspondence and discussions that have occurred over several years. York Region has, at a minimum, met its legislative and regulatory requirements.

The proposed Water Reclamation Centre and phosphorus off-set program would replace 1960s era lagoons with state of the art treatment and remove more phosphorus from the Lake Simcoe watershed than any previously approved municipal servicing project. The UYSS EA was completed to balance the various elements of the natural, cultural, social, built and economic environments, including the issues and concerns raised by the Chippewas of Georgina Island First Nation during the UYSS EA process.

In terms of the tone of your letter, York Region is very disappointed with the approach used to convey the concerns of EcoJustice and your client. The approach does not reflect the significant relationship of our two clients and the mutually beneficial projects supported by York Region programs and services for

the benefit of the Chippewas of Georgina Island First Nation and its residents. York Region looks forward to restoring the more mutually, respectful relations that we continuously strive to maintain.

Yours truly,



Sean Love

Deputy Regional Solicitor
Certified Specialist, Environmental Law

cc:

Chief Donna Big Canoe, Chippewas of Georgina Island First Nation
Hon. Kathleen Wynne, Premier of Ontario
Hon. Chris Ballard, Minister of the Environment and Climate Change
Hon. Nathalie Des Rosiers, Minister of Natural Resources and Forestry
Hon. Dr. Helena Jaczek, Minister of Health and Long-Term Care
Hon. Bill Mauro, Minister of Municipal Affairs
Kathleen O'Neill, Director, MOECC
Clerk, Town of Bradford, West Gwillimbury
John Daly, Clerk, Simcoe County
Mayor Quirk, Town of Georgina
Clerk, Town of Georgina
Building Industry and Land Development Association
Mike Walters, CAO, Lake Simcoe Region Conservation Authority