

December 19, 2006

To: Environmental Review Tribunal
Gaye McCurdy, Secretary
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Toronto, Ontario, M4P 1E4

Mr. Gord Miller
Environmental Commissioner
1075 Bay Street, Suite 605, 6th Fl.
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Director
Environmental Assessment and Approvals Branch
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario, M4V 1L5

Enquest Power Corporation
1397 Station Street, Fonthill
Fonthill, Ontario, L0S 1E0

RE. Application for Leave to Appeal

Enquest Power, EPA s. 27 - Certificate of Approval for a waste disposal site

EBR Registry Number: IA06E0835, Ministry Reference Number: 0224-6DNJX3

and

Enquest Power, EPA s. 9 - Approval for discharge into the natural environment other than water (i.e. Air)

EBR Registry Number: IA06E0834. Ministry Reference Number: 0603-6DNJVM

With respect to the above noted matters, I am writing, on behalf of Northwatch, to request that the Environmental Review Tribunal consider this as our preliminary application for leave to appeal the two Certificates of Approval that have been issued to Enquest Power Corporation related to the proposed operation of a pilot project energy-from-waste facility in Sault Ste. Marie.

We have an outstanding request for information from the Ministry of the Environment related to these approvals. It is our intention to review the grounds for our application for leave to appeal upon receipt of the requested information, and based on that review, either file a supplementary submission to support our application for leave to appeal, or withdraw our application. Given requirement to file an

application for leave to appeal within fifteen days of the posting of the decision on the Environmental Bill of Rights electronic registry, we are filing this application for leave to appeal today in order to preserve our rights under the EBR.

As outlined above, it is our intention to file a supplementary submission after reviewing the Ministry of the Environment's response to our information request, and to provide additional details in that supplementary submission.

Northwatch's Interest

Northwatch is a coalition of community based environmental and social justice / social development organizations across northeastern Ontario. Founded in January of 1988, Northwatch has as a priority issues that are of a regional nature : energy use, generation and conservation; forest conservation and wild areas protection; waste management and water quality issues; mining; and militarization. In addition to acting on these issues as a representative body, Northwatch provides support to local citizens groups addressing these and other environmental concerns in their community.

On July 4, 2006, two notices related to a proposal by EnQuest Power to operate a pilot project at the landfill site on the Fifth Line in Sault Ste. Marie were posted on the Environmental Bill of Rights electronic registry. The pilot project involves heating five different waste materials to high temperatures inside a closed vessel, and injecting water. The proponents predict that the waste will be thermally decomposed and gasified. The proposed pilot project is expected to be the first phase in the development of a facility that would produce a gaseous stream (syngas), suitable for use as fuel in a combustion/ energy recovery system. The two notices posted were with respect to an application by EnQuest Power for a certificates of approval for a waste disposal site and a certificate of approval for discharge into the natural environment other than water (i.e. air).

On July 10th, Northwatch became aware of the posting and subsequently contacted the Ministry of the Environment offices in Toronto (Environmental Assessment and Approvals Branch) and Sault Ste. Marie (Area office) requesting a copy of the project proposal and related documentation in support of the permitting application. Also on July 11th, Northwatch contacted EnQuest Power and requested a copy of the project proposal, test data, and a list of any and all locations where the technology has been in use. On July 11th, Northwatch was copied on an email from the MOE District office to Environmental Assessment and Approvals Branch conveying Northwatch's document request and mailing address. This created an expectation on Northwatch's part that the documents were to be provided, as per our request. On July 14th, EnQuest advised Northwatch that the procedure for accessing information related to their application is as provided on the EBR posting. On July 28th Northwatch again contacted the Ministry of the Environment, and on August 1st was advised that documents would be available for viewing only at an office of the Ministry of the Environment, but that a copy of the application had been sent to the North Bay office of the MOE.

Northwatch reviewed the Environmental Bill of Rights postings related to the project, information available on the EnQuest web site, and the application and supporting material available for public review at the Ministry of the Environment office in North Bay, and provided comments on the proposals on August 9, 2006 (See Attachment A)

Northwatch's interests are twofold:

- (a) that the project will result in harm to the environment in the Sault Ste. Marie area; Northwatch and Northwatch's members have an interest in protecting the environment of northeastern Ontario and of the Great Lakes basin, including Sault Ste. Marie and environs
- (b) that the project will serve as a precedent for other similar projects, which may result in similar or greater harm to the environment of northeastern Ontario

The Reasonableness of the Decision

The information provided by the proponent to support their application for the two certificates of approval was incomplete and provided inadequate and at times inconsistent and / or unclear information. The project appeared at the time of application to be very much under development as evidenced by several changes in the project in the period immediately leading up to the July 11, 2006 submission of the application by the proponent.

In response to these observations by Northwatch, the posting of the decision(s) on the Environmental Bill of Rights indicated that "additional information and clarifications were submitted during the review of the air and waste applications. Based on the balance of the information it was concluded that the proposal can reasonably be expected to comply with ministry requirements subject to the conditions set out in the approval."

Northwatch has requested additional information from the Ministry of the Environment related to these approvals, and based on the review of the Ministry's response will make a supplementary submission on this point.

Harm to the Environment

Based on a review of the proponents application (dated July 11, 2006) and the Ministry of the Environment's summary of comments received and the Ministry response (see Attachments B and C), Northwatch has two primary outstanding concerns:

- (a) Enquest Power, EPA s. 27 - Certificate of Approval for a waste disposal site

Section 3 of the application (Process and Equipment Description) describes that the process will require quantities of water, and provides a general description of the basis for calculating the water to be inputted, but provides no estimate of water quantities or effluent volume; nor does it provide any characterization of the liquid effluent; there is a table attached to the letter from the City of Sault Ste. Marie but the information is not clearly presented and it appears to be based on measurements from COREM, which the proponent said elsewhere in the application (Section 7.1) that “the brevity of these experiments (COREM) mean that there may be some question on the validity and reliability of these results for the purposes of this Application and consequently they are not being used in this current modeling”; a description of both the water quantities and the estimated volume of liquid effluent and its anticipated characteristics (eg contaminants) is required to evaluate whether the impact of the environment will be acceptable

- (b) Enquest Power, EPA s. 9 - Approval for discharge into the natural environment other than water (i.e. Air)

The application by Enquest Power (dated July 11, 2006) appeared to have no basis for its assumptions with respect to discharges to air; the application states that it uses a combination of unidentified methods and uses analysis performed by unidentified “others”, and then combined those with some experimental results run by Enquest at COREM labs in Quebec City which they then did not use for the application because “the brevity of these experiments (COREM) mean that there may be some question on the validity and reliability of these results for the purposes of this Application and consequently they are not being used in this current modeling”; the application appears to rely only on information from the Technip facility in Germany, which the proponent had already been advised was not applicable (Technip is a different process (pyrolysis versus gasification with water input) and a different product (coke versus liquid), and so reliance on Technip as a stand-in for EnQuest does not provide a reasonable basis for decision-making.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

December 19, 2006



Brennain Lloyd, on behalf of Northwatch

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Attachment A - Northwatch Comments of August 9, 2006

Attachment B - EBR Posting, EPA s. 27 - Approval for a waste disposal site.

Attachment C - EBR Posting, EPA s. 9 - Approval for discharge into the natural environment other than water (i.e. Air)