

ISSUE DATE:

**December 14, 2012**



PL111325

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Cytec Canada Inc.  
Appellant: Grand Niagara Resort Inc. (2285045 Ontario Inc.)  
Appellant: Walker Aggregates Inc.  
Subject: Proposed Official Plan Amendment No. 96  
Municipality: City of Niagara Falls  
OMB Case No.: PL111325  
OMB File No.: PL111325

**APPEARANCES:**

**Parties**

**Counsel/Agent\***

Cytec Canada Inc.

J. Wilker (absent), D. Germain

Grand Niagara Resort Inc.  
(2285045 Ontario Inc.)

C. Brawley(planner)\*

City of Niagara Falls

K. Beaman

Regional Municipality of Niagara

P. DeMelo

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON  
NOVEMBER 22, 2012 AND ORDER OF THE BOARD**

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[1] Today's teleconference call ("TCC") was convened in part so that Cytec Canada Inc. ("Cytec"), represented by its Counsel Mr. Jeffrey Wilker, could advise the Board and other parties as to its position on the City of Niagara Falls' ("City") recent suggestion that the balance of lands affected by the City-initiated Official Plan Amendment No. 96 ("OPA 96") could be approved (whose purpose is to update the Plan's environmental and natural heritage policies and mapping; specifically, OPA 96 adds policy 12.1.49, which speaks to aggregate operations within the Environmental Protection Area). This suggested approach would thus enable both Cytec and Grand Niagara Resort Inc. (2285045 Ontario Inc.) ("Grand Niagara") to pursue their private appeals without prejudice.

[2] The Board notes that Cytec's appeal is of the entire OPA and relates to perceived problems with definitions, adjacent land designations and possible infringement as well as flood plain mapping along Thompson's Creek, which Cytec owns. While Cytec has worked with the Regional Municipality of Niagara ("Region") to coordinate mapping, there appears to be an issue with the Regional mapping not coinciding with that of the City and thus this raises a possible issue of conformity that needs further discussion and exploration by Cytec, the Region and the City.

[3] Cytec is prepared to scope its appeal to the three properties it owns with the *proviso* that the buffer lands around its properties and the flood plain are identified as still being under appeal without prejudice to any argument Cytec might wish to make in respect of the appeal.

[4] Lastly, Mr. Wilker advised the Board that his client's environmental mapping report would be available in December.

[5] The settlement reached between Walker Aggregates Inc. ("Walker") and the City of Niagara Falls ("City") and the Regional Municipality of Niagara ("Region") was already accepted by the Board during an earlier teleconference call and that appeal was allowed.

[6] The Board has ordered the parties to provide draft language by Wednesday, December 19, 2012, so that I can incorporate the precise wording (and agreement for in order to include the way forward )(on the appeals) into my order so that the Board might potentially approve the balance of lands for OPA 96 except for Grand Niagara and Cytec.

[7] The Member continues to be seized for administrative carriage of this file, which might include a further TCC or the establishment of hearing dates. The Board may be spoken to in this regard.

"R. Rossi"

R. ROSSI  
MEMBER