



Canadian Environmental Law Association
L'Association canadienne du droit de l'environnement

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THE RESPONSE OF THE CANADIAN ENVIRONMENTAL LAW ASSOCIATION
TO THE INTERIM REPORT OF THE OSHAWA HARBOUR
TASK FORCE

Prepared by
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I. Introduction

The Canadian Environmental Law Association would like to thank the Oshawa Harbour Task Force for the opportunity to comment on their interim report. We concur with the Task Force recommendation that Oshawa Second Marsh should not be used for a harbour and that if the need arises a phase of expansion should proceed out into the lake.

In what has to be considered an unusual approach to planning for long-term development the Task Force did not examine the question of the need for a new expanded harbour. Rather it produced plans which could accommodate its potential scenario for either commercial or recreational traffic. With such a vague mandate a consultant for the Task Force has been busy drawing designs for beaches and windsurfing lagoons. We suggest that the task force concern itself primarily with a long range plan for orderly development of a commercial port facility including a marina. These plans should respond to realistic suggestion of need.

The Task Force should be cognizant of the recreation potential of adjacent beaches and the natural value of the Oshawa Second Marsh. It is not the role of the Oshawa Harbour Commission, however, to build protected bays for recreational use. Unless the plans prepared by the Task Force address real needs and can be implemented by any agency or agencies with the mandate to respond to those needs, it will have been an exercise of questionable merit.

II. The Interim Report

Results of the Task Force's first round of deliberation are contained in two publications. First, the Oshawa Harbour Task Force Interim Report October 1983, and second, the Oshawa Harbour Task Force Brochure on the preparation of Long Range Harbour Development. The first document is a rather sketchy

outline which has been inappropriately termed a report. This document contains graphs and statistics which indicate that cargo movements through the Port of Oshawa have declined steadily since 1980 and are now at the same level as was experienced in 1969. Total tonnage of cargo at the Port of Oshawa declined from a high of over 500,000 tonnes in 1980 to about 250,000 tonnes in 1982.

Despite the substantial decline in cargo tonnage and in number of vessels calling on the Port of Oshawa, there appears to be some concern that the present harbour is congested. This point of view was presented to the Task Force in a brief prepared by Hub Transportation Services Ltd. In the brief Hub provides a list of 1982 ship movements in the Port of Oshawa. The list contains the names of ships, the date of arrival and the date of departure from the Port of Oshawa. It would appear from this list that on perhaps four occasions in 1982 there were two ships in the Port of Oshawa at the same time. We are not convinced this necessarily constitutes congestion. The list also clearly illustrates that outside of these four occasions, there were also long periods of time when there were no ships calling at the Port of Oshawa. For example, there were no ships in the Port, from April 15 to May 3, May 5 to May 6, May 16 to May 20, May 23, 24, May 28 to May 31, June 3 to June 10, June 12 to July 4, July 10 to July 11, July 22 to July 28, July 31 to August 13, August 20 to August 29, September 6 to September 9, September 12, September 14 to September 19, September 29 to October 4, October 6 to October 13, October 16 to October 24, October 26 to October 29, November 2 to November 13, November 18, November 23 to 26, November 27 to December 10.

It would appear that the congestion that occurs at the Port of Oshawa happens infrequently. R. G. Redburn Ltd., a steamship agent and ship broker states in a letter to Mr. Derek Sweet, chairman of the Task Force that on only one occasion in 1982 was there congestion as far as he was concerned.

It would appear to us that the few periods of congestion that occurred in the Port of Oshawa are more results of the lack of scheduling of arrivals than it is on an increased use of the port. The patterns that we can establish by reviewing the lists of ship arrivals provided in the appendices of the Hub Transportation Brief is a pattern of a few periods of activity followed by long stretches of inactivity. Better use of the inactive days would perhaps alleviate the few periods of congestion and minimize the need for expansion.

The Interim Report identified several environmental concerns including the sedimentation rates as they effect Oshawa Second Marsh and also the presence of heavy metals and PCBs in the present harbour as a result of materials leaching from the dump site north of the harbour and Oshawa Creek. Discussions should begin immediately to initiate actions to remedy these problems.

III. The Brochure

The brochure prepared by the Oshawa Task Force for the public participation session outlines the preferred option and the alternatives to this option. The Task Force favours option one, that is, development in the lake, as having the most promise for a suitable plan to meet the needs of the competing waterfront uses. This option according to the Task Force is least expensive of the three available and can be phased to suit port requirements. The Canadian Environmental Law Association in principle supports option 1 of harbour development into Lake Ontario rather than of the Second Marsh. However, it is difficult at this time to support any one of the three alternatives as they are nothing more than vague concepts. There are apparently no studies of the impacts that one scheme might have relative to the others nor were costs considered and compared for the three alternatives. The available references and submissions on port congestion and traffic suggest that if any expansion is

necessary at all it could probably be satisfied by doubling the east berth capacity. This could take place without impacting on the marsh or adjacent beaches. As an alternative proposal we urge the Task Force to consider the possibility of a limited expansion that would entail doubling the east berth capacity. Diagrams to help illustrate this alternative have been prepared by Doug Wilkins, an engineer specializing in the aquatic environment. A copy has been included for The Task Force's perusal (See page 9.)

The three alternatives within option one which were discussed in the brochure cannot at this moment be justified on the question of need.

