



David R. Donnelly, MES LLB
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August 1, 2017

Sent via email to errc@simcoe.ca and john.daly@simcoe.ca

Mr. John Daly
County Clerk
County of Simcoe Administration Centre
County of Simcoe
1110 Highway 26
Midhurst, ON L9X 1N6

Dear Mr. Daly,

**Re: Environmental Resource Recovery Centre
Friends of Simcoe Forests Inc., Retainer of Donnelly Law**

We write to advise the County of Simcoe (“Simcoe”) that we have been retained as legal counsel by Friends of Simcoe Forests Inc. (“FSF”) regarding Simcoe’s *Planning Act* applications for an Environmental Resource Recovery Centre (“ERRC”) at 2976 Horseshoe Valley Road, Springwater, Ontario (the “Application”).

We request that our firm be notified of the adoption or refusal of the proposed Simcoe Official Plan Amendment (“OPA”).

Our client provided written submissions to Simcoe’s Clerk regarding the ERRC Application on May 2, 2017, enclosing opinions from a registered land use planner and experienced ecological consulting firm. FSF also retained a professional hydrogeologist to review the ERRC Application. We provide a brief summary of key issues and commentary raised by each expert.

Planning

Ms Jennifer Lawrence, MCIP, RPP, President of Jennifer Lawrence & Associates Inc., prepared a detailed and comprehensive peer review of the Materials Management Facility (“MMF”) and Organics Processing Facility (“OPF”) site

selection process reports (GHD, Parts 1 -3), as well as the site-specific Scoped Environmental Impact Study (GHD, November 17, 2016) and the Planning Justification Report (GHD, November 17, 2016). In Ms. Lawrence's planning opinion, she raises the following key concerns:

- The site selection process is not consistent with the *Planning Act* requirements on natural heritage as outlined in the Provincial Policy Statement (PPS 2014). The diversity and connectivity of natural features, and the long-term ecological function and biodiversity of natural heritage systems should be maintained, restored and, where possible, improved, according to the PPS policies;
- Simcoe's applications are not consistent with the PPS, and do not conform to Simcoe or the Township's Official Plans with respect to natural heritage features and functions: Simcoe has not demonstrated there will be no negative impacts on "significant woodlands", "significant wildlife habitat" or the "habitat of endangered species and threatened species";
- The site selection process did not adequately consider the requirements of the PPS resulting in the identified short-listed sites, and ultimately the preferred site, with limited consideration for natural heritage impacts;
- Simcoe's application to co-locate the OPF and MMF contradicts earlier staff recommendations to separately locate the two facilities without explanation; and
- It is unusual for a municipality to propose the construction of substantial infrastructure within a natural heritage feature.

Please find attached the updated peer review of Jennifer Lawrence & Associates, dated June 5, 2017.

Environmental Impact

Mr. Jim Dougan, BSc, MSc, OALA (Hon) and Dougan & Associates prepared a detailed and comprehensive peer review of the *Scoped Environmental Impact Study* prepared by GHD (November 17, 2016) ("EIS"). We note the EIS was completed only after the selection of the preferred site. Dougan & Associates' peer review comments include the following:

- The EIS does not acknowledge the presence of Significant Wildlife Habitat ("SWH"). However, based on the information provided in the EIS, the subject property meets criteria for several SWH categories. This lack of acknowledgement appears to be based on misinterpretation of the data, and of provincial policy natural heritage guidance;
- The proposed location of the facility within the center of the site will result in the loss of approximately 18 hectares of "interior forest" habitat upon which many SWH species depend;

- The EIS did not adequately demonstrate the absence of Species of Risk, including species designated threatened and endangered under the *Endangered Species Act, 2007*. As a result, the claim that no impacts are anticipated on these species or their habitats is unfounded.
- The EIS inexplicably downplays the implications of the Significant Woodland designation of the site, and the impacts on ecological features and functions of the woodlands as a result of the proposed development
- The EIS fails to acknowledge that the proposed use will result in an increase in invasive, predatory and ‘pest’ species, which will lead to negative impacts on local flora and fauna populations in the remaining woodlands;
- The EIS fails to adequately address the direct and indirect impacts associated with the internal road network and traffic volumes; and
- The EIS fails to adequately consider the impacts on PPS-defined adjacent lands, as well as the cumulative effects of the proposal, given the likely future expansion of the facility.

Please find attached the updated peer review of Dougan & Associates, dated June 16, 2017.

Hydrogeology and Hydrology

Mr. Tim Lotimer, FGC, P. Geo., President of Tim Lotimer & Associates Inc. reviewed Simcoe’s *Hydrogeological Assessment, Environmental Resource Recovery Centre*, prepared by GHD (November 2016). The firm’s comments include the following:

- Changes in runoff patterns as a result of development may impact wetlands on site and associated Significant Wildlife Habitat. Additional work (including monitoring) is recommended to assess overland flow patterns to wetlands on the site to clarify the hydrological characteristics of the wetlands, for inclusion in the EIS.

FSF Requests to Simcoe County

In addition to the above and enclosed peer reviews, FSF requests a response to the following issues regarding the ERRC Application:

1. The Simcoe’s planning opinion regarding:
 - i. The 2017 Growth Plan for the Greater Golden Horseshoe, 2017, and the ERRC Application;
 - ii. The application of Ministry of Environment and Climate Change (“MOECC”) Guideline D-6, *Compatibility between Industrial Facilities and Sensitive Land Uses*, to the proposed facilities; and

- iii. The impact, if any, of the selection of technology for the OPF (aerobic vs. anaerobic) on the planning application (e.g. setbacks from sensitive receptors, land needs to accommodate facility in the near and long-term, potential use of alternative OPF elsewhere in the Province at reduced cost);
2. Detail regarding meetings and correspondence between Simcoe staff and consultants with the MOECC regarding the ERRC Application; and
3. Report from Simcoe regarding consultation with Aboriginal communities.

Conclusion

We recognize that the ultimate choice of location of a large, new waste facility will undoubtedly be controversial, and likely few municipalities, if any, would advocate for their own lower-tier municipality to be chosen.

The process of selection must therefore be well-informed and reasoned, without a predetermined site in mind, guided by sound planning principles as laid out in planning policy.

The obvious first choice for a new ERRC is in an industrial zone, away from sensitive receptors – not within a natural heritage feature, with amphibian habitat, a large number of area-sensitive breeding birds, cultural heritage site(s), and within hundreds of metres of residences and working farms. What municipality in Simcoe thinks putting an ERRC in significant woodland within their own boundaries is appropriate? A good site selection process and adherence to the PPS principles is critical to ensure public confidence in the final decision.

The peer reviews undertaken at the cost of FSF and its supporters provide a solid foundation to question the suitability of Site C136 – a significant woodland with significant wildlife habitat, previously unknown and unmapped vernal pools, evidence of potential Species at Risk habitat, etc. It appears there are considerably more constraints on the site due to its natural heritage features than revealed in the perfunctory site selection assessment. Additional monitoring and surveys of all wetlands, vernal pools, species at risk, etc. is required, including a new spring field survey.

It is FSF's primary submission that in principle, any natural heritage setting in Simcoe is an inappropriate location to pave over and invite in heavy truck traffic for an ERRC that is likely to expand in the future.

The "Vision" for Simcoe County is "Working together to build vibrant, healthy, sustainable communities." Proposing commercial, infrastructure, industrial or

residential developments in Simcoe County Forests is obviously contrary to this vision. My client is entitled to wonder why the location of the proposed ERRC in the Freele Tract County Forest has given Simcoe decision-makers tunnel vision.

Please do not hesitate to contact me at 416-572-0464, or by email to david@donnellylaw.ca, cc'ing anne@donnellylaw.ca, should you have any questions or comments concerning this correspondence.

Yours truly,

A handwritten signature in blue ink, appearing to read "D. Donnelly", with a long horizontal flourish underneath.

David R. Donnelly

Attachments (2)

cc. C. Hibberd (NVCA)
A. Ingraldi (MMAH)

June 16, 2017

Friends of Simcoe Forests Inc.
c/o Bob and Mary Wagner
2928 Horseshoe Valley Road West
Phelpston, Ontario, L0L 2K0

Re: Peer Review of Scoped Environmental Impact Study, Proposed Environmental Resource Recovery Center, Springwater, Ontario prepared by GHD

Dear Mr. and Mrs. Wagner:

Dougan & Associates (D&A) was retained by Friends of Simcoe Forests Inc. in March 2017 to complete a peer review of the terrestrial resources information contained within the report *Scoped Environmental Impact Study, Proposed Environmental Resource Recovery Center, Springwater, Ontario* prepared by GHD Ltd. (November 17, 2016).

This peer review applies Dougan & Associates standard approach for reviews of natural heritage planning reports, which focuses on whether the EIS adequately reflects relevant protocols and interpretation as required under the Provincial Policy Statement (OMMAH 2014) and its guiding documents, such as the Natural Heritage Reference Manual 2nd Ed. (OMNR 2010), Significant Wildlife Habitat Technical Guide (OMNR 2000), and other provincial references, as well as the Simcoe County Official Plan (2007) and other local documents, including the Simcoe County Forest Plan (2011) and the Simcoe County ONE SITE – ONE SOLUTION (2016) document. D&A peer review authors also completed a site review on May 3, 2017 to review existing conditions on the site.

GOALS AND OBJECTIVES OF SCOPED ENVIRONMENTAL IMPACT STUDY

Goals and objectives for the EIS report are not clearly stated in a stand-alone report section. In Section 1.1 Introduction, the GHD goal is "...to complete a *Scoped Environmental Impact Study (Scoped EIS)* for the proposed co-located development of a *Materials Management Facility (MMF)*, an *Organics Processing Facility (OPF)*, and related support activities, collectively referred to as the *Environmental Resource Recovery Centre (ERRC)*." Two inferred objectives include "...to include an evaluation of all relevant natural features and species within the Study Area." and "This report has been prepared to address the requirements stipulated in the Simcoe County OP to satisfy the requirements of Provincial and County OP policies, as well as other relevant legislation."

MAJOR COMMENTS

In our review of the Scoped EIS document (hereafter referred to as the “EIS”) and based on site conditions observed on May 3, 2017, D&A have identified the following major inadequacies and/or inconsistencies in the report:

1. Significant Wildlife Habitat (SWH)

SWH is protected under the Provincial Policy Statement (OMMAH 2014). Based on the data provided GHD (2016a), the site meets criteria for several more SWH categories than are indicated in the EIS, and there are some weaknesses in the data required to assess SWH. Specifically:

- Amphibian data is incomplete as it does not indicate calling species abundance levels per the Marsh Monitoring Program (MMP) protocols, which are required to assess SWH status; further, no documentation of the weather conditions during surveys is provided which would clarify if MMP protocols have been addressed;
- Spotted Salamander egg masses were found by GHD in 2016, and the Amphibian Breeding Habitat (Woodland) criterion is met, triggering SWH. Additional Spotted Salamander egg masses were documented by Friends of Simcoe Forests Inc. in 2017 from other locations within the Simcoe County Forest “Freele Tract” site;
- Presence of Western Chorus Frog (an S3 provincially ranked species) triggers SWH;
- Twenty-one (21) area-sensitive bird species were documented, and the affected forest is sufficiently large to warrant SWH designation as Woodland Area-Sensitive Bird Breeding Habitat, which would be directly and indirectly impacted by the facility;
- Woodland Raptor Nesting Habitat may be present as three of six SWH indicator species were documented by GHD during the bird surveys, but no raptor nest surveys were apparently conducted. Two of the same species were observed on May 3, 2017; and
- The EIS opines incorrectly that cultural plantations cannot qualify as SWH; the SWH Ecoregion 6E Criteria Schedule does not exclude cultural plantations, and in some cases, highlights them as potential habitat (e.g. raptor nesting).

The facility would cause significant fragmentation of the forest patch where it is proposed; the EIS does not adequately address the impact on both quantity and quality of forest interior on the site (see also Comment 5 below). The use of this site as proposed would result in loss of forest interior functions over a much larger area than the simple footprint of the facility; we estimate that approximately 18 ha of forest interior would be eliminated, based on the definition that interior forest habitat is at least 200 m from the forest edge (OMNRF 2015).

2. Significant Woodlands

The report notes that the site qualifies as Significant Woodland but the implications of this designation are not brought forward into the impact assessment. In fact, the EIS downplays the value of the Significant Woodland without speaking to functional attributes which underlie the concept of “significance” as defined under the Provincial Policy Statement (PPS). The presence of a diverse group of area-sensitive forest bird species (21 species based on MNRF criteria), and other Significant Wildlife Habitat (SWH) indicates that this is currently highly functioning habitat, irrespective of the presence of planted conifers.

3. Species at Risk (SAR)

Species at Risk findings and impact assessment are insufficient. According to the EIS, no Eastern Whip-poor-will habitat is present within the study area. However, our review of the literature and our May 3rd 2017 visit to the site indicate otherwise. Potential habitat for Jefferson Salamander complex is present given the vernal pools on site. Also, no systematic bat surveys were conducted although up to three Endangered bat species could be present based on the habitats present; the Executive Summary of the EIS states that no SAR are present, but this is incorrect as several Special Concern species are present and discussed elsewhere in the EIS.

4. Vegetation Classification

Dougan & Associates is concerned with the accuracy of the vascular plant identification and Ecological Land Classification (ELC) vegetation classification completed for the Freele Tract, based on both the adequacy of the vascular plant list and the accuracy of the ELC classification. Appendix B, Vegetation Inventory has several errors and inconsistencies, and the ELC community descriptions in Section 2.2 downplay the extent of naturalization that is occurring in the 'naturalizing plantation' polygons. Based on our single spring visit, we noted species on the study site that are not listed in Appendix B, and observed that the plantation communities exhibit relatively rich native understory regeneration and a low proportion of non-native species. In particular, the community described as FODM5 is arguably FOD5-1, a natural forest community. The inadequacies in the vascular plant list and the ELC community descriptions understate the significance of impacts of the proposed facility on the ecological features and functions of the site.

5. Invasive Species and Predatory Species

The facility will handle compostable waste in the Organics Processing Facility, which would include invasive plant species and pests affiliated with waste materials, which could then invade the surrounding forest. There will also likely be effects on local wildlife, with increases in populations of species such as mice, rats, skunks, raccoons and coyotes, which can predate sensitive species such as ground-nesting area-sensitive forest birds. Based on facility experience elsewhere, pests will be introduced in waste delivered to the site; this could include mice and rats, non-native insects, and infectious organisms. Control techniques used by existing resource recovery facilities include poison baits and live trapping. These agents and their effects are neither identified nor discussed in the EIS; they would likely have implications into woodland habitats well beyond the site.

Notably, recovery facilities are considered an industrial use, and would normally be sited on designated industrial lands; the choice of a quality forested site for such a facility will undoubtedly create conflicts with natural biodiversity, which could be further exacerbated by operational management practices.

