



## **Overview of the City of Oshawa's Comment Submission**

**Review of the Environmental Assessment (EA) Screening Report  
Proposed FarmTech Ethanol Production Facility (Oshawa Harbour)  
CEAR Project No. 08-01-42395**

August 12, 2011



FarmTech Energy Corporation (FarmTech) has sought the financial assistance of the federal government under the ecoAgriculture Biofuels Capital Initiative (ecoABC Initiative) to build a 210-million-litre ethanol fuel production facility/refinery at the Port of Oshawa near the Second Marsh, the largest urban wetland in the Greater Toronto Area. To receive this assistance, FarmTech is required to successfully complete an Environmental Assessment (EA) under the *Canadian Environmental Assessment Act* (CEAA). The Screening Report for the FarmTech EA has been submitted to Agriculture and Agri-Food Canada (AAFC), which is the responsible authority for this assessment, and has been made available for public review and comment.

The focus of an EA under the CEAA is to carry out project planning in accordance with the principle of sustainable development and assess the range and extent of adverse environmental effects on surrounding land uses and ecological features. This assessment encompasses effects on the biophysical environment and also the related socio-economic environment (cultural and heritage resources, noise, odour and safety related to construction and/or operation).

The City of Oshawa has established a team of consultants to conduct a detailed review of the Screening Report from a legal, land use planning and scientific perspective and provide a report to the AAFC based on their findings. The City's consultant team has found that the FarmTech Screening Report does not comply with the legal requirements of CEAA, fails to address the serious land use compatibility issues presented by the proposal, and does not provide the data and analysis necessary to evaluate the environmental effects of the ethanol facility. An overview of the consultant team's findings is set out below.

From a legal perspective, the failure to meet the requirements of the CEAA begins with the core principle of the CEAA. Instead of adhering to the CEAA principle of planning for sustainable development, the project follows a "develop first, plan later" approach that, among other issues, fails to comply with the July 2010 Settlement Agreement between the Oshawa Harbour Commission (OHC), the City and the federal government. According to the terms of this agreement and the associated Land Use, Development and Municipal Services Agreement (LUDMS Agreement), future development is to be conducted cooperatively between the City and the OHC until a land use plan is in place that will determine long term planning. These terms have been ignored.

The CEAA requires that the environmental effects of accidents and malfunctions be assessed. Ethanol plants have triggered over fifty fires and explosions in North America since 1997. Thus, this project represents a very real danger to the City, its residents and nearby ecological features. This kind of project in this setting demands the most rigorous analysis of the risks and likelihood of significant adverse effects from accidents and malfunctions. Yet, FarmTech has failed to conduct a quantitative analysis of the likelihood of significant adverse environmental effects from this project.

The CEAA also requires that the significance of adverse environmental effects of other changes to the environment be assessed. The requirements for assessment are set out in the *Environmental Assessment Guidelines for Screening Level Assessments of Ethanol Projects under the CEAA* (Federal Ethanol Project Guidelines). The City's consultants found that these requirements were not met with respect to the assessment of the adverse environmental effects on surrounding land uses and ecological features from air emissions, noise, odour, vapour, surfacewater contamination, groundwater contamination and cumulative effects.

A particularly troubling failure is the lack of assessment of the risks to human health posed by the project's emissions of fine particulate matter, a toxic substance listed under the Canadian Environmental Protection Act. Recently the Canadian Medical Association found that this substance, along with ozone, was responsible for more than 21,000 premature deaths in Canada in 2008 alone.

In the same manner that the proponent fails to address these CEAA requirements, the project also fails to adhere to legally binding provincial environmental standards and apply these standards to assessing potential adverse effects, as required by the CEAA. The standards dismissed by FarmTech as not being applicable or binding on its project are intended to safeguard against adverse effects from air emissions, noise, odour, and surface and groundwater contamination.

The CEAA also makes it legally important to address public concern. By any measure, this project and its planning are the subject of major public concern. Both the City and the Region of Durham are opposed to the project at this location. The public is likewise opposed to the project: to date, AAFC's invitation to comment on the proposal has elicited over 3,300 written submissions in opposition to it. The proposal also triggered the largest land use public meeting in the City's history. In 2008, over 700 residents and stakeholders gathered at the General Motors Centre in Oshawa to express their views on the project, with the vast majority opposing it.

