

---

**From:** Jennings, Rick (ENERGY)  
**To:** McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Sent:** Mon Sep 26 17:22:21 2011  
**Subject:** Re: Greenfield South

The CES RFP was run by the Ministry but the OPA (Jan Carr) signed the contract in April 2005.

-----  
Sent from my BlackBerry Wireless Handheld

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**From:** McKeever, Garry (ENERGY)  
**To:** Jennings, Rick (ENERGY)  
**Sent:** Mon Sep 26 16:50:27 2011  
**Subject:** Greenfield South

Do you remember if we (the Ministry) or the OPA signed the original contract? MO is asking. I have calls in to the OPA.

## **Cayley, Daniel (ENERGY)**

---

**From:** Lung, Ken (JUS)  
**Sent:** September-27-11 9:44 AM  
**To:** Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** FW: note re Mississauga Plant  
**Attachments:** Greenfield South BN LSB (Sept 26-11) (2A) (2).doc

Please consider suggested changes. Intended at this point to be an FYI note for readers.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** September 26, 2011 5:27 PM  
**To:** Lung, Ken (JUS)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Subject:** note re Mississauga Plant

*Privileged and Confidential*

Hi Ken – as requested, a note on the Mississauga Plant. Our legal branch has not been asked to provide any advice re cancellation.

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
BB: (416) 671-2607  
E-mail: [Halyna.Perun2@ontario.ca](mailto:Halyna.Perun2@ontario.ca)

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**Ministry of the Attorney General**

***Briefing Note***

**Legal Services Division**

**Legal Services Branch – ENE/MOI**

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**ISSUE:**

- Greenfield South Gas Generating Plant in Mississauga.

**BACKGROUND**

- Greenfield South Generating Station, once completed, will be ~~is~~ a 280 MW combined cycle natural gas plant located in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue (the “Greenfield project”).
- The Greenfield project arose out of a Clean Energy Supply (CES) procurement process in 2004. The procuring party was originally the Ministry of Energy?? -This contract, with Greenfield South Power Corporation, was eventually assumed by the OPA.
- The project was undertaken to meet local reliability needs for the Southwest and Western GTA and has been positioned as part of the coal closure strategy.
- The plant is 200 metres from the nearest residence, 700 metres from the nearest hospital and 1.1 km from the nearest school.
- On September XX, 2011, the government announced that the generating station would be re-located?? that there are discussions with the proponent for a new site??
- Currently there are four Liberal candidates in Etobicoke and Mississauga, Donna Cansfield, Charles Sousa (in his riding), Laurel Broten, and Dipika Damerla, who have referred to terminating the Greenfield South project.

**Approvals and Commercial Status** (from Ken: under this section, largely reversing the chronology)

- In July 2011, Greenfield reported proceeding with construction including laying foundations for the steam and gas turbine halls, and having placed orders for the major equipment (generators, turbines, etc.) involved.
- In June, 2011, MOE announced that it will conduct an updated review of the approval for the Greenfield South facility to assess recent developments. To date, no end date was set for this process. In May, 2011, the proponent finalized its financing arrangements and the City of Mississauga issued Building Permits for the building housing the generation equipment.

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- In March, 2011, OPA renegotiated the initial Commercial Operation Date (C.O.D.) with the proponent, Greenfield Power Corp., in recognition of the lengthy regulatory approvals and financing delays experienced by Greenfield South. The new C.O.D. is the third quarter (Q3) of 2014.
- In 2008, MOE had granted all necessary environmental approvals.
  - However, there was a lengthy period of *force majeure* resulting from approval delays;
  - Greenfield South experienced two years of regulatory delays before MOE rendered its final decision denying a request for elevation.
- In 2007, the Ontario Municipal Board reviewed and approved of the zoning of the project site after a lengthy and protracted process.
- In 2008, MOE had granted all necessary environmental approvals.
- In March, 2011, OPA renegotiated the initial Commercial Operation Date (C.O.D.) with the proponent, Greenfield Power Corp., in recognition of the lengthy regulatory approvals and financing delays experienced by Greenfield South. The new C.O.D. is the third quarter (Q3) of 2014.
- In May, 2011, the proponent finalized its financing arrangements and the City of Mississauga issued Building Permits for the building housing the generation equipment.
- In June, 2011, MOE announced that it will conduct an updated review of the approval for the Greenfield South facility to assess recent developments. To date, no end-date was set for this process.
- In July 2011, Greenfield reported proceeding with construction including laying foundations for the steam and gas turbine halls, and having placed orders for the major equipment (generators, turbines, etc.) involved.

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## Status Legal

### Options for Cancelling Greenfield South Contract

- There is contract between the proponent and OPG relating to the power station. Construction has already commenced.
- Cancellation of the project at this stage would involve the termination of the contract by the parties.
- ENE Legal Services Branch has not been consulted prior to the announcement and currently does not have any information concerning any recent discussions with the proponent.
- Further study of the specific contract itself and the provisions sought to be utilized in any given scenario would be necessary to provide further certainty on remedies available to each party.

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- Any cancellation of the Greenfield South Project carries the high risk of litigation, since the proponent may be quite prepared to bring suit to protect its financial interests, including development costs incurred to date.
- LSB had not been asked to provide advice on this particular contract during any recent timeframe.

Date: September 26, 2011

Prepared by: James P.H. Rehob  
Senior Counsel  
5-6676

Approved by: Halyna Perun, A/Director  
Legal Services Branch  
Ministry of Energy/Ministry of Infrastructure  
5-6681



## **Cayley, Daniel (ENERGY)**

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**From:** Calwell, Carolyn (ENERGY)  
**Sent:** September-27-11 10:30 AM  
**To:** Lung, Ken (JUS); Perun, Halyna N. (ENERGY)  
**Subject:** RE: note re Mississauga Plant  
**Attachments:** Greenfield South BN LSB (Sept 27-11) (f).doc

Thanks for the suggestions, Ken. Please find attached a re-worked and cleaned up note that responds to your feedback.

Carolyn

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**From:** Lung, Ken (JUS)  
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**Ministry of the Attorney General**

***Briefing Note***

**Legal Services Division**

**Legal Services Branch – ENE/MOI**

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**ISSUE:**

- Greenfield South Gas Generating Plant in Mississauga.

**BACKGROUND**

- Greenfield South Generating Station, is a 280 MW combined cycle natural gas plant under construction in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue (the “Greenfield project”).
- The Greenfield project arose out of a Ministry of Energy Clean Energy Supply (CES) procurement process in 2004. This contract, with Greenfield South Power Corporation (“Greenfield Co.”), was eventually assumed by the OPA.
- The project was undertaken to meet local reliability needs for the Southwest and Western GTA and has been positioned as part of the coal closure strategy.
- The plant is 200 metres from the nearest residence, 700 metres from the nearest hospital and 1.1 km from the nearest school.
- On September 24, 2011, the government announced that construction of the generating station would stop and that the station would be relocated.

**CHRONOLOGY**

- In 2007, the Ontario Municipal Board reviewed and approved of the zoning of the project site after a lengthy and protracted process.
- In 2008, MOE granted all necessary environmental approvals.
- In March 2011, OPA renegotiated the initial Commercial Operation Date (C.O.D.) with Greenfield Co., in recognition of lengthy regulatory approvals and financing delays experienced by Greenfield Co. The new C.O.D. is the third quarter (Q3) of 2014.
- In May 2011, Greenfield Co. finalized its financing arrangements and the City of Mississauga issued Building Permits for the building housing the generation equipment.
- In June 2011, MOE announced that it will conduct an updated review of the approval for the gas plant to assess recent developments. No end-date was set for this process.

- In July 2011, Greenfield Co. reported that it had laid foundations for the steam and gas turbine halls and placed orders for the major equipment (generators, turbines, etc.).

### **Status**

- There is contract between Greenfield Co. and OPG relating to the power station. Construction has already commenced.
- Cancellation of the project at this stage would involve the termination of the contract by the parties.
- ENE Legal Services Branch was not consulted prior to the announcement and currently does not have any information concerning any recent discussions with Greenfield Co.

Date: September 26, 2011

Prepared by: James P.H. Rehob  
Senior Counsel  
5-6676

Approved by: Halyna Perun, A/Director  
Legal Services Branch  
Ministry of Energy/Ministry of Infrastructure  
5-6681



## **Cayley, Daniel (ENERGY)**

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** September-29-11 11:12 AM  
**To:** King, Ryan (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Hi Ryan,

Do you think you could have somebody give this man a call? Somehow he's got my telephone number and is requesting to speak to somebody about the power plant. Please let me know.

Thanks,

Ken

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** September 28, 2011 3:49 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Ken,

That all depends. Political Figures lie. Especially during election periods. Sorry to be so blunt.

Is there any documented proof that the plant has been cancelled. Last I heard is that it will be moved... but to where... a block away?.

The announcement was vague and indeterminate. Please advise of any concrete proof of the cancellation of the plant – last I drove by the site – they were still working.....

-Len

---

**From:** Lindsay, Ken (ENERGY) [mailto:Ken.Lindsay@ontario.ca]  
**Sent:** Wednesday, September 28, 2011 3:38 PM  
**To:** lenny@nomoreisp.com  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Mr. Di Marco,

I hope you heard the announcement re the power plant on the weekend. Do you still need to speak to somebody at the ministry? Please let me know.

Thanks,

Ken

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** September 23, 2011 6:56 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** Re GreenField South Power Plant Mississauga

Hello Ken,

As per our conversation today – I would like to speak to someone of authority in regards to this power plant being built on behalf and at the request of the Ministry of Energy. I have major concerns regarding the safety and Health hazards of this plant given its proximity of approx 100m to the closed residential dwelling.

Please have someone contact me as soon as possible.

Thank you.

Lenny Di Marco

416.527.1379

## **Cayley, Daniel (ENERGY)**

---

**From:** Lung, Ken (JUS)  
**Sent:** September-27-11 12:15 PM  
**To:** Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** FW: note re Mississauga Plant  
**Attachments:** Greenfield South BN LSB (Sept 27-11) (f).doc

Thank you. Just one small change near the end. It is "OPA" and not OPG? Is that correct? Thanks.

---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** September 27, 2011 10:30 AM  
**To:** Lung, Ken (JUS); Perun, Halyna N. (ENERGY)  
**Subject:** RE: note re Mississauga Plant

Thanks for the suggestions, Ken. Please find attached a re-worked and cleaned up note that responds to your feedback.

Carolyn

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**Cc:** Calwell, Carolyn (ENERGY)  
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***Halyna***

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**Ministry of the Attorney General**

***Briefing Note***

**Legal Services Division**

**Legal Services Branch – ENE/MOI**

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### **Status**

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- Cancellation of the project at this stage would involve the termination of the contract by the parties.
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Date: September 26, 2011

Prepared by: James P.H. Rehob  
Senior Counsel  
5-6676

Approved by: Halyna Perun, A/Director  
Legal Services Branch  
Ministry of Energy/Ministry of Infrastructure  
5-6681



## **Cayley, Daniel (ENERGY)**

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**Sent:** September-27-11 12:30 PM  
**To:** Lung, Ken (JUS); Perun, Halyna N. (ENERGY)  
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Thanks – yes, it's OPA not OPG (apologies). The change is accepted in the attached.

Carolyn

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**Ministry of the Attorney General**

***Briefing Note***

**Legal Services Division**

**Legal Services Branch – ENE/MOI**

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Date: September 26, 2011

Prepared by: James P.H. Rehob  
Senior Counsel  
5-6676

Approved by: Halyna Perun, A/Director  
Legal Services Branch  
Ministry of Energy/Ministry of Infrastructure  
5-6681

## **Cayley, Daniel (ENERGY)**

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** September-27-11 2:21 PM  
**To:** Cayley, Daniel (ENERGY); Nutter, George (ENERGY)  
**Subject:** B15  
**Attachments:** B15 - New Gas-Fired Electricity Generation - TRANSITION - 26Sep11.sk.doc

I moved the Greenfield stuff so it appears first under general messaging – no other changes.

New Gas-Fired Electricity Generation

ISSUE:

What is the status of natural gas-fired generation plants that have been procured or are being planned in response to the government's goal of eliminating coal-fired

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Greenfield South

If asked about Liberal campaign commitment to relocate the plant:

- We do not comment on political campaign commitments.

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If asked about the status of/need for the plant:

- The Greenfield South plant is required to be able to meet needs for local and regional reliability for the Southwest and Western GTA.
- As of July 20, 2011, the proponent reports that it has received its building permit for the plant and has begun to lay the foundations for the gas and steam turbine halls.
- On June 16, the Minister of the Environment announced that the Ministry of the Environment will conduct an updated review of the approval for the Greenfield South facility to assess recent developments.

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If asked if the plant is going ahead to replace the cancelled OGS:

- The Greenfield South Power Plant has been in development since 2005 and its development is unrelated to the cancellation of the Oakville Generating Station.
- The southwest GTA requires additional power capacity
- In addition to this plant, the OPA is also looking at transmission options for the Southwest GTA.

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Oakville Generating Station

If asked about cancellation of proposed Oakville gas-fired plant and potential contract implications with TransCanada:

- We are in discussions with the OPA regarding the effect of cancelling the procurement of a gas-fired plant for Oakville, and the effect that will have on the contract with TransCanada.

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~~•Natural Gas is much cleaner than coal, and enables coal closure which is the single largest climate change initiative in Canada – equivalent to removing up to 7 million vehicles from our roads by the end of 2014~~

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~~•Natural gas-fired “peaking” plants will ensure reliability in our electricity system as we develop new green energy.~~

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~~•By developing new green energy, along with other low or zero emissions power generation sources, Ontario is leading North America in the building of a clean electricity system by 2014.~~

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~~•Ontario’s clean electricity system will enable industries, residences, and transportation to plug into a low emission electricity supply which will lead to better air quality.~~

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If asked about government power to exempt energy projects from Planning Act

Unrelated  
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Greenfield South

~~If asked about the status of/need for the plant:~~

- ~~•The Greenfield South plant is required to be able to meet needs for local and regional reliability for the Southwest and Western GTA.~~
- ~~•As of July 20<sup>th</sup>, 2011, the proponent reports that it has received its building permit for the plant and has begun to lay the foundations for the gas and steam turbine halls.~~
- ~~•On June 16<sup>th</sup>, the Minister of the Environment John Wilkinson announced that the Ministry of the Environment will conduct an updated review of the approval for the Greenfield South facility to assess recent developments. The review will take as long as the ministry needs to confirm that the project can proceed in a manner that is fully protective of public health and the environment.~~
- ~~•The Greenfield South Power Plant is part of the overall plan to eliminate coal-fired generation by the end of 2014.~~

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~~If asked if the plant is going ahead to replace the cancelled OGS:~~

- ~~•The Greenfield South Power Plant has been in development since 2005 and its development is unrelated to the cancellation of the Oakville Generating Station.~~
- ~~•The southwest GTA requires additional power capacity~~
- ~~•Greenfield South is part of the solution. In addition to this plant, the OPA is also looking at transmission options for the Southwest GTA.~~

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~~If asked about Liberal campaign commitment to relocate the plant:~~

- ~~• We do not comment on political campaign commitments.~~

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Oakville Generating Station

~~If asked about cancellation of proposed Oakville gas-fired plant and:~~

- ~~•As we developed the Long-Term Energy Plan, it became clear we no longer needed this plant in Oakville. With transmission investments we can keep the lights on and still shut down all dirty coal-fired generation.~~

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~~If asked about potential contract implications with TransCanada:~~

- ~~•We no longer need a gas plant in the South-West GTA. We are in discussions with the OPA Ontario Power Authority regarding the effect of cancelling the procurement of a gas-fired plant for Oakville, and the effect that will have on the contract that determination with TransCanada.~~
- ~~•TransCanada has long been an important part of Ontario's electricity sector. We value the role TransCanada plays and we expect that TransCanada will continue to play an important role.~~

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1. **Identify the main components of the system.** What are the key elements that make up the system?

\_\_\_\_\_

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Status of New Gas-Fired Facilities:

Future In-Service Dates are **CONFIDENTIAL**

| Project                                 | Procurement Type | Size (MW) | Status                               | In-Service Date |
|---|------------------|-----------|--------------------------------------|-----------------|
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|   |                  |           |                                      |                 |
|   |                  |           |                                      |                 |
| Greenfield South                        | CE               | 280.0     | Approvals complete. Construction     | Q3 2014         |
| TransCanada Oakville Generating Station | GTA              | 900.0     | Cancelled                            | NA              |
| Kitchener-Waterloo-Cambridge-Guelph     |                  | 450.0     | Procurement direction not yet issued | TBD             |
| TOTAL ONLINE                            |                  | 3702.6.1  |                                      |                 |
| TOTAL                                   |                  | 4825.6.6  |                                      |                 |

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#### **Greenfield South**

- Greenfield South Generating Station is a 280 MW combined cycle natural gas plant located in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue. Part of the project's property will be dedicated to the City as greenbelt, and the plant will occupy roughly 2 hectares of the property.
- Eastern Power Ltd. is an equity contributor to Greenfield South Power Corporation, and is responsible for the project's design, engineering, and management, and provides operations and maintenance support. No information is available on any other partners.
- The plant is 200 metres from the nearest residence, 700 metres from the nearest hospital and 1.1 km from the nearest school.
- The plant was selected in the Ministry of Energy Clean Energy Supply competition and holds a contract with the OPA.
- Approvals delays resulting from City of Mississauga opposition to the project at the EA and building permitting stages harmed the economic viability of the project.
- The Ontario Municipal Board reviewed municipal planning and zoning in 2007 and determined that the site was properly zoned and suitable for this type of electricity generation facility.
- The project obtained environmental approval in 2008 from the Ministry of the Environment.
- The City of Mississauga issued a building permit on May 31, 2011 for the building that will house the generation equipment.
- The contract between Greenfield South and the Ontario Power Authority was renegotiated as a result of approvals delays, to extend the operational date.
- As of March 18, 2011, the OPA and Greenfield South have agreed to a new COD: Q3 2014.
- Greenfield intends to proceed with the project and has previously indicated that they would pursue litigation if the City or the province moved to prevent the plant from being built.
- Delays in the COD will exacerbate supply problems in the southwest GTA.
- The proponent has stated that all financing needed for construction of the project was finalized in May 2011. Public reports indicate that \$250 million in financing was provided by Morgan Stanley and EIG Global Energy Partners.

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- As of July 20th, the proponent reports that it has begun to lay the foundations for the gas and steam turbine halls.
- Purchase orders for all of the plant's major equipment including the turbines and generators have been placed.
- Residents in the surrounding community have reacted negatively because they assumed the project was not proceeding.
- On July 28th, the proponents will be holding their first monthly local liaison meeting to help foster communication with local residents.
- On June 16<sup>th</sup>, the Minister of the Environment John Wilkinson announced that the Ministry of the Environment will conduct an updated review of the approval for the Greenfield South facility to assess recent developments. The review will take as long as the ministry needs to confirm that the project can proceed in a manner that is fully protective of public health and the environment.
- The Environmental Approval for the generating plant is specific to the site, and is not transferable.
- On September 24<sup>th</sup>, several media outlets reported on the Liberal party's campaign commitment to relocate the proposed Greenfield South generating station to a location outside Mississauga and Oakville.
- In a news release, Ontario Liberal candidates Charles Sousa, Donna Cansfield, Laurel Broten and Dipika Damerla said the party would work with the developer to find a new location for the plant.
- The Ministry of the Environment's updated review of the approval for the plant is still ongoing.

## **Procurements**

### ***Clean Energy Supply RFP – 2,500 MW***

- In 2004 and 2005 the Ministry developed and administered a Request for Proposals that ultimately resulted in 5 successful projects totaling 1,955 MW of gas-fired generating capacity  
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- These contracts were transferred to the OPA for management.

## **Directives to the OPA: GTA**

### ***Sole Source Procurements***

- Not enough capacity was secured in the GTA through the Clean Energy Supply RFP. To obtain the required supply, the OPA completed three procurements in the Greater Toronto Area: Sithe's Goreway Station; TransCanada's Halton Hills Generating Station; and Portlands Energy Centre.

### ***Southwest GTA Procurement***

- On July 16, 2008, Minister Smitherman announced that he would direct the OPA to launch a competitive bidding process for a combined-cycle natural gas plant of about 850 MW in the southwest GTA.
- On September 30, 2009, the Ontario Power Authority announced that it would sign a contract with TransCanada Corporation to design, build and operate a 900 MW electricity generating station in Oakville. TransCanada estimated the cost of the plant at \$1.2 billion.
- On October 7, 2010, Minister Duguid announced that the plant had been cancelled. The OPA is negotiating termination of the contract with TransCanada.

### ***Potential non-GTA procurement (Kitchener-Waterloo-Cambridge):***

- The Kitchener-Waterloo-Cambridge-Guelph area is a major automotive and "high tech" centre and is experiencing rapid population and economic growth. Peak demand is 1,400 MW and

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has been increasing at a rate double the provincial average. The region is host to several data centres that require a reliable power supply

- During the development of the IPSP, the OPA determined that for reliability and security reasons, and to contribute to coal replacement, additional simple cycle gas-fired electricity supply of 450 MW would be required.
- The preferred location for the facility is near the Preston Transformer Station in Cambridge, which would negate the need for a major transmission re-enforcement in the Cambridge area.
- The site search area lies within the Haldimand Tract. Ministry legal counsel has advised that notice be provided to Six Nations of the Grand River prior to issuance of a direction. The current plan is to arrange a Ministry/OPA briefing of Six Nations before a procurement is announced.
- TransCanada may be contracted to build the KWC facility as compensation for termination of the Oakville GS contract.