6. Adjacent Lands

There is no clear discussion of Adjacent Lands in the EIS. The PPS defines Adjacent Lands as *"those lands contiguous to a specific natural heritage feature or area where it is likely that development or site alteration would have a negative impact on the feature or area. The extent of the adjacent lands may be recommended by the Province or based on municipal approaches which achieve the same objectives* (OMMAH 2014). MNR recommends Adjacent Lands extend a minimum of 120 m beyond the limit of the following natural heritage features: Significant Habitat of Endangered and Threatened Species, Significant Wetlands, Significant Woodlands,

and SWH, (OMNR 2010). The proposed facility will create changes to ecological functions on a larger footprint, likely in the order of 200+ m, and with potential for greater impacts due to future expansion, fundamental changes to habitat quality, and introduction of invasive species.

7. Vehicular Impacts Associated with Facility

The EIS does not adequately address road and traffic impacts of the facility. The required internal road system for the facility includes the main entrance road, and an emergency access route which will be located along the existing trail to the north of the facility. Section 3 (Preliminary Development Plan) indicates that the site will also be a *“Truck Servicing Facility – a location for servicing the County’s fleet of industrial Solid Waste Management vehicles.”* With respect to construction of the facility, Section 5.2.2 (Mitigation) recommends that *“Vehicle fueling, storage, and maintenance should occur outside of the Study Area (off site)”*; this concern seems contradictory given the order of magnitude of eventual operations which is not adequately discussed, quantified, or mitigated. Vehicular traffic including waste management trucks, as well as private vehicles engaged in drop-offs, will undoubtedly produce a heavy traffic load, possibly including truck movements outside the normal drop-off hours. The Facility Characteristics Report (GHD 2016b) for the site states that the clearing for the access road will be 15–20 m (not including turn lanes); this clearing is not addressed or quantified in the EIS.

8. Lack of Site Plan

Environmental Impact Studies normally include a site concept plan which allows a clear understanding of the proposed development; the GHD EIS does not include any graphic representation of the project apart from the generic mapping of the current proposed development footprint shown on Figures 4 and 5.

9. Water Balance Impacts

The GHD EIS only makes passing reference to the GHD Hydrogeological Assessment for the ERRC, without a summary of its key findings. That assessment determined that there will be a significant reduction in infiltration due to the impervious character of the proposed development; it provided only generic mitigation measures but did not specifically address how the existing wetland features are sustained today, and will be sustained after development (GHD 2016c). Our field visit confirmed that the proposed footprint of the facility is within a topographically complex portion of the overall tract, where significant infiltration is a factor given that the proposed facility will be located on a glaciofluvial sand deposit, that behaves as an aquifer (GHD Hydrogeological Assessment, 2016). The EIS should include a fulsome discussion of the existing ecosystem features and their reliance on ground and surface water sources; the potential impact to these resources; and a detailed mitigation strategy (including reference to a site plan showing the location(s) of potential mitigation).

10. Cumulative Effects

The EIS does not address potential cumulative effects. EIS Section 3 (Preliminary Development Plan) indicates that the facility may be expanded in the future; the EIS considers a 4.5 ha development site, however the County’s *“ONE SITE, ONE SOLUTION”* (2016) document identifies the size specification as 20 ha, and also promotes this preferred site on the basis of its size (84 ha) described as *“large usable space”*, accommodating potential expansion. Given the high likelihood of expansion, and the constraints identified outside of the proposed 4.5 ha development site, it is likely that further effects will occur in the future; however cumulative effects are not identified, discussed or addressed in the EIS.

DETAILED COMMENTS

In addition to the major comments summarized above, D&A staff have other comments that support or supplement our major comments, organized according to section and page of the EIS.

Section 2 – Existing Conditions, Natural Features and Resources

Section 2.1 – Background Review

Section 2.1.1 – Secondary Sources, Page 2

1. The Ministry of Natural Resources and Forestry (MNRF) Natural Heritage Information Centre should have been contacted for information on file.
2. Ontario Breeding Bird Atlas (OBBA) data should have been reviewed; point count information may have been available for the site. OBBA data could also provide additional context when assessing the diversity of breeding birds documented from the site.
3. Potential sources of additional natural heritage data, such as the York-Simcoe Naturalists or individual naturalists familiar with the area, were apparently not consulted. Given the presence of trails for public access, potential users are worth consulting for background.

Section 2.1.2 – Previous Studies, Page 2

4. This section refers to “relevant documents” obtained from the County related to tree inventories and tree health surveys. These documents should have been described in more detail and sourced in the EIS report, as the report states in several places that the significance of the forests on this site are limited by their management as plantation.

Section 2.2 – Field Investigations, Page 3

5. This section contains methods, findings, and in some cases, conclusions. This is contrary to standard EIS practice, which should summarize the characterization methods and findings, examine the policy basis of findings that represent constraints, describe the proposed undertaking in sufficient detail, and then identify the potential impacts (direct, indirect, cumulative). Insertion of opinions on impacts into the characterization is inappropriate, and detracts from the objectivity of the EIS.

Section 2.2.2, Natural Heritage Features, Page 3

6. This section describes available natural heritage mapping, policy analysis, timing of field visits and findings related to the watercourse on site. The policy findings should have been addressed in a discrete policy focused section elsewhere in the report.

Section 2.2.3, Ecological Land Classification (ELC), Page 4

7. The specific dates and methods of ELC surveys are not provided. As such, it is difficult to determine whether the surveys were carried out according to normal protocols (*i.e.* surveys in all three seasons of spring, summer, fall).
8. The rationale for using the 2008 ELC codes instead of the codes contained in the 1998 ELC Manual, which is the manual formally in effect and published by the MNRF, is not given. The ELC manual (Lee *et al.*, 1998) is referenced in the text but is not included in the Reference section.
9. No areas are provided for the ELC communities, nor are coefficients of conservatism or ratios of native to non-native species calculated. This data is important for quantifying the ecological quality of a vegetation community in an objective manner.

10. The ELC data sheets for the field work are not provided in the EIS, therefore no review of the data collected can be undertaken.
11. The EIS notes that plantation trees were introduced to the study area approximately 65 years ago, and that these communities are undergoing natural succession, “developing some characteristics of a naturalized woodlot” (p. 4). The EIS notes that the woodlot is managed, but does not expand on how this impacts the ELC and vascular plant findings. D&A used the data in the species list (Appendix B) to generate a Floristic Quality Index (FQI) rating for the site as a whole; FQI is defined as “an evaluation procedure that uses measures of ecological conservatism (expressed numerically as a coefficient of conservatism or C value) and richness of the native plant community to derive a score (I) that is an estimate of habitat quality” (Miller *et al.*, 2006, Oldham *et al.* 1995). The FQI calculation for GHD’s data is 36.07 (native) and 30.82 (with adventives), and non-native species constitute 19% of the flora observed. These calculations indicate a moderate to high-quality vegetation composition, indicating a system towards the natural end of the `naturalization` spectrum.
12. The ELC community descriptions given in Section 2.2 are generally consistent with our own observations on May 3, 2017, except that all of the `naturalizing plantation` descriptions tend to understate the extent of naturalization that is occurring. The plantation communities are dominated by native understory regeneration and a low proportion of non-native species. In particular, we observed that the community mapped as FODM5 (which covers most of the proposed facility footprint), contains the richest flora of spring ephemeral species on the site, as well as the most complex topography (a factor contributing to species richness). The remainder of communities identified as naturalized plantation had characteristics more indicative of cultural disturbances, including an overstory of conifers planted in rows, and trails. Based on the 1998 ELC system, we believe that the FODM5 community should be redefined as FOD5-1, Dry-Fresh Sugar Maple Deciduous Forest Type, a natural forest community, based on the following characteristics, which are indications of deciduous forest communities from the ELC Manual (Lee *et al.*, 1998):

• Tree cover >60%	• Almost entirely dominated by Sugar Maple
• Deciduous tree species >75% of canopy cover	• Limited observation of anthropogenic disturbances

Section 2.2.4, Watercourse Verification, Page 7

13. The EIS notes that GHD and Nottawasaga Valley Conservation Authority (NVCA) reviewed the site for the mapped watercourse that is identified on the NVCA mapping, but no methods are given for how it was determined not to be present.
14. There was no discussion of the potential effects of widespread drought conditions in the spring and summer of 2016, which could explain the lack of flowing water. During our site visit on May 3, 2017, we did note active surface flows across the extensive complex of wetland pools in the southeast area of the site. The EIS mapping only included 5 m contour intervals on selected maps (Figures 1, 2, 3, 6) and discussed topography only in very general terms.

Section 2.2.5, Wetland Delineation, Page 7

15. The wetland boundaries were located using handheld Garmin GPS devices, and the accuracy of the devices used was not provided. Wetland boundaries are a significant constraint for the facility siting, and forest cover affects accuracy of GPS readings; therefore, clarity on the accuracy of these boundaries is very important. On our site visit, we were surprised at the extent and complexity of vernal pools in the southeast and north sections of the site; in our opinion the EIS does not provide an adequate account of this complexity.

Section 2.2.6, Wildlife

Section 2.2.6.1 – Amphibian Surveys, Page 8

16. Western Chorus Frog (*Pseudacris triseriata*) was one of the five species of calling amphibians detected during the amphibian surveys. However, the EIS does not indicate how many were documented and exactly where.
17. In Table 2.3, the S-Rank for Western Chorus Frog was incorrectly depicted as S4. Great Lakes/St. Lawrence - Canadian Shield population, to which these individuals would belong, is listed as S3. Furthermore, it is a Species at Risk, designated “Threatened” in Canada but not in Ontario.
18. The S-Rank for Western Chorus Frog (S3) and its federal status (Threatened) would trigger Significant Wildlife Habitat designation (OMNRF 2015). According to MNR’s Ecoregion 6E Criteria Schedules, Confirmed SWH is defined as the area of the habitat to the finest ELC scale that protects the habitat form and function.
19. It is not possible to determine whether the “Amphibian Breeding Habitat (Woodland)” SWH criterion is present (with respect to calling frogs) because the EIS Table 2.4 does not provide any abundance information and levels of calling that are normally assessed under the Marsh Monitoring Program (MMP) protocol. However, the presence of Spotted Salamander triggers SWH.
20. EIS Table 2.4 does not provide information on the weather conditions at the time of the surveys, including temperature at the beginning and end of the survey, wind speed, cloud cover etc. Given the information provided, it isn’t possible to verify that surveys were conducted according to the standardized MMP methodology, and that the results adequately capture the diversity and numbers of individuals present.

Section 2.2.6.2 – Breeding Bird Surveys, Page 8

21. Forty-nine (49) species of birds were documented during the surveys, 48 of which are possible breeders. In our experience, the list is very diverse for an entirely forested site, suggesting high quality and diversity of habitats present.
22. Twenty-one (21) area-sensitive species were documented based on the Significant Wildlife Habitat Technical Guide (SWHTG) (OMNR 2000). We would consider this an exceptionally high number, indicative of the size and high quality of the habitats present. This quality was not acknowledged in the EIS.
23. Table 2.3 (Wildlife Observations) only includes the names of the species documented, as well as their provincial and national conservation status. The EIS should consider regional conservation information (e.g. Environment Canada’s (2014) priority species for conservation in Bird Conservation Region 13). Eight of the species documented in the EIS fall under this category.
24. Table 2.3 should include polygon-specific breeding bird data to help assess potential impacts.
25. Additional tables or appendices should be included that include point count breeding bird data, to inform which species were documented within and adjacent to the proposed facility footprint, adjacent to the proposed access road, and in the vicinity of the proposed emergency access road.
26. The EIS indicated that three ‘Species at Risk’ were documented, Eastern Wood-Pewee, Wood Thrush and Red-shouldered Hawk. It also indicated that Species at Risk are discussed in greater detail in Section 2.2.7. However, aside from listing these species in Table 2.5, they are not discussed in Section 2.2.7. The EIS should indicate where these birds were observed in relation to the proposed facility footprint and main access road, so that potential impacts on these species can be adequately assessed.

27. In our opinion, the site triggers SWH “Woodland Area-Sensitive Bird Breeding Habitat” criteria, because:
- Qualifying ELC Community Series include: FOC, FOM, FOD, SWC, SWM. These communities account for the majority of the site.
 - The entire 84 ha site is forested, far larger than the 30 ha size threshold. The forest on the site is also contiguous with forested habitat located east of the site.
 - It supports interior forest habitat at least 200 m from forest edge habitat.
 - It supports breeding by 10 of the SWHTG listed species (more than the 3 required). Notably, the proposed facility will eliminate at least 18 ha of existing interior forest, based on the definition that interior forest habitat is at least 200 m from forest edge habitat a 200 m (OMNRF 2015).
28. In our opinion, portions of the site may also meet the “Woodland Raptor Nesting Habitat” SWH criterion (OMNRF 2015). Although no active nests were apparently discovered, three of the six listed species in the Ecoregional 6E Criteria Schedule were documented during the surveys (Barred Owl, Red-shouldered Hawk, Broad-winged Hawk). A single active nest would trigger SWH designation, which includes a 100 m to 400 m radius around the nest. According to the Ecoregion 6E Criteria Schedule, this category “*May be found in all forested ELC Ecosites. May also be found in SWC, SWM, SWD and CUP3*”. Note that cultural plantations are not excluded from consideration as SWH. We observed both Red-shouldered Hawk and Broad-winged Hawk calling and flying low over the site (*i.e.* probably not migrating) on May 3rd 2017.

Section 2.2.6.3 – Wildlife Habitat Features, Page 9

29. The EIS stated, “*Snags that had the potential to provide roosting habitat for bats were encountered throughout the Study Area.*” however, no bat surveys were conducted. Although snags were documented by GPS when encountered, it doesn’t appear that a systematic survey was conducted. This is a significant issue as all the listed bat species are designated Endangered in Ontario and would trigger protection under the Endangered Species Act (Government of Ontario 2007). If snags containing cavities are proposed to be removed, acoustic surveys would need to be conducted to determine presence or absence of Endangered bat species. Appropriate documentation of consultation with MNRF should be provided if consultation has determined that no acoustic surveys are required.
30. Spotted Salamander egg masses were observed in a vernal pool in 2016 by GHD. EIS Figure 5 suggests that they were present in a wetland in the north end of the site. The wetland is depicted as SWMM2-1 on Figure 4 in the EIS. Applying MNRF’s 2015 *Significant Wildlife Habitat Criteria Schedules for Ecoregion 6E* as the guide, the vernal pool where the salamander egg masses were documented is one of the ELC ecosite types listed as Candidate Significant Wildlife Habitat (SWH). It also exceeds the minimum size threshold for Candidate SWH. Therefore, based on the presence of a breeding population of Spotted Salamanders, Confirmed SWH status (“Amphibian Breeding Habitat (Woodland)” is present (OMNRF 2015). According to the 6E Ecoregion Schedules, “*The habitat is the wetland area plus a 230 m radius of woodland area.*” According to MNRF staff, “naturalized” plantation would be considered “woodland area” and therefore included with the 230 m area (M. Eplett pers. comm., 2017).
31. Spotted Salamander egg masses were discovered by Friends of Simcoe Forests Inc. in 2017 in a complex of wetland pools in the southeast part of the site. The wetland is generally depicted as SWCM2-1 on Figure 4 in the EIS. The presence of this breeding population also triggers Confirmed SWH status. The included 230 m radius of woodland buffer area extends across the proposed access road, into the proposed development area.

