

# NORTHWATCH

January 15, 2007

Ms. Evangeline Berlie

Case Manager

Environmental Review Tribunal

Suite 1700, P.O. Box, 2382, 2300 Yonge St.,

Toronto, Ontario, M4P 1E4

Dear Ms. Berlie:

**RE. Northwatch vs. Director, Ministry of the Environment**

**Case Nos: 06-158/06-159**

With respect to the above noted matters, I am writing, on behalf of Northwatch, to advise the Environmental Review Tribunal of Northwatch's decision to withdraw our 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 wish to be clear: our concerns are unchanged. Our reasons for withdrawing our application for leave to appeal relate to the following:

- ? we have not yet received copies of the instruments issued by Director which are the subject of our applications, despite having requested them on December 20<sup>th</sup>, as per the direction of the Ministry of the Environment Approvals Branch staff
- ? we have not yet received a response to our Access to Information Request through which we hope to obtain the information which we believe we need to support our Application for Leave to Appeal
- ? the information that Enquest Power Corporation provided for our review was extremely limited

- ? Northwatch was not provided with the information noted immediately above, but rather with an opportunity to view the information at the North Bay office of the Ministry of the Environment, with an explicit prohibition on our either copying or transcribing any of the material
- ? in its letter to Northwatch of December 21, 2006, the Tribunal provided Northwatch with a request that we provide eight items of information in support of our Application for Leave to Appeal by January 5<sup>th</sup>, 2007, a date which was later extended to January 15<sup>th</sup>, 2007
- ? for the reasons noted above, we are unable to provide several of the requested information piece

As noted above, our concerns remain unchanged. However, we are of the view that with such limited access to the documents noted above, and given the deadline requirements set by the Environmental Review Tribunal, we will be unable to make the necessary case to support our application. Given these circumstances, we have decided to withdraw our Application for Leave to Appeal, and seek other means to address our concerns.

Thank you for your attention and consideration.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Original signed

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Brennain Lloyd, on behalf of Northwatch

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