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Updated by: Keegan Tully, Advisor, Energy Supply  
Energy Markets  
(416) 325-6881

Prepared by: Allan Jenkins, Senior Policy Specialist  
Energy Supply and Competition  
(416) 325-6926

Approved by: Doug MacCallum, Manager  
Energy Markets  
(416)325-6546

Garry McKeever, Director  
Energy Supply and Competition  
(416) 325-8627

Rick Jennings, ADM

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Office of Energy Supply, Transmission and Distribution  
(416) 314-6190

## **Cayley, Daniel (ENERGY)**

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** September-28-11 3:27 PM  
**To:** Pitkeathly, Doreen (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Yes... I have to leave soon.

---

**From:** Pitkeathly, Doreen (ENERGY)  
**Sent:** September 28, 2011 3:26 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Can we discuss when you're free?

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** September 28, 2011 3:24 PM  
**To:** Pitkeathly, Doreen (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Do you have any idea who I could get to talk to this man?

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** September 23, 2011 6:56 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** Re GreenField South Power Plant Mississauga

Hello Ken,

As per our conversation today – I would like to speak to someone of authority in regards to this power plant being built on behalf and at the request of the Ministry of Energy. I have major concerns regarding the safety and Health hazards of this plant given its proximity of approx 100m to the closed residential dwelling.

Please have someone contact me as soon as possible.

Thank you.

Lenny Di Marco

416.527.1379



## **Cayley, Daniel (ENERGY)**

---

**From:** Pitkeathly, Doreen (ENERGY)  
**Sent:** September-28-11 3:33 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

The EA would be Ryan King. This is kind of political though -- so maybe it should go to the MO?

---

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**Sent:** September 28, 2011 3:24 PM  
**To:** Pitkeathly, Doreen (ENERGY)  
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Lenny Di Marco

416.527.1379

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Hello Ken,

That all depends. Political Figures lie. Especially during election periods. Sorry to be so blunt.

Is there any documented proof that the plant has been cancelled. Last I heard is that it will be moved... but to where... a block away?.

The announcement was vague and indeterminate. Please advise of any concrete proof of the cancellation of the plant – last I drove by the site – they were still working.....

-Len

---

**From:** Lindsay, Ken (ENERGY) [mailto:Ken.Lindsay@ontario.ca]  
**Sent:** Wednesday, September 28, 2011 3:38 PM  
**To:** lenny@nomoreisp.com  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Mr. Di Marco,

I hope you heard the announcement re the power plant on the weekend. Do you still need to speak to somebody at the ministry? Please let me know.

Thanks,

Ken

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Lenny Di Marco

416.527.1379

## **Fisher, Petra (ENERGY)**

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** September-29-11 11:19 AM  
**To:** King, Ryan (ENERGY)  
**Cc:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Thanks Ryan. What would be your suggestion re how to handle this now? He's expecting a response from me.

---

**From:** King, Ryan (ENERGY)  
**Sent:** September 29, 2011 11:16 AM  
**To:** Lindsay, Ken (ENERGY)  
**Cc:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hi Ken,  
We've been given very strict instructions to not comment publicly on this issue for now. As it stands, this is a commitment of a political party and no formal decision from government has been made.

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** September 29, 2011 11:12 AM  
**To:** King, Ryan (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Hi Ryan,

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Thanks,

Ken

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416.527.1379

## **Cayley, Daniel (ENERGY)**

---

**From:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>  
**Sent:** September-29-11 12:20 PM  
**To:** McKeever, Garry (ENERGY)  
**Subject:** Meeting with the OPA

**Contacts:** Garry McKeever

Hi Garry,

I had a question regarding the briefing from the OPA on the SWGTA. I've not been very involved in the file to-date and had some basic questions which I didn't raise at the meeting.

Is the arbitration process under the contract between the OPA and TCE, or is it an arbitration process arising out of the litigation process TCE gave notice on to sue the Crown? Who are then parties to the arbitration – TCE, the OPA, and/or the Province?

Is the arbitration process binding arbitration, and has it been agreed to or just proposed?

Thanks,  
Ron

---

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.



## Cayley, Daniel (ENERGY)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** September-29-11 11:29 AM  
**To:** King, Ryan (ENERGY); Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Ken – we can give this gentleman a call if that helps ...

---

**From:** King, Ryan (ENERGY)  
**Sent:** September 29, 2011 11:27 AM  
**To:** Lindsay, Ken (ENERGY)  
**Cc:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

We have no comment. Right now this is a campaign announcement –nothing more at this stage - and we do not have any more information that what has already been covered by the media.

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Ken

---

Thank you.

Lenny Di Marco

416.527.1379

## **Cayley, Daniel (ENERGY)**

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** September-29-11 11:36 AM  
**To:** Nutter, George (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Lindsay, Ken (ENERGY); King, Ryan (ENERGY)  
**Subject:** RE: Public Inquiry re GreenField South Power Plant Mississauga

Came in through correspondence actually.

---

**From:** Nutter, George (ENERGY)  
**Sent:** September 29, 2011 11:36 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Lindsay, Ken (ENERGY); King, Ryan (ENERGY)  
**Subject:** Re: Public Inquiry re GreenField South Power Plant Mississauga

I still handle inquiries coming through MO/DMO reception.

If this enquiry came through media line, either your staff can respond or I can -- following the same message of we can't respond to campaign statements.

-----  
George Nutter  
Manager, Energy Communications  
Communications Branch  
Ministry of Energy &  
Ministry of Infrastructure  
416-326-9602 Queen's Park  
647-220-1183 Mobile

Sent from my BlackBerry® wireless device

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**To:** Nutter, George (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Lindsay, Ken (ENERGY); King, Ryan (ENERGY)  
**Sent:** Thu Sep 29 11:33:10 2011  
**Subject:** Public Inquiry re GreenField South Power Plant Mississauga

Hey George – are public inquiries still coming in to you?

Ken just got an email from a citizen asking about Greenfield (note his email address is “no more isp”).

Do we know if we've received any queries through our call centre?

We can call him back and follow our media lines (we don't comment on campaign promises).

I'll also check in with Rhonda before any of us call him back.

---

**From:** King, Ryan (ENERGY)  
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Thanks,

Ken

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**Sent:** September 28, 2011 3:49 PM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Ken,

That all depends. Political Figures lie. Especially during election periods. Sorry to be so blunt.

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The announcement was vague and indeterminate. Please advise of any concrete proof of the cancellation of the plant – last I drove by the site – they were still working.....

-Len

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Please have someone contact me as soon as possible.

Thank you.

Lenny Di Marco

416.527.1379



## **Cayley, Daniel (ENERGY)**

---

**From:** Ranalli, David (ENERGY)  
**Sent:** September-30-11 4:34 PM  
**To:** Cross, Annamaria (ENERGY); Stoiko, Andrea (ENERGY)  
**Subject:** RE:

There is no reference to the const challenge in the deck called Electricity Supply Issues. Am I dreaming? Also - have the client divisions taken a look at the Greenfield South deck and the TransCanada Agreement deck? I know these two issues came up this week.

Happy to discuss. We're still reading through the other 3 decks.

dr

-----Original Message-----

From: Cross, Annamaria (ENERGY)  
Sent: September 29, 2011 4:31 PM  
To: Stoiko, Andrea (ENERGY)  
Cc: Ranalli, David (ENERGY)  
Subject:

Hi Andrea

Please send David the following decks electronically:

- Conservation Issues (includes constitutional challenge)
- Electricity Supply Issues (includes Constitutional Challenge)
- IPSP (includes requirement to file procurement plan)
- Green Energy Investment Agreement (nothing specific to flag for legal, but I know Carolyn has been very involved in the agreement)

Thanks  
Anna

-----  
Sent from my BlackBerry



## **Fisher, Petra (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-05-11 11:10 AM  
**To:** Lindsay, Ken (ENERGY); Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

The issue is that he seems to think we're holding back information. That is not the case. There has been no formal change in the status of this particular project, however, that may change in light of recent campaign announcements but that is speculative.

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** October 5, 2011 11:07 AM  
**To:** King, Ryan (ENERGY); Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

I will send him a response with the suggested messaging. However, this gentleman really wants to speak to somebody so I guarantee that he won't be satisfied with this.

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 5, 2011 11:03 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

The messaging below will have to suffice. You could clarify that as this is a campaign commitment, the Public Service is under strict requirements to maintain neutrality, etc. We have no more information than he does. I don't see how us calling him will help.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 5, 2011 10:47 AM  
**To:** King, Ryan (ENERGY)  
**Cc:** Lindsay, Ken (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Hi Ryan – Ken Lindsay, our correspondence manager, received a call and an email from a citizen asking about Greenfield. Ken and I have discussed a few times. I've suggested the response below but Ken believes (rightly so), there will be follow-up questions. Environment has advised to say no more than what's below. And in general terms, CO has advised that our only public messaging on Greenfield is we don't comment on a campaign commitment.

Would it make sense for your folks to call Lenny back and state what's below?

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** October 5, 2011 10:34 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Do you mean am I comfortable writing this?

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 5, 2011 9:26 AM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Are you comfortable with this? (don't send yet- let me know if you are ok with this first)

Hello Len.

Thank you for your email.

This is a campaign commitment.

We don't have any more information at this time.

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** October 5, 2011 8:32 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** Fw: Re GreenField South Power Plant Mississauga

This is what I was afraid of. Siggestions?

---

**From:** Len <lenny@nomoreisp.com>  
**To:** Lindsay, Ken (ENERGY)  
**Sent:** Wed Oct 05 01:07:59 2011  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Hello Ken,

Still no response in over a week?

Speaks volumes of how open, transparent, and accessible the Ministry of Energy is.

I am quite disappointed.

-Len

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** Wednesday, September 28, 2011 3:49 PM  
**To:** 'Lindsay, Ken (ENERGY)'  
**Subject:** RE: Re GreenField South Power Plant Mississauga

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The announcement was vague and indeterminate. Please advise of any concrete proof of the cancellation of the plant – last I drove by the site – they were still working.....

## Fisher, Petra (ENERGY)

---

**From:** Lindsay, Ken (ENERGY)  
**Sent:** October-05-11 11:59 AM  
**To:** King, Ryan (ENERGY); Kovesfalvi, Sylvia (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

fyi

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** October 5, 2011 11:53 AM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Im sorry, Im confused. Because of a campaign commitment, I cannot question the Ministry of Energy. If this is what the liberal government has become... then so be it. This province will become blue like the federal election has. Dirty politics....

-Len

---

**From:** Lindsay, Ken (ENERGY) [mailto:Ken.Lindsay@ontario.ca]  
**Sent:** Wednesday, October 05, 2011 11:14 AM  
**To:** lenny@nomoreisp.com  
**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Len,

Thank you for your follow up email and I'm sorry for the delay in replying to you. I have followed up and because this is a campaign commitment, we don't have any more information at this time.

Again, thank you for your patience.

Ken

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** October 5, 2011 1:08 AM  
**To:** Lindsay, Ken (ENERGY)  
**Subject:** FW: Re GreenField South Power Plant Mississauga

Hello Ken,

Still no response in over a week?

Speaks volumes of how open, transparent, and accessible the Ministry of Energy is.

I am quite disappointed.

-Len

---

**From:** Len [mailto:lenny@nomoreisp.com]  
**Sent:** Wednesday, September 28, 2011 3:49 PM

**To:** 'Lindsay, Ken (ENERGY)'

**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Ken,

That all depends. Political Figures lie. Especially during election periods. Sorry to be so blunt.

Is there any documented proof that the plant has been cancelled. Last I heard is that it will be moved... but to where... a block away?.

The announcement was vague and indeterminate. Please advise of any concrete proof of the cancellation of the plant – last I drove by the site – they were still working.....

-Len

---

**From:** Lindsay, Ken (ENERGY) [mailto:Ken.Lindsay@ontario.ca]

**Sent:** Wednesday, September 28, 2011 3:38 PM

**To:** lenny@nomoreisp.com

**Subject:** RE: Re GreenField South Power Plant Mississauga

Hello Mr. Di Marco,

I hope you heard the announcement re the power plant on the weekend. Do you still need to speak to somebody at the ministry? Please let me know.

Thanks,

Ken

---

**From:** Len [mailto:lenny@nomoreisp.com]

**Sent:** September 23, 2011 6:56 PM

**To:** Lindsay, Ken (ENERGY)

**Subject:** Re GreenField South Power Plant Mississauga

Hello Ken,

As per our conversation today – I would like to speak to someone of authority in regards to this power plant being built on behalf and at the request of the Ministry of Energy. I have major concerns regarding the safety and Health hazards of this plant given its proximity of approx 100m to the closed residential dwelling.

Please have someone contact me as soon as possible.

Thank you.

Lenny Di Marco

416.527.1379



## Fisher, Petra (ENERGY)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-05-11 2:52 PM  
**To:** Kulendran, Jesse (ENERGY); King, Ryan (ENERGY); Silva, Joseph (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Sharkawi, Rula (ENERGY)  
**Subject:** RE: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

Thanks Jesse - that's our plan.

---

**From:** Kulendran, Jesse (ENERGY)  
**Sent:** October 5, 2011 2:51 PM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY); Silva, Joseph (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Sharkawi, Rula (ENERGY)  
**Subject:** RE: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

This is a campaign commitment. It should be treated the same (in terms of distribution, media calls) as the previous commitment on this issue.

-----Original Message-----

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 5, 2011 2:50 PM  
**To:** King, Ryan (ENERGY); Kulendran, Jesse (ENERGY); Silva, Joseph (ENERGY)  
**Cc:** Gerard, Paul (ENERGY)  
**Subject:** FW: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

We will be distributing this shortly.

-----Original Message-----

**From:** Command News [mailto:fp.NEWS.SKOVESFALVI@commandnews.com]  
**Sent:** October 5, 2011 2:23 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** Hudak promises to stop Mississauga power plant that McGuinty said he'd...

Profile: SKOVESFALVI / 2nd Drawer / Energy News (Ontario) - Clip 24 (limit 100)  
Oct 05 2011 14:22:00 - Source: ENE [The Canadian Press]

Hudak promises to stop Mississauga power plant that McGuinty said he'd scrap (\*\*>Ont<\*\* -Elxn-Conservative)  
By Maria Babbage

THE CANADIAN PRESS

MISSISSAUGA, \*\*>Ont.<\*\* \_ Progressive Conservative Leader Tim Hudak pledged Wednesday to get rid of a gas-fired power plant west of Toronto, just one day before \*\*>Ontario<\*\* voters head to the polls.

The Tory leader has repeatedly derided Premier Dalton McGuinty for promising to pull the plug on the 280-megawatt facility midway through the campaign, calling it a crass attempt to grab votes.

Asked if he'd scrap the Mississauga plant if he formed the next government, Hudak replied: "That's right. Done. Done, done, done."

The plant's site is also located in a key battleground in the provincial election \_ the so-called 905 area outside Toronto that was painted Tory blue in May's federal election.

And with recent polls indicating that the Liberals have a healthy lead going into Thursday's vote, the Tories are pulling out all the stops to convince voters to support them.

On Wednesday, Hudak took reporters and supporters to a parking lot near the plant site to show that construction is still going on despite the Liberal leader's pledge.

"Look behind me. I mean, this is a living, breathing example of a broken Dalton McGuinty promise," he said.

"How much money are taxpayers going to have to shovel into the ground? And he said the project was cancelled, well then why is work still continuing to this day?"

The Tories never supported the plant, which the Liberals tried to foist on a community that didn't want it, he said.

"To make matters worse, for six years he says it's the right thing, and then 11 days before election day, he does a flip-flop?" Hudak said. "We need a change in our province."

A PC government would go to willing communities like Nanticoke and Lambton, which already have transmission lines and a workforce at power production facilities, he said.

Some local residents who oppose the plant say they're not impressed with Hudak's last-minute pledge, and aren't thrilled with McGuinty's either.

Lori Anastacio, who opposes the plant, said seeing construction at the site is "very frustrating" given that the Liberals promised to stop the plant.

"Yes, it's very odd that they brought it up at the last minute before elections, when they could have cancelled it before," she said.

"It's clearly obvious they're using it. But also the PCs are using it as a card right now. The problem is, it's at the expense of the people."

Residents have long opposed the Greenfield South plant, which straddles the Toronto-Mississauga border, saying it was too close to homes, schools, a hospital, a hospice and a large mall.



## Cayley, Daniel (ENERGY)

---

**From:** McMichael, Rhonda (CAB)  
**Sent:** October-05-11 3:01 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Gerard, Paul (ENERGY); Sharkawi, Rula (ENERGY)  
**Subject:** RE: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

Ps advise if you get any media calls re: this and we will treat as we have been. Thanks.

-----Original Message-----

From: Kovesfalvi, Sylvia (ENERGY)  
Sent: October 5, 2011 2:49 PM  
To: McMichael, Rhonda (CAB)  
Cc: Gerard, Paul (ENERGY); Sharkawi, Rula (ENERGY)  
Subject: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

This will likely draw some more attention.

We will stick with existing media lines - (don't comment on campaign platforms).

-----Original Message-----

From: Command News [mailto:fp.NEWS.SKOVESFALVI@commandnews.com]  
Sent: October 5, 2011 2:23 PM  
To: Kovesfalvi, Sylvia (ENERGY)  
Subject: Hudak promises to stop Mississauga power plant that McGuinty said he'd...

Profile: SKOVESFALVI / 2nd Drawer / Energy News (Ontario) - Clip 24 (limit 100) Oct 05 2011 14:22:00 - Source: ENE [The Canadian Press]

Hudak promises to stop Mississauga power plant that McGuinty said he'd scrap (\*\*>Ont<\*\* -Elxn-Conservative) By Maria Babbage

THE CANADIAN PRESS

MISSISSAUGA, \*\*>Ont.<\*\* \_ Progressive Conservative Leader Tim Hudak pledged Wednesday to get rid of a gas-fired power plant west of Toronto, just one day before \*\*>Ontario<\*\* voters head to the polls.

The Tory leader has repeatedly derided Premier Dalton McGuinty for promising to pull the plug on the 280-megawatt facility midway through the campaign, calling it a crass attempt to grab votes.

Asked if he'd scrap the Mississauga plant if he formed the next government, Hudak replied: "That's right. Done. Done, done, done."

The plant's site is also located in a key battleground in the provincial election \_ the so-called 905 area outside Toronto that was painted Tory blue in May's federal election.

And with recent polls indicating that the Liberals have a healthy lead going into Thursday's vote, the Tories are pulling out all the stops to convince voters to support them.

On Wednesday, Hudak took reporters and supporters to a parking lot near the plant site to show that construction is still going on despite the Liberal leader's pledge.

"Look behind me. I mean, this is a living, breathing example of a broken Dalton McGuinty promise," he said.

"How much money are taxpayers going to have to shovel into the ground? And he said the project was cancelled, well then why is work still continuing to this day?"

The Tories never supported the plant, which the Liberals tried to foist on a community that didn't want it, he said.

"To make matters worse, for six years he says it's the right thing, and then 11 days before election day, he does a flip-flop?"

Hudak said. "We need a change in our province."

A PC government would go to willing communities like Nanticoke and Lambton, which already have transmission lines and a workforce at power production facilities, he said.

Some local residents who oppose the plant say they're not impressed with Hudak's last-minute pledge, and aren't thrilled with McGuinty's either.

Lori Anastacio, who opposes the plant, said seeing construction at the site is "very frustrating" given that the Liberals promised to stop the plant.

"Yes, it's very odd that they brought it up at the last minute before elections, when they could have cancelled it before," she said.

"It's clearly obvious they're using it. But also the PCs are using it as a card right now. The problem is, it's at the expense of the people."

Residents have long opposed the Greenfield South plant, which straddles the Toronto-Mississauga border, saying it was too close to homes, schools, a hospital, a hospice and a large mall.

McGuinty said the community had changed significantly since the plant was proposed in 2005, which was why his party had changed tack.

Four local Liberal candidates made the promise to stop construction of the plant in a barely publicized announcement Sept. 24.

The New Democrats haven't said what they'd do with the plant. But both Hudak and McGuinty need to be clear about how much their promises will cost, said leader Andrea Horwath.

"Last-minute promises like that, people have to decide whether they're credible or they're not," she said in Niagara Falls.

"Now Mr. Hudak's making the same claim, we don't know what that's going to cost. I think what both these guys need to do is be really upfront with the public about what the cost of cancelling these deals is going to be."

Hudak shrugged off a recent poll that suggests the Liberals will form a historic third majority government \_ a major shift from those taken this summer that indicated the Tories were well ahead.

"I think you're seeing polls that are predicting Liberals, polls predicting PCs," he said. "Ultimately tomorrow, voters are going to decide. And I'm confident that voters want change."

Some experts say Hudak's focus on wedge issues \_ like calling a proposed Liberal tax credit for new immigrants an "affirmative action" program for foreign workers \_ did the Tories no favours during the campaign.

But the rookie leader expressed no regrets Wednesday.

"I'm proud of our team, I'm proud of how hard they worked and the ideas that we have in Changebook," he said.

"Relief for families, more private sector jobs, reining in government spending \_ and that came from hardworking families right across this province."

INDEX: UTILITIES ENVIRONMENT ONTARIO POLITICS Visit [thecanadianpress.com](http://thecanadianpress.com) for more services from The Canadian Press, Canada's trusted news leader.