Section 2.2.7 – Species at Risk and Regionally Rare Species, Page 9

32. In addition to the sources listed, local residents and area naturalists clubs should have been consulted. Local knowledge, especially with respect to rare or cryptic species, is often more comprehensive and current than data on file with agency staff. Local residents believe that Eastern Whip-poor-will has nested within the Freele Tract in recent years.
33. Jefferson Salamander, designated Endangered in Ontario (OMNRF, 2017) and Canada (COSEWIC, 2016), should be included in Table 2.5 (Species at Risk Summary). Critical habitat for this species has been documented within approximately 50 km of this site (EC, 2015), and suitable habitat, currently supporting Spotted Salamander, is present on the site.
34. Western Chorus Frog should be included in Table 2.5 (Species at Risk Summary)
35. Eastern Milksnake was delisted as a Species at Risk in Ontario in June 2016; Table 2.5 should be corrected.
36. According to Section 2.2.6.2 of the EIS, three bird Species at Risk were documented by GHD: Eastern Wood-Pewee, Wood Thrush and Red-shouldered Hawk. However, none of them are discussed in this Section. Their observed locations with respect to the proposed development footprint and broader impact area should be discussed.
37. The EIS concluded that no habitat for Eastern Whip-poor-will was present within the Study Area due to the “relatively closed forest canopy”. However, according to the Royal Ontario Museum’s “Breeding Birds of Ontario Nidiology and Distribution, Volume 1: Nonpasserines” (Peck and James 1983), Whip-poor-will “Breeds in both dense and open areas, in deciduous, mixed, or coniferous woods. Nesting habitats were large forests, small wood lots in agricultural areas, pine plantations, and tree-recovered sand dunes. Some nests were on hillsides and hilltops.” Mills (2007), in “The Atlas of the Breeding Birds of Ontario” (Cadman *et al.*, 2007) writes: “The Whip-poor-will shuns both wide-open spaces and deep forest. In Ontario, its preferred habitats included rock or sand barrens with scattered trees, savannahs, old burns in a state of early forest succession, and open conifer plantations.” Sandilands (2010) writes, “The Whip-poor-will appears to avoid extensive areas of pure conifers (except for plantations), preferring young poplar-birch stands, successional areas, and hardwood and mixed forest as mature at pole stage.” Sandilands further writes that “Nests are on well-drained, dry soils, usually near the edge of a woodlot or in a forest clearing. They are usually in areas where the forest understory is sparse, but occasionally they are among dense shrubbery in open sites, or beside logs.” Based on the descriptions above, and our assessment of the site during our May 3rd 2017 reconnaissance visit, we believe that the site could provide suitable breeding habitat for this species and that nocturnal surveys per the survey protocols prepared by Bird Studies Canada (2014) should be conducted. Until such surveys have been completed, it is premature to conclude that the proposed development would not negatively affect this Threatened species.
38. Little Brown Myotis and Northern Myotis were listed in the Species at Risk Summary (Table 2.5), yet no bat surveys were conducted in support of the EIS. “GHD documented any snags that were encountered,” but it does not appear that this was part of a systematic and comprehensive inventory. Our May 3rd 2017 site visit noted numerous sizeable snags across the site that could potentially support maternity roosts.
39. Locally significant species (Ox Eye Sunflower, *Heliopsis helianthoides*; Running Strawberry Bush, *Euonymus obovatus*; Tall Goldenrod, *Solidago altissima var. altissima*) observed during the field work are identified in this section, and all three species are found in ELC communities to be disturbed by development; no avoidance or mitigation is proposed. No specific locations are given for the locally significant plants observed.

Section 3 – Preliminary Development Plan, Page 11

40. The text does not adequately describe the relative areas of disturbance; in Section 4.5 (Provincial Policy Statement) the proposed footprint of development is discussed, however the text does not confirm whether this footprint is final, given the County's specification for a 20 ha site. It is not clear if the areas of the access road and emergency road are included. Details such as access road widths, grading allowances, truck turning lanes, vehicle servicing parking, waste vehicle storage etc. are important factors to be considered, yet not provided in the EIS. No information is provided on grading required to accommodate the site development and roadways.
41. EIS normally include a site concept plan which allows a clear understanding of the proposed development; the EIS does not include any graphic representation of the project apart from the generic mapping of the currently proposed development footprint shown on Figures 4 and 5;
42. Although additional information is available in the Facility Characteristics Report, as noted in the EIS, information about the development relevant to the EIS (e.g. scale, grading, and features such as fencing) should be summarized and discussed in the EIS report.
43. No indication is given how the natural heritage sensitivities of the study site were used to site the facility footprint or allowances for future expansion to meet the County's defined needs.

Section 4 – Regulatory/Policy Framework, Page 12

44. The dates of the policy documents reviewed are not given in the text, nor are these documents included in the References.
45. No overall summary of policy constraints is provided.

Section 4.1 – Township of Springwater, Page 12

46. The text describes the policy restrictions within the Township's Official Plan, but does not interpret these policies with respect to the site and the proposed development; this is inadequate to understand the conformity with Township policies.
47. The text suggests that adjacent lands to Significant Wildlife Habitat (SWH) are those lands within 50 m. However, the Natural Heritage Reference Manual (NHRM) 2nd Ed., (OMNR 2010) defines adjacent lands to SWH as 120 m. The likely reason for the difference is that the Township of Springwater Official Plan (OP) has not yet undergone an OP review to bring it into conformity with the 2014 PPS. Nevertheless, Section 4.7 of the PPS (2014) directs that the policies of the current PPS apply despite less stringent policies in an OP which has not yet been updated to be in conformity with the current PPS. In other words, the 120 m adjacent lands definition provided in the NHRM should apply, regardless of the Township's OP definition.

Section 4.2 – Simcoe County, Page 12

48. The text describes the policy restrictions within the County's Official Plan, specifically the site's designation as County Greenlands, but does not interpret these policies with respect to the site and the proposed development. This is inadequate to understand the conformity with County policies.

Section 4.3 – Nottawasaga Valley Conservation Authority, Page 13

49. The text notes that wetlands are features regulated by the NVCA, and that wetlands are present in both the north-east and south-east parts of the site. The text also states that a 120 m offset for assessment of impacts has been used for this EIS, however the wetland in the south-east portion of the study area is excluded from this offset area and no rationale for this exclusion is given.

50. A statement about a mapped watercourse not being present on the site is given, however there is no discussion of the record drought conditions in the spring and summer of 2016.

Section 4.4 – Species at Risk Legislation, Page 13

51. The EIS states that *“As the Study Area is not on federal lands, and aquatic features are absent from the Study Area, SARA is not applicable to this review.”* This statement is incorrect, as the identification of Significant Wildlife Habitat (SWH) requires consideration of SARA status, specifically COSEWIC status. Page 54 of the SWHTG (OMNR, 2000) states: *“Species that can be considered species of conservation concern include: species identified as nationally endangered or threatened by the Committee on the Status of Endangered Wildlife in Canada, which are not protected in regulation under Ontario’s Endangered Species Act.”* This SWH criterion applies to Western Chorus Frog (*Pseudacris triseriata*); the Great Lakes/St. Lawrence – Canadian Shield population (to which those individuals documented during the EIS belong) are designated Threatened in Canada, but Not at Risk in Ontario. Therefore, habitat of the Western Chorus Frog merits designation as SWH.

Section 4.5 – Provincial Policy Statement, Page 14

52. The EIS notes that *“the Study Area is predominantly comprised of mixed tree plantation, with limited natural woodland communities in the northeast and southeast corners. Conservatively, these natural woodlands within the Study Area comprise less than 25% of the Study Area, but are associated with the contiguous communities on adjacent lands to the East.”* However, according to the Ecological Land Classification information provided in the EIS (see Figure 4), this statement is incorrect. Only two of the 12 vegetation communities are “Cultural” (i.e. not “Natural” or “Naturalized”). They are: TAGM1 (Course Mineral Coniferous Plantation) and CVI-1 (Transportation). Of the 84 ha site, they occupy approximately 2.8 ha and 0.5 ha respectively, or just under 4% of the total site.
53. The EIS states that the proposed ERRC footprint is 4.5 ha. However, the direct impact of the proposed facility alone appears to be closer to 4.7 ha based on our own aerial photo interpretation. Regardless, the calculation of the “footprint” does not quantify the potential extent of indirect impacts, which will likely extend onto adjacent lands. The footprint should also include the indirect impacts associated with the laneway accessing the facility. Traffic, noise and other disturbances (including the introduction of potential invasive species and predators), directed into the centre of the forest, will clearly have a negative impact on resident flora and fauna. Further, the potential impacts of the County’s stated intentions to expand the facility in the future are not addressed in the EIS.
54. The EIS acknowledges that the site meets one Significant Woodland criteria, i.e. the presence of interior forest 20 ha or greater where woodland cover is greater than 60%, however, it downplays the significance of this determination by stating: *“this function is temporary as the proposed ERRC footprint is part of a managed and actively-harvested woodlot.”* However, clear-cutting is not part of the normal forest management approach identified in the Simcoe County Forest Plan (Simcoe County 2011), which identifies as high priorities sustaining forests including maintaining ecological processes, and conservation of biodiversity. Developments other than for recreation are not anticipated in the SCFP, a guiding document which recommends that *“High Conservation Value Forests”* be identified, mapped, and maintained/enhanced. Notably, the EIS does not mention the SCFP.
55. With respect to Significant Wildlife Habitat, the only potential SWH criterion discussed is *“Woodland area-sensitive breeding bird habitat”*. The EIS states: *“As natural blocks of mature woodland within the Study Area are limited to the northeast and southeast corners, the area of the*

proposed ERRC footprint **does not satisfy the considerations as candidate Significant Wildlife Habitat** for Woodland Area-Sensitive Breeding Bird Habitat." However, according to ELC information depicted on Figure 4, only natural or naturalized vegetation communities occupy the ERRC footprint. In fact, about 96% of the lands are categorized as natural or naturalized. Because the majority of tree planting was completed in 1949 (Simcoe County 2017), the site currently supports mature forest (*i.e.* > 60 years old), consistent with the SWH designation criteria.

56. Based on the field data provided in the EIS and our May 3, 2017 field visit to the site, we believe that additional SWH criteria are present and should also be addressed (*e.g.* Amphibian Breeding Habitat (Woodland), Special Concern and Rare Wildlife Species, *etc.*).

Section 5 – Potential Environmental Impacts and Mitigation

Section 5.1 – Impact Assessment Process, Page 15

57. As a site handling compost, the introduction and spread of invasive or otherwise deleterious species should be considered as an impact in Table 5.1.

58. Re: Table 5.1:

- Impacts are not adequately defined (*i.e.* direct / indirect / cumulative)
- Limiting daily construction and facility operation hours from 6 a.m. to 7 p.m. does not represent adequate mitigation, as:
 - the stated hours also reflect the hours of peak wildlife activity;
 - the public hours may not adequately reflect actual operations as the site is intended to be the County's Truck Servicing Facility and a major transfer site for the County's growing waste stream.
- Additional options to mitigate noise impacts should be provided. Noise and disturbance associated with the access roads is an impact to be mitigated.
- An increase in the local abundance or concentration of omnivorous and carnivorous wildlife species such as mice, rats, Striped Skunks, Raccoons, and Coyotes, (C. McCausland *pers. com.*, 2017), as well as Weasels, American Crows, Blue Jays, Common Grackles, *etc.*) should be considered as a potential impact, which will lead to greater depredation of ground-nesting birds. Approximately 20% of the breeding bird species documented are ground-nesting.

Section 5.2 – Vegetation Communities (Including Wetlands), Page 19

Section 5.2.1 – Potential Impacts, Page 19

59. We are concerned that the inadequate vascular plant list and the ELC community descriptions downplay the significance of the ecological features, and therefore the EIS understates impacts of the proposed facility on the ecological features and functions of the site. The main footprint of the ERRC facility is proposed in the FODM5 community, which we observed to be the most 'natural' community on the site apart from the wetlands and associated lowland forests.

60. The EIS states that vegetation loss will be restricted to the proposed facility footprint and "entrance". However, it is reasonable to assume that the entire length of the access road will need to be widened to accommodate inbound and outbound truck traffic, along with necessary roadside verges and grading allowances. The roadway standards (including requirements for future expansion), and for parking accommodation of the County's fleet of Solid Waste Management vehicles are not clearly described or included in the discussion of impacts.

61. Text in Section 5.3.1 indicates that the existing portion of the north access road is intended to be retained for emergency access. The standards for the emergency access road, which

presumably must be capable of handling trucks and emergency vehicles, will undoubtedly require vegetation removal and significant works to provide a full-season access road. In addition, this proposed road is very close to the SWMM2-1 community and within the 230 m SWH buffer recommended by MNRF; therefore, impacts to wetlands and ecological functions can be expected.

62. As per Section 4.3, the wetland in the south-east corner of site is excluded from discussion of impacts to wetlands.
63. There is no discussion of impacts to locally significant plant species, and the specific locations of plants found are not identified.

Section 5.2.2 – Mitigation, Page 19

64. The EIS states the vegetation communities that will be altered are not unique or locally rare/significant. However, the vegetation communities clearly trigger Significant Wildlife Habitat policy as “Woodland area-sensitive breeding bird habitat”, which will be impacted.
65. There is no Mitigation Plan included with the EIS, which would normally include a figure indicating the development concept plan, ecological features and functions (e.g. SWH extent, including buffers) being protected, and indicating the locations for measures being applied on the development site or adjoining lands where mitigation is proposed.
66. No discussion of mitigation is provided related to locally significant plant species.
67. No specific monitoring of impacts and mitigation approaches is discussed or recommended; this is relegated to a future Environmental Monitoring Plan, however the limited detail in the EIS discussion of impacts renders it inadequate to guide design, construction and operation of the facility.

Section 5.3 – Wildlife and Habitat, Page 21

Section 5.3.1 – Potential Impacts, Page 21

68. The text should acknowledge impacts to Significant Wildlife Habitat (SWH). Based on the field data provided in the EIS and our May 3, 2017 field visit to the site, we believe that several SWH criteria are present (e.g. Amphibian Breeding Habitat (Woodland), Woodland Area-Sensitive Bird-Breeding Habitat, Special Concern and Rare Wildlife Species) (OMNRF 2015).