Under the CEAA, where a project has these fundamental legal deficiencies and triggers this level of public concern, the legislation sets out only two courses of action; the AAFC, as the responsible authority for this environmental screening, has the option of either: (1) refusing to exercise any power or function that would permit the project to proceed in whole or in part; or, (2) referring the project to the federal Minister of the Environment for further referral to a mediator or review panel in accordance with the CEAA.

When evaluated from a land use planning perspective, it is apparent that FarmTech's proposal will cause changes to the environment that could lead to adverse socio-economic effects. Under the CEAA, these effects must be assessed. For instance, the Federal Ethanol Project Guidelines highlight various socio-economic components that may be affected, directly or indirectly, by ethanol projects. These components relate to elements such as population, land use, cultural resources, existing noise level,

recreation areas, safety issues and the visual landscape. Given the gaps, errors, inconsistencies and a lack of rationalization in a wide variety of instances, significant uncertainty exists as to whether adverse environmental effects may occur.

From a land use planning perspective, the proposed ethanol facility represents a heavy industrial development that differs fundamentally from the prestige form of development that the Ontario Municipal Board (OMB) found was appropriate for these lands. No meaningful planning-based rationale has been provided to justify the proposed new form of development, and it would appear that FarmTech is trying to take advantage of federal inaction with respect to devising a land use plan for this area (as required by the LUDMS Agreement) to locate the proposed plant at the Port of Oshawa, rather than good planning.

One of the most serious and far-reaching deficiencies in the Screening Report with respect to land use planning is the misclassification of the proposed facility as a Class II industry as opposed to a Class III heavy industry under Ontario's Ministry of the Environment (MOE) 'D' series of Guidelines and Procedures (Land Use Compatibility Guidelines). The proponent's classification of this facility as a Class II Industry is used as the basis to limit the assessment of adverse environmental effects to those sensitive land uses that are located within 300 metres of the facility.

However, as an ethanol production facility, the project reflects a Class III industry under the MOE's Land Use Compatibility Guidelines and all sensitive land uses within one kilometre of the proposed site should form part of the environmental evaluation due to the zone of influence of this type of facility. The misclassification of the project means that virtually all key socio-economic components identified in the Federal Ethanol Project Guidelines are impacted to an unknown degree. The proponent's report fails to assess impacts on sensitive land uses such as residential developments, hotels, outdoor recreational areas, marinas, churches and daycares that exist or are permitted within the 1 km zone of influence of the proposed ethanol refinery. As a result, the impacts of the ethanol facility on many nearby sensitive land uses are entirely unknown.

From a scientific perspective, the City's technical peer review confirms that the level of study undertaken by the proponent is not sufficient to meet the requirements of the CEAA or the scoping requirements of the Federal Ethanol Project Guidelines. Specific areas lacking adequate study and evaluation include assessments of effects on Valued Ecosystem Components (VECs) such as water quality, wildlife, air quality and noise, assessment of cumulative impacts, and assessment of the environmental effects arising from accidents and malfunctions.

Other scientific gaps in the proponent's analysis identified through the peer review include the failure to identify all of the sensitive human and ecological receptors within the zone of influence of the facility, the failure to assess impacts along potential truck haul routes between the facility and Highway 401 (meaning the effects of truck traffic on neighbourhoods is unknown), and the assessment's failure to meet the scope or quality

standards which would normally be required for a Provincial Certificate of Approval (Air & Noise) application. The Screening Report also does not sufficiently characterize and assess the aquatic habitat in the areas of Harmony Creek/Second Marsh and Lake Ontario that may interact with effluent from the project. As such, it is not possible to determine what environmental effects the project will have on the aquatic environment and the significance of these effects.

These deficiencies need to be properly addressed in order to fulfill the CEAA and AAFC screening level assessment requirements and to show that the project will not cause significant environmental effects.

As matters stand, the proposed use is one which neither complements the unique locational context nor adequately addresses the potential adverse effects it may have on existing and permitted surrounding land uses. Socio-economic conditions which previously were in balance with the OMB-approved form/type of development intended for the proposed site are now subject to potential adverse effects of uncertain extent and magnitude. If the proposed facility was removed to an alternative location, many of the sensitive land uses of concern would not be present or be as significant in scale. In the proposed location, the potential impacts of siting an ethanol production facility/refinery are compounded due to the proximity of particularly unique heritage and cultural features, landforms and uses, such as Second Marsh, Lake Ontario, Gifford Hill, the Waterfront Trail and Lakeview Park.