## Cayley, Daniel (ENERGY)

---

**From:** MacCallum, Doug (ENERGY)  
**Sent:** October-05-11 3:37 PM  
**To:** King, Ryan (ENERGY)  
**Cc:** Chapman, Tom (ENERGY); Jenkins, Allan (ENERGY); Christie, Tim (ENERGY)  
**Subject:** FW: Supply Issues - Transition 2011 - 05OCT 2011AJ rev.ppt  
**Attachments:** Supply Issues - Transition 2011 - 05OCT 2011AJ rev KT.ppt

[Revised deck](#)

[Doug](#)

---

**From:** Tully, Keegan (ENERGY)  
**Sent:** October 5, 2011 3:27 PM  
**To:** MacCallum, Doug (ENERGY)  
**Subject:** RE: Supply Issues - Transition 2011 - 05OCT 2011AJ rev.ppt

[Here is the deck with the additional changes.](#)

[Keegan](#)

---

**From:** MacCallum, Doug (ENERGY)  
**Sent:** October 5, 2011 2:04 PM  
**To:** Tully, Keegan (ENERGY)  
**Subject:** FW: Supply Issues - Transition 2011 - 05OCT 2011AJ rev.ppt

[Doug](#)

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October 5, 2011 10:10 AM  
**To:** MacCallum, Doug (ENERGY)  
**Subject:** Supply Issues - Transition 2011 - 05OCT 2011AJ rev.ppt

My revisions. Password is Thanksgiving.

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# **ELECTRICITY SUPPLY ISSUES**

**(COAL, GAS, ENERGY FROM WASTE, WATERPOWER, NON-UTILITY GENERATORS)**

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## **ISSUES BRIEFING**

20 SEPTEMBER 2011

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## NEW NATURAL GAS-FIRED GENERATION

- Natural gas-fired generation has a relatively low cost compared to most other sources of new generation.
- The large natural gas generation facilities can be dispatched to provide power when it is needed.
- Natural gas is helping to replace coal-fired generation and integrate intermittent renewable generation leading to lower carbon emissions from Ontario's electricity mix.
- Through various Ministerial directions, the OPA has procured 5,277 megawatts (MW) of new natural gas-fired generation capacity of which 4,154 MW is already operating.
- The Ontario Power Authority has indicated a need to procure one additional new plant of approximately 450 MW in the Kitchener-Waterloo-Cambridge area.
- Four plants located in the GTA have been the subject of strong local municipal and public opposition. (Portlands Energy Centre in Toronto has been built and operating for several years and is no longer contentious.)
- If there are further delays or cancellation of new gas-fired generators, it could lead to decreased reliability during periods of peak demand in areas where the new facilities are planned or under construction.



# ONTARIO POWER AUTHORITY GAS PLANT PROCUREMENTS

| Project                             | Location         | Size (MW)      | Status                                | In-service Date  |
|-------------------------------------|------------------|----------------|---------------------------------------|------------------|
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|                                     |                  |                |                                       |                  |
|                                     |                  |                |                                       |                  |
|                                     |                  |                |                                       |                  |
| Greenfield South                    | Mississauga      | 280.0          | Construction                          | Q3 2014          |
| TransCanada Oakville                | Oakville         | 900.0          | Cancelled                             | Not Applicable   |
| Kitchener-Waterloo-Cambridge-Guelph | To be determined | 450.0          | Procurement direction not yet issued. | To be determined |
| <b>Total Online</b>                 |                  | <b>4,153.9</b> |                                       |                  |
| <b>Total</b>                        |                  | <b>5,276.9</b> |                                       |                  |

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## GTA GAS PLANTS - GREENFIELD SOUTH

- Greenfield South is a 280 MW combined cycle gas fired generating plant that was procured through a 2005 competition conducted by the Ministry of Energy and the contract is now managed by the OPA.
- The plant will be built and operated by Eastern Power Ltd and is located in southern Mississauga near the Etobicoke border. The plant is only now under construction as a result of several municipal and other permitting delays.
- The project's approval was delayed due to City of Mississauga opposition at the Environmental Approval and building permitting stages. As a result, Eastern Power's contract was renegotiated to extend the operational date to the third quarter of 2014.
- The Ontario Municipal Board reviewed municipal planning and zoning in 2007 and determined that the site was properly zoned and suitable for this type of electricity generation facility.
- The Ministry of the Environment is conducting an updated review of the approval for the Greenfield South facility to assess recent developments. There is no fixed timeline for this review.
- The facility will be 200 metres from the nearest residence, 700 metres from the nearest hospital and 1.1 kilometres from the nearest school.

## **GTA GAS PLANTS – OAKVILLE GS (CONFIDENTIAL COMMERCIALY SENSITIVE)**

- On September 30, 2009, the Ontario Power Authority announced that it would sign a contract with TransCanada Corporation to design, build and operate a 900 MW electricity generating station in Oakville. TransCanada estimated the cost of the plant at \$1.2 billion.
- On October 7, 2010, the government announced that the plant would not proceed.
- TransCanada, Infrastructure Ontario, OPG, and Ministries of Energy and Finance have been seeking to negotiate non-financial options for settling the dispute that could include the transfer of assets or project development opportunities. The negotiations are ongoing.
- TransCanada, the Province and the OPA have signed an arbitration agreement related to the termination of the Oakville Generating Station project. The arbitration agreement sets out the framework for the determination of the reasonable damages which TCE is entitled as a result of the termination of the contract should the negotiations fail to reach an agreeable solution
- The facility would have been located 300 metres from the nearest school (academy), 400 metres from the nearest residence and 3 kilometres from the nearest hospital.

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**Cayley, Daniel (ENERGY)**

---

**From:** Cross, Annamaria (ENERGY)  
**Sent:** October-05-11 4:23 PM  
**To:** King, Ryan (ENERGY)  
**Subject:** RE: Supply Issues - Transition 2011 - 05OCT 2011AJ rev KT (v3).ppt

Okay. Minor questions on the Greenfield slide.

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 5, 2011 4:23 PM  
**To:** Cross, Annamaria (ENERGY)  
**Subject:** Supply Issues - Transition 2011 - 05OCT 2011AJ rev KT (v3).ppt

Just on a call, but please use this version. I'll call you in a couple minutes.

## **Fisher, Petra (ENERGY)**

---

**From:** McKeever, Garry (ENERGY)  
**Sent:** October-06-11 11:07 PM  
**To:** Jennings, Rick (ENERGY)  
**Subject:** Re: Greenfield south

You're forgetting that the Premier said it had nothing to do with getting votes.

Garry McKeever  
Sent from my BlackBerry

----- Original Message -----

From: Jennings, Rick (ENERGY)  
To: McKeever, Garry (ENERGY)  
Sent: Thu Oct 06 22:54:35 2011  
Subject: Re: Greenfield south

The Liberals have won all 5 seats in Mississauga handily so they will see this the cancellation as a big success.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: McKeever, Garry (ENERGY)  
To: Jennings, Rick (ENERGY)  
Sent: Thu Oct 06 22:22:50 2011  
Subject: Greenfield south

Just saw some liberal types in a Mississauga election HQ being asked 'what about the cost of cancelling this plant where they have already poured concrete?'. Answer was 'they were warned back in May that any work they did was at their own risk and not the responsibility'. .....Interesting.

Garry McKeever  
Sent from my BlackBerry

## **Fisher, Petra (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-07-11 1:15 PM  
**To:** Jenkins, Allan (ENERGY)  
**Subject:** RE: SWGTA

Ok, thanks

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October 7, 2011 1:14 PM  
**To:** King, Ryan (ENERGY)  
**Subject:** Re: SWGTA

No. It was selected in the 2500 MW CES procurement run by the ministry in 2004-2005.

-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** King, Ryan (ENERGY)  
**To:** Jenkins, Allan (ENERGY)  
**Sent:** Fri Oct 07 13:04:32 2011  
**Subject:** SWGTA

The Southwest Greater Toronto Area RFP: was this the RFP under which Greenfield S was successful?

Ryan King | Sr. Advisor and Executive Assistant  
Energy Supply, Transmission and Distribution Policy Division  
Ministry of Energy | Tel: +1 416-314-6204

## **Cayley, Daniel (ENERGY)**

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October-07-11 4:39 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:** RE: miisissauga GP

Garry and Allan, however, neither are in today but will be in on Tuesday. We will likely need to discuss options with the contract managers at the OPA. I gave a heads-up to the OPA in a general sense about this yesterday, so the procurement people there are aware of it. I believe that David was going to mention it to Collin Andersen today.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 7, 2011 4:14 PM  
**To:** Jennings, Rick (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:** miisissauga GP

*Privileged and Confidential*

Options

Hi Rick – I received the Deputy's message. We'll be working up the legal options and I am assuming that you and I should collaborate on one product. Whom should we be working with in your office?

Thanks Rick

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
BB: (416) 671-2607  
E-mail: [Halyna.Perun2@ontario.ca](mailto:Halyna.Perun2@ontario.ca)

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## **Cayley, Daniel (ENERGY)**

---

**From:** Roszell, Rand (ENE)  
**Sent:** October-07-11 5:21 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: need to speak to you

Thanks - if we don't connect tonight, am in Tues c. 8:15, then in SMC from 10-12:30.

Am asking 2 of my colleagues to meet first thing Tuesday to discuss  
Then will see Kevin @ SMC @ 10.

Also, look fwd to your note...have a great week-end if we don't chat

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 17:14:04 2011  
**Subject:** RE: need to speak to you

Wed morning

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
BB: (416) 671-2607  
E-mail: [Halyna.Perun2@ontario.ca](mailto:Halyna.Perun2@ontario.ca)

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---

**From:** Roszell, Rand (ENE)  
**Sent:** October 7, 2011 5:08 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: need to speak to you

Thanks for the heads' up - when's the session?

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 17:06:13 2011  
**Subject:** RE: need to speak to you

*Privileged and Confidential*



Your client Kevin French has been invited to a "brainstorming session" with the Secretary of Cabinet on a matter that also concerns Energy and we're to assist in creating options for that discussion. Pertains to the Mississauga Gas Plant. I've been invited to attend – and am sending a note to Malliha as a head's up shortly – I'll copy you on that note. I'll try to reach you at home this evening before I head up north for the weekend

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
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---

**From:** Roszell, Rand (ENE)  
**Sent:** October 7, 2011 4:52 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: need to speak to you

Am in (public) transit.

Can you call me @ home c. 6:15 -289 239 7953 or drop me a discreet e-mail?

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 16:10:29 2011  
**Subject:** need to speak to you

Hi rand – are you available for a short call? – rather urgent – thank you

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
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E-mail: [Halyna.Perun2@ontario.ca](mailto:Halyna.Perun2@ontario.ca)

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prohibited. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

## **Cayley, Daniel (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-07-11 5:33 PM  
**To:** Calwell, Carolyn (ENERGY)  
**Subject:** RE: Cancelling Green South Gas Plant / Preliminary Advice on Options and Issues

Spoke to Mike Lyle and he's going to send us the contract when he digs it up – Tuesday –

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
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---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** October 7, 2011 5:32 PM  
**To:** Perun, Halyna N. (ENERGY); Rehob, James (ENERGY)  
**Subject:** Re: Cancelling Green South Gas Plant / Preliminary Advice on Options and Issues

I am happy to help, James, if you need it. I'll also keep an eye on my bb in case this progresses over the weekend.

Carolyn

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Rehob, James (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Sent:** Fri Oct 07 17:24:48 2011  
**Subject:** RE: Cancelling Green South Gas Plant / Preliminary Advice on Options and Issues

Many thanks James – Garry and Allan in Rick's shop will be working on options on Tuesday. I did let Rick know that you'd be willing to assist them in developing the options. Thanks for this and have a good weekend.

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch



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---

**From:** Rehob, James (ENERGY)  
**Sent:** October 7, 2011 5:02 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Subject:** Cancelling Green South Gas Plant / Preliminary Advice on Options and Issues

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

October 7, 2011

Good day, Halyna. You asked me to provide you with a list of considerations (options and issues) which could be considered in relation to the cancellation of the Greenfield South power plant, presently being constructed in Mississauga. Here are my views in this regard:

References to commercial contract payments, damages and other funds will usually be cost-recovered from the rate-base. Hence, there will be rate-payer impacts.

- **OPTION 1** Since the OPA is the counterparty to the original 2005 contract (which arose out of the Ministry passing it the initiative to procure clean energy supply), direct the OPA to take all necessary legal and commercial steps to cancel the contract, including but not limited to:
  - Directing the OPA to renegotiate the contract with a view to settlement, relocation or temporary (indefinite) suspension (would involve compensatory payments on a commercial basis likely plus premium for inconvenience, compensation for the cancellation/suspension of supplier contracts etc.)
  - **Termination on Notice (if timing permits)**
    - Include notification of immediate stopping the flow of funds (recognizing that this will give rise to cascading liability claims from the proponent and all related suppliers against OPA re. the project)
  - Attempting to trigger *force majeure* provisions.
  - (Attempting to recharacterize the entire transaction from a gas-plant to something more environmentally innocuous such as biofuels if that would be any more acceptable to the community)

**Risk:** Government and OPA would face commercial claims from the developer and any suppliers involved in the construction of the project, including gas companies constructing the gas line and supplying natural gas to the project – Union and Enbridge are large, powerful, well-connected entities and this should form part of the considerations. Note: in contrast with Option 2 below, that having the OPA cancel the contract keeps the liability with the OPA as the primary target, although the Crown would likely be added to any suit brought by the developer going forward. Proponent will explore whether Government has breached the discriminatory action (Government/Legislature changing law causing commercial harm) clause under the contract. (You noted that the contract itself may provide for the overarching liability limitation – capping liability at the total of sunk costs. I wonder whether this includes ongoing supplier contracts, etc.)

- **OPTION 2:** Government could (together with OPA) arrange settlement discussions with the developer, (directing either explicitly or implicitly the OPA to engage and participate with Government in these settlement discussion) – **OPTION 2A** could even consider having OPA re-assign the contract back over to the Crown (a commercial step) and allow Government all and immediate authority to negotiate directly with the developer.
  - Government can then directly participate and control the negotiation process and make all major decisions independent of the OPA (avoiding OPA internal decision/approval processes, such as Board of Director approvals, which could slow timing)

**Risk:** Government would be the sole (primary) location for all contract damages suits of developer and suppliers.

- **OPTION 3: Injunction:** While quite weak, the Government could consider bringing an Application for Injunctive Relief (*ex parte*) if it can prove that there is a serious issue to be tried by the court, that irreparable harm will ensue if the relief sought (the immediate stopping of construction) is not granted, and that the balance of conveniences favours the court granting the injunction (issuing a declaratory order ordering the construction to cease). I believe that this would likely have to proceed as part of a wider action (e.g. the Court may wish to see that the matter was part of a claim and not a stand-alone issue for it to resolve), but this would have to be confirmed with CLOC.
- **OPTION 4:** OIC and Directive to OEB which could explore adding additional license conditions to the licensee's (Developer's) license that required it to meet, or prove to the OEB that will be in a position to meet, any new environmental requirements provided for the Ministry of Environment or Ministry of Natural Resources, assuming that MOE imposes new requirements as part of its ongoing review being conducted since July, 2011. (Weak legislative basis since OEB does not have a primary role in environmental review and OEB has already granted leave to construct.)

I wish to acknowledge the kind assistance of Jennifer, who assisted me in brainstorming and locating documents – thank you.

Kindly,  
James

**James P. H. Rebob**  
Senior Counsel  
Ministry of Energy and  
Ministry of Infrastructure  
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## **Cayley, Daniel (ENERGY)**

---

**From:** Wilson, Malliha (JUS)  
**Sent:** October-07-11 7:28 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: Mississauga Gas Plant

U too. And u have a very nice and thoughtful Deputy

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Wilson, Malliha (JUS)  
**Sent:** Fri Oct 07 19:26:41 2011  
**Subject:** Re: Mississauga Gas Plant

Yes, for sure. The Dep said he didn't want us to work on the weekend - so I expect it will be quiet til Tuesday morning - hope you have a nice Thanksgiving and I will stay in touch

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Wilson, Malliha (JUS)  
**To:** Perun, Halyna N. (ENERGY)  
**Sent:** Fri Oct 07 18:32:41 2011  
**Subject:** Re: Mississauga Gas Plant

Thx. Stay in touch so we can help u

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Wilson, Malliha (JUS)  
**Cc:** Harrison, Troy (JUS); Lung, Ken (JUS); Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 17:21:28 2011  
**Subject:** Mississauga Gas Plant

*Privileged and Confidential*

The Secretary of the Cabinet has conveyed to Energy a request from the Premier that Energy work with the Ontario Power Authority and Environment to develop legal and negotiating options with respect to the Mississauga Gas Plant.

You may recall that the Liberals did say that if elected they would cancel the Plant. Energy is now being asked to brainstorm on options. The SOC has invited Energy (DM and ADM Rick Jennings), Environment (ADM Kevin French) and the OPA (CEO Colin Anderson and General Counsel Mike Lyle) to a meeting on Wed. morning to discuss this further. I have been invited to attend.



The SOC has cautioned the Premier to caution his staff, the Ministers' and their staffs not to discuss any way forward with the company building the plant.

We'll be meeting with the Energy clients on Tuesday morning to assist in developing the options – at this point I am not sure whether the SOC expects a written product or whether she'd like to simply discuss orally – but I'll keep you posted as I learn more.

Regards,

***Halyna***

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## **Cayley, Daniel (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-10-11 9:21 PM  
**To:** Slater, Craig (JUS)  
**Cc:** Calwell, Carolyn (ENERGY); Roszell, Rand (ENE)  
**Subject:** Fw: Mississauga Gas Plant

Privileged and Confidential

Hi Craig - Hope you had a restful weekend. This is a head's up that we may need the assistance of your office tomorrow on a rather urgent basis in developing options for the SOC's review that outline how to move forward with a lib promise that the Mississauga Gas Plant would not be proceeding (see below) at its current location. We'll be meeting with clients to support the development of options tomorrow morning and they may want to know, for example, the feasibility of bringing an application for an injunction. The contract is between a private co and the Ontario Power Authority (I believe based on same template as the TransCanada one) - we've not seen that contract as yet. The company has the requisite approvals (environmental and municipal - though the Minister of Environment had announced in June that MOE will conduct an updated review of the approval) to proceed with construction and there has apparently been quite a lot of activity on the site - despite the pronouncement that the plant would not be proceeding should the libs get reelected. The SOC has asked ENERGY and Environment to work on creative options - legal and other. I have not heard more on this over the weekend but expect that we'll be having a very busy day tomorrow preparing for the meeting with the SOC Wed morning. Either Carolyn or I will be in touch with you further on this in the morning. Thank you

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Wilson, Malliha (JUS)  
**Cc:** Harrison, Troy (JUS); Lung, Ken (JUS); Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 17:21:28 2011  
**Subject:** Mississauga Gas Plant

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You may recall that the Liberals did say that if elected they would cancel the Plant. Energy is now being asked to brainstorm on options. The SOC has invited Energy (DM and ADM Rick Jennings), Environment (ADM Kevin French) and the OPA (CEO Colin Anderson and General Counsel Mike Lyle) to a meeting on Wed. morning to discuss this further. I have been invited to attend.

The SOC has cautioned the Premier to caution his staff, the Ministers' and their staffs not to discuss any way forward with the company building the plant.

We'll be meeting with the Energy clients on Tuesday morning to assist in developing the options – at this point I am not sure whether the SOC expects a written product or whether she'd like to simply discuss orally – but I'll keep you posted as I learn more.

Regards,

***Halyna***

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**Fisher, Petra (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-11-11 10:32 AM  
**To:** Jenkins, Allan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** Jennings, Rick (ENERGY)  
**Subject:** RE:  
**Attachments:** Greenfield South - 9 JUNE 2011.ppt

Slides 5, 6 and 7 of this deck (attached) may also be useful

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October 11, 2011 10:31 AM  
**To:** Jenkins, Allan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:**

See attached per our discussion



# **EASTERN POWER'S GREENFIELD SOUTH GAS PLANT**

TIMELINE & STATUS UPDATE

7 JUNE 2011

CONFIDENTIAL ADVICE





## TIMELINE

- **June 2004:** Ministry of Energy launches 2,500 MW Clean Energy Supply RFP.
- **April 2005:** Eastern Power awarded 2 contracts. The 2 contracts were 280MW each for a *Greenfield South* plant (Hwy 427 & QEW) and a *Greenfield North* plant (Hwy 407 & Hwy 10); 2009 was the contracted in-service date (COD) for the Eastern Facilities.
- **August 2005:** Greenfield North contract terminated under a mutual agreement between the OPA and Eastern Power because Eastern Power was not able to obtain financing. Greenfield South contract remained in place with the original COD of 2009.
- **September 2005:** Eastern Power files 1<sup>st</sup> force majeure (FM) notice with the OPA because the Ministry of the Environment (MOE) received requests to elevate the project to an individual Environmental Assessment.
- **January 2006:** Director of the MOE denied the elevation request.
- **March 2006:** City of Mississauga passed zoning by-laws that would not allow Greenfield South to be built at the proposed site.
- **October 2007:** OMB issued an Order in favour of Eastern Power after it appealed the City of Mississauga ruling to the OMB.
- **July 2008:** Minister of the Environment concurred with the decision made by the Director of the MOE and Eastern Power receives EA approval. (Note: standards have not changed since)
- **July 2008:** Eastern Power terminates 1st FM upon receipt of Minister of the Environment's decision.