Section 5.3.2 – Mitigation, Page 21

69. Operating the facility during 6:00 a.m. and 7:00 p.m. should not be considered mitigation, since these hours correspond to when wildlife are most active, i.e. the daylight hours required for foraging and feeding young.
70. To protect pond-breeding salamander species, the EIS suggests that terrestrial buffer zones should extend away from the edge of breeding ponds by approximately 160 m, as “*this distance represents the movements of 95% of the adults in a population (Savage and Zamudio, 2016.)*” However, the Significant Wildlife Habitat Ecoregion 6E Criteria Schedule defines SWH habitat as the wetland area plus a 230 m radius of woodland area. On this basis, a portion of the proposed ERRC facility footprint would overlap with the SWH.
71. The EIS states that “*Provision of permanent amphibian tunnels north of the ERRC, beneath the emergency access road, with associated drift nets along the perimeter of the emergency access road should mitigate loss of connectivity and collision mortalities of amphibians under increased road traffic.*” It is not clear why this recommendation merits the required effort and expense, as the emergency access road will only be used in emergency situations. Notably, wildlife impacts and mitigation of the main access road are not considered with the same level of detail, e.g. the

"Amphibian Breeding Habitat (Woodland)" SWH criterion (OMNRF 2015) overlaps with the proposed main access road. The main access road will be within the 230 m buffer recommended by MNR for this category of SWH.

72. The EIS discusses enhancing the habitat in vegetation community TAGM1 for Spotted Salamanders by placing felled logs on the ground for additional cover and hibernation habitat, however Spotted Salamanders typically hibernate underground in small mammal burrows.
73. The EIS recommendation that "*Clearing, grubbing, and tree removal works should be conducted in a manner to avoid nesting birds and wildlife where possible.*" is too vague. General operational dates should be provided, with explicit reference to the Migratory Birds Convention Act (Government of Canada 1994 a,b).
74. No avoidance or other mitigation is provided for loss of habitat for bat species, *i.e.* snag removal.
75. Based on our review of the information contained in the EIS and its appendices, the conclusion that "*negative impacts to the identified natural features and ecological function are not anticipated*" is without foundation.

Section 6 – Conclusions, Page 23

76. The EIS again states that the site meets woodland significance targets under the Simcoe County Official Plan's Greenlands designation and the Provincial Policy Statement, but downplays the importance of the feature. The rationale is not supported adequately in the text, and our review indicates that the site is more significant than indicated in the EIS.
77. The statement of no negative impacts is not supported by EIS evidence, particularly given the inconsistencies, misinterpretations and exclusions noted by D&A.

Appendix A: Environmental Impact Study Terms of Reference

78. No minutes are provided confirming TOR approval at the April 1, 2016 agency meeting.

Appendix B: Vegetation Inventory

79. Our review of the vascular plant list provided in the EIS (Appendix 2) identified some inaccuracies and inconsistencies. First, several plants are identified with the incorrect botanical name (*i.e.* *Geum virginianum* is listed as Rough Avens, but should be Pale Avens; Common dock is listed as *Rumex* sp., this should be Dock sp.), and several plants listed to genus level have the wrong genus attributed to the common name listed (*i.e.* Sedge sp. is listed as *Scirpus* sp., and should be *Carex* sp.; Grass species is listed as *Panicum* sp. but could be one of many species of graminoid. In addition, some records have incorrect capitalization. These errors should have been addressed as part of normal reporting data quality control. Second, plants are listed which are not known to be present in Ontario (*Anemone nemorosa*, Wood anemone; *Lactuca virosa*, Bitter lettuce). Finally, during the site visit, D&A staff encountered several easily-identifiable species which would have been present during the ELC visits conducted by GHD. These species include Common Oak Fern (*Gymnocarpium dryopteris*), Wild Red Raspberry (*Rubus occidentalis*), Common Mullein (*Verbascum thapsis*), and Plantain-leaved Sedge (*Carex plantaginea*). These weaknesses are a concern given that a major conclusion of the EIS is that the vegetation communities are mostly low quality plantations.
80. The vascular plant list does not identify vegetation communities where plants were found; ELC field data is not provided; Coefficient of Conservatism (CC) values for plants are not provided. This weakens the understanding of the significance of particular ELC communities, their levels of disturbance, and the overall diversity of the site.

Figures

81. Policy constraints are not mapped *i.e.* no 'opportunities and constraints' figure is provided. A figure would clarify whether negative impacts to significant constraints (*i.e.* sensitive features and functions) are being avoided or require impact mitigation consideration.
82. The overall extent of the proposed development (*i.e.* the facility footprint, the access route, emergency access route, associated grading, future expansion area) is not shown on any of the Figures; Figure 4 and 5 do show the facility footprint and access road separately, but not the emergency access. This omission downplays the potential physical scale of these features and therefore the impacts associated with their construction and operation.
83. Figure 4 (Ecological Land Classification) does not provide numbers for vegetation communities, making references difficult between the figure, its legend, and EIS text. Where there are multiple polygons of the same ELC community, this omission makes Sect. 2.2.3 difficult to interpret.
84. No locations of locally significant plant species are provided. An understanding of the abundance and location of the plants would give a more quantified understanding of the impacts to these populations due to the proposed work.
85. No conceptual or detailed mitigation plans are provided. These plans would help to demonstrate the effectiveness of the proposed works.

CONCLUSION

Based on this review, D&A believes that the GHD *Scoped EIS* does not adequately characterize the study area, provide appropriate interpretation of policy, or discuss impacts and mitigation in sufficient detail. Figures lack sufficient detail on the proposed development, policy constraints, location and extent of impacts, and mitigation.

LIMITATION

The opinions in this letter report document are based on the *Scoped Environmental Impact Study, Proposed Environmental Resource Recovery Center, Springwater, Ontario* (GHD Ltd., November 17, 2016), other documents referenced; opinions are subject to modification if revised documents are provided.

Sincerely,



Jim Dougan, BSc, MSc, OALA (Hon)
Director, Senior Ecologist



Mary Anne Young, BLA, OALA, ISA
Landscape Architect, Arborist, Ecologist



Karl Konze, B.Sc.
Senior Wildlife Ecologist

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- GHD. 2016c.** Hydrogeological Assessment. Environmental Resource Recovery Center Facility (ERRC), 2976 Horseshoe Valley Road West, Springwater, Ontario. 19 pp + Figures, Tables and Appendices.
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June 5, 2017

Friends of Simcoe Forests Inc.
c/o Mrs. Mary Wagner
2928 Horseshoe Valley Road West
Phelpston, ON
L0L 2K0



Dear Mrs. Wagner:

**Re: County of Simcoe Environmental Resource Recovery Centre
Regional and Local Official Plan Amendment and Zoning By-Law Amendment
Files: SC-OPA-1602, OP-2016-005 and ZB-2016-021
2976 Horseshoe Valley Road West
Township of Springwater**

Further to my letter dated April 28, 2017, I have had an opportunity to complete my review of the background documents and amendment application. This letter builds on the findings in my earlier letter and provides some additional detail.

I have reviewed the following reports, prepared by the County of Simcoe, in support of the above noted applications:

- *County of Simcoe Materials Management Facility, Part 1 – Planning – Siting Methodology and Evaluation Criteria*, prepared by Conestoga-Rovers & Associates, dated February 2015;
- *County of Simcoe Organics Processing Facility, Part 1 – Planning – Siting Methodology and Evaluation Criteria*, prepared by Conestoga-Rovers & Associates, dated February 2015;
- *County of Simcoe – Materials Management Facility, Part 2 – Long List Evaluation*, prepared by GHD, dated July 12, 2015;
- *County of Simcoe – Organics Processing Facility, Part 2 – Long List Evaluation*, prepared by GHD, dated July 23, 2015;
- *County of Simcoe Organics Processing Facility, Materials Management Facility and Co-Located Facility, Part 3 – Short List Evaluation*, prepared by GHD, dated February 26, 2016;
- *Scoped Environmental Impact Study, Proposed Environmental Resource Recovery Center, Springwater, Ontario*, prepared by GHD, dated November 17, 2016;
- *Planning Justification Report, Proposed Environmental Resource Recovery Center, Springwater, Ontario*, prepared by GHD, dated November 17, 2016;
- *Agricultural Impact Assessment Report*, prepared by AgPlan, dated November 16, 2016;

- *Environmental Resource Recovery Centre 'Get the Facts', 2976 Horseshoe Valley Road West, Springwater, County of Simcoe, September 2016;*
- *County of Simcoe Environmental Resource Recovery Centre, Summary of Consultation and Notification (to December 2016); and,*
- *Neighbourhood Landowner Meeting, Final Meeting Notes and Follow-Up, Thursday September 8, 2016.*

In preparing my professional opinion on the proposal, I have also referenced the following documents:

- *Planning Act and Provincial Policy Statement (2014)*
- *Environmental Assessment Act, Ontario Regulation 101/07 and the Guide to Environmental Assessment Requirements for Waste Management Projects*
- *Simcoe County Official Plan (2016)*
- *Springwater Official Plan (1998) and Comprehensive Zoning By-Law (2004)*
- *Ministry of Environment and Climate Change Statement of Environmental Values*
- *Simcoe County Forests 2011-2030*
- *Guidelines for the Siting and Operation of Waste Transfer Stations, Nova Scotia Environment and Labour, 2006*
- *Environmental Standards for Municipal Solid Waste Transfer Stations / Local Waste Management Facilities, Guidance Document, Newfoundland and Labrador, 2010*
- *Waste Transfer Stations: A Manual for Decision-Making, United States Environmental Protection Agency, 2002*
- *Letter to Friends of Simcoe Forests Inc., prepared by Dougan and Associates Inc., dated June 2, 2017; and,*
- *Letter to County of Simcoe from Nottawasaga Valley Conservation Authority, dated March 2, 2017, NVCA ID #30106*

Overview

In 2010, the County of Simcoe approved a Solid Waste Management Strategy. Within that strategy, it was recommended that the County assess the development of a central composting facility as well as assess the long-term requirements for collection and processing of organics and recycling and waste export. The Strategy further recommended that consideration be given to developing a transfer station type facility. In August 2014, County Council endorsed Conestoga-Rovers & Associates (CRA) to determine an optimal site for a transfer facility, referred to as a Material Management Facility (MMF) as well as an Organics Processing Facility (OPF). The siting for these two facilities began as independent searches with specific, but similar, siting criteria. The methodology and evaluation criteria for siting the MMF and OPF is outlined in the CRA reports entitled *County of Simcoe Materials Management Facility, Part 1 – Planning – Siting Methodology and Evaluation Criteria* (February 2015) and the *County of Simcoe Organics Processing Facility, Part 1 – Planning – Siting Methodology and Evaluation Criteria* (February 2015), respectively. The purpose of the Part 1 studies was the same for both the OPF and the MMF; that is, the Part 1 study was to establish the framework for how the potential sites would be identified and evaluated by defining the search area, identifying a comprehensive list of candidate sites

(including County-owned and privately owned sites) and establishing a series of criteria to screen and evaluate potential sites. The Part 1 study created a list of exclusionary criteria that would be used to screen the comprehensive list of candidate sites. This exclusionary criteria is referred to as Screen 1. Screen 1 was applied to arrive at a long list of sites which would then be screened against a second set of criteria referred to as Screen 2.

The next set of reports are the Part 2 – Long List Evaluations for the MMF and OPF, prepared by GHD (formerly CRA), dated July 12 and July 23, 2015, respectively. The Part 2 reports include the Screen 2 criteria that were used to create a short list of sites which were then vetted through the final screen, referred to as Screen 3.

The final report associated with the siting process is the *Part 3 – Organics Processing Facility, Materials Management Facility and Co-Located Facility Short List Evaluation*, prepared by GHD dated February 26, 2016. This report combines the OPF and MMF selection process into one document and evaluates the short list of properties, identified in the respective Part 2 reports, to determine whether it is appropriate to continue siting these facilities independently or whether it would be appropriate to co-locate the two facilities on one site. Screen 3 was applied to the short-listed sites and each were subjected to a comparative evaluation process to identify a preferred location that has an appropriate balance of strengths (advantages) and weaknesses (disadvantages) and evaluated to determine how well the site satisfies the goals and objectives of the project. Of note, the comparative evaluation did not include site specific Environmental Impact Studies for each site to determine whether they could meet the federal, provincial, County and local natural heritage policies. Rather, this evaluation was deferred until the preferred site was selected. A preferred location for the co-located site is identified in the Part 3 report as 2976 Horseshoe Valley Road in Springwater, a wooded parcel known as the Freele County Forest. The Freele County Forest was purchased by the County in 1948 with the majority of the planting completed in 1949¹. In addition to the OPF and MMF, the preferred site is also intended to include a Solid Waste Management truck servicing area, a public education area and the potential for future expansion to include a recycling sorting facility. These additional uses were noted in the Part 1 reports but not mentioned specifically in either the Part 2 or 3 reports.

The preferred site is within the Greenlands designation of the County of Simcoe Official Plan. Waste disposal sites are not a permitted use within the Greenlands designation so the County has initiated an Official Plan Amendment (SC-OPA-1602). The proposed amendment is as follows:

- Modifying Schedule 5.6.1 by (a) renaming Schedule 5.6.1 "County Waste Disposal Sites" to Schedule 5.6.1 "County Waste Management System"; (b) adding Environmental Resource Recovery Centre to the legend; and, (c) adding a symbol for Environmental Resource Recovery Centre to the Schedule within Part Lot 2 Concession 1 Springwater Township.

¹ Website. <http://www.simcoe.ca/SolidWasteManagement/Pages/ERRC/What-is-the-history-of-the-Freele-Tract.aspx>. Obtained April 13, 2017.

- The addition of the following Section and text after Section 4.9.17:

*Section 4.9.18, Environmental Resource Recovery Centre
Part of Lot 2, Concession 1, Springwater (2976 Horseshoe Valley Road)*

Permitted uses on a portion of Part of Lot 2, Concession 1, Springwater Township (2976 Horseshoe Valley Road) as identified on Schedule 5.6.1 as Environmental Resource Recovery Centre shall include facilities for the purpose of the consolidation and transfer of various waste streams such as organics, recyclable materials and non-hazardous household garbage, processing of organic green bin materials under controlled conditions for conversion into other materials. Other ancillary uses would include a public education area, truck maintenance and servicing area and facility administration area. The temporary storage of waste is permitted on the lands but no permanent disposal of waste materials or landfilling of any kind is permitted within the lands subject to Section 4.9.18.

The County has also submitted applications to the Township of Springwater for an Official Plan and Zoning By-Law Amendment (OP-2016-005 and ZB-2016-021). Within the Springwater Official Plan (OP), the site is designated Rural and Agriculture on Schedule A-2 and Environmental Protection Category 2 on Schedule B. Section 2.20.4 of the OP requires that the establishment of new waste disposal sites shall require an amendment to the Official Plan. The property is zoned "A" Agriculture in the Springwater By-law 5000. The Agricultural zone does not permit waste disposal sites which has triggered the need for a Zoning By-Law Amendment.

In addition to the three site selection reports, supporting documentation has been prepared for the preferred site as part of the Official Plan and Zoning By-Law Amendment applications. These include a Scoped Environmental Impact Study, Planning Justification Report, Agricultural Impact Assessment and Hydrogeological Assessment.

