

Status of ED-19

Background

- was a long-term planning process undertaken by the Counties, along with the City of Brockville, the Town of Prescott and the Town of Gananoque in the 1990s (Gananoque withdrew financial support in 1996 but is included in the final approvals)
- total cost of the process was \$2,643,925 with \$1,994,405 being paid by the municipal partners and the remaining by the Province of Ontario
- ED-19 was approved for a Counties landfill site in 1998 after a lengthy waste management master planning process
- site is approximately 165 acres, though only 35 acres are approved for landfill
- approved capacity is 1.56 million cubic metres (includes waste and daily cover material), based on 50,000 tonnes per year for 25 years
- site has a valid Environmental Compliance Approval (ECA)
- between 1998 and 2002, the Counties purchased the lands, except 100 acres in the middle of the site, for \$381,267
- since 1998, Counties has examined the feasibility of opening ED-19 but it was not economically viable (due to various factors, including high capital cost of opening, municipalities with long-term contracts with outside landfill operations, reduction in waste due to diversion programs)
- in 2010, Counties invited Expressions of Interest from the private sector for long-term waste management services
- received several submissions, including one from Lafleche Environmental for a preferred tipping fee, and Tomlinson to open/operate ED-19

- Counties did enter into a contract with Lafleche Environmental on behalf of the municipalities of Leeds and Grenville for the preferred tipping fee, as well as continued discussions with Tomlinson regarding ED-19
- in 2015, Counties Council directed staff to pursue the Tomlinson proposal
- staff commenced discussions with Tomlinson, with some initial negotiations occurring in late 2016
- after some concerns from local residents, a public meeting with held in February 2017 in Spencerville
- many people spoke against the sale of ED-19 to Tomlinson
- in March, Counties Council asked the Minister to confirm or deny the ECA was valid – on behalf of the Minister, the Director responded confirming the ECA was valid, subject to any significant changes in conditions
- in April 2017, Ministry requested the Counties to determine if any significant changes have occurred since the approval of the ECA – the Ministry agreed that this work would not need to be completed until such time as the proponent is preparing to plan for construction

Negotiations with Tomlinson

- last negotiations with Tomlinson occurred in late 2016
- no further negotiations since that time
- in 2017 Tomlinson did purchase 100 acres of privately owned lands in the middle of the ED-19 approved site
- no discussions or negotiations occurring with Tomlinson
- Tomlinson is not a partner – just an interested private sector company

Environmental Bill of Rights

- Ministry received 2 requests for review under the Environmental Bill of Rights (September 2017 and February 2018)

- Counties, through its legal counsel, has responded to both
- the Ministry is waiting for the results of the Environmental Review Tribunal

Environmental Review Tribunal

- in November 2017, the Director issued an order to amend the Environmental Compliance Approval, which would suspend two clauses, referring to their letter of April 2017 as the reason for the suspension (confirm no significant changes in conditions)
- the Counties appealed the order to the Environmental Review Tribunal
- Council has provided our legal counsel with direction
- legal counsel and consultants have prepared the Counties position, and presented it to the preliminary hearing held in March 2018
- a June scheduled hearing was postponed until September 14th at the request of the Ministry of the Environment
- the Counties and Ministry are seeking a resolution and settlement
- any settlement/resolution will require approval by the Tribunal
- if unable to agree, or one party disagrees, the Tribunal will decide
- in August, the Counties and the Ministry Director reached a settlement agreement
- this settlement agreement requires CAD's consent, since it has been granted Party Status at the Tribunal
- CAD has not consented to the settlement agreement
- since the September 14th Tribunal hearing was to deal with the Counties' motion that the Director acted without statutory authority when he suspended two clauses in ED-19's Environmental Compliance Approval, all Parties agreed to request the hearing be cancelled and a new date set for a 'settlement agreement' hearing

- the Tribunal cancelled the September 14th hearing and has set November 6 and 7, 2018 as the date for a 'contested settlement agreement' hearing
- in the meantime, the three Parties (Counties, Ministry and CAD) will continue to try to reach an all-party settlement agreement or otherwise reduce the contested elements of the proposed settlement agreement prior to any hearing
- if the three Parties are able to reach a settlement agreement, they shall recommend this agreement to the Tribunal in November
- if the three parties are not able to reach a settlement agreement, the Tribunal will sit to hear the Parties and make a final decision
- as well as the three Parties, there are 4 persons with "Presenter Status" and one person with "Participant Status" at the Tribunal:
 - Party Status: Ministry of the Environment, Conservation and Parks, United Counties of Leeds & Grenville, Citizens Against the ED-19 Dump (CAD)
 - Participant: Shawn Carmichael
 - Presenters: 136469 Ontario Limited (Phil Parent), Claire Kinlin, Adrian Wynands, Township of Edwardsburgh/Cardinal