## TIMELINE (CONT'D)

- **December 2008:** Ministry of Environment issues Air and Noise CofA, with specific air quality compliance conditions for the facility. (Note: standards have not changed since)
- **March 2009:** Eastern Power applies for a building permit from the City of Mississauga; According to the Ontario Building Code, permit is to be issued within 30 business days of completing application. This does not happen.
- **March 2009:** Resulting from delay between 2005 and 2008, the OPA and Eastern Power amend agreement with new COD of September 2012 (from July 2009); Agreement also amended so that proponent no longer has option of burning oil if natural gas prices increase.
- **August 2009:** Greenfield files 2<sup>nd</sup> FM dated back to June 15, 2009 due to delays in obtaining building permit from the City of Mississauga.
- **March 2011:** Eastern Power determines that they can obtain project financing and terminates 2<sup>nd</sup> FM.
- **May 2011:** OPA and Eastern Power agree to revised COD of Q3 2014, resulting from the building permit delay.
- **May 2011:** Project financing achieved through EIG Management and Credit Suisse.
- **May 2011:** Eastern Power obtained building permit from the City of Mississauga. Mobilization is in process and major foundation work is planned to commence in July 2011 (according to the company).
- **June 2011:** Project is presently advanced into detailed design stage - major equipment procurement is underway with steam turbine generator delivered and in storage.
- **NOTE:** Project does not have connection agreement finalized with Hydro One.

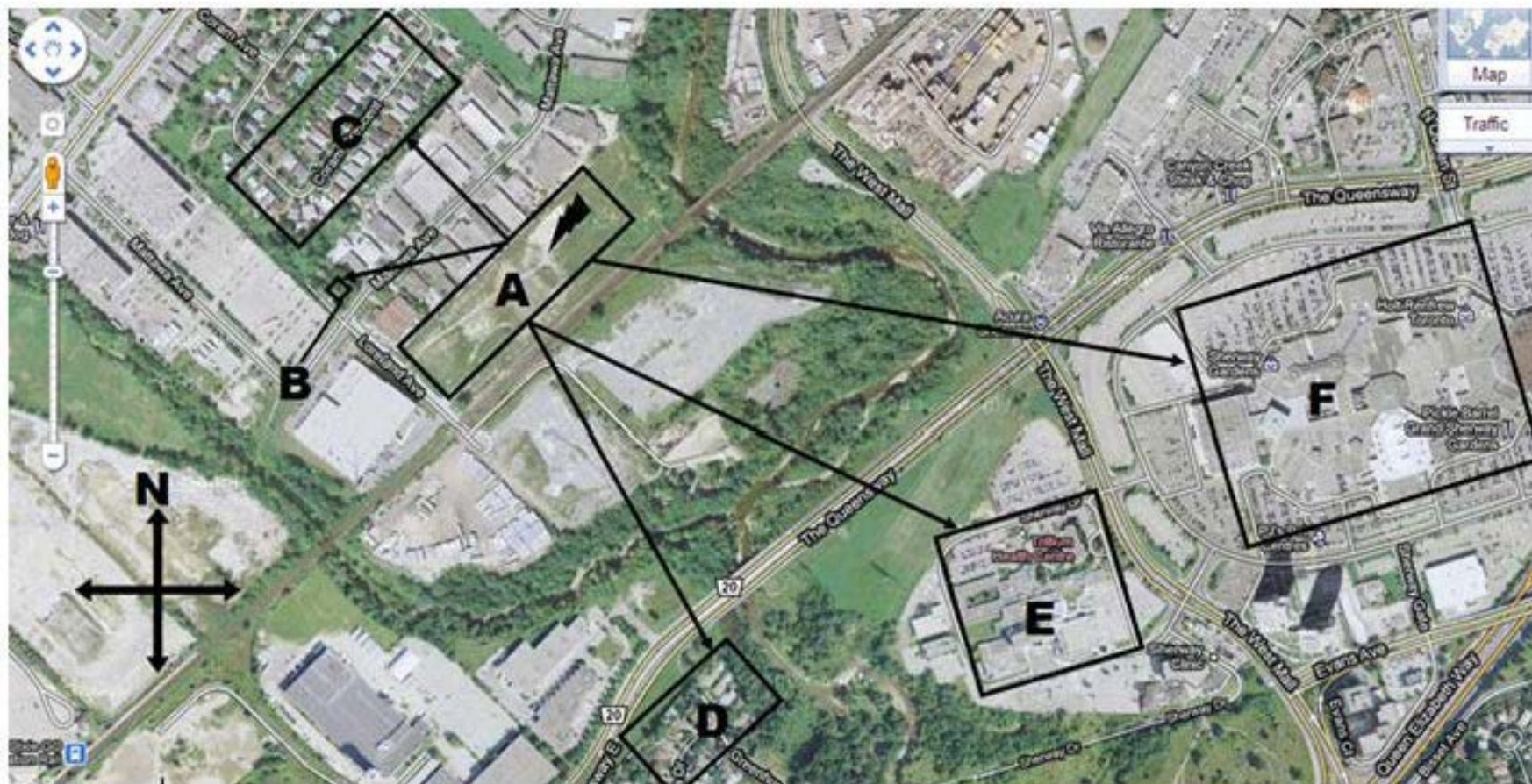


## MOE SUMMARY OF CONSULTATION

### JUNE 2005:

- Public notices posted in the local newspapers, delivered to local residents, local businesses and interested members of the public.
- Written information about the project was delivered, mailed or e-mailed to local residents, local businesses and interested members of the public.
- June 17, 2005 - public open house was held - 2 sessions totalling over 10 hours (9 am-3pm and 5-8pm). 160 attendees that signed-in
- Questionnaires were completed by attendees of the open house (105 completed)
- June 20, 2005 - public forum was hosted by local citizens and attended by 7 representatives of the proponent
- An environmental screening report was placed in public libraries for 30 days for public review.





**Legend:**

- A – Proposed Greenfield Site
- B – Closest House
- C – Closest Subdivision (North)
- D – Closest Subdivision (South)
- E – Trillium Heath Centre
- F – Sherway Gardens Mall

**Distance:**

- A to B: 220 Meters
- A to C: 270 Meters
- A to D: 500 Meters
- A to E: 740 Meters
- A to F: 910 Meters

CONFIDENTIAL ADVICE



EAST



WEST



NORTH



SOUTH





## MOE OPTIONS

- **OPTION 1: Revocation of suspension of the current Certificate of Approval (CofA)**
  - PRO: All construction activities on site likely (though not guaranteed) to stop until new CofA issued
  - CON: Ministry would need to demonstrate why this option is in the best interest in the public such as new environmental concerns being brought to light or emerging science not available when CofA was issued. No new environmental scientific evidence, including any potential impact of “cumulative effects,” or changes in Air and Noise standards has been demonstrated
  
- **OPTION 2: Citizen Request for Review of CofA through EBR (Citizen/NGO sends application for review to Environmental Commissioner)**
  - PRO: Provides non-political method of opening up debate on the issues again in a provincial context
  - CON: Does not stay the current CofA, so company can continue with construction. Also, for reviews requested within 5 years of CofA issuing (in this case Dec 2008), needs to be supported by information demonstrating significant harm to environment that was not originally considered.





## MOE OPTIONS (CONT'D)

- **OPTION 3: Proponent requests that existing CofA be revoked, suspended or amended**
  - PRO: Non-political method to address the issue
  - CON: Highly unlikely, given that City of Mississauga has just issued building permit to Greenfield
  
- **OPTION 4: Regulation on air emissions requiring all combined cycle natural gas facilities to consider PM 2.5 emissions and cumulative effect considerations**
  - PRO: Ensure PM 2.5 and cumulative effect concerns are addressed as part of CofA conditions. Demonstrates action on public concerns about gas plant emissions
  - CON: drafting and passing a reg will take time (ie longer than this summer), and could be difficult to apply to facilities currently under construction. MOE's PM 2.5 review already underway and expected to be completed by May 2013.



## OTHER POTENTIAL MOE OPTIONS INVESTIGATED

- **CofA for stormwater management:** Not required since the company intends to collect stormwater and use it in their process as non-contact cooling water.
- **Waste CofA:** Not required since there are no waste management activities being proposed as part of the facility. Waste produced on site would be collected as part of municipal waste collection and/or commercial waste collection.
- **Permit To Take Water:** Not required as facility is located in an area where they have access to the municipal water and company intends to access municipal water where required for their process operations.
- **Pesticide Licenses:** Not applicable given ban on the use of cosmetic pesticides.
- **Drinking Water licenses and Permits:** Not required as the facility will access the municipal drinking water system



# CURRENT COMMUNICATIONS STRATEGY

## CURRENT HOLDING MESSAGES: Reassurance of Environmental Due Diligence and Process

- We are ensuring the safety of the community and protecting the local environment and will continue to do so. These are our top priorities.
- The Ministry of Environment's environmental assessment and certificate of approval process ensures the highest safety standards for human health and the environmental protection - all industrial facilities have to meet strict air quality standards.
- This project underwent a rigorous environmental assessment conducted by the Ministry of the Environment in 2006 and was granted a certificate of approval in 2008.
- The rigorous review included public consultations every step of the way. As a result of that consultation the company will:
  - Monitor the air quality in the vicinity and monitor emissions to ensure the protection of health and the environment
  - Support a community advisory committee to monitor air quality and efforts to mitigate emissions impacts
- The Ministry of the Environment will continue to uphold the strict air standards that are legislated

## PROS:

- Provides reassurance that all safety measures are in place
- Provides policy flexibility and allows for a holding pattern of neutral messages that do not lock in decisions
- Shifts the issue over to environmental process
- MPPs support environmental angle

## CONS:

- Doesn't remove the local issue of a plant being built
- Without firm policy direction, it exposes us to media criticism and doesn't provide an opportunity to mitigate.

## **Fisher, Petra (ENERGY)**

---

**From:** McKeever, Garry (ENERGY)  
**Sent:** October-11-11 11:23 AM  
**To:** Perun, Halyna N. (ENERGY); Jennings, Rick (ENERGY); Jenkins, Allan (ENERGY); King, Ryan (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** RE: mississauga gas plant

Halyna

The contract is confidential. We have not seen it. It would have to come from the OPA. In Mike's absence, you might want to call JoAnne Butler.

Garry

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 11:09 AM  
**To:** Jennings, Rick (ENERGY); Jenkins, Allan (ENERGY); King, Ryan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** mississauga gas plant

Hi - I have not been successful in reaching Mike Lyle this morning – We need to review the contract in place re Mississauga Gas Plant as soon as possible – do any of you have it? Please let us know and we'll come by to pick up a copy thank you

*Halyna*

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## **Perun, Halyna N. (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 11:50 AM  
**To:** Wong, Taia (JUS)  
**Subject:** RE: Mississauga Plant

Hi Taia - We still don't have it - the Ontario Power Authority has not produced it as yet – but will do as soon as I have it

*Halyna*

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---

**From:** Wong, Taia (JUS)  
**Sent:** October 11, 2011 11:20 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Mississauga Plant

Hi Halyna,

Can you please send me a copy of the contract in this matter? I'd appreciate it if you could send it as soon as possible.

Also, please let us know by early afternoon if you become aware of any other options.

Thanks,  
Taia

## **Perun, Halyna N. (ENERGY)**

---

**From:** Rehob, James (ENERGY)  
**Sent:** October 11, 2011 2:06 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** RE: Mississauga Gas Plant

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 1:57 PM  
**To:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** FW: Mississauga Gas Plant

*Halyna*

Halyna N. Perun  
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**From:** Slater, Craig (JUS)  
**Sent:** October 11, 2011 1:49 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Salim, Fateh (JUS); Kendik, James (JUS); Scarfone, Janet (JUS)  
**Subject:** FW: Mississauga Gas Plant

For your information.

John Kelly spoke to Mike Lyle, who indicated, as you had earlier indicated, the Colin Andersen and Deputy Lindsey will be part of the meeting tomorrow to discuss options.

The view at the OPA is that there has been nothing done here that would prevent the OPA from relying on the limitation of damages clause that is in this agreement with Eastern Power, as it was in the TCE agreement – but which (given the Oct 2010 letter) we could not rely on. However, Mike indicated that Eastern Power is very litigious. Mike also mentioned that the hope is to negotiate an alternative site, perhaps in Nanticoke, as part of any settlement of the termination of the agreement, if the decision is made to terminate. The OPA's view is that given the experience in Oakville and Mississauga that the location of such plants in populated areas is now not advisable. The OPA is trending to the same option as in TCE – negotiation of an alternate site and arbitration of the damages, which may be less than TCE because of our reliance on the limitation of damages clause. However, Mike confirmed that Eastern Power has all approvals in place and is constructing the plant in full compliance with its agreement with the OPA.



In terms of NAFTA, we may need to do a little more digging. Bloomberg lists the proponent Greenfield South Power Corporation and Eastern Power as private corporations. The Greenfield South Power Corporation website lists Eastern Power as an affiliate. There may be foreign investors, but since both companies appear to not make public filings, it is difficult to ascertain.

## **Fisher, Petra (ENERGY)**

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October-11-11 12:09 PM  
**To:** Perun, Halyna N. (ENERGY); Jenkins, Allan (ENERGY); King, Ryan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** RE: mississauga gas plant

I have been trying to touch base with JoAnne Butler at the OPA on this. I suspect that the OPA staff including Mike are working on options. I will let you know when I hear back from them.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 11:09 AM  
**To:** Jennings, Rick (ENERGY); Jenkins, Allan (ENERGY); King, Ryan (ENERGY); McKeever, Garry (ENERGY)  
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Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
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## **Cayley, Daniel (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-11-11 1:19 PM  
**To:** King, Ryan (ENERGY); Jennings, Rick (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** Mississauga

### *Privileged and Confidential*

Mike Lyle is meeting with Colin now – he said he'd be in a position to let us know whether or not the contract will be shared with legal post that meeting.

In meantime, we'll be adding to the deck you sent – and should have something to you in the next hour or so.

### ***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
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---

**From:** King, Ryan (ENERGY)  
**Sent:** October 11, 2011 12:05 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Jennings, Rick (ENERGY)  
**Subject:** FW:

Halyna,  
This is a draft deck we're working on for the meeting tomorrow.

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October 11, 2011 12:05 PM  
**To:** Jennings, Rick (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:** RE:

Formatted the presentation and made some additions of text and images.

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October 11, 2011 10:31 AM  
**To:** Jenkins, Allan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:**

See attached per our discussion

## **Cayley, Daniel (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-11-11 1:25 PM  
**To:** Jennings, Rick (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** RE:

### *Privileged and Confidential*

Hi Rick – Thanks for sending – We'll be adding to this version then. For example, the SOC was particularly interested in a legislative option. Legislation could in fact cancel a contract, provide for no compensation, and prevent any party to the contract from suing the Crown or the OPA, should that be desired. The language in the legislation would need to be very explicit -

### ***Halyna***

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---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October 11, 2011 1:18 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** FW:

Halyna, attached is the draft which I believe Ryan has already sent to you. This is principally a background deck.

As noted I have been trying to touch base with OPA staff, I will be seeing JoAnne at a meeting at 2 p.m.

Re options they are either Regulatory which Environment can speak to – I will also contact the Approvals ADM but per my most recent conversation with him a month ago believe that they are not advocating that route.

Re contractual options – the OPA could cancel the contract, they and their Board of Directors would likely insist on a Ministerial Direction to do so and perhaps an agreement from the Government to pick up some of the legal cost.

The OPA can approach the developer about negotiating a change to the contract including a revision to a new location. Again the OPA may require Ministerial Direction and/ or Government paying some or all of the costs.

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 11, 2011 12:05 PM

**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Jennings, Rick (ENERGY)  
**Subject:** FW:

Halyna,  
This is a draft deck we're working on for the meeting tomorrow.

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**From:** Jenkins, Allan (ENERGY)  
**Sent:** October 11, 2011 12:05 PM  
**To:** Jennings, Rick (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:** RE:

Formatted the presentation and made some additions of text and images.

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October 11, 2011 10:31 AM  
**To:** Jenkins, Allan (ENERGY); McKeever, Garry (ENERGY)  
**Cc:** King, Ryan (ENERGY)  
**Subject:**

See attached per our discussion



**Cayley, Daniel (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-11-11 3:06 PM  
**To:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY); Perun, Halyna N. (ENERGY)  
**Subject:** Gas Plant Considerations (v2).ppt  
**Attachments:** Gas Plant Considerations (v2).ppt

Per my discussion with James, can you please add the bullet on an injunction. I'll then put to Rick

# Gas Plant Considerations

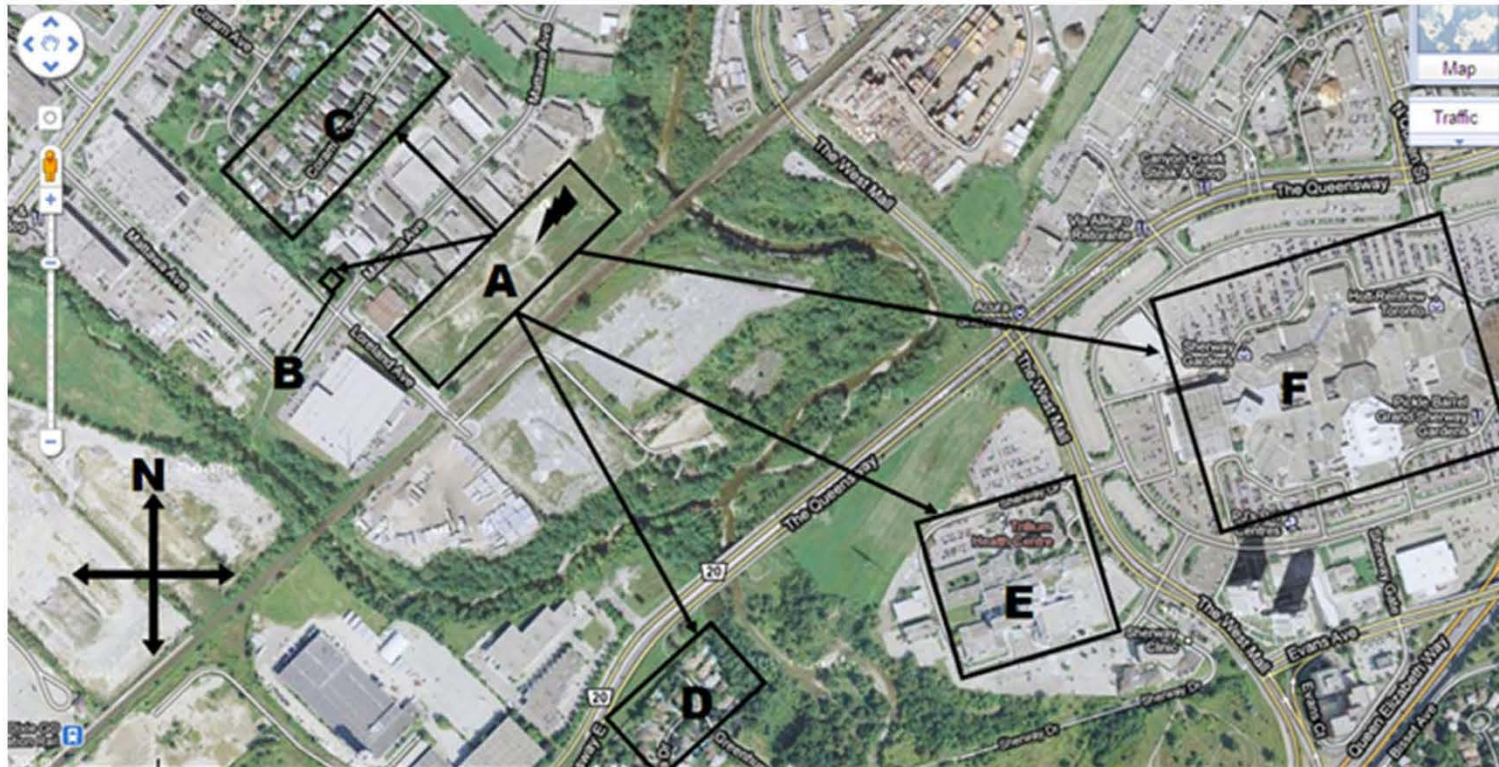
---

Date: October 11, 2011

## Key Facts About the Greenfield South Plant

- Successful applicant in Ministry of Energy run **Clean Energy Supply (CES)** RFP, contract signed with the OPA in April 2005.
- Eastern Power, the project developer **based in Ontario**, has received all required provincial approvals, including Environmental Assessment and Certificates of Approval;
- Eastern Power has received all required municipal approvals, including building site approval from the City of Mississauga issued in May 2011;
- Eastern Power has **recently** secured financing (confirmed by the OPA).

## MINISTRY OF ENERGY



### Legend:

- A – Proposed Greenfield Site
- B – Closest House
- C – Closest Subdivision (North)
- D – Closest Subdivision (South)
- E – Trillium Heath Centre
- F – Sherway Gardens Mall

### Distance:

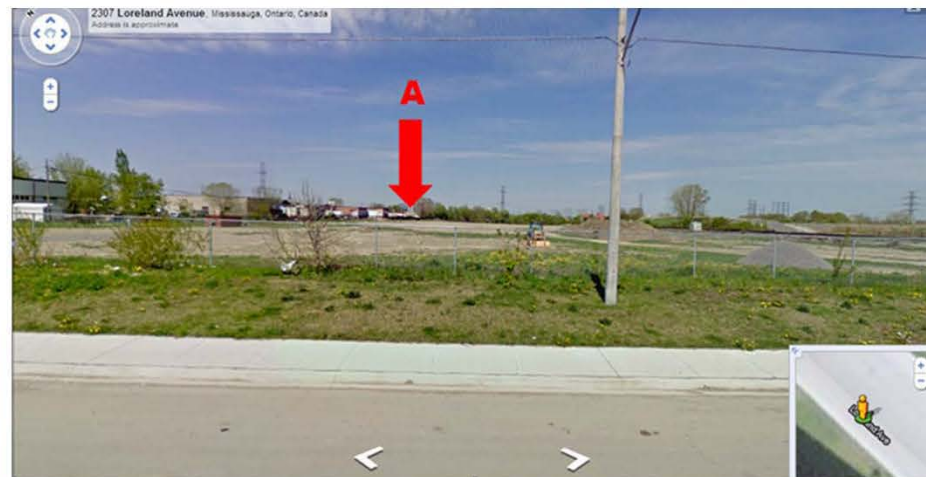
- A to B: 220 Meters
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## MINISTRY OF ENERGY



\*Plant construction as of 28 September 2011





## Recent Events

- On September 24, in Mississauga, local Liberal party candidates announced that “construction on the project would be halted” and that “if elected the Government would work with Eastern to choose a new site.” The Mayor of Mississauga attended the announcement and endorsed the decision.
- On September 28, the media carried pictures of the plant with construction well underway.
- On October 6, media reported Liberal insiders as saying that Eastern Power was warned back in May that any work they did was at their own risk.