Below is a review and assessment of the supporting documentation that ultimately led to the selection of the preferred location as well as the site-specific reports prepared for the preferred site.

Part 1 – Planning – Siting Methodology and Evaluation Criteria MMF and OPF Reports (CRA, February 2015)

The methodology and evaluation criteria in both studies are similar so, when providing my review, I will refer to them as if they are one document, unless there is a specific item that is relevant to only one of the reports, in which case I have referenced that specific report.

Executive Summary (OPF) – the summary notes that aerobic composting is being considered as part of the Phase I development of a site and that anaerobic digestion will be considered as part of a future expansion (Phase II). The Concept Plan (Figure 3.1) that was eventually prepared by GHD, dated November 15, 2016 as part of the OPA and ZBLA identifies an area of 1.0ha for an OPF. It is unclear whether this 1.0ha can accommodate both an aerobic and an anaerobic composting facility. The Concept Plan does not identify a location for any future expansion to accommodate anaerobic digestion. It is unclear whether anaerobic digestion would require

additional setbacks to sensitive land uses, to those considered for aerobic composting, and/or whether Phase II would result in sufficient quantities of waste being shipped to the site so as to trigger an Environmental Assessment. This requires further explanation.

Section 1.3 (Goals and Objectives) states that, in order to ensure that the optimal location is identified for the facility, the siting process should:

- Follow a clearly defined methodology
- Meet all applicable regulations and standards
- Be consistent with best practices
- Consider relevant evaluation criteria
- Provide opportunities for stakeholder input

Within this same section, it is noted that the general approach has been modeled on the Ministry of Environment and Climate Change (MOECC) Statement of Environmental Values (SEV) which, as stated in **Section 4.1** is, an "*Ontario with clean and safe air, land and water that contributes to healthy communities, ecological protection, and environmentally sustainable development for present and future generations*". **Section 2.2.1** goes on to state the mandate of the MOECC as being "*to ensure protection and, where degraded, rehabilitation of the natural environment, and the conservation of environmental and material resources for the enjoyment and benefit of present and future generations of people, as well as for other users of the environment*". Within **Section 4.1**, the report goes on to state that, in this regard, the siting and development of the facilities will be based on:

- Prevention, reduction, and elimination of impacts to the environment
- Protection and conservation of natural resources and ecologically sensitive areas
- Integration of social, economic and other considerations
- Provision of opportunities for an open and consultative process

A significant emphasis is placed on the MOECC SEV and MOECC mandate at the outset of this siting process which leaves the reader with the impression that the siting of these facilities will take an 'environment-first' approach whereby the protection and conservation of natural heritage features will be a top priority in the site selection process.

The report notes that an evaluation was undertaken at the beginning of the process to determine whether the facilities should be subject to the requirements of the *Environmental Assessment Act* (EAA) or Ontario Regulation 101/07 (Waste Management Projects). The reports conclude that, since neither facility will transfer, on an annual basis, an average of more than 1,000 tonnes of residual waste per day from the site for final disposal, they will not require any EAA approvals as they are not designated as an undertaking to which the Act applies. I have reviewed O.Reg. 101/07 as well as the *Guide to Environmental Assessment Requirements for Waste Management Projects*, prepared by the Ministry of Environment, dated March 15, 2007 and, in my opinion, this determination is correct. Although the consulting team concludes that an Environmental Assessment is not required, **Section 2.2** states that they intend to follow the EA process closely

given that the public can request that the application be subjected to a discretionary hearing and/or be designated under the EAA.

Given that the EAA does not apply, I would expect that the Siting and Methodology Criteria would then defer heavily to the *Planning Act* requirements, given that any future applications would be subject to *Planning Act* approvals (i.e., Official Plan Amendment, Zoning By-Law Amendment, Site Plan) and that Section 4.9.8 of the County OP specifically highlights the need for the establishment of waste disposal sites to be in accordance with the *Planning Act*. However, the Part 1 reports do not speak in any detail to the *Planning Act* or the PPS. **Section 2.2** (Regulatory Framework) of both reports outline in some detail the EAA, the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA) but only mentions in passing that standard municipal approvals such as building permits and site plan approval will be required and that the *Planning Act* establishes land use by way of Official Plans at the County and local level and through zoning by-laws at the local level. There is no mention of the potential for an Official Plan or Zoning By-Law Amendment as part of the OPF/MMF siting process and there is no detailed description of the *Planning Act* or the requirement for planning authorities to be consistent with the policies of the Provincial Policy Statement (PPS). **Section 4.2.2** (Evaluation Criteria) in both reports, does not include the *Planning Act* or PPS in the list of technical guidance documents that were used to create the evaluation criteria. In my opinion, this is a critical oversight at this preliminary stage of establishing methodology and evaluation criteria that is carried through the remainder of the study stages, resulting in the selection of locations based on criteria that is not in-keeping with the requirements of the PPS.

In the absence of this specific policy and legislative analysis in the MMF and OPF Part 1 documents, I provide the following brief outline of the *Planning Act* and its associated requirements:

Planning Act and Provincial Policy Statement

The purposes of the *Planning Act* are set out in Section 1.1 of the Act as follows:

- a. to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- b. to provide for a land use planning system led by provincial policy;
- c. to integrate matters of provincial interest in provincial and municipal planning decisions;
- d. to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- e. to encourage co-operation and co-ordination among various interests;
- f. to recognize the decision-making authority and accountability of municipal councils in planning.

Section 2 of the Act outlines those areas of Provincial interest that municipalities must have regard to and Section 3 of the Act further states that the Minister may issue policy statements on matters relating to municipal planning that are of provincial interest. Specifically, Section 3(5) requires that:

A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Municipal Board, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and*
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. (emphasis added)*

In addition to Section 3(5), Section 3(6) requires that:

Comments, submissions or advice affecting a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date the comments, submissions or advice are provided; and*
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. (emphasis added)*

The PPS is issued under the authority of Section 3 of the *Planning Act* and came into effect on April 30, 2014. Based on the requirements of the Act, any exercise of any authority that affects a planning matter “**shall be consistent with**” policy statements issued under the Act. Prior to the 2014 PPS, the 2005 PPS was in effect. Given that this project started in 2014, the 2014 PPS is applicable to the decision-making process however, as explained later, some of the planning documents being referred to by GHD were prepared pursuant to either the 2005 PPS or, in the case of the Springwater Official Plan (OP) and Comprehensive Zoning By-Law (CZBL), prior to the 2005 PPS.

Section 4.7 of the 2014 PPS notes that the OP is the most important vehicle for the implementation of PPS policies and that OPs shall identify provincial interests and set out appropriate land use designations and policies. It is further noted that, to determine the significance of some natural heritage features and other resources, evaluation may be required. Section 4.7 goes on to state that OPs shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas and that, to protect these interests, planning authorities shall keep their OPs up-to-date with the PPS. Of note, the Section also states that the policies of the PPS continue to apply after adoption and approval of an OP. In other words, when reviewing an application, even if an OP has been approved by the Province pursuant to the PPS, the PPS policies must still be reviewed when considering any application.

Section 4.8 of the PPS notes that zoning and development permits are important for implementation of the PPS and that planning authorities shall keep their zoning and development permit by-laws up to date with their OPs and the PPS.

Sections 4.7 and 4.8 are key considerations when assessing any planning application as it is important to know under which PPS (2005 or 2014) the OP and ZBL were created and whether those policy documents have had an opportunity to catch up to the requirements of the most current PPS, through an OP and CZBL Review. The Simcoe County OP was approved by Council

on November 25, 2008 (with an updated version approved by Council on January 22, 2013) and approved by the OMB on December 29, 2016. One of the challenges facing the study team was the fact that, while Council had approved the new OP, it was not yet in force due to the OMB appeal. As a result, the study team refers to both the in force (i.e. older) OP as well as the Council approved OP in the reports. From a natural heritage perspective, the in force OP was much less restrictive, in terms of both policy and mapping, and included a Greenlands designation that only identified Provincially Significant Wetlands as features to be protected whereas, the Council approved OP took a natural heritage system approach to defining the Greenlands designation, as required by the 2014 PPS, which resulted in significantly larger areas of the County being identified in this more restrictive designation.

The Springwater OP was approved by Council on October 6, 1997 and by the OMB on January 28, 1998. The Springwater CZBL was approved by Council on August 5, 2003 and by the OMB on May 1, 2004 with mapping and text changes in January 2014. As such, the Springwater OP and ZBL will need to be updated to reflect the policy requirements of the upper tier municipal OP as well as the 2014 PPS. Springwater Township launched their OP Review in the fall of 2016 with the intention of having an updated OP by Spring 2018². Regardless, the 2014 PPS applies to all the background documents prepared in support of the County's planning applications related to the MMF/OPF site however, the County and local OP policies are at various stages of conformance with the PPS.

With respect to Natural Heritage Resources, the PPS requires municipalities to use a natural heritage system approach to planning. Section 2.0 of the PPS provides a preamble to the natural heritage policies, outlining the Province's vision for the wise use and management of resources. Specifically, the preamble reads:

Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

The PPS natural heritage policies that, in my opinion, should have been outlined in the Part 1 reports and carried into the evaluation criteria in Table 4 (Criteria Rationale) in each report, are outlined below:

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

² Website. http://www.springwater.ca/municipal_services/planning_development/official_plan_review/. Obtained from website April 16, 2017.

2.1.3 Natural heritage systems shall be identified in Ecoregions 6E & 7E, recognizing that natural heritage systems will vary in size and form in settlement areas, rural areas, and prime agricultural areas.

2.1.4 Development and site alteration shall not be permitted in:
a) significant wetlands in Ecoregions 5E, 6E and 7E; and,
b) significant coastal wetlands.

2.1.5 Development and site alteration shall not be permitted in:
a) significant wetlands in the Canadian Shield north of Ecoregions 5E, 6E and 7E;
b) significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);
c) significant valleylands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);
d) significant wildlife habitat;
e) significant areas of natural and scientific interest; and
f) coastal wetlands in Ecoregions 5E, 6E and 7E that are not subject to policy 2.1.4(b)

unless it is demonstrated that there will be no negative impacts on the natural features or their ecological functions.

2.1.6 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.

2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.

2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

The PPS effectively creates a list of features that are 'no touch', such as Provincially Significant Wetlands (PSWs), fish habitat (subject to federal/provincial requirements) and habitat of endangered and threatened species (subject to federal/provincial requirements) as well as a list of features whereby development and site alteration *may be* permitted however, the onus is on the proponent to demonstrate that there will be no negative impacts on the natural features or their ecological functions. The importance however, of Policies 2.1.1 and 2.1.2 cannot be overlooked. Policy 2.1.1 states that it is the Province's intention that natural features and areas be **protected in the long term** while Policy 2.1.2 expands on this by stating that the long-term ecological function and biodiversity of natural heritage systems should be **maintained, restored or, where possible, improved**. This requires a comprehensive consideration of natural heritage features and functions and one cannot simply focus on the 'no touch' areas identified in Policies 2.1.4, .2.1.6 and 2.1.7 when evaluating impacts to a natural heritage system.

In establishing the evaluation criteria, **Section 2.3** of the reports states that, "GHD considered the evaluation criteria presented in various technical guidance documents applicable to the proposed undertaking (i.e., guidelines for siting/establishing waste transfer stations from other provinces including Nova Scotia and Newfoundland and Labrador and Waste Transfer Stations: A Manual for Decision Making from the United States Environmental Protection Agency". Again, given the requirement for planning authorities to be consistent with the PPS policies, and the requirement in Policy 4.9.8 of the County OP that the establishment of waste disposal sites be in accordance with the *Planning Act*, it is concerning that reference is made to guidelines from other Provinces and the U.S., but not specifically to Ontario's *Planning Act*, the PPS or the natural heritage guidelines released in support of the PPS including the Ministry of Natural Resources and Forestry (MNR) *Natural Heritage Reference Manual 2nd Edition (2010)* and the MNR *Significant Wildlife Habitat Technical Guide (2000)*.

Figure 3 in the reports is of significance when understanding the Screen 1 Evaluation Criteria and how it compares to the requirements of the PPS. Eight categories of criteria are included on the figure with an associated description (emphasis added):

- Suitability – **meets** minimum size requirement (OPF 13ha; MMF 7ha; facility and buffer)
- Surface Water – **avoids** wetlands and flood plains
- Groundwater – **avoids** Source Water Protection Areas
- Agricultural – **avoids** confirmed Prime Agricultural Areas (Specialty Crop Areas, Class 1, 2 and 3 Agricultural lands with noted exemptions)
- Terrestrial – **considers** impacts to County Greenlands, Niagara Escarpment and Oak Ridges Moraine areas with noted exemptions
- Sensitive Receptors – **avoids** sensitive receptors (e.g. residential areas, parks, recreational areas, and institutions)
- Archaeological – **avoids** known archaeologically significant areas;
- Heritage – **avoids** areas of known important cultural heritage.

In contrast to the other seven criteria, the Terrestrial criteria does not include the term 'avoid' but rather 'consider' impacts to County Greenlands, Niagara Escarpment and Oak Ridges Moraine areas. County Greenlands, at the time of the 2015 reports were only PSWs as per the in-force OP land use designations but included all the features listed in PPS policies 2.1.4 – 2.1.7 in the Council-approved OP.

In my opinion, for the siting methodology and evaluation criteria to be consistent with the PPS, and to be transparent as a decision-making tool, the report should have included reference to the *Planning Act* and the relevant PPS policies in Sections 2.2 and 4.2.2 of the Part 1 reports. In addition, to be consistent with the PPS, Screen 1 exclusionary criteria should have been to, at a minimum, avoid the habitat of endangered and threatened species, in addition to PSWs and floodplains. However, in addition to those exclusionary criteria, given: (1) the screening size criteria of the two facilities, including facility and buffer (OPF 13ha; MMF 7ha); (2) the purported reliance on the MOECC SEV; (3) the four principles upon which the siting and development of the facilities are to be based on; and, (4) the PPS natural heritage requirements, it would seem reasonable to assume, in an effort to be conservative, that a facility of the anticipated size(s)

would likely not be able to be constructed within an area of natural heritage significance without having a negative impact on the natural features or their ecological functions. As such, to be conservative, it would have been appropriate to eliminate any sites meeting these criteria, through Screen 1. Alternatively, if the County wanted to keep their options open with respect to undertaking additional environmental evaluations (as provided for in PPS Policy 2.1.5), certain natural heritage features could have been included in the evaluation criteria and, if properties passed all other exclusionary criteria, the property could have been carried forward to the Part 2 study for further consideration and closer and more detailed environmental evaluation. However, this additional evaluation during the Part 2 study would need to include natural heritage features and functions related specifically to significant woodlands, significant wildlife habitat, fish habitat, significant valleylands and areas of natural and scientific interest.

