



October 24, 2006

Environmental Commissioner of Ontario
1075 Bay Street, Suite 605
Toronto, ON M5S 2B1

Re: Application for Review, Ontario Environmental Assessment Act

Dear Commissioner,

Please find enclosed an application for review filed pursuant to Section 61 of Ontario's *Environmental Bill of Rights*.

Lake Ontario Waterkeeper and Friends of Red Hill Valley are requesting Section 11.4 of the Ontario *Environmental Assessment Act* be amended to provide more clarity about the review process and that all approvals issued under the Act in the future contain expiration or renewal dates. The reasons for this request are contained in our application.

In addition to the grounds contained in our application, we would like to draw your attention to a new development that reinforces the seriousness and importance of our request:

Supplemental Information

When the Red Hill Creek Expressway was approved in 1985, it was stated that the project would not impact the Niagara Escarpment. More recently, the project design was modified to include an 80-metre wide cut in the face of the Escarpment. This rock was to be used in the construction of the highway, an activity that was never included in the 1985 approval.

On September 28, 2006, the City of Hamilton was informed that this rock is "sub-standard" and its use is "not an option on this Project." The city must either find an alternate use for the material, or dispose of it and lose \$2.5-million. Against the advice of environmentalists and community members, the environmental assessment process was circumvented; as a result, an unjustifiable hole has been blasted through one of the most precious ecological landmarks in Southern Ontario.

We submit that this grave planning error is a direct result of the flaws in the environmental assessment process described in our application for review. If the Minister of the Environment had been compelled to respond to our request for review under Section 11.4 or if the 1985 approval had been subject to a renewal process, this change to the project design would have received the scrutiny it so clearly deserved.

A memo from the Acting Director of the Red Hill Valley Project to Hamilton city council is attached, confirming the details we have outlined above. We would consider this information an important supplement to our application for review.

Thank you for your consideration.

Yours truly,

Mark Mattson
Waterkeeper & President

Encl.

cc: Don McLean, Friends of Red Hill Valley