## Issues

- Construction continues at the Greenfield South site.
- The project has all applicable approvals, a regulatory mechanism for stopping construction could be challenged in the absence of a breach of approval conditions.
- **The OPA is party to and administers the contract with Eastern Power. The Province is not a party to the contract.**
- Statements have been made by local politicians that the plant would not be relocated to a site in Mississauga or Toronto.
- Alternative site options and alternative ways to supply Mississauga have not been identified. Alternative sites would require new provincial and municipal approvals processes to be undertaken.

## Options For Stopping the Plant

- Legislative – requires time to enact and pass
  - Developer could bring law suit in interim, though legislation if passed could ultimately preclude liability and damages
  - Legislation could provide for compensation (or not) or could establish process to determine compensation
  - Legislation could not avoid potential exposure under international agreements (e.g. NAFTA)
  - Provincial precedent: *Adams Mine Lake Act, 2004*
- Regulatory - would have to nullify approvals already received
  - Likely to lead to financial exposure for province or OPA
- Contractual – unilateral termination can be expected to lead to legal action
  - Both OPA and Government could be included as parties
  - OPA contract includes limitation of liability clause, which could limit damages.
  - Damages payable by the OPA would be recovered from the rate-base.
- Negotiations/arbitration/settlement – in return for ceasing construction and terminating Greenfield contract, OPA or Government could offer to pay for expenses to date (e.g. sunk costs) or to enter into a new contract for a new site.

## Next Steps

- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (**sunk costs**) , payment for foregone revenue, **or negotiations for a contract** at a new site.
- Could require a Ministerial direction to the OPA to renegotiate the contract or cancel the contract. The Government could agree to cover some or all of the settlement costs.
- Cambridge is a potential alternate site, key considerations:
  - The project would have to be reconfigured (450 MW peaking plant versus 280 MW combined cycle plant);
  - the developer would likely ask the OPA to take approval risk;
  - TransCanada has been in discussions about this site although nothing has been agreed to; and,
  - Does not directly address supply needs in Mississauga and Toronto.
- Proponent may be willing to settle for a large cash settlement representing foregone net revenue or may view its financial prospects as being better through the courts.



## **Cayley, Daniel (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-11-11 3:56 PM  
**To:** Jennings, Rick (ENERGY)  
**Subject:** FW: Updated Greenfield South Deck  
**Attachments:** Gas Plant Considerations (v2) (JPR Comments).ppt

Here is the latest deck

---

**From:** Rehob, James (ENERGY)  
**Sent:** October 11, 2011 3:32 PM  
**To:** King, Ryan (ENERGY)  
**Cc:** Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** FW: Updated Greenfield South Deck

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

October 11, 2011

Hi, Ryan – I've updated the deck just now to add a point on injunctions – the injunction would likely be unavailable in our circumstances since the developer has not been and would not be violating existing law. When we discussed the potential of changing the regulatory status (e.g. MOE revoking or further conditionalizing their C of A), it should be noted that such action carries the risk of founding the basis for a misfeasance in public office (abuse of power/public office) suit.

In light of this comment, I was considering adding the following language to "Regulatory" on Options slide: **"Attempts to direct the regulators to change regulatory status, permits, etc. could be seen as misfeasance in public office"**. Please consider.

Thanks,

James

**James P. H. Rehob**  
Senior Counsel  
Ministry of Energy and  
Ministry of Infrastructure  
Legal Services Branch  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
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# Gas Plant Considerations

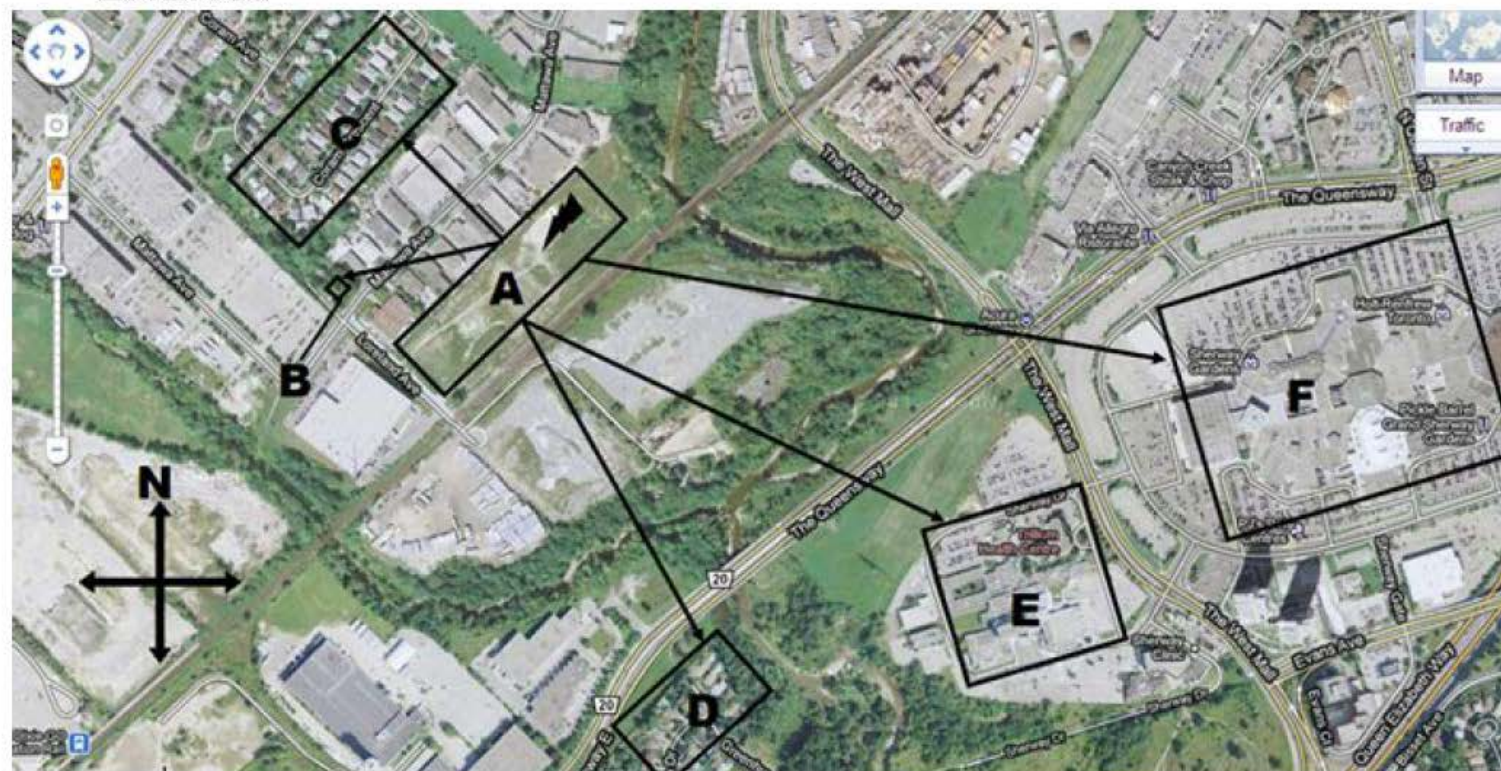
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---

Date: October 11, 2011

## Key Facts About the Greenfield South Plant

- Successful applicant in Ministry of Energy run Clean Energy Supply (CES) RFP, contract signed with the OPA in April 2005.
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**Legend:**

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\*Plant construction as of 28 September 2011



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  - Provincial precedent: *Adams Mine Lake Act, 2004*
- Regulatory - would have to nullify approvals already received
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  - OPA contract includes limitation of liability clause, which could limit damages.
  - Damages payable by the OPA would be recovered from the rate-base.
- Negotiations/arbitration/settlement – in return for ceasing construction and terminating Greenfield contract, OPA or Government could offer to pay for expenses to date (e.g. sunk costs) or to enter into a new contract for a new site.
- **Injunction: explored but would not be a live option since Developer is not violating the law.**

## Next Steps

- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (**sunk costs**), payment for foregone revenue, or **negotiations for a contract** at a new site.
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## Cayley, Daniel (ENERGY)

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October-11-11 4:40 PM  
**To:** King, Ryan (ENERGY)  
**Subject:** RE: Updated Greenfield South Deck  
**Attachments:** Gas Plant Considerations (v3) (Oct 11).ppt

Ryan attached is a final version which reflects comments that I have received from the OPA and the Ministry of the Environment. This should go to the DMO. We will need to bring a dozen colour copies to the meeting tomorrow a.m.

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 11, 2011 3:56 PM  
**To:** Jennings, Rick (ENERGY)  
**Subject:** FW: Updated Greenfield South Deck

[Here is the latest deck](#)

---

**From:** Rehob, James (ENERGY)  
**Sent:** October 11, 2011 3:32 PM  
**To:** King, Ryan (ENERGY)  
**Cc:** Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** FW: Updated Greenfield South Deck

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

October 11, 2011

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Thanks,

James

**James P. H. Rehob**  
Senior Counsel  
Ministry of Energy and  
Ministry of Infrastructure  
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777 Bay Street, 4th Floor, Suite 425  
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# Gas Plant Considerations

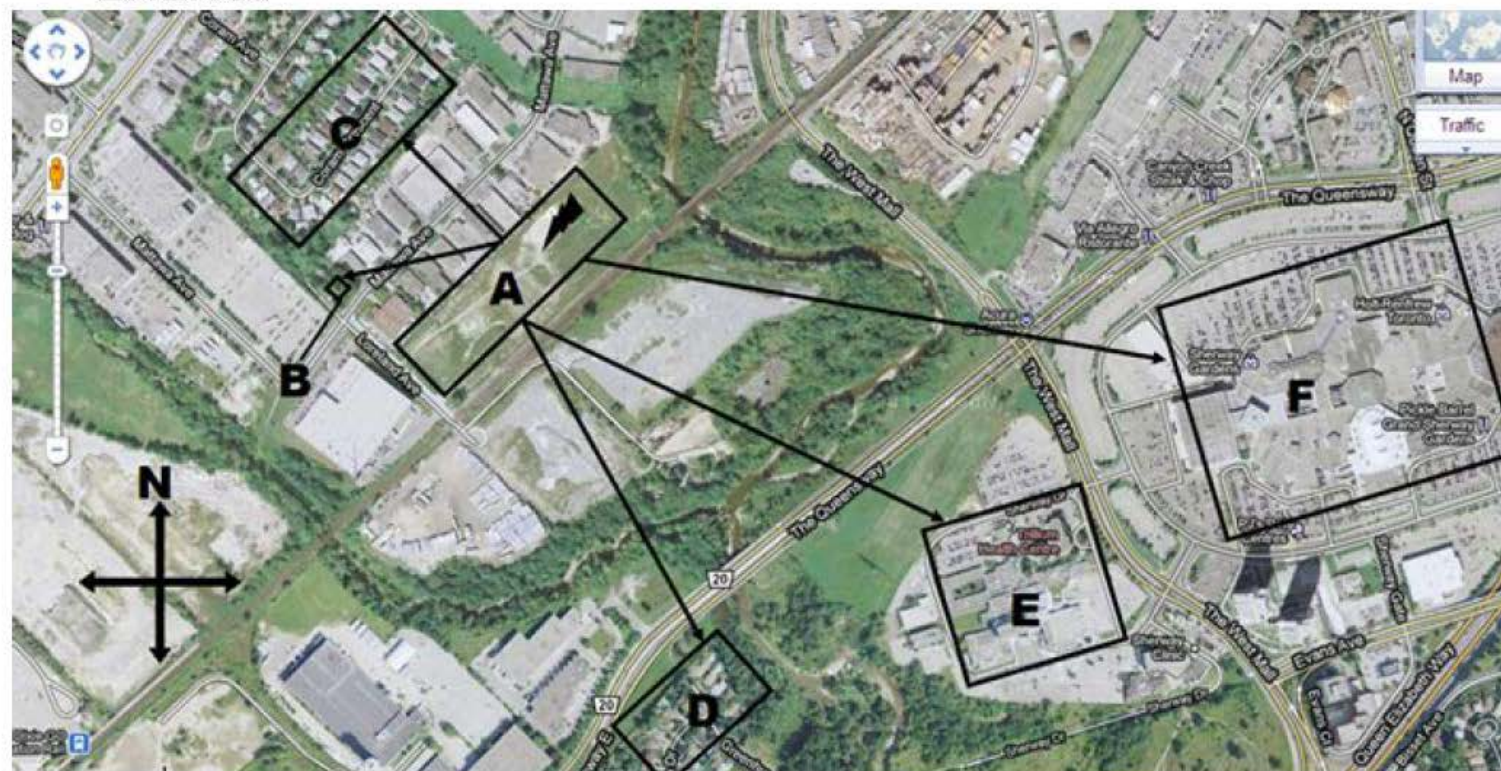
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Date: October 11, 2011

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- Negotiations/arbitration/settlement – in return for ceasing construction and terminating Greenfield contract, OPA or Government could offer to pay for expenses to date (e.g. sunk costs) and to enter into a new contract for a new site.
- **Injunction: explored but would not be a live option since Developer is not violating the law.**

## Next Steps

- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (**sunk costs**) , payment for foregone revenue, **or negotiations for a contract** at a new site. An incentive may be required. The project's lenders would need to be included in negotiations.
- Could require a Ministerial direction to the OPA to renegotiate the contract or cancel the contract. The Government could agree to cover some or all of the settlement costs.
- Potential alternate sites would need to be explored, for example Cambridge. Key considerations:
  - The project may have to be reconfigured (e.g. 450 MW peaking plant versus 280 MW combined cycle plant);
  - A quick relocation option with limited approval risk may be required;
  - TransCanada has been in discussions about certain sites although nothing has been agreed to; and,
  - Does not directly address supply needs in Mississauga and Toronto.
- Proponent may be willing to settle for a financial cash settlement representing foregone net revenue or may view its prospects as being better through the courts.

## **Cayley, Daniel (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-11-11 4:47 PM  
**To:** Silva, Joseph (ENERGY)  
**Cc:** Jennings, Rick (ENERGY); Perun, Halyna N. (ENERGY); McKeever, Garry (ENERGY); MacCallum, Doug (ENERGY); Jenkins, Allan (ENERGY); Rehob, James (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** Gas Plant Considerations (v3) (Oct 11).ppt  
**Attachments:** Duplicate attachment removed

Hi Joseph,  
Approved Deck attached. Are you able to print off colour copies for the meeting? Need about 10 or so.

## Cayley, Daniel (ENERGY)

---

**From:** Lipman, Jay (ENE)  
**Sent:** October-11-11 5:26 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Feltman, Scott (JUS); Intrator, Daphne (JUS); Roszell, Rand (ENE)  
**Subject:** RE: Gas Plant Considerations (v3) (Oct 11).ppt

Here is my attempt. I felt it needed a bit of context to explain "regulatory" v. "legislative" options.

Regulatory – revocation of existing approvals or other regulatory steps to terminate project

Developer is subject to a Certificate of Approval under the *Environmental Protection Act*. Technically, approvals can be amended or revoked if appropriate.

Revocation needs to be justified on environmental grounds and is subject to appeal.

Crown or OPA may be liable for revocation or other actions to nullify existing approvals if no justification and revocation or other action is seen as indirect attempt to terminate the project.

Jay

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 4:58 PM  
**To:** Lipman, Jay (ENE)  
**Subject:** Fw: Gas Plant Considerations (v3) (Oct 11).ppt

Please look at slide re "options for stopping the plant"

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** King, Ryan (ENERGY)  
**To:** Silva, Joseph (ENERGY)  
**Cc:** Jennings, Rick (ENERGY); Perun, Halyna N. (ENERGY); McKeever, Garry (ENERGY); MacCallum, Doug (ENERGY); Jenkins, Allan (ENERGY); Rehob, James (ENERGY); Calwell, Carolyn (ENERGY)  
**Sent:** Tue Oct 11 16:46:41 2011  
**Subject:** Gas Plant Considerations (v3) (Oct 11).ppt

Hi Joseph,  
Approved Deck attached. Are you able to print off colour copies for the meeting? Need about 10 or so.



## **Cayley, Daniel (ENERGY)**

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-11-11 6:54 PM  
**To:** Silva, Joseph (ENERGY)  
**Cc:** Jennings, Rick (ENERGY); King, Ryan (ENERGY); Kulendran, Jesse (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** RE: Gas Plant Considerations (v3) (Oct 11).ppt  
**Attachments:** Gas Plant Considerations final Oct.ppt; Gas Plant Considerations (red marked2).ppt

### *Privileged and Confidential*

Please find a "clean" version of the deck and a "red marked" version that shows the changes. This version has had significant input from MAG, and includes additions from MOE legal, which have also been developed in collaboration with MAG.

MAG may still have further inserts so I would ask that this version not be sent to the SOC until we've heard back from MAG later this evening.

Thank you

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
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**From:** King, Ryan (ENERGY)  
**Sent:** October 11, 2011 4:55 PM  
**To:** Silva, Joseph (ENERGY)  
**Cc:** Jennings, Rick (ENERGY); Perun, Halyna N. (ENERGY)  
**Subject:** RE: Gas Plant Considerations (v3) (Oct 11).ppt

Hi Joseph,

Please hold before printing. LSB may have a couple of tweaks regarding an OPA direction. They will be providing a revised deck from the version I sent up.

---

**From:** Silva, Joseph (ENERGY)  
**Sent:** October 11, 2011 4:50 PM  
**To:** King, Ryan (ENERGY)  
**Cc:** Jennings, Rick (ENERGY); Perun, Halyna N. (ENERGY); McKeever, Garry (ENERGY); MacCallum, Doug (ENERGY);

Jenkins, Allan (ENERGY); Rehob, James (ENERGY); Calwell, Carolyn (ENERGY)

**Subject:** RE: Gas Plant Considerations (v3) (Oct 11).ppt

Hi Ryan – sure, we'll print here.

---

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**Sent:** October 11, 2011 4:47 PM

**To:** Silva, Joseph (ENERGY)

**Cc:** Jennings, Rick (ENERGY); Perun, Halyna N. (ENERGY); McKeever, Garry (ENERGY); MacCallum, Doug (ENERGY); Jenkins, Allan (ENERGY); Rehob, James (ENERGY); Calwell, Carolyn (ENERGY)

**Subject:** Gas Plant Considerations (v3) (Oct 11).ppt

Hi Joseph,

Approved Deck attached. Are you able to print off colour copies for the meeting? Need about 10 or so.

# Gas Plant Considerations

---

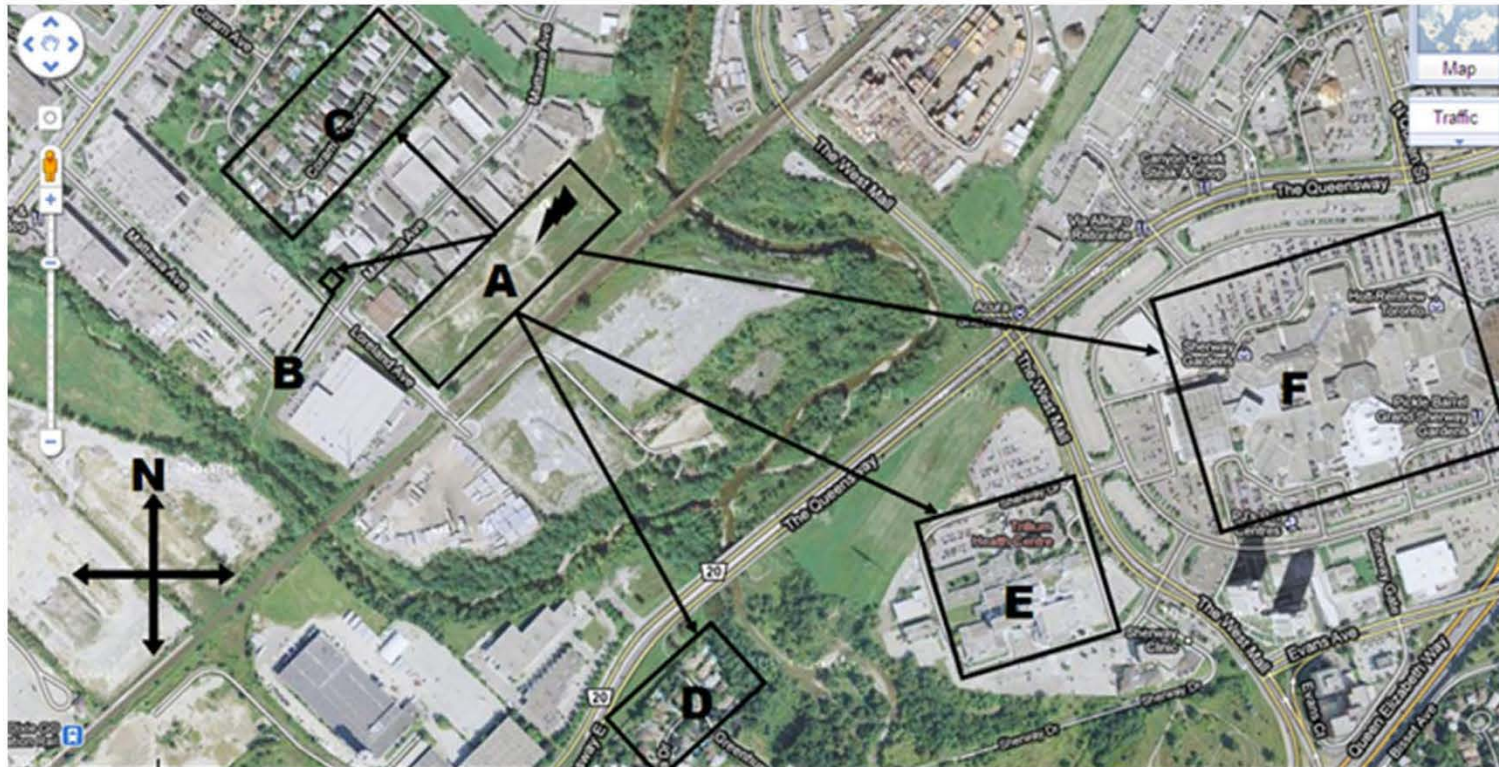
Date: October 11, 2011

## **Key Facts About the Greenfield South Plant**

- Successful applicant in Ministry of Energy run Clean Energy Supply (CES) RFP, contract signed with the OPA in April 2005.
- Eastern Power, the project developer based in Ontario, has received all required provincial approvals, including Environmental Assessment and Certificates of Approval;
- Eastern Power has received all required municipal approvals, including building site approval from the City of Mississauga issued in May 2011;
- Eastern Power has recently secured financing (confirmed by the OPA).