A. Environmental Concerns

1. Lakefilling

In addition to the question of need and cost there are environmental problems which have to be considered. The Task Force favours creating port land and lake filling techniques promoted by its consultant and still practiced by Toronto Harbour Commission. Studies undertaken by Environment Canada and the Ministry of the Environment have identified water quality degradation as a result of these techniques. Over the years refinements have been made to minimize the adverse environmental impacts but it is not known whether these will be applied at Oshawa.

A proposed source of earth fill is the hill between the harbour and the Oshawa Second Marsh. We question the use of the soils from the hill especially considering the fact that the regional municipality of Durham has used the hill to dispose of sewage sludge in the past. A soil sampling programme should be undertaken to determine the suitability of those soils for the lake fill.

Any acceptable harbour development must protect the

integrity of Oshawa Second Marsh. The first alternative proposed by the task force show lake filling activity that requires a truck haul road along the barrier beach strip. The consultant talked of heavy recreational use in the area with basins, swimming, windsurfing and vehicular access. None of this appears to be appropriate if the marsh is to be preserved as a natural area. Recreational demands can be met at the municipal waterfront park to the west and Darlington Provincial Park to the east. To help restore Second Marsh we advise that the outlet on the west end of the beach strip should be restored and no vehicular access across it be allowed.

2. Dredging

The alternatives featured in the brochure discussed the dredging operations which will be required. There is an existing containment facility on the site which may suffice for 5 to 10 years of dredging at the present rate. A considerably larger facility will be required to confine long term dredge spoils. Dredging will continue to be necessary if there are no sediment control programmes and places for the creeks in the watersheds. Even if a sediment trap is filled at the mouth of Oshawa Creek the accumulated contaminated sediment will require removal and disposal. Without sediment control upstream, the volume handled will be comparable to those now dredged.

In view of the degree of contamination and the possible accumulation of dredge material from the abandoned waste site in the marina area, the dredge spoil confinement facility may have to be rather more sophisticated than the existing rock berm disposal.

3. Littoral Drift

The existing port is on a curving beach bounded on

the west by a steep bluff promontory and the east by a sand spit that forms McLaughlin Bay. There is some net littoral drift along the curving beach west to east maintaining the integrity of the sand spit. Some of the littoral material is contributed by the creeks. All of the harbour alternatives examined by the task force will possibly disrupt the littoral system with potentially serious implications for the existing shoreline, especially the sand spit. No studies have yet been done to investigate the impact on the coastal process from possible harbour expansion alternatives. It would be appropriate to compare the impact of each alternative on coastal processes at the initial design stage since remedial programmes are extremely expensive.

4. Creation of Embayments

Each alternative calls for the creation of a large embayment that will with varying degrees have its waters of circulating with Lake Ontario. Embayments receiving contaminated input from creeks, sewers, vessels, industrial and port facilities will be more contaminated than open lake water. Depending on how well existing contaminant sources are controlled and how much circulation is provided, the embayment may or may not meet the provincial water quality objectives. In addition, the plans to expand the sewage treatment plant outlet into the lake will have the potential for impairing water quality. We recommend that studies be done on the impact of the shoreline sewage treatment plant discharge on Lake Ontario waters.

5. Landscape Buffer

The alternatives presented by the Task Force place a landscape buffer on the west side of Oshawa Second Marsh. It is our position that the buffer should be substantial enough to protect the marsh from visual and audio impacts. We also recommend that no drainage for the port and the

industrial lands should cross into the buffer zone particularly during the construction period because high sediment flows will be generated and therefore have adverse impacts on the marsh.

Conclusions

Modest port expansion plans that would meet the real needs of the Port of Oshawa in the foreseeable future would also avoid the above mentioned environmental problems. The problem becomes substantial when large scale development is proposed. Lacking proven demand for large scale development, monies are not likely to be committed for the studies necessary to resolve such problems. On this basis we submit that any long range plans remain strictly conceptual and that no details be accepted as final until the environmental issues have been resolved.

The development plan should identify stages in an orderly process including comments from the key agencies involved and triggering mechanisms for each succeeding stage.

The process to date is useful in that the Task Force's recommendation that a harbour not be built in the Oshawa Second Marsh should be considered final. This would allow appropriate agencies to begin discussions on methods for preserving and enhancing Oshawa Second Marsh. We recommend that the following measures be commenced in order to ensure the viability and long-term existence of Second Marsh.

1. A sediment control programme be established along Harmony and Farewell Creeks. In discussions with Robert Bugar, Assistant Deputy Minister of the Ontario Ministry of Natural Resources at the open house held on October 17, 1983, at the Holiday Inn in Oshawa, he stated that there are funds available within the Ministry of Natural Resources to cover the costs of implementing a sediment

control programme. Mr. Burgar also stated that the machinery is in place to channel the funds to the appropriate agencies.

2. The question of who should own Oshawa Second Marsh should be resolved immediately. We suggest that ownership should be transferred and that joint ownership by Environment Canada's Canadian Wildlife Service and the Ontario Ministry of Natural Resources be implemented in an arrangement similar to the one in existence at the Wye Marsh. We would also recommend that the ownership body be given jurisdiction over the Ghost Road Woods north of the marsh.
3. Plans to open nature interpretation centre should be investigated and put into effect as soon as possible.
4. The Western outlet should be reopened and the eastern outlet should be closed.
5. Bird banding should be permitted in the marsh as soon as possible.
6. Studies to determine the environmental impacts of any proposed harbour expansion scheme should be undertaken when it can be established there is a need to expand the harbour. Once it can be established that there is a need for a harbour expansion, a Environmental Assessment and Review Process hearing must be held.