Section 4.4.2 outlines the net effects analysis that will be undertaken on the short-listed sites. Of interest, the term 'net effect' is based in the EAA however, the PPS does not allow for 'net effect' to be considered. To be consistent with the PPS, an application must demonstrate *no negative impact* to the natural heritage feature and function. The provision of mitigation measures (or net effects) can only be considered after no negative impact has been demonstrated and cannot be used to assist with demonstrating no negative impact. In determining the net effects, the reports indicate that, *after* the Avoidance, Mitigation, Compensation and Enhancement (AMCE) measures are applied to the short-listed sites, the remaining net negative and net positive effects will be determined. This approach allowed for sites to remain on the short-list even though they may not meet the requirement of 'no negative impact' as required in the PPS, County OP and Springwater OP. The reports defer the detailed evaluation of no negative impact to the Environmental Impact Study only after the preferred site is selected. By doing so, the County created a decision-making matrix that could end up identifying a preferred site that may not be able to meet the 'no negative impact' test under the PPS, County and Springwater OPs.

The following is a summary of the issues raised with respect to the Part 1 documents:

1. The document does not contain sufficient reference to the *Planning Act* and PPS;
2. Screen 1 Evaluation Criteria should have, at a minimum, included the avoidance of the habitat of endangered species and threatened species. Without this criterion, the Screen 1 evaluation is not consistent with the PPS;
3. Screen 1 Evaluation Criteria could have taken a conservative approach and eliminated all sites within the Council approved Greenlands designation;
4. When establishing evaluation criteria, reference is made to technical documents from other Provinces and the United States with no apparent reference to technical documents created pursuant to the PPS for evaluating impacts to natural heritage features and functions;
5. Screen 3 evaluation criteria refer to 'no net effects' which is not the same as the 'no negative impact' test established by the PPS. As such, the Screen 3 evaluation is not consistent with the PPS, County of Simcoe OP and Springwater OP.

Part 2 – County of Simcoe – Materials Management Facility – Long List Evaluation (GHD, July 12, 2015) and Organics Processing Facility – Long List Evaluation (GHD, July 23, 2015)

As with the Part 1 reports, the content of the MMF and OPF reports are essentially the same and, as such, are referred to as one report unless otherwise noted.

The Part 2 reports apply the Screen 1 exclusionary criteria process to candidate sites and then apply another layer of screening to narrow the sites further. For both the MMF and OPF, a total of 502 sites (302 County-owned sites and 200 privately-owned sites) were evaluated against the Screen 1 criteria. Of the 302 County-owned sites, 249 of the sites (82.5%) were County Forests. Stated in another way, 50% of all sites considered for the MMF and OPF were covered in woodland.

Section 2.3.2 of the Part 2 report outlines that there were certain exemptions that were considered during the application of the Screen 1 evaluation criteria. Sites that were exempt from meeting a given criteria were allowed to pass Screen 1 and were to be evaluated in greater detail in Screen 2. The report states the following:

Given that a number of the potential sites that are County-owned are forest tracts, or “Greenlands” under the County’s Official Plan, an exemption was reviewed for this type of site. County-owned Greenlands sites that met the rest of the Screen 1 criteria were carried forward to Screen 2 in order to confirm the current land use and the Official Plan designation of the lower-tier municipality. Further the County’s Official Plan does allow for developments to re-designate lands in the Greenlands designation if an EIS is prepared and demonstrates:

- i) That the subject lands do not contain natural features, or if they do, that the proposed development or site alteration will have no negative impacts on those natural features or their ecological functions or to natural features or their ecological functions on adjacent lands.*
- ii) That the lands are not required as a connection or ecological function to the natural heritage systems.*

This is a critical piece to the decision-making framework that sets up a problematic evaluation methodology. The first problem is that sites with significant natural heritage features and functions were exempt from Screen 1 on the basis that there would be a more rigorous environmental evaluation during Screen 2 however, the Screen 2 Environmental evaluation criteria (as outlined below on pages 19-20), does not include any natural heritage feature/function criteria for the sites to be screened against.

The second problem results from the expressed preference to find a site that is already owned by the County. Given that the vast majority of the candidate County landholdings (82.5%) are County Forests, the study team must work around PPS and OP policies that would, in almost all cases, direct them to look for sites outside of the natural heritage system before ever considering the placement of such infrastructure within a natural heritage feature or system. As a result, GHD relies on Policy 3.3.6 of the County OP (2016) which states the following:

- 3.3.6** Where feasible, and subject to local municipal policies and bylaws, infrastructure and passive recreational uses may be located in any designation of this Plan, subject to Sections 3.8 and 4.2, and the requirements of the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan and Lake Simcoe Protection Plan where applicable, and applicable provincial and federal policy and legislation. Where applicable, only such uses permitted in the Greenlands designation (see Section 3.8) are those which have successfully completed any required provincial and/or federal environmental assessment process or proceedings under the Drainage Act.

Of note, the policy states that infrastructure *may be* located in any designation but that such infrastructure would be subject to Section 3.8 and 4.2 of the OP as well as applicable provincial and federal policy and legislation. This would suggest that the PPS natural heritage policies are applicable when considering placing infrastructure within any land use designation as well as provincial and federal species at risk legislation. The wording of the policy also suggests that there is an opportunity for the County, especially if they are the proponent, to exclude a land use designation from consideration. In other words, Policy 3.3.6 *does not require* the County to consider Greenlands for the purpose of siting infrastructure and provides them with the ability to exclude Greenlands from such consideration.

Based on the requirements of Section 3.3.6, any proposal for infrastructure must be assessed against the requirements of Sections 3.8 and 4.2 of the OP. Section 3.8 (Greenlands) notes that the rationale for the Greenlands designation is based on a 1996 background report, revised in 2008, titled "*Development of a Natural Heritage System for the County of Simcoe*". The Objectives of the Greenlands designation are:

- 3.8.1** To protect and restore the natural character, form, function, and connectivity of the natural heritage system of the County of Simcoe, and to sustain the natural heritage features and areas and ecological functions of the Greenlands designation and local natural heritage systems for future generations.
- 3.8.2** To promote biodiversity and ecological integrity within the County's natural heritage features and areas and the Greenlands designation.
- 3.8.3** To improve the quality, connectivity and amount of woodlands and wetlands cover across the County.
- 3.8.4** To ensure that species and communities of conservation concern can continue to flourish and evolve throughout the County.
- 3.8.5** To contribute to the protection, improvement, and restoration of the quality and quantity of surface water and ground water and the function of sensitive surface water features and sensitive ground water features within the County.
- 3.8.6** To ensure that the Greenlands designation complements and supports the natural heritage systems established in provincial plans and is linked with the natural heritage systems of adjacent jurisdictions, and to require local municipalities to identify and

protect natural features and ecological functions that in turn complement and support the Greenlands.

- 3.8.7** To ensure that the location, scale and form of development respect and support the protection of the County's natural heritage system.
- 3.8.8** To provide opportunities for natural heritage enjoyment and appreciation and for recreational and tourism uses in keeping with the Greenlands objectives, that foster healthy and liveable communities and enhance the sense of place and quality of life that characterize the County.

The criteria for inclusion in the Greenlands designation is listed in Section 3.8.10:

3.8.10 The County's natural heritage system primarily includes the following natural heritage features and areas, wherever they occur in the County:

- a) Habitat of endangered species and threatened species;
- b) Significant wetlands, significant coastal wetlands, other coastal wetlands, and all wetlands 2.0ha or larger in area which have been determined to be locally significant, including but not limited to evaluated wetlands;
- c) Significant woodlands;
- d) Significant valleylands;
- e) Significant wildlife habitat;
- f) Significant areas of natural and scientific interest (ANSIs);
- g) Regional areas of natural and scientific interest (ANSIs)
- h) Fish habitat;
- i) Linkage areas in accordance with Section 3.3.16; and,
- j) Public lands as defined in the Public Lands Act.

The County's natural heritage system is generally identified as the Greenlands designation on Schedule 5.1.

Section 3.8.11 goes on to recognize that the mapping may not reflect certain features such as habitat of endangered and threatened species.

Section 3.8.15 outlines the permitted uses within the Greenlands designation outside of settlement areas as:

- i. Agricultural uses;
- ii. Agricultural-related uses;
- iii. On-farm diversified uses;
- iv. Forestry on public lands or in County forests in accordance with an approved management plan and sustainable forest practices;
- v. Forestry on private lands as permitted by the County's Forest Conservation Bylaw or by a local municipality's tree bylaw under the Municipal Act, 2001;

- vi. Mineral aggregate operations, if approved through a local Official Plan amendment;
- vii. Outdoor passive recreational use; and,
- viii. Subject to demonstrating that the lands are not within a prime agricultural area, residential dwelling units on lots which were approved prior to the approve date of this policy (May 9, 2016).

Infrastructure is not among the permitted uses in the Greenlands designation however, Section 3.8.19 speaks to infrastructure. Specifically, it states:

3.8.19 Infrastructure authorized under an environmental assessment process may be permitted within the Greenlands designation or on adjacent lands. Infrastructure not subject to the environmental assessment process, may be permitted within the Greenlands designation or on adjacent lands in accordance with Section 3.3.15.

Given that it was determined that this infrastructure was not subject to the environmental assessment process, the requirements of Section 3.3.15 (Natural Heritage) must be considered which state:

3.3.15 Despite anything else in this Plan, except Section 4.4 as it applies to mineral aggregate operations only, development and site alteration shall not be permitted:

- i. In significant wetlands and significant coastal wetlands.
- ii. In the following unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions: Significant woodlands, significant valleylands, significant wildlife habitat, significant areas of natural and scientific interest (ANSIs), and coastal wetlands (not covered by 3.3.15i) above).
- iii. In the following regional and local features, where a local official plan has identified such features, unless it has been demonstrated that there will be no negative impacts on the natural heritage features or their ecological functions: wetlands 2.0ha or larger in area determined to be locally significant by an approved EIS, including but not limited to evaluated wetlands, and Regional areas of natural and scientific interest (ANSIs).
- iv. In fish habitat except in accordance with provincial and federal requirements.
- v. In habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.
- vi. On adjacent lands to the natural heritage features and areas listed above, unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Adjacent lands shall generally be considered to be:
 - a. Within 120m of habitat of endangered species and threatened species, significant wetlands, significant coastal wetlands, wetlands 2.0ha or larger determined to be locally significant by an approved EIS, significant

- woodlands, significant wildlife habitat, significant areas of natural and scientific interest – life science, significant valleylands, and fish habitat;
- b. Within 50m of significant areas of natural and scientific interest – earth science;
 - c. A reduced adjacent lands from the above may be considered based on the nature of intervening land uses. The extent of the reduced area will be determined by the approval authority in consultation with the applicant prior to the submission of a development application, and supported by an EIS, demonstrating there will be no negative impacts beyond the proposed reduced adjacent lands area.

The County is applying to re-designate a portion of the subject property to allow for the MMF/OPF. As such, Sections 3.8.22 and 3.8.23 apply which state:

3.8.22 Proposals to re-designate lands in the Greenlands designation shall not be permitted unless an EIS is submitted to the satisfaction of the County demonstrating that the policies of Section 3.3.15, 3.3.16, 3.8.15, 3.8.16 or 4.4.1 as applicable, and the relevant policies of the local municipal official plan are satisfied.

3.8.23 Proposals to re-designate lands in the Greenlands designation are required to demonstrate if the lands are within a prime agricultural area. Re-designation proposals for lands within a prime agricultural area shall only be permitted to the Agricultural designation.

Of interest, as noted within the Part 1 report description, GHD referred to both the in-force County OP as well as the Council-approved OP however, when preparing the mapping for the short-listed sites in the Part 2 report, they only use the Greenlands mapping from the in-force (i.e., older) OP. This results in a misrepresentation on the figures that would lead the reader to believe that the majority of the sites, including the site that was ultimately identified as the preferred site (Site C136), have limited natural heritage features present whereas, in many cases, the entire site is within the Greenlands designation of the Council-approved OP. The provision of such mapping in the report and at public meetings, in my opinion, does not achieve the stated goal of having an open and consultative process. I do note that later, in the Part 3 report, GHD does recognize that both sets of Greenlands mapping were utilized in evaluating the short-listed sites. It is unknown why such an approach was not incorporated into the Part 2 process.

Given the reliance by GHD on the provisions of the County OP, that would allow for the consideration of infrastructure within the Greenlands designation, I would have expected that the Part 1 and 2 reports would have taken a much more critical examination of the County's OP objectives and policies related to natural heritage system conservation and enhancement to assess whether it was appropriate to only exclude wetlands and floodplains in Screen 1 or whether, given GHD's reliance on the MOECC SEV, MOECC mandate and the stated principles for siting and developing the facilities (all of which have words that would direct GHD to create site selection criteria that would avoid natural heritage features and functions) it would have been appropriate to expand the exclusionary criteria to all areas designated as Greenland in the County OP.

As outlined above, **Section 2.3.2** of the report allows for sites to be exempt from the Screen 1 process if they meet all other requirements, other than the Greenlands requirements, because to do otherwise, would have likely removed all the County Forests from consideration. The reports justify this by suggesting that this would allow the County to more closely examine these parcels in the context of their existing land uses (which, for the County Forests, are already well-known) as well as the local OP designations. Deferral to the local OP designations is problematic because, as outlined earlier, the County OP was still under appeal at the OMB which means that the existing local OPs would only be reflective of the requirements of the 1997 County OP, a Plan which pre-dates even the 2005 PPS. GHD and the County should have known that the land use designations within the local OPs would have been much less restrictive than what current PPS policy requires as it relates to natural heritage. This establishes a decision-making framework whereby the County Forests will be assessed with a local land use designation that is not reflective of the natural heritage features and functions that exist on the parcel simply given the natural heritage policies under which those local OPs were created.

In addition to the County OP policies, it is important to understand the requirements of the Springwater OP given the requirement for a local OPA. One must keep in mind the age of the OP when considering the policy requirements and the fact that it has not been brought into conformity with the PPS or County OP. As a result, in my opinion, the Springwater OP policies are informative however, the application would still need to meet the requirements of the PPS.

The first Goal listed in the Springwater Official Plan is:

2.2.1 To ensure the maintenance, protection and enhancement of natural heritage features.

Section 2 of the OP outlines the purpose and basis of the Plan. Section 2.3.5 outlines three primary functions that the Township is intended to have. These three are related to natural heritage protection, growth management and economic development. With respect to the natural environment, Section 2.3.5.1 states:

2.3.5.1 That of a rural municipality focusing on protection of its natural resource base and natural heritage systems as follows:

- a) Lands of good agricultural potential;
- b) Provincially and locally significant wetlands and significant regional and local groundwater aquifer areas;
- c) Significant woodlands;
- d) Valley lands;
- e) And wildlife habitat and endangered and threatened species;
- f) ANSI's;
- g) Aggregate Resources;
- h) Surface and groundwater resources;
- i) Streams, rivers and lakes.