## MINISTRY OF ENERGY



### Legend:

- A – Proposed Greenfield Site
- B – Closest House
- C – Closest Subdivision (North)
- D – Closest Subdivision (South)
- E – Trillium Heath Centre
- F – Sherway Gardens Mall

### Distance:

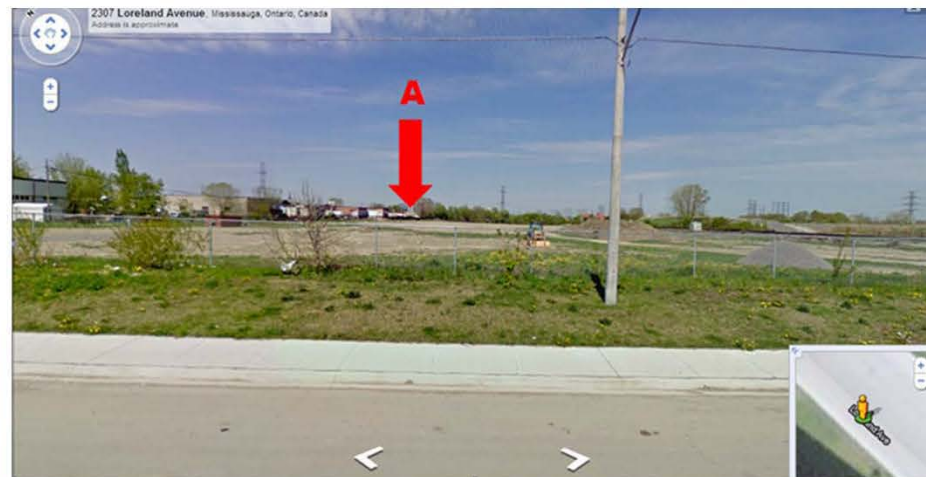
- A to B: 220 Meters
- A to C: 270 Meters
- A to D: 500 Meters
- A to E: 740 Meters
- A to F: 910 Meters



## MINISTRY OF ENERGY



\*Plant construction as of 28 September 2011



## Recent Events

- On September 24, in Mississauga, local Liberal party candidates announced that “construction on the project would be halted” and that “if elected the Government would work with Eastern to choose a new site.” The Mayor of Mississauga attended the announcement and endorsed the decision.
- On September 28, the media carried pictures of the plant with construction well underway.
- On October 6, media reported Liberal insiders as saying that Eastern Power was warned back in May that any work they did was at their own risk.

## Issues

- Construction continues at the Greenfield South site.
- The project has all applicable approvals.
- The OPA is party to and administers the contract with Eastern Power. The Province is not a party to the contract.
- Statements have been made by local politicians that the plant would not be relocated to a site in Mississauga or Toronto.
- Alternative site options and alternative ways to supply Mississauga have not been identified. Alternative sites would require new provincial and municipal approvals processes to be undertaken.



## Options For Proceeding

- Legislative – requires time to enact and pass
  - Developer could bring law suit in interim, though legislation if passed could ultimately preclude liability and damages
  - Legislation could provide for compensation (or not) or could establish process to determine compensation
  - Legislation could not avoid potential exposure under international agreements (e.g. NAFTA)
  - Provincial precedent: *Adams Mine Lake Act, 2004*
- Regulatory – revocation of existing approvals or other regulatory steps to terminate project
  - Eastern is subject to Certificate of Approval under the *Environmental Protection Act*. Technically, approvals can be amended or revoked if legally justified.
  - Any revocation or other regulatory actions would be subject to appeal or judicial review. MOE would be required to demonstrate an environmental justification for the action taken in order to successfully defend the challenge.
  - Is such a challenge was successful, Eastern may initiate a civil action in tort against the Crown.
  - Eastern may also seek a remedy against OPA under the terms of the contract.
- Contractual – OPA's unilateral termination can be expected to lead to legal action
  - Contract includes limitation of liability clause, which could limit damages.
  - Damages payable by the OPA could be recovered from the rate-base and/or the tax base.
  - Crown not liable under contract.
- Negotiations/arbitration/settlement – in return for ceasing construction and terminating Greenfield contract, OPA or Government could offer to pay for expenses to date (e.g. sunk costs) and to enter into a new contract for a new site.
- Injunction: explored but would not be a live option since Developer is not violating the law.

## Next Steps

- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (sunk costs), payment for foregone revenue, or negotiations for a contract at a new site. An incentive may be required. The project's lenders would need to be included in negotiations.
- OPA could require a Ministerial direction to renegotiate the contract or cancel the contract. Minister's authority for direction is not clear. The Government could agree to cover some or all of the settlement costs.
- Potential alternate sites would need to be explored, for example Cambridge. Key considerations:
  - The project may have to be reconfigured (e.g. 450 MW peaking plant versus 280 MW combined cycle plant);
  - A quick relocation option with limited approval risk may be required;
  - TransCanada has been in discussions about certain sites although nothing has been agreed to; and,
  - Does not directly address supply needs in Mississauga and Toronto.
- Proponent may be willing to settle for a financial cash settlement representing foregone net revenue or may view its prospects as being better through the courts.



# Gas Plant Considerations

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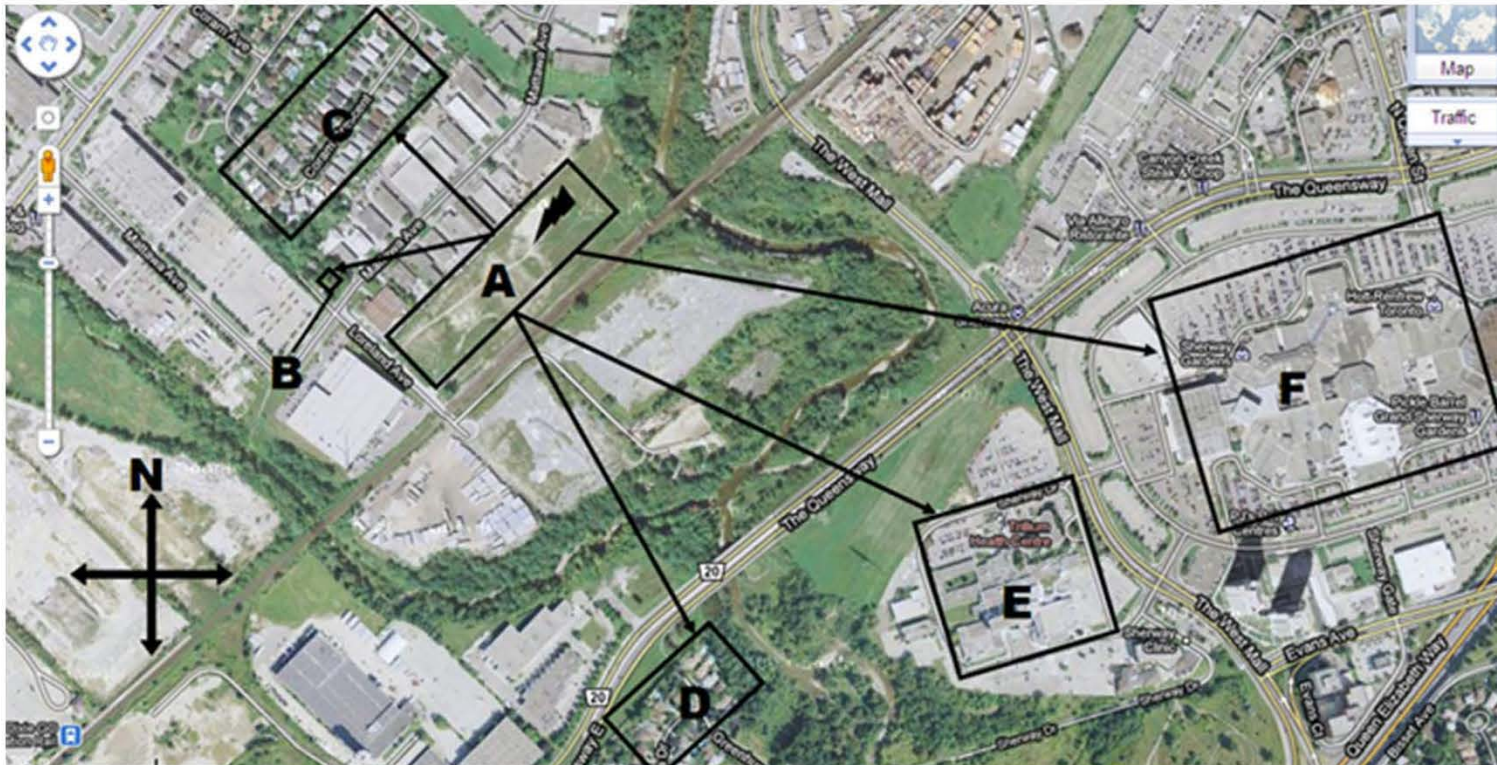
---

Date: October 11, 2011

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## MINISTRY OF ENERGY



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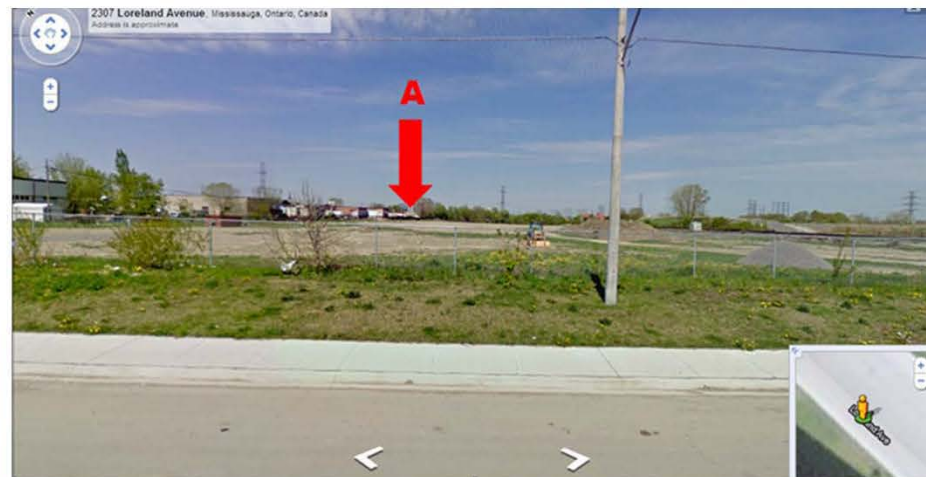
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- On September 28, the media carried pictures of the plant with construction well underway.
- On October 6, media reported Liberal insiders as saying that Eastern Power was warned back in May that any work they did was at their own risk.



## Issues

- Construction continues at the Greenfield South site.
- The project has all applicable approvals. [, a regulatory mechanism for stopping construction could be challenged in the absence of a breach of approval conditions. – DELETE]
- The OPA is party to and administers the contract with Eastern Power. The Province is not a party to the contract.
- Statements have been made by local politicians that the plant would not be relocated to a site in Mississauga or Toronto.
- Alternative site options and alternative ways to supply Mississauga have not been identified. Alternative sites would require new provincial and municipal approvals processes to be undertaken.

## Options For Proceeding

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  - Any revocation or other regulatory action would be subject to appeal or judicial review. The Ministry of Environment would be required to demonstrate an environmental justification for the action taken in order to successfully defend the challenge.
  - If such a challenge was successful, Eastern may initiate a civil action in tort against the Crown.
  - Eastern may also seek a remedy against OPA under the terms of the contract.
- Contractual – OPA's unilateral termination can be expected to lead to legal action
  - Contract includes limitation of liability clause, which could limit damages.
  - Damages payable by the OPA could be recovered from the rate-base and/or the tax base.
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- Negotiations/arbitration/settlement – in return for ceasing construction and terminating Greenfield contract, OPA or Government could offer to pay for expenses to date (e.g. sunk costs) and to enter into a new contract for a new site.
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- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (sunk costs), payment for foregone revenue, or negotiations for a contract at a new site. An incentive may be required. The project's lenders would need to be included in negotiations.
- OPA could require a Ministerial direction [to the OPA-delete] to renegotiate the contract or cancel the contract. Minister's authority for direction is not clear. The Government could agree to cover some or all of the settlement costs.
- Potential alternate sites would need to be explored, for example Cambridge. Key considerations:
  - The project may have to be reconfigured (e.g. 450 MW peaking plant versus 280 MW combined cycle plant);
  - A quick relocation option with limited approval risk may be required;
  - TransCanada has been in discussions about certain sites although nothing has been agreed to; and,
  - Does not directly address supply needs in Mississauga and Toronto.
- Proponent may be willing to settle for a financial cash settlement representing foregone net revenue or may view its prospects as being better through the courts.



## **Cayley, Daniel (ENERGY)**

---

**From:** Slater, Craig (JUS)  
**Sent:** October-11-11 8:28 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Roszell, Rand (ENE)  
**Subject:** RE: Mississauga Gas Plant

Please contact me directly. We are sorting through the counsel who will be engaged on this.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 10, 2011 9:21 PM  
**To:** Slater, Craig (JUS)  
**Cc:** Calwell, Carolyn (ENERGY); Roszell, Rand (ENE)  
**Subject:** Fw: Mississauga Gas Plant

*Privileged and Confidential*

Hi Craig - Hope you had a restful weekend. This is a head's up that we may need the assistance of your office tomorrow on a rather urgent basis in developing options for the SOC's review that outline how to move forward with a lib promise that the Mississauga Gas Plant would not be proceeding (see below) at its current location. We'll be meeting with clients to support the development of options tomorrow morning and they may want to know, for example, the feasibility of bringing an application for an injunction. The contract is between a private co and the Ontario Power Authority (I believe based on same template as the TransCanada one) - we've not seen that contract as yet. The company has the requisite approvals (environmental and municipal - though the Minister of Environment had announced in June that MOE will conduct an updated review of the approval) to proceed with construction and there has apparently been quite a lot of activity on the site - despite the pronouncement that the plant would not be proceeding should the libs get reelected. The SOC has asked ENERGY and Environment to work on creative options - legal and other. I have not heard more on this over the weekend but expect that we'll be having a very busy day tomorrow preparing for the meeting with the SOC Wed morning. Either Carolyn or I will be in touch with you further on this in the morning. Thank you

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Wilson, Malliha (JUS)  
**Cc:** Harrison, Troy (JUS); Lung, Ken (JUS); Roszell, Rand (ENE)  
**Sent:** Fri Oct 07 17:21:28 2011  
**Subject:** Mississauga Gas Plant

*Privileged and Confidential*

The Secretary of the Cabinet has conveyed to Energy a request from the Premier that Energy work with the Ontario Power Authority and Environment to develop legal and negotiating options with respect to the Mississauga Gas Plant.

You may recall that the Liberals did say that if elected they would cancel the Plant. Energy is now being asked to brainstorm on options. The SOC has invited Energy (DM and ADM Rick Jennings), Environment (ADM Kevin French) and the OPA (CEO Colin Anderson and General Counsel Mike Lyle) to a meeting on Wed. morning to discuss this further. I have been invited to attend.

The SOC has cautioned the Premier to caution his staff, the Ministers' and their staffs not to discuss any way forward with the company building the plant.

We'll be meeting with the Energy clients on Tuesday morning to assist in developing the options – at this point I am not sure whether the SOC expects a written product or whether she'd like to simply discuss orally – but I'll keep you posted as I learn more.

Regards,

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
BB: (416) 671-2607  
E-mail: [Halyna.Perun2@ontario.ca](mailto:Halyna.Perun2@ontario.ca)

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## **Fisher, Petra (ENERGY)**

---

**From:** Jennings, Rick (ENERGY)  
**Sent:** October-11-11 10:15 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Subject:** Re: Mississauga

The inclusion of "foregone revenue" in the deck isn't to offer it up but to note that this will be the expectation of the developer. Eastern Power will also be expecting to develop a project at another site as part of any settlement.

Re the LTEP, the Greenfield South project is implicitly part of the LTEP. It is not mentioned explicitly in the document but is assumed as part of the approved gas capacity.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Perun, Halyna N. (ENERGY)  
To: Jennings, Rick (ENERGY)  
Cc: Calwell, Carolyn (ENERGY)  
Sent: Tue Oct 11 21:38:37 2011  
Subject: Mississauga

Hi Rick - the Deputy AG has some questions on the slides - in "next steps" - re payment for foregone revenue - I assume that is possible but not a starting position - he is wondering why we are "serving up" the foregone revenue

Also - is the miss gas plant part of the ltep? Can we say - we thought we needed this plant but we don't now?

Thanks for clarifying Rick

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

## **Cayley, Daniel (ENERGY)**

---

**From:** Intrator, Daphne (JUS)  
**Sent:** October-11-11 10:28 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: Gas Plant

You'll have it in a minute.

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Intrator, Daphne (JUS); Feltman, Scott (JUS)  
**Sent:** Tue Oct 11 22:26:56 2011  
**Subject:** Re: Gas Plant

Carolyn and I are making changes now - do you have something for us?

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Intrator, Daphne (JUS); Feltman, Scott (JUS)  
**Sent:** Tue Oct 11 21:57:07 2011  
**Subject:** Re: Gas Plant

Thank you

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Intrator, Daphne (JUS)  
**To:** Perun, Halyna N. (ENERGY); Lipman, Jay (ENE)  
**Cc:** Wilson, Malliha (JUS); Roszell, Rand (ENE); Scarfone, Janet (JUS); Feltman, Scott (JUS); Slater, Craig (JUS); Wong, Taia (JUS); Salim, Fateh (JUS); Calwell, Carolyn (ENERGY)  
**Sent:** Tue Oct 11 21:54:58 2011  
**Subject:** Re: Gas Plant

Halyna

Scott and I are on the phone with eachother and are drafting a few comments for you which we hope to provide to you shortly.

Daphne

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Lipman, Jay (ENE)  
**Cc:** Wilson, Malliha (JUS); Roszell, Rand (ENE); Scarfone, Janet (JUS); Feltman, Scott (JUS); Slater, Craig (JUS); Wong, Taia (JUS); Salim, Fateh (JUS); Intrator, Daphne (JUS); Calwell, Carolyn (ENERGY)  
**Sent:** Tue Oct 11 21:51:23 2011  
**Subject:** Re: Gas Plant

Thanks Jay - Malliha's email went to my MOH account -

Scott or Daphne - may I contact you this evening about adding reference to discriminatory clause -

Re the other comments from DAG - will incorporate most but we have no further info about sunk costs or loss of profits and expect that the OPA will speak to this; re reference to payment for foregone revenue in next steps - is possible outcome/possible asks but we can re-phrase

Re long term energy plan - have asked client to advise - may not hear further on this til the morning -

If anyone else has further suggestions for edits based on Dep's email please let me know asap - thank you

Halyna Perun  
A\Director  
Ph: 416 325 6681  
BB: 416 671 2607

Sent using BlackBerry

---

**From:** Lipman, Jay (ENE)  
**To:** Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)  
**Cc:** Scarfone, Janet (JUS); Intrator, Daphne (JUS); Feltman, Scott (JUS); Roszell, Rand (ENE)  
**Sent:** Tue Oct 11 21:21:24 2011  
**Subject:** Fw: Gas Plant

Halyna, here is language re the regulatory option to address the comment below.

In the third bullet, after the sentence ending with "...defend the challenge." add the following sentence:  
"No apparent environmental basis for action at this point".

Jay

---

**From:** Wilson, Malliha (JUS)  
**To:** Lipman, Jay (ENE)  
**Sent:** Tue Oct 11 20:30:55 2011  
**Subject:** Fw: Gas Plant

-----  
Sent from my BlackBerry Wireless Device

**From:** Wilson, Malliha (JUS)

**To:** 'Halyna.Perun@ontario.ca' <Halyna.Perun@ontario.ca>; Scarfone, Janet (JUS); Intrator, Daphne (JUS); Calwell, Carolyn (ENERGY); 'SOMT.Jay.Lipman@ontario.ca' <SOMT.Jay.Lipman@ontario.ca>; Feltman, Scott (JUS)

**Cc:** Slater, Craig (JUS); Salim, Fateh (JUS); Wong, Taia (JUS); Roszell, Rand (ENE)

**Sent:** Tue Oct 11 20:29:11 2011

**Subject:** Fw: Gas Plant

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Di Ciano, Sandra (JUS)

**To:** Wilson, Malliha (JUS)

**Cc:** Wong, Taia (JUS)

**Sent:** Tue Oct 11 20:12:04 2011

**Subject:** Re: Gas Plant

These are the DAG's suggestions:

Should say solicitor client privileged on each page and cover

Under legislative option, should first say what can be done with legislation eg give statutory authority to terminate, cap damages, set out process...

Under regulatory, say may require change in circumstances re environmental impact since, given approval and unaware of environmental impediment at this stage

Under contractual, needs reference to discrimination.

Crown not liable for contract seems a bit bold, at least need to be clear OPA could be and there could be some exposure to Crown

Would not be so explicit re where payment coming from re rate or tax base

What are heads of damages sunk; loss of profits where are we on latter

Next steps-depends if opa sees slides

Why are we serving up foregone revenue

Last two pages not tight

Is it so clear opa could force a ministerial direction?

What does the energy plan to say about this need and any replacement need? Can it be said that 'we thought we needed this plant but we don't now'?

---

**From:** Wilson, Malliha (JUS)

**To:** Di Ciano, Sandra (JUS)

**Cc:** Wong, Taia (JUS)

**Sent:** Tue Oct 11 18:59:07 2011

**Subject:** FW: Gas Plant

We have not reviewed yet – but thought I would pass on



**From:** Perun, Halyna N. (ENERGY)

**Sent:** October 11, 2011 6:46 PM

**To:** Wilson, Malliha (JUS)

**Cc:** Slater, Craig (JUS); Intrator, Daphne (JUS); Feltman, Scott (JUS); Scarfone, Janet (JUS); Lipman, Jay (ENE); Calwell, Carolyn (ENERGY); Salim, Fateh (JUS); Roszell, Rand (ENE)

**Subject:** Gas Plant

*Privileged and Confidential*

Hello Malliha – this version reflects discussion with Scott and Daphne post briefing with DAG and has inserts from MOE which Jay also worked up with Scott and Daphne.

We took a less is more approach re legal comments in the deck but I'll be prepared to speak to the matters raised at that DAG's briefing today at tomorrow morning's briefing.

Ps. Though the Contract is between the OPA and "Greenfield South Power Corporation" both the client and the OPA refer to it the developer as "Eastern Power" – so I did not change this throughout the slides at this point – something that I will speak to tomorrow as well to clarify if necessary.

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
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## **Cayley, Daniel (ENERGY)**

---

**From:** Wilson, Malliha (JUS)  
**Sent:** October-12-11 8:50 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** RE: Gas Plant

Yes – just 5 mins and we shld be able to get DAG.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 12, 2011 8:49 AM  
**To:** Wilson, Malliha (JUS)  
**Subject:** RE: Gas Plant

Hi – have been asked to attend a pre-brief earlier now - at 9:15 and as need to bring deck with me – would appreciate go-ahead from DAG by nine (hope that is possible!) – thanks very much

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
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---

**From:** Wilson, Malliha (JUS)  
**Sent:** October 12, 2011 8:03 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Subject:** RE: Gas Plant

Yes on phone

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 12, 2011 8:00 AM  
**To:** Wilson, Malliha (JUS)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Subject:** RE: Gas Plant

If you are on the phone with Carolyn – great – I am in my office and call you otherwise - thanks

***Halyna***

Halyna N. Perun  
A/Director  
Legal Services Branch  
Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
Ph: (416) 325-6681 / Fax: (416) 325-1781  
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---

**From:** Wilson, Malliha (JUS)  
**Sent:** October 12, 2011 7:52 AM  
**To:** Calwell, Carolyn (ENERGY)  
**Cc:** Perun, Halyna N. (ENERGY)  
**Subject:** RE: Gas Plant

Can we chat

---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** October 12, 2011 7:22 AM  
**To:** Wilson, Malliha (JUS)  
**Cc:** Perun, Halyna N. (ENERGY)  
**Subject:** Re: Gas Plant

Halyna is going into meeting at 9:30. By then please.

Carolyn

---

**From:** Wilson, Malliha (JUS)  
**To:** Calwell, Carolyn (ENERGY)  
**Sent:** Wed Oct 12 07:18:54 2011  
**Subject:** Re: Gas Plant

When do u have to finalize carolyn. I am on my way into the office now

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Calwell, Carolyn (ENERGY)  
**To:** Scarfone, Janet (JUS); Intrator, Daphne (JUS); Lipman, Jay (ENE); Feltman, Scott (JUS); Perun, Halyna N. (ENERGY); Wilson, Malliha (JUS)  
**Cc:** Slater, Craig (JUS); Salim, Fateh (JUS); Wong, Taia (JUS); Roszell, Rand (ENE)  
**Sent:** Wed Oct 12 06:59:08 2011  
**Subject:** FW: Gas Plant

I have had some transmission problems with my message below. Apologies if you have it twice.

Carolyn

---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** Tue 11/10/2011 11:29 PM  
**To:** Wilson, Malliha (JUS); Scarfone, Janet (JUS); Intrator, Daphne (JUS); [Jay.Lipman@ontario.ca](mailto:Jay.Lipman@ontario.ca) Feltman, Scott (JUS); Perun, Halyna N. (ENERGY)  
**Cc:** Slater, Craig (JUS); Salim, Fateh (JUS); Wong, Taia (JUS); Roszell, Rand (ENE)  
**Subject:** RE: Gas Plant

Thank you Daphne, Scott and Jay for proposed wording to address the comments below. Halyna and I have tried to incorporate the suggestions while preserving the clients' format and style. To the extent that additional detail that Daphne and Scott provided is not incorporated into the slides, that detail will be spoken to. The revised deck is attached.

We also had the opportunity to follow up on with the clients on the connection between the Long Term Energy Plan and this plant. This project was not named, but the electricity capacity that this plant is expected to provide was included in the electricity from gas forecasts, so the project is implicitly part of the LTEP. It will be difficult to say we don't need this plant now.

Carolyn

---

**From:** Wilson, Malliha (JUS)  
**Sent:** Tue 11/10/2011 8:29 PM  
**To:** Perun, Halyna (MOH); Scarfone, Janet (JUS); Intrator, Daphne (JUS); Calwell, Carolyn (ENERGY); 'SOMT.Jay.Lipman@ontario.ca'; Feltman, Scott (JUS)  
**Cc:** Slater, Craig (JUS); Salim, Fateh (JUS); Wong, Taia (JUS); Roszell, Rand (ENE)  
**Subject:** Fw: Gas Plant

-----  
Sent from my BlackBerry Wireless Device

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**From:** Di Ciano, Sandra (JUS)  
**To:** Wilson, Malliha (JUS)  
**Cc:** Wong, Taia (JUS)  
**Sent:** Tue Oct 11 20:12:04 2011  
**Subject:** Re: Gas Plant

These are the DAG's suggestions:

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Under regulatory, say may require change in circumstances re environmental impact since, given approval and unaware of environmental impediment at this stage

Under contractual, needs reference to discrimination.

Crown not liable for contract seems a bit bold, at least need to be clear OPA could be and there could be some exposure to Crown

Would not be so explicit re where payment coming from re rate or tax base

What are heads of damages sunk; loss of profits where are we on latter



Next steps-depends if opa sees slides

Why are we serving up foregone revenue

Last two pages not tight

Is it so clear opa could force a ministerial direction?

What does the energy plan to say about this need and any replacement need? Can it be said that 'we thought we needed this plant but we don't now'?

---

**From:** Wilson, Malliha (JUS)  
**To:** Di Ciano, Sandra (JUS)  
**Cc:** Wong, Taia (JUS)  
**Sent:** Tue Oct 11 18:59:07 2011  
**Subject:** FW: Gas Plant

We have not reviewed yet – but thought I would pass on

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 11, 2011 6:46 PM  
**To:** Wilson, Malliha (JUS)  
**Cc:** Slater, Craig (JUS); Intrator, Daphne (JUS); Feltman, Scott (JUS); Scarfone, Janet (JUS); Lipman, Jay (ENE); Calwell, Carolyn (ENERGY); Salim, Fateh (JUS); Roszell, Rand (ENE)  
**Subject:** Gas Plant

*Privileged and Confidential*

Hello Malliha – this version reflects discussion with Scott and Daphne post briefing with DAG and has inserts from MOE which Jay also worked up with Scott and Daphne.

We took a less is more approach re legal comments in the deck but I'll be prepared to speak to the matters raised at that DAG's briefing today at tomorrow morning's briefing.

Ps. Though the Contract is between the OPA and "Greenfield South Power Corporation" both the client and the OPA refer to it the developer as "Eastern Power" – so I did not change this throughout the slides at this point – something that I will speak to tomorrow as well to clarify if necessary.

***Halyna***

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Ministries of Energy & Infrastructure  
777 Bay Street, 4th Floor, Suite 425  
Toronto, ON M5G 2E5  
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prohibited. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.



## Fisher, Petra (ENERGY)

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October-12-11 9:06 AM  
**To:** MacCallum, Doug (ENERGY)  
**Subject:** GS and CHP decks  
**Attachments:** Gas Plant Considerations (v3) (Oct 11).ppt; CHP Transition Deck2.ppt

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Unrelated/duplicate attachment deleted

## **Calwell, Carolyn (ENERGY)**

---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** October 12, 2011 11:13 AM  
**To:** George, Shemain (ENERGY); Khatri, Anupa (ENERGY); Petersen, Shannon (ENERGY);  
Montano, Teresita (ENERGY); Miceli, Martina (ENERGY)  
**Subject:** Corporate Searches

Hello,

Would one of you please do corporate searches for Eastern Power and Greenfield South Power Corporation and see what you can find? I'm not sure who has our Cyberbahn password or who knows how to do the searches. It would be helpful to have the information later today.

Thank you.

Carolyn

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## **Cayley, Daniel (ENERGY)**

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-12-11 3:06 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Mississauga gas plant

Now's fine

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 12, 2011 3:06 PM  
**To:** King, Ryan (ENERGY)  
**Subject:** Mississauga gas plant

We need holding messages – when's a good time to chat?

## Cayley, Daniel (ENERGY)

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-12-11 5:27 PM  
**To:** Wilson, Malliha (JUS)  
**Cc:** Calwell, Carolyn (ENERGY); Roszell, Rand (ENE); Lipman, Jay (ENE); Slater, Craig (JUS); Scarfone, Janet (JUS); Salim, Fateh (JUS)  
**Subject:** Final slides - used at briefing  
**Attachments:** Gas Plant Considerations final Oct 12.ppt

Duplicate attachment removed

Privileged and Confidential

Malliha:

Jay and I thought that you'd like to know how things went at the briefing this morning. (I am re-sending to you the slides that were used at the briefing).

The SOC was quite familiar with this matter and it was apparent that she had been briefed on the Mississauga Gas Plant matter before the writ dropped.

Colin Anderson (OPA CEO) provided most of the details about the plant.

I spoke to the option of proceeding with legislation. SOC asked my view as to the feasibility of this option in a minority government and I replied that while legislation would provide certainty it is a very public way of proceeding and will likely need buy-in from other parties in opposition which could be brokered (given that the other two parties also said that they do not support a plant in that location).

Kevin French for MOE addressed the regulatory option (Jay was there in support). The discussion was brief on this point as it was apparent that there was not appetite on the part of the SOC for using the MOE regulatory tools.

OPA General Counsel Mike Lyle addressed the consequences of terminating the contract without cause.

Ultimately, the discussion centered on moving forward with negotiating with the Developer to stop building at the Mississauga location and moving to another location. A number of possible locations were discussed – but it was noted that moving to another location may also have challenges - community support and various approvals would be required.

Eastern Power has not contacted the OPA – to follow up on statements made by the politicians. Nor has OPA reached out to Eastern. SOC advised that politicians and their staff have been told not to communicate with Eastern.

Colin asked that communications lines be developed for the OPA to use (1) should Eastern call and for (2) media calls.

Similarly, government should have media lines in place. Deputy Lindsay was going to follow up with Energy Communications director (they will fly by legal)

Deputy Lindsay spoke of a “negotiating mandate”. SOC wanted folks to begin working on material to take to Cabinet to scope out a mandate. The materials would detail the sunk costs and lost profits. Deputy Lindsay asked what would be the back pocket “hammer” - and if it's legislation – that should be addressed in the material for Cabinet's consideration. He also thought the mandate should include a “firm cap”. Direction would be sought as to who would be negotiating.

Similarly, the OPA would seek a mandate from its board.

SOC asked for more information about who the Developers are: who are their lenders and who is affiliated with the project. Apparently, Eastern Power is in litigation with the Ontario Electricity Financial Corporation and she asked for more information about that.

Finally, the issue about a going-forward plan for the regulation of gas-fired electricity facilities was discussed. This would address future plants. The primary concern to be addressed was whether siting (eg. set-back limitations) should be regulated by the Province and how any regulatory framework would ensure community involvement.

I should also note that in the pre-brief with Deputy Lindsay and ADM Rick Jennings this morning the Deputy commented on how helpful the deck was. I also want to convey my sincere thanks to the work of CLOC in support our offices (MOE and Energy LSB) in this briefing and for your support as well.

Please let us know if you'd like anything further.

***Halyna***

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## Cayley, Daniel (ENERGY)

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October-12-11 9:06 AM  
**To:** Silva, Joseph (ENERGY); Jennings, Rick (ENERGY); Kulendran, Jesse (ENERGY); King, Ryan (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY); Rehob, James (ENERGY)  
**Subject:** Final slides -  
**Attachments:** Gas Plant Considerations final Oct 12.ppt

Duplicate attachment removed

Slides for the meeting – Thanks

(I already made 5 copies – so Joseph could you please take care of the remaining number of copies?)

*Halyna*

Halyna N. Perun  
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---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** October 12, 2011 8:11 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** FW: Revised slides

Just off the phone with Daphne and Malliha - some revisions to slide 7 (2 re: discriminatory action clause - 1 re: potential NAFTA/foreign investors). Malliha is sending the deck up for approval.

Carolyn

---

**From:** Calwell, Carolyn (ENERGY)  
**Sent:** Wed 12/10/2011 8:09 AM  
**To:** Wilson, Malliha (JUS)  
**Cc:** Intrator, Daphne (JUS); Perun, Halyna N. (ENERGY)  
**Subject:** Revised slides

Revised as discussed.

Carolyn

## Cayley, Daniel (ENERGY)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-13-11 9:59 AM  
**To:** King, Ryan (ENERGY)  
**Subject:** RE: Holding messaging

No problem ... (I am frustration-tolerant)

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 13, 2011 9:47 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Holding messaging

My edits,  
I know this is frustrating with the lack of info but we need to tread extremely carefully on this issue and we cannot speculate very much either.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 9:41 AM  
**To:** King, Ryan (ENERGY)  
**Subject:** FW: Holding messaging

FYI – this is what I had sent over yesterday – haven't heard back yet.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 12, 2011 5:15 PM  
**To:** Block, Andrew (ENERGY)  
**Subject:** Holding messaging

Hey Andrew –

Suspect we will get calls about status of Mississauga gas plant now that election is over.

During writ, we responded with “we don't comment on campaign promises.”

Am wondering if you think the following will work for next few months:

- there is currently no change in the status of the project

if pressed about why construction is continuing:

~~—work will continue on the site until the new cabinet has had a chance to review this matter—~~

if pressed about when a decision will be made:

- The government appreciates the need to review this matter quickly issue is currently being reviewed and any next steps will be communicated.

Thanks Andrew.

Sylvia  
7-4334

**Fisher, Petra (ENERGY)**

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October-13-11 10:46 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Poinen, Ruby (ENERGY); Pitkeathly, Doreen (ENERGY)  
**Subject:** FW: DRC-2011-3813-- AMY--GTA New Supply.doc  
**Attachments:** 3813.pdf; DRC-2011-3813-- AMY--GTA New Supply.doc

Sylvia,

We do not have a public response for this, since it was a political statement made during the campaign and government has not officially re-formed.

Has anyone developed a Q and A for this issue?

---

**From:** Poinen, Ruby (ENERGY)  
**Sent:** October 13, 2011 10:32 AM  
**To:** Jenkins, Allan (ENERGY)  
**Subject:** DRC-2011-3813-- AMY--GTA New Supply.doc



# Ministry of Energy

## Director's Correspondence Approval Form

Log No: **DRC-2011-3813**

Type of Correspondence:

Action Required:

- ☒ Letter/e-mail  
☐ Social Invitation  
☐ Letter of Greetings/Regrets

- ☐ Draft response letter for Director's signature  
☒ Draft response e-mail for Director's signature  
☐ Draft response letter for ADM's approval

From: ☐ MPP ☒ General Public ☐ Stakeholders

Standard Update req'd ☒  
New Standard req'd ☐

Incoming Letter From: AMY

Subject: GTA New Supply

Due to Dir.: OCT 19

Author: Allan Jenkins, Energy Markets

| Date   | Assigned To   | Description        |
|--------|---------------|--------------------|
| OCT 13 | Allan Jenkins | PLS DRAFT RESPONSE |
|        |               |                    |
|        |               |                    |
|        |               |                    |
|        |               |                    |

| Comments |
|----------|
|          |

| Approved by:                  | Date Sent for Approval/Signature | Signature & Date Approved (dd/mm/yy) | Signature & Date Rejected (dd/mm/yy) |
|-------------------------------|----------------------------------|--------------------------------------|--------------------------------------|
| Director                      |                                  |                                      |                                      |
| ADM as required               |                                  |                                      |                                      |
| Comm. Dir as required.        |                                  |                                      |                                      |
| Deputy Minister as required   |                                  |                                      |                                      |
| Minister's Office as required |                                  |                                      |                                      |

bc: ☐ ADM/EA  
☐ Director  
☐ Author

Copy: No  
Enclosure: No  
Revision: ☐

[Amyo.chan@cibc.ca](mailto:Amyo.chan@cibc.ca)

Dear Amy:

Your email concerning the xx,

I trust you will find this information helpful, and thank you for writing.

Allan Jenkins  
Senior Policy Specialist  
Energy Markets



DRC-2011-3813

Pitkeathly, Doreen (ENERGY)

(=) DRC-RS

**From:** amy.o.chan@cibc.ca  
**Sent:** October 12, 2011 11:01 AM  
**To:** Write2us (ENERGY)  
**Subject:** Mississauga Power Plant

PC Asks for confirmation  
That Mississauga gas plant  
has been cancelled  
S: GTA Newsupply

Hello,

Can you confirm that the Eastern Power plant has been cancelled (as part of Prem. McGuinty's election promise)?

Please advise by Thurs. Oct 13.

Thanks,

Amy

from: Amy

## **Fisher, Petra (ENERGY)**

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-13-11 10:48 AM  
**To:** Jenkins, Allan (ENERGY)  
**Cc:** Poinen, Ruby (ENERGY); Pitkeathly, Doreen (ENERGY); King, Ryan (ENERGY); Silva, Joseph (ENERGY); Kulendran, Jesse (ENERGY)  
**Subject:** RE: DRC-2011-3813-- AMY--GTA New Supply.doc

Working on one now. Will get back to you asap.

---

**From:** Jenkins, Allan (ENERGY)  
**Sent:** October 13, 2011 10:46 AM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Poinen, Ruby (ENERGY); Pitkeathly, Doreen (ENERGY)  
**Subject:** FW: DRC-2011-3813-- AMY--GTA New Supply.doc

Sylvia,

We do not have a public response for this, since it was a political statement made during the campaign and government has not officially re-formed.

Has anyone developed a Q and A for this issue?

---

**From:** Poinen, Ruby (ENERGY)  
**Sent:** October 13, 2011 10:32 AM  
**To:** Jenkins, Allan (ENERGY)  
**Subject:** DRC-2011-3813-- AMY--GTA New Supply.doc

## **Cayley, Daniel (ENERGY)**

---

**From:** Block, Andrew (ENERGY)  
**Sent:** October-13-11 11:23 AM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

Looks fine to me.

Andrew Block | Senior Communications Advisor & Press Secretary | Minister of Energy | O: 416.327.6747 | M: 416.276.0511 | [andrew.block@ontario.ca](mailto:andrew.block@ontario.ca)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 11:22 AM  
**To:** Block, Andrew (ENERGY); King, Ryan (ENERGY)  
**Subject:** Mississauga Gas Plant - holding message

Hi – I made a small change (highlighted in yellow).

This matter is currently being reviewed. Next steps will be communicated **as soon as possible.**

Let me know if you have any concerns.

I'll share this with OPA and MOE and let them know they should alert us (MO/ministry) if they get any media calls to confirm response strategy. We (MOE or ENE) will refer all calls on this issue to Energy MO.

**Fisher, Petra (ENERGY)**

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-13-11 1:12 PM  
**To:** Jordan, Kate (ENE); Rabbior, Mark (ENE)  
**Subject:** Mississauga plant

Hi –

Have you received any media calls asking about plant cancellation? (if yes, how have you been responding)?

Please send any media calls on this our way.

Our MO will be taking them. (we are just finalizing holding messaging now – will share as soon as they are finalized).

## Cayley, Daniel (ENERGY)

---

**From:** King, Ryan (ENERGY)  
**Sent:** October-13-11 1:14 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

'any next steps'?

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 1:10 PM  
**To:** King, Ryan (ENERGY)  
**Subject:** FW: Mississauga Gas Plant - holding message

Ok?

---

**From:** Block, Andrew (ENERGY)  
**Sent:** October 13, 2011 1:08 PM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

Let's stick to "next steps will be communicated as soon as possible."