The goals and purpose of the Township clearly articulate the municipality's interest in protecting its natural heritage features and functions. This direction is further articulated in the Natural Heritage (Environmental Protection Policies) in Section 16. Specifically, the Natural Heritage Objectives are:

- 16.1.1** To conserve, maintain and enhance the quality and integrity of the Natural Heritage features and ecological processes of the Township including air, water, land, and living resources for the benefit of future generations.
- 16.1.2** To preserve and protect all internationally, Provincially and Locally significant Wetlands and Areas of Natural and Scientific Interest (A.N.S.I.'s) situated within the Township.
- 16.1.3** To prevent the diminishment of ecosystem biodiversity and provide for the long term viability of the Natural Heritage System by approving only those land uses which are demonstrated to be environmentally sound and do not negatively impact natural features or environmental functions.
- 16.1.4** To encourage and promote the use of a variety of planning engineering and resource management approaches and techniques to realize the hydrological, biological and socio-economic benefits derived from the long-term protection of the Natural Heritage System.
- 16.1.5** To ensure the wise use and conservation of the ground and surface water resources of the Township and to maintain and protect the function of sensitive groundwater recharge/discharge, aquifer and headwaters areas on a watershed and subwatershed basis.
- 16.1.6** To prevent loss of life, minimize property damage and social disruption through the proper management and regulation of flood plain lands or lands possessing steep slopes, areas of soil or bedrock instability, high water tables, or other constraints or natural hazards.

The OP then goes on to create two categories of natural heritage protection. Category 1 lands are defined as undeveloped natural areas of high environmental quality and significance and/or sensitivity. The following features are designated Category 1: Internationally, provincially and locally significant wetlands; Provincially significant ANSIs or other combinates of habitat or landform which could be essential for scientific research or conservation education; significant portions of the habitat of threatened and endangered species; and, significant natural watercourses and ravines. Category 2 lands are defined as areas of lesser environmental significance and/or sensitivity although areas of high environmental quality may also be present. The following features are designated Category 2: lands situated adjacent to provincially and locally significant wetlands and other Natural Heritage (Environmental Protection) – Category 1 lands; unique and significant biologically sensitive wildlife habitat; forests and woodlots; natural connections through valley corridors or other linkages between core areas of the Natural Heritage

System; groundwater recharge and discharge, aquifer, and shoreline areas; and, natural fish habitat.

It is important to note that the description of natural features, and the division of environmental protection areas into categories of varying significance, is reflective of the planning framework at the time that the Springwater OP was created (1990s). Given the updated County OP, Springwater Township is in the process of updating their OP which will need to be consistent with the County OP policies. This will lead to the creation of a Greenlands designation within the Springwater OP that will need to be, at a minimum, as restrictive as the County's OP as it relates to natural heritage protection. In other words, lands that were previously identified as Category 2 lands, will be incorporated into the overall Greenlands designation with the associated protective policies.

Of interest, Schedule A-2 of the Springwater OP designates the property as Rural and Agriculture with only a small portion designated as Environmental Protection Category 2 on Schedule B-2 however, the Category 2 criteria designation includes forests and woodlots as features that merit an Environmental Protection Category 2 designation. It would be interesting to know how the Township has approached such discrepancies in the past whereby the OP mapping is not representative of the environmental features that are now known to exist on the property. Section 16.2.1.3 does acknowledge that the municipality should amend the Schedules of the OP and ZBL to incorporate more detailed mapping of components of the Natural Heritage System when such mapping becomes available.

The Township's wetland policies (Section 16.2.1.4.1) prohibit development within wetlands that are designated as Category 1 on Schedule A and within unclassified wetlands not shown on Schedule A. The policies also prohibit development within 30m of a Class 1-3 wetland and within 15m of a Class 4-7 wetland. The Township's Significant Habitat of Endangered and Threatened species policies prohibit development in areas of habitat of endangered or threatened species and require the preparation of an EIA to identify the location, size amount, configuration and quality of the habitat requiring protection (Section 16.2.1.4.1(c)(ii) and (iv)). Section (v) also indicate that, as conditions change or new information becomes known regarding areas of habitat of endangered species, these lands/or waters may be designated Natural Heritage (Environmental Protection) Category 1 Lands on Schedule A and shall be placed in the appropriate zoning category to ensure no development or site alteration.

Section 16.2.1.4.2(b) contains the Township's policies related to Significant Biologically Sensitive Wildlife Habitat. Again, the policies are reflective of the planning process that was in place in the 1990s. The list of features that are considered significant wildlife habitat are not in-keeping with the vast list of habitats that would be considered as significant under the 2014 PPS and associated technical guidelines.

Within Section 16.2.1.4.2(c) Forests and Woodlots, forests are defined as treed areas that vary in their level of significance and provide a variety of diverse environmental and economic benefits such as erosion prevention, water retention, a sustainable harvest of wood and other forest products, provision of habitat, public recreational opportunities where permitted and aesthetic enjoyment. Subsection (d) indicates that significant forests may be determined by the Township

according to the combination of various factors such as species composition, age and maturity, contiguous size, terrain characteristics, Natural Heritage System linkages and connections, aesthetic and historical values and productive capacity. Again, subsequent to the approval of the Springwater OP, the Province has released criteria pursuant to the PPS for identifying significant woodlands. Subsection (e) allows for the consideration of development within or adjacent to significant forests if an EIA demonstrates that the proposal will not negatively impact the forest area and the values for which it is identified. Interestingly, this wording is very similar to the 2014 PPS requirement to demonstrate no negative impact.

Section 16.2.4.1 provides three levels of Environmental Impact Assessments (Studies) that may be required: Comprehensive, Site and Scoped. A Scoped EIA is defined as one which consists of a focused review which assesses small scale development where environmental impacts can reasonably be expected to result in minimal disruption and change and/or where the expected impacts can be easily mitigated. I am not certain whether the Scoped EIS that was prepared by the County was based on this definition. Regardless, in my opinion, the provision of a Scoped EIS, for a proposed development that had no detailed environmental evaluation undertaken as part of the site selection process, is not appropriate and the site should have been subject to a comprehensive assessment.

Based on the above, although the Springwater OP is not up to date with the most current Provincial and County natural heritage requirements, there are many policies that are at least similar to the current policies related to natural heritage conservation and the OP does require the demonstration of no negative impacts to natural heritage features and functions associated with wetlands, habitat of endangered and threatened species and woodlands.

Upon completion of the Screen 1 evaluation process, 23 sites were carried forward to the long list evaluation in Screen 2 for the MMF and 53 sites for the OPF. Of the 23 MMF sites, 16 were County Forests (70%) and of the OPF sites, 41 were County Forests (77%). Figure 5 (Screen 2 – Evaluation Criteria) illustrates the technical, environmental and social criteria upon which the long-list of sites were evaluated. The evaluation criteria are as follows:

Technical

- Suitability – site layout, topography and soil conditions
- Utilities and Services – availability and distance from utilities and services
- Permitting/Approvals – feasibility and complexity of permitting/approvals

Environmental

- Air Quality – Proximity to sensitive receptors
- Odour – Proximity to sensitive receptors
- Noise - Proximity to sensitive receptors

Social

- Land Use/Zoning – Compatibility with existing land uses/zoning designations on adjacent lands

- Land Use/Zoning – current land use, zoning, approved development plans and proposed land use change
- Transportation – existing/required transportation infrastructure

Given that many sites were exempted from the Screen 1 criteria for environmental reasons so that a more detailed evaluation could take place at the Screen 2 level, I would have expected specific reference to features such as significant woodlands, significant wildlife habitat, significant valleylands, fish habitat and ANSIs within the Environmental category. The absence of these brings into question whether the Screen 2 evaluation is consistent with the requirements of the PPS and whether it was appropriate to allow certain sites to advance to Screen 2, on the promise of a more detailed environmental evaluation, when such criteria are lacking from the Screen 2 process.

Upon completion of the Screen 2 evaluation process, 5 sites were carried forward to the short list evaluation for the MMF and 7 for the OPF site. Of the 5 MMF sites, 4 were County Forests (80%) and of the 7 OPF sites, 5 were County Forests (71%).

The following is a summary of the issues raised with respect to the Part 2 documents:

1. The County's stated preference for finding a site that is already owned by the County results in the inclusion of County-owned forests in the site selection process;
2. 82.5% of the County-owned sites that are included in the candidate sites are County Forests;
3. 50% of all candidate sites are County Forests;
4. After Screen 1 is applied, 70% of the MMF long-list sites are County Forests and 77% of the OPF long-list sites are County Forests;
5. After Screen 2 is applied, 4 out of 5 of the MMF short-list sites are County Forests (80%) and 5 out of 7 of the OPF short-list sites are County Forests (71%);
6. The preponderance of County Forests in the list of candidate sites, the lack of consideration for natural heritage features such as habitat of endangered and threatened species, significant woodlands and significant wildlife habitat as exclusionary criteria and the consideration of 'no net effect' rather than the PPS requirement of 'no negative impact' has led to the identification of a short-list of sites that may not be consistent with the PPS, County and Local OP policies;
7. The Springwater OP policies would suggest that the County Forest sites would, at a minimum, meet the Natural Heritage (Environmental Protection) Category 2 criteria however, the mapping has not been updated;
8. The County is relying on the out-of-date Springwater OP and zoning designations whereas they would be aware that the OP and ZBL will need to be brought into conformance with the County OP thereby resulting in the County Forests having a Greenlands designation at the local level.

Part 3 – County of Simcoe – Organics Processing Facility, Materials Management Facility, and Co-Located Facility – Short List Evaluation (GHD, February 26, 2016)

The Part 3 report merges the previous Part 1 and 2 reports for the OPF and MMF given that the majority of the short-list of sites in each report were identical, and ultimately recommends co-locating the facility on the same property. This is in direct contrast to **Section 1.2** of the MMF Part 1 report which states the following:

As noted in the Strategy and as previously directed by Council, the County is also currently considering the development of an Organics Processing Facility. While initial consideration would appear beneficial to co-locate these facilities, staff did not recommend siting the MMF and OPF together for the following reasons:

- **Different Siting Requirements** – an OPF and MMF are each suited to different types of properties. An OPF is best suited to a more rural setting, away from significantly populated areas and would require a large property to ensure compliance with provincial odour unit requirements. A MMF, with less potential for odour impacts, would not require a significant amount of land. It will be best suited in proximity to the 'waste centroid' – with a greater emphasis on access to transportation routes and a more central location.
- **Approvals Complexities** - siting two facilities together has the potential to further complicate already lengthy and difficult provincial approvals processes. The composting technology approvals process is more complicated than that for a transfer facility.
- **Continuity of Service** – in regards to business continuity planning, separate facilities would reduce the risk to the County in the event of an emergency situation. Impacts from a natural disaster, fire, or even a lengthy power outage would be mitigated by operating these facilities independently.

The Part 3 report does not reflect on these original staff recommendations or how these concerns have been addressed through the co-location of the facility. Reference is made, in **Section 1.1**, to a technical memorandum that GHD prepared, outlining the potential to co-locate both facilities, that was submitted with the Part 2 reports however, a copy of the memorandum could not be located online.

The Part 3 report evaluates the short-listed sites against the Screen 3 criteria and, according to the Executive Summary, is intended to include a discussion of how public and stakeholder feedback was addressed and incorporated into the evaluation of the short-listed sites. Of interest, I reviewed the public feedback that was appended to the Part 3 report. Of 234 comments received (not including comments that appear to be from either a Twitter account or the County website because it was not possible to determine whether I would be double counting comments by the same person given the lack of identification), 169 comments either specifically commented against the County's inclusion of County Forests in the candidate sites or, more generally, commented on the importance of not locating such a facility within a natural area. That represents 72% of the comments received. In addition, the County received petitions against the use of

several of the County Forest Sites, including the Sanford Forest (348 signatures), the Craighurst/Millennium Forest (317 signatures) and Sites C270 (Unnamed County Forest) and the Freele Forest (655 signatures combined) however, there is little to no dialogue in the Part 3 report with respect to the significant and valid concerns raised by the public and how the concerns have been addressed. This is especially concerning given the commitment at the outset of the process to provide opportunities for stakeholder input, to have an open and consultative process and to follow the MOECC SEV. In fact, the public's substantial concerns are diminished later in the *Scoped Environmental Impact Study*, prepared by GHD, dated November 17, 2016, by stating that the proposed area of forest removal represents less than a 1% loss of total contiguous woodland. By making this statement, the author of the EIS is essentially missing the point that the public was trying to make which is that, in their opinion, no forest removal is appropriate for the construction of such a facility.

It is difficult to evaluate the Part 3 report given that, in my opinion, the short-list of sites that have been derived has not been done based on a process that is consistent with the PPS or with current natural heritage systems planning. The evaluation of the sites refers to net effects which, again, is not the same as no negative impact. Thus, the Part 3 evaluations cannot be considered to be consistent with the PPS. Section 2.3.7 [Identification of the Preferred Site(s)] states that the rationale (trade-off) that favours one site over all others was derived from:

1. Study purpose
2. Legislation, policies/guidelines
3. Issues/concerns identified during consultation with stakeholders
4. Experience and expertise of the Project Team
5. The site rankings as completed during the comparative analysis.

Such an approach is problematic when you consider the following:

Study Purpose

A review of the three background documents reveals that a 'Study Purpose' was never specifically stated. As noted previously, GHD places heavy reliance on the MOECC SEV so, perhaps it would be reasonable to assume that Item 1 above is intended to refer to the site and development criteria listed in Section 4.1 of the Part 1 report, which were based on the SEV. If so, one would expect that the preferred site would:

- Prevent, reduce and eliminate impacts to the environment;
- Protect and conserve natural resources and sensitive areas;
- Integrate social, economic and other considerations; and,
- Provide opportunities for an open and consultative process.

Based on my analysis, the selection of a site that is entirely forested does not prevent, reduce or eliminate impacts to the environment and does not protect or conserve natural resources or sensitive areas. The substantial concerns raised by the public against the use of the County Forests, the specific petition against the use of several of the County Forest, and the general lack

of response from the study team to those concerns, is not indicative of an open and consultative process that has taken public concerns into consideration.

Legislation, policies/guidelines

The background reports include limited discussion of the *Planning Act*, Provincial Policy Statement and County and local OP policies and provide no analysis as to how the site selection process is consistent with the requirements of the Act and PPS. In my opinion, the County has not demonstrated that through the selection of the preferred site, they have adhered to the required legislation, policies and guidelines.

Issues/Concerns identified through consultation with stakeholders

In order to achieve this, GHD would have had to address the issues and concerns identified by the stakeholders during the consultation process. As noted above, little to no significance has been placed on the concerns raised by the public with respect to the inclusion of forested areas in the site selection process.

Experience and Expertise of the Project Team

I cannot speak to the experience and expertise of the Project Team in terms of evaluating development applications however, it would be interesting to know if the Project Team has been involved in any similar municipal study that included such a preponderance of natural heritage sites within the candidate site selection process.