Andrew Block | Senior Communications Advisor & Press Secretary | Minister of Energy | O: 416.327.6747 | M: 416.276.0511 | [andrew.block@ontario.ca](mailto:andrew.block@ontario.ca)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 1:03 PM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY)  
**Cc:** Block, Andrew (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

Actually ... just wondering if that begs the question "well, promising to cancel is a new development" ... and we are asking what's happening with that promise? So maybe "next steps" is better.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 1:01 PM  
**To:** King, Ryan (ENERGY)  
**Cc:** Block, Andrew (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

I like it – Andrew – are you ok with this suggestion?

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 13, 2011 1:01 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** Re: Mississauga Gas Plant - holding message



How about 'any new developments will be communicated asap'

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**To:** King, Ryan (ENERGY)  
**Sent:** Thu Oct 13 12:59:00 2011  
**Subject:** FW: Mississauga Gas Plant - holding message

Hi Ryan – haven't heard back so just checking in if "asap" is ok in intended context below ... or delete?

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 11:24 AM  
**To:** King, Ryan (ENERGY); Block, Andrew (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

Thanks Ryan ... not saying a public decision will be soon – saying once we know next steps, we will communicate asap. Is that ok?

---

**From:** King, Ryan (ENERGY)  
**Sent:** October 13, 2011 11:23 AM  
**To:** Kovesfalvi, Sylvia (ENERGY); Block, Andrew (ENERGY)  
**Subject:** RE: Mississauga Gas Plant - holding message

It's not certain that a public decision will be soon.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 11:22 AM  
**To:** Block, Andrew (ENERGY); King, Ryan (ENERGY)  
**Subject:** Mississauga Gas Plant - holding message

Hi – I made a small change (highlighted in yellow).

This matter is currently being reviewed. Next steps will be communicated **as soon as possible.**

Let me know if you have any concerns.

I'll share this with OPA and MOE and let them know they should alert us (MO/ministry) if they get any media calls to confirm response strategy. We (MOE or ENE) will refer all calls on this issue to Energy MO.

## Fisher, Petra (ENERGY)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-14-11 8:59 AM  
**To:** King, Ryan (ENERGY); Sharkawi, Rula (ENERGY)  
**Subject:** Fw: National Post: McGuinty told to make good on promise to halt Mississauga power plant  
**Attachments:** image002.gif; image001.gif

.gif attachments are images below

Fyi.

-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Perun, Halyna N. (ENERGY)  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** Calwell, Carolyn (ENERGY)  
**Sent:** Thu Oct 13 16:14:25 2011  
**Subject:** RE: National Post: McGuinty told to make good on promise to halt Mississauga power plant

*Privileged and Confidential*

Hi Sylvia – no we don't know what Eastern is saying at all (and our advice is not to contact Eastern for now)

I am not too crazy about "as soon as possible" but I understand why there might be a desire to say this. So, ultimately, am OK with this – is appropriately vague

***Halyna***

Halyna N. Perun  
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---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 1:34 PM  
**To:** Perun, Halyna N. (ENERGY)  
**Subject:** RE: National Post: McGuinty told to make good on promise to halt Mississauga power plant

Hi Halyna –

Actually, I was going to ask you, do we know Eastern is saying?

And, does Legal have any concerns with:

This matter is currently being reviewed. Next steps will be communicated as soon as possible.

---

**From:** Perun, Halyna N. (ENERGY)  
**Sent:** October 13, 2011 1:18 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** RE: National Post: McGuinty told to make good on promise to halt Mississauga power plant

Thank you Sylvia!

*Halyna*

Halyna N. Perun  
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Ministries of Energy & Infrastructure  
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E-mail: Halyna.Perun2@ontario.ca

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---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 13, 2011 11:30 AM  
**To:** Sharkawi, Rula (ENERGY); Perun, Halyna N. (ENERGY)  
**Cc:** Silva, Joseph (ENERGY); Jennings, Rick (ENERGY); Calwell, Carolyn (ENERGY)  
**Subject:** RE: National Post: McGuinty told to make good on promise to halt Mississauga power plant

HI –

I'm actually just working with MO/policy. Here's where we are right now:

This matter is currently being reviewed. Next steps will be communicated **as soon as possible**. (this highlighted bit is under discussion).

Once we have finalized, I'll be sharing with OPA and MOE and letting them know they should alert us (MO/ministry) if they get any media calls to confirm response strategy.

We (MOE or ENE) will refer all calls on this issue to Energy MO.

---

**From:** Sharkawi, Rula (ENERGY)  
**Sent:** October 13, 2011 11:26 AM  
**To:** Perun, Halyna N. (ENERGY)  
**Cc:** Silva, Joseph (ENERGY); Jennings, Rick (ENERGY); Calwell, Carolyn (ENERGY); Kovesfalvi, Sylvia (ENERGY)  
**Subject:** Re: National Post: McGuinty told to make good on promise to halt Mississauga power plant



We are working on them and will circulate shortly. In the absence of a clear policy decision, we are basically just saying that we are reviewing the commitment.

---

**From :** Perun, Halyna N. (ENERGY)  
**To :** Sharkawi, Rula (ENERGY)  
**Cc:** Silva, Joseph (ENERGY); Jennings, Rick (ENERGY); Calwell, Carolyn (ENERGY)  
**Sent:** Thu Oct 13 10:39:35 2011  
**Subject:** FW: National Post: McGuinty told to make good on promise to halt Mississauga power plant

Hi Rula – the Deputy was going to speak to you about developing public messaging re this plant – I guess we'll need this sooner than later. Please let us know how we can assist – thank you.

*Halyna*

Halyna N. Perun  
A/Director  
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Ministries of Energy & Infrastructure  
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---

**From :** Energy In The News (ENERGY)  
**Sent:** October 13, 2011 9:22 AM  
**To :** @ENERGY-All  
**Subject:** National Post: McGuinty told to make good on promise to halt Mississauga power plant



## **McGuinty told to make good on promise to halt Mississauga power plant**

National Post | News  
Wed Oct 12 2011  
Section: Mississauga & GTA  
Byline: Megan O'Toole

Postmedia News

McGuinty

Mississauga councillors are calling on the province to immediately halt construction on a 280-megawatt power plant in the city's southeast, after the Liberal government promised during the election campaign to relocate the controversial project.

Residents have continued to express concerns, however, about the ongoing construction at the Eastern Power site on Loreland Avenue.

In a motion passed Wednesday, council called on Premier **Dalton McGuinty** and the Liberal government "to take immediate action to fulfill their election promise and cancel the contract for the Loreland Eastern Power plant, and that as part of the cancellation of the project, the necessary actions be taken to halt construction and return the site to its pre-construction condition."

The Premier was not available to comment.

National Post

. Email: [motoole@nationalpost.com](mailto:motoole@nationalpost.com) Twitter: [megan\\_otoole](#)

Length: 132 words

Idnumber: 201110120136

Permalink: <http://news.nationalpost.com/2011/10/12/mcguinty-told-to-make-good-on-promise-to-halt-mississauga-power-plant/>

Tone: Neutral 



## Fisher, Petra (ENERGY)

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-17-11 5:06 PM  
**To:** Block, Andrew (ENERGY); Botond, Erika (ENERGY); Olsheski, Mark (ENERGY)  
**Subject:** Greenfield Power Plant Mississauga

Hi – any concerns? (policy/dmo did not have concerns)

(our approved messaging is: *"This matter is currently being reviewed. Next steps will be communicated as soon as possible."*)

---

**From:** Tim Butters [mailto:Tim.Butters@powerauthority.on.ca]  
**Sent:** October 17, 2011 4:51 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** FW: Re Greenfield Power Plant Mississauga

Hi Sylvia,

Below is an email I received from a gentleman who is associated with the Applewood Homeowners Association. The association is having a meeting this Wednesday. Charles Sousa and some local council members are expected to attend. Pat Philips reviewed my original (much longer) response and made adjustments. Please review and let me know what you think.

**Thank you for your email of October 12. As a standard policy, we do not release power purchase contracts as these are considered commercially sensitive. Questions about the future of the plant should be addressed to the government.**

Thanks,

Tim

---

**From:** john sweeney [mailto:jsweeney2@hotmail.com]  
**Sent:** October 12, 2011 2:50 PM  
**To:** Tim Butters  
**Subject:** Re Greenfield Power Plant Mississauga

Re telephone conversation this morning 10/12/11. I was enquiring about the following :=

- (1) Is the contract between Greenfield/Ontario Power available on the Internet?.
- (2) According to the Liberal Government the Plant would be moved, any idea when?.
- (3) What will the cost's be of this Plant being moved?.
- (4) Natural gas was the only Fuel to be used in the plant.  
Dissilate Fuel according to there proposal need's to be used for start up, how much and where is it to be contained ?.
- (5) There has been one meeting held about 5 Years ago, for public input and nothing since.
- (6) According to your "About the Ontario Power Authority" web page :=  
Transparency: We carry out our work with openness and integrity.  
Accountability: We take responsibility for our actions.  
Collaboration : We work together toward common goals.

Flexibility : We adapt quickly and effectively to changing circumstances.

As your Mission Statement (6) I hope you can follow through with these statements.

John Sweeney. Applewood Homeowners Association.

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## Cayley, Daniel (ENERGY)

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**From:** Krstev, Viki (ENERGY)  
**Sent:** October-17-11 5:27 PM  
**To:** Silva, Joseph (ENERGY); Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY)  
**Subject:** RE: Re Greenfield Power Plant Mississauga

Sounds good to me...

---

**From:** Silva, Joseph (ENERGY)  
**Sent:** October 17, 2011 5:02 PM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY); Krstev, Viki (ENERGY)  
**Subject:** RE: Re Greenfield Power Plant Mississauga

No concerns ☺

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 17, 2011 5:01 PM  
**To:** Silva, Joseph (ENERGY); King, Ryan (ENERGY); Krstev, Viki (ENERGY)  
**Subject:** RE: Re Greenfield Power Plant Mississauga

*"This matter is currently being reviewed. Next steps will be communicated as soon as possible."*

---

**From:** Silva, Joseph (ENERGY)  
**Sent:** October 17, 2011 5:00 PM  
**To:** Kovesfalvi, Sylvia (ENERGY); King, Ryan (ENERGY); Krstev, Viki (ENERGY)  
**Subject:** RE: Re Greenfield Power Plant Mississauga

Thanks Sylvie.

And, of course, we do have standard response should it come back to us, right?

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 17, 2011 4:59 PM  
**To:** King, Ryan (ENERGY); Krstev, Viki (ENERGY); Silva, Joseph (ENERGY)  
**Subject:** FW: Re Greenfield Power Plant Mississauga

Any concerns?

---

**From:** Tim Butters [mailto:Tim.Butters@powerauthority.on.ca]  
**Sent:** October 17, 2011 4:51 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** FW: Re Greenfield Power Plant Mississauga

Hi Sylvia,

Below is an email I received from a gentleman who is associated with the Applewood Homeowners Association. The association is having a meeting this Wednesday. Charles Sousa and some local council members are expected to attend. Pat Philips reviewed my original (much longer) response and made adjustments. Please review and let me know what you think.

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Tim

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**Sent:** October 12, 2011 2:50 PM  
**To:** Tim Butters  
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John Sweeney. Applewood Homeowners Association.

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## **Fisher, Petra (ENERGY)**

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**From:** Jenkins, Allan (ENERGY)  
**Sent:** October-18-11 10:57 AM  
**To:** McKeever, Garry (ENERGY)  
**Subject:** Draft deck: Greenfield South Construction.ppt  
**Attachments:** Greenfield South Construction.ppt

This could be added to the OPA information, or a summary slide with more detail on cost information and alternative sites could be added in.



# Greenfield South Generating Station

## Next Steps

Date: October XX, 2011

## Stopping Construction

- On September 24, in Mississauga, local Liberal party candidates announced that “construction on the project would be halted” and that “if elected the Government would work with Eastern to choose a new site.”
- The Mayor of Mississauga attended the announcement and endorsed the decision. On October 12 the Mississauga Council passed a motion requesting that the Government and the Premier take immediate action to cancel the contract, stop construction and return the site to pre-construction condition
- On September 28, the media carried pictures of the plant with construction well underway.

## Issues

- Construction continues at the Greenfield South site. The developer has requested formal notice from the government before ceasing construction.
- The project has a valid contract with the OPA and all applicable approvals, and is operating without breach so that any regulatory mechanism for stopping construction could be challenged.
- The OPA is party to and administers the contract with Eastern Power. The Province is not a party to the contract. The OPA would require instruction from government to approach the developer to begin procedures to negotiate a change or to terminate the contract.
- Alternative site options and alternative ways to supply Mississauga have not been adequately identified at this time. Alternative sites would require new provincial and municipal approvals processes to be undertaken are likely to raise new issues.
- Statements have been made by local politicians that the plant would not be relocated to a site in Mississauga or Toronto.

## Next Steps Involve the OPA

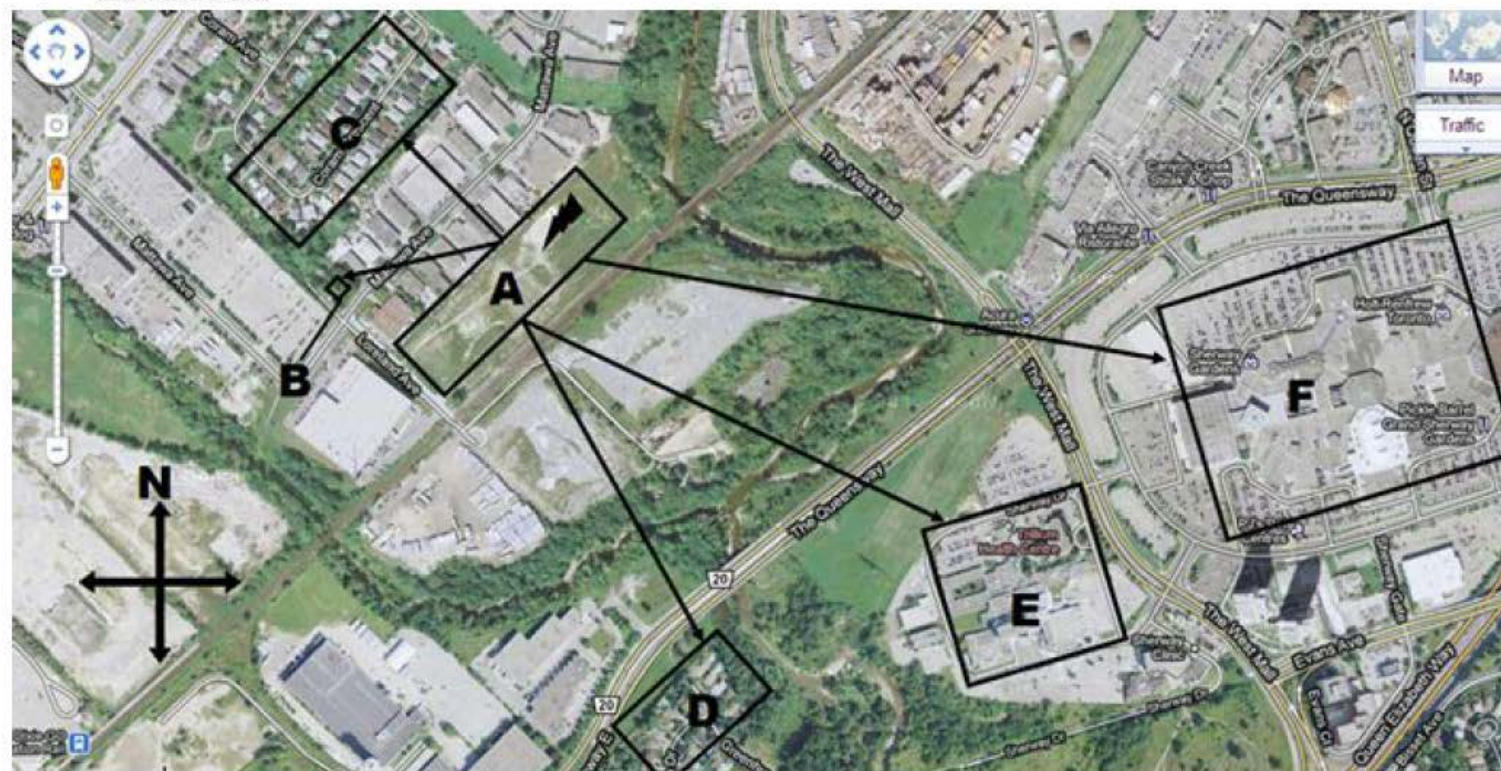
- OPA could be asked to approach Eastern Power about negotiating a settlement, which could include payment for costs to date (sunk costs), payment for foregone revenue, or negotiations for a contract at a new site. An incentive may be required. The project's lenders should be included in negotiations, assuming that Eastern Power is agreeable.
- The OPA has made some preliminary analysis of costs and foregone revenue and has identified a range of sites that require government review before being shared with Eastern Power. These alternative sites have various issues associated with them
- Proponent may not be interested in developing the proposed alternative sites and may be willing to settle for a financial cash settlement representing foregone net revenue or may view its prospects as being better through the courts.
- Could require a Ministerial direction to the OPA to renegotiate the contract or cancel the contract. The Government could agree to cover some or all of the settlement costs.

# Appendix



## Key Facts About the Greenfield South Plant

- Successful applicant in Ministry of Energy run Clean Energy Supply (CES) RFP, contract signed with the OPA in April 2005.
- Eastern Power, the project developer based in Ontario, has received all required provincial approvals, including Environmental Assessment and Certificates of Approval.
- Eastern Power has received all required municipal approvals, including building site approval from the City of Mississauga issued in May 2011.
- Eastern Power has secured financing (confirmed by the OPA).



Legend:

A – Proposed Greenfield Site

B – Closest House

C – Closest Subdivision (North)

D – Closest Subdivision (South)

E – Trillium Heath Centre

F – Sherway Gardens Mall

Distance:

A to B: 220 Meters

A to C: 270 Meters

A to D: 500 Meters

A to E: 740 Meters

A to F: 910 Meters





\*Plant construction as of 28 September 2011



## Fisher, Petra (ENERGY)

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**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October-18-11 11:43 PM  
**To:** Sharkawi, Rula (ENERGY)  
**Subject:** Re: IMPORTANTw: Mississauga Plant Fw: Toronto Star asking about need for Mississauga power plant

No response has been provided. OPA drafting for our review. Will fill you in in the morning.

-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Sharkawi, Rula (ENERGY)  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** Tue Oct 18 21:04:20 2011  
**Subject:** IMPORTANTw: Mississauga Plant Fw: Toronto Star asking about need for Mississauga power plant

See below.

---

**From:** Sharkawi, Rula (ENERGY)  
**To:** Silva, Joseph (ENERGY); Lindsay, David (ENERGY)  
**Sent:** Tue Oct 18 21:02:27 2011  
**Subject:** Mississauga Plant Fw: Toronto Star asking about need for Mississauga power plant

Deputy - Looks like John Spears put a call into the OPA today. Scroll to the bottom to see line of questioning of what seems to be a fishing expedition on the rationale for the plant in first place and why a change in direction.

We did follow the protocol in place which was to notify CO and MO. We are in the process of confirming that no responses were provided to Spears yet.

We will send you draft responses as soon as we have them. We may chose to simply say we are reviewing the matter at this time and not go beyond that.

Rula

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**To:** Robart, Lisa (CAB)  
**Cc:** McMichael, Rhonda (CAB); Sharkawi, Rula (ENERGY); @CAB-Issues; King, Ryan (ENERGY); Silva, Joseph (ENERGY); Perun, Halyna N. (ENERGY)  
**Sent:** Tue Oct 18 15:25:21 2011  
**Subject:** RE: Toronto Star asking about need for Mississauga power plant

We've asked OPA to draft responses for our review (emphasizing that plant hasn't been cancelled, it will be relocated)

---

**From:** Robart, Lisa (CAB)  
**Sent:** October 18, 2011 3:17 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Cc:** McMichael, Rhonda (CAB); Sharkawi, Rula (ENERGY); @CAB-Issues  
**Subject:** RE: Toronto Star asking about need for Mississauga power plant

Thanks, Sylvia. Will let P.O. know.

---

**From:** Kovesfalvi, Sylvia (ENERGY)  
**Sent:** October 18, 2011 3:07 PM  
**To:** @CAB-Issues  
**Cc:** McMichael, Rhonda (CAB); Sharkawi, Rula (ENERGY); Silva, Joseph (ENERGY); King, Ryan (ENERGY); Perun, Halyna N. (ENERGY)  
**Subject:** Toronto Star asking about need for Mississauga power plant  
**Importance:** High

FYI. (I've forwarded to our MO and will follow-up with our suggested response).

---

**From:** Tim Butters [mailto:Tim.Butters@powerauthority.on.ca]  
**Sent:** October 18, 2011 3:01 PM  
**To:** Kovesfalvi, Sylvia (ENERGY)  
**Subject:** FW: Mississauga power plant  
**Importance:** High

Sylvia,

We just received the following email from John Spears. As noted, he's looking for some planning analysis with respect to the need for Greenfield South.

TB

---

**From:** Spears, John [mailto:JSpears@thestar.ca]  
**Sent:** October 18, 2011 2:48 PM  
**To:** Media  
**Subject:** Mississauga power plant

I'm interested in any analysis the OPA has done about the effect of not building Eastern Power's proposed generating station in Mississauga.

Could you please send me any studies or other analysis the OPA has done relating to this decision?

I'm not looking for contractual details with Eastern Power.

I'm looking instead on why the power plant is no longer needed. Why was the plant proposed in the first place? Why is it no longer considered necessary