Site Rankings as completed during the comparative analysis

Finally, given that the comparative analysis is qualitative, and that it considered **net effects**, rather than **no negative impacts**, the preferred site has not been selected based on the requirements of the PPS. Deferring the detailed environmental evaluation to a later stage in the process also eliminated the ability to evaluate the preferred site against other sites using the required test of no negative impact.

The following is a summary of the issues raised with respect to the Part 3 document:

1. The report concludes that co-locating the facilities is appropriate, contrary to a staff recommendation made earlier in the process. The issues raised by staff previously have not been addressed in the report;
2. At a minimum, 72% of the written comments received from the public requested that the County not consider the placement of these facilities within natural areas and, more specifically, within County Forests. In addition, a total of 1,320 signatures were collected on several petitions speaking out against the use of several of the County Forests under consideration in the short-list evaluation. The report does not provide sufficient discussion with respect to these numerous and valid concerns;
3. The evaluation uses a test of no net effects rather than no negative impact, which is not consistent with the requirements of the PPS, County or Springwater OPs; and,
4. The County has not demonstrated that they have adhered to the requirements of the PPS throughout the site selection process.

Neighbourhood Landowner Meeting Notes and Follow-Up, County of Simcoe, September 8, 2016

Meeting notes were prepared following a landowner meeting that was held by the County on September 8, 2016. On page 6, under the topic of County Forests, the following question and associated response is recorded:

Question – *Residents believe the County fixed the selection of the forested tract by allowing 48% of the long list to include Simcoe county forest assets. The process to evaluate the sites showed a clear bias in favour of returning Simcoe County Forest to wasteland instead of selecting an industrial site which would be a more appropriate location to dump waste.*

Response – *There is no requirement to declare a property surplus to change its use. We have been through the siting process, the County started with the premise that we did not want to expropriate land for this site, all County owned properties were looked at. We are past the siting process and now at the stage of proving the site is viable by the studies done.*

I have two concerns with the response provided by the County. First, the response states that they are past the siting process. While it is true that the County has completed the background studies, those studies are supporting documentation to an Official Plan and Zoning By-Law Amendment process that, at the time of the meeting, had yet to take place. At the time of the neighbourhood meeting there had been no ability for the public to participate in a legislated process (i.e. a process pursuant to the *Environmental Assessment Act* or the *Planning Act*). As such, the siting process is not complete but rather, still needs to be vetted through the *Planning Act* process. In my opinion, the response provided by the County gives the erroneous impression that the public has no further say in the site selection process and that they must simply accept the preferred site. My second concern is that the response reads, "now at the stage of proving the site is viable by the studies done". The meeting was held on September 8. The supporting studies (EIS, Agricultural Impact Assessment, Hydrogeologic Assessment, etc.) were not released until November so County staff could not have known, at that time, whether the studies supported the preferred site selection. In addition, the purpose of the studies is not to prove the site is viable but rather, to determine whether the site meets the requirements of the PPS and OPs from the perspective of natural heritage, water and agricultural policies. The response, in my opinion, further suggests to the public that the determination of viability has already been made based on the Part 1 – 3 reports even though those reports undertook no detailed site investigations of any of the candidate sites.

Scoped Environmental Impact Study, GHD, November 17, 2016

The purpose of the Scoped Environmental Impact Study (EIS) is to evaluate the proposed OPF/MMF at 2976 Horseshoe Valley Road against the PPS requirements related to natural heritage and water. As this is mainly an ecological analysis, I will defer most of the review to Dougan and Associates and have relied on their professional opinion, as outlined in their letter dated June 2, 2017 with respect to whether the fieldwork and analysis has demonstrated no

negative impact to the following: Provincially Significant Wetlands, habitat of endangered and threatened species, significant woodlands, significant wildlife habitat, significant valleylands, significant areas of natural and scientific interest and fish habitat. My review relates to the policy context of the assessment as well as some of the assumptions/conclusions that were drawn before and during the assessment.

Section 2 (Existing Conditions, Natural Features and Resources), Table 2.1 lists Secondary Source Information Reviewed. The list is missing the Provincial Policy Statement as well as the Springwater Official Plan. In addition, '*Freele County Forest management documents*' are listed however, no specific reference is provided. A copy of these management documents should be provided as it appears that they are being relied upon as part of this report.

Section 3 (Preliminary Development Plan) describes the proposed development and refers the reader to GHD's *Facility Characteristics Report*, provided under separate cover, for additional details. A site concept plan/layout is not included in the EIS for the reader to reference. There is no discussion of grading works that may be required to facilitate the entrance, site preparation, staging areas, etc. and the associated potential environmental impacts.

Section 4 (Regulatory/Policy Framework) provides a brief outline of the Springwater and County OP, the Nottawasaga Valley Conservation Authority, Species at Risk Legislation and Provincial Policy Statement. Given that the detailed natural heritage policy implications have been deferred to the EIS, I would have expected a robust explanation of all the applicable PPS policies, County and Local OP policies, and federal/provincial legislation within the document.

Within **Section 4.5 (Provincially Policy Statement)**, GHD states, "*Overall, the proposed ERRC footprint of 4.5ha represents an extremely small disturbance to a greater than 475ha contiguous woodland of the 32,000ha Simcoe County Forest (less than 1% and 0.01% respectively)*". It is unclear why GHD mentions this as this fact has nothing to do with the on-site evaluation that they have been tasked with undertaking. The size of the overall feature is only one aspect that needs to be considered when evaluating significance. It is concerning that such a statement is made within this document. Reference to the overall forested landholdings of the County (32,000 ha) also suggests that the author is minimizing the potential impacts associated with the proposed development. Again, the overall amount of landholdings by a municipality is not a criteria upon which to measure negative impact.

Also within **Section 4.5**, with respect to significant woodlands, GHD concludes that, based on the size of wooded area, the Study Area contributes to an interior forest habitat that meets the County's minimum size criteria for consideration as a Significant Woodland. The report then goes on to state that this interior forest habitat is temporary because the property (and ERRC footprint) is part of a managed and actively harvested woodlot. In my opinion, this conclusion is false and it is unclear what facts that author is using to support this conclusion. To remove the interior forest habitat, much of the site would need to be clear cut. Over a period of 69 years (1948 – 2017) such a forestry practice has not taken place on this tract nor does the County Forest Plan suggest that such a practice is contemplated in any County Forest. In fact, through good forestry practices, such as those practiced by the County according to their County Forest Plan, selective harvesting would have no impact on the extent of interior forest habitat. Building on their

conclusion, GHD then states that, 'As an actively managed and harvested plantation woodlot, the proposed ERRC footprint and immediately adjacent areas does not exhibit uncommon characteristics or economic and social functional values as defined in the *Natural Heritage Reference Manual (MNR, 2010)*.' I will defer to Dougan and Associates' analysis of significance however, I would recommend that GHD is building on an erroneous statement with respect to interior forest habitat so I would question the accuracy of the follow-up conclusion.

Finally, within **Section 4.5**, GHD concludes that the site does not meet the criteria of Significant Wildlife Habitat. This analysis takes place within one paragraph of the report. I will defer to Dougan and Associates with respect to their opinion as to whether it has been demonstrated that Significant Wildlife Habitat does not exist however, I would have expected the analysis to have been much more robust considering that a minimum of 4.5 ha of wooded area is proposed for removal to facilitate the footprint of the ERRC. Additional impacts associated with the need to widen the existing trail to create a driveway of an appropriate width to accommodate the truck traffic, the relocation of the existing trail and the potential for future expansion also requires additional consideration in the evaluation of no negative impacts.

As stated previously, GHD seems to be relying on **no net effects**. This is further demonstrated through their suggestion that the loss of forest cover can be compensated through the planting of trees elsewhere to offset the loss. Such an approach is not consistent with the PPS requirement to demonstrate **no negative impact**. The proponent must first demonstrate that the proposed development will not have a negative impact on the feature and/or function and only then, if no negative impact is demonstrated, can there be a suggestion of mitigation measures such as off-site tree planting. Even if one was to accept that off-site tree planting could be contemplated as a mitigation measure, the County should be obligated, as part of the EIS and OPA process, to identify where such a location exists that could accommodate 4.5-9ha of tree planting (based on a 1:1 or the preferred 2:1 ratio of planting expressed by GHD on page 23). If such a parcel of land is not already in County ownership, presumably the previous evaluation matrix (Parts 1 – 3 of the siting process) should have considered the cost of purchasing such a parcel as well as the cost of tree planting and maintenance. The parcel not only needs to be large enough to accommodate the 4.5-9ha worth of planting, it would also need to be an environmentally appropriate site that is adjacent to existing Greenlands, etc.

I have reviewed the letter prepared by Dougan and Associates dated June 2, 2017. Based on that letter, in their professional opinion, the County has not demonstrated no negative impact on significant woodlands, significant wildlife habitat or the habitat of endangered and threatened species. As such, from a planning perspective, the Scoped EIS has not demonstrated that the proposed development is consistent with the requirements of the *Planning Act*, PPS, County and Springwater OP. As a result, the County and Local Official Plan Amendments and the Local Zoning By-Law Amendment should not be approved as they do not meet the requirements of the Province, County or Township.

I have also reviewed the comments provided by the Nottawasaga Valley Conservation Authority (NVCA) dated March 2, 2017 and the Ministry of Municipal Affairs and Housing (MMAH) dated April 7, 2017. The NVCA and MMAH raise similar concerns to those raised by Dougan and

Associates related to insufficient documentation in the report to support the conclusion that significant wildlife habitat and species at risk habitat does not exist on the property.

Planning Justification Report, GHD, November 17, 2016

The Planning Justification Report provides an analysis of several PPS policies including those related to Land Use Compatibility, Infrastructure and Public Service Facilities, Waste Management, Natural Heritage, Water and Agriculture. With respect to Natural Heritage, the report relies on the assumptions and conclusions of the Scoped EIS which, as outlined above, has not, in my opinion, demonstrated consistency with the PPS.

Within **Section 6.1** (County of Simcoe Official Plan – Greenlands Section 3.8), the report concludes that the development of the ERRC will not result in a negative impact as defined in the PPS based on: the proposed location of the ERRC; the plantation history of the Site; the actively managed nature of the Study Area; and, the implementation of the recommended mitigation measures, which adequately avoid, compensate and replace natural features (i.e. vegetation plantings) within the wider wooded feature. **Section 10.2** (Scoped EIS & Natural Hazard Land Assessment) again concludes by stating that no net environmental impacts on the larger woodlot feature are anticipated from the development of the proposed ERRC. These conclusions reflect the erroneous inclusion of mitigation measures, and the idea of no net impacts, when determining whether a proposed development will have a negative impact on the natural heritage system, which is inconsistent with the requirements of the PPS.

Section 7.4 (Springwater Official Plan – Section 17, Agriculture), states that the proposed site area to be used by the ERRC is not currently used for agriculture and that further, due to conditions on the site, it is not considered to be prime land for agricultural use. It then states that, from a review of the proposed ERRC site, it is generally confirmed to be less capable for agriculture than other portions of the site. It would appear that GHD is suggesting that, because the site is forested, it is not currently used for agriculture and therefore not considered prime land for agriculture. The County however, is proposing to remove 4.5ha of woodland which would, presumably, open up that portion of the site for agriculture. In my opinion, the report is suggesting that the existence of a natural heritage feature on the site precludes it from being used for agriculture but does not preclude it from being used for a waste disposal site.

Summary/Recommendation

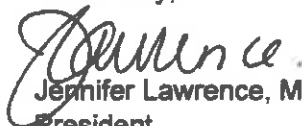
Of interest, the Simcoe County Forestry Department has prepared a report entitled *Simcoe County Forests 2011-2030*. The document outlines a 20-year management plan for the Simcoe County Forests (SCF) and includes a summary of how the SCF came to exist in Simcoe. The document outlines that, in 1922, Simcoe was the first County in Ontario to enter into an agreement with the Minister of Lands and Forests, under the *Reforestation Act*, to buy land for the purpose of planting and managing trees. By the 1980s, the County had purchased or acquired 10,525ha of land and, in 1982, the Canadian Forestry Association chose the County as the 'Forestry Capital

of Canada³. The report notes that SCF lands now total 12,663ha. Section 3.2 of the report includes a table that provides the number of forest tracts and number of hectares of forest tract in each municipality. The preamble to the table notes that the representation is much higher in the areas where the most significant problems (deforestation resulting in erosion and flooding) were occurring in the early 20th century. Of note, Springwater has the second highest number of forest tracts (37) and the largest acreage of forest tracts (4,056.2ha) within the County. This would suggest that Springwater experienced some of the most significant problems in the early 20th century related to soil erosion and flooding. In addition to the information provided in the County Plan, a fact sheet prepared by the County titled *Environmental Resource Recovery Centre, 2976 Horseshoe Valley Road West, Springwater, Get the Facts*, dated September 2016, notes that the Simcoe County Forest is the largest municipally-owned forest in Ontario and among the largest of its kind in Canada. Such an important legacy of forest creation, and the problems such creation was intended to solve, should be acknowledged and given significant weighting in the decision-making process. This is an addition to the PPS requirements that must also be considered.

In my experience working for, and with, government agencies, it is unusual for a municipality to propose the construction of substantial infrastructure within a natural heritage feature. In general, given the requirements of the PPS related to natural heritage, and the resulting OP requirements, many municipalities make every effort to avoid the placement of infrastructure within the natural heritage system. Municipalities have policies that only allow for the consideration of *essential* infrastructure (such as roads or utilities) within the natural heritage system and, in such cases, only if the placement of the infrastructure is supported by an Environmental Assessment. In doing so, they model the very behaviour that their OPs are expecting of the public – that natural heritage systems are to be identified, conserved and protected from the impacts of development.

Based on my review of the Part 1 – 3 siting documents, it is my opinion that the site selection process is not consistent with the *Planning Act* requirements pursuant to the Provincial Policy Statement natural heritage policies as sufficient consideration has not been given to PPS policies 2.1.1 through 2.1.8. In addition, the documents prepared in support of the Official Plan and Zoning By-Law Amendments are also not consistent with the PPS as it has not been demonstrated that the proposed development will have no negative impact on the habitat of endangered and threatened species, significant woodlands and significant wildlife habitat as required by PPS policies 2.1.2, 2.1.5, 2.1.7 and 2.1.8. As a result, the amendments are also not consistent with the County of Simcoe Official Plan policies 3.3.15, 3.8.11, 3.8.19 and 3.8.22 or the Springwater Official Plan policies 16.2.1.2(ii)(c), 16.2.1.3(iii) and (vii), 16.2.1.4.1(c), 16.2.1.4.2(a) and (b)(i)(iii)(vi) and 16.2.1.4.2(b) and (c)(i)(e). I trust the above is of assistance. If you require additional information, please do not hesitate to contact me.

Yours truly,



Jennifer Lawrence, MCIP, RPP
President

³ Simcoe County Forests 2011-2030, Simcoe County, page 5.

<http://www.simcoe.ca/Forestry/Documents/SCF%20final%20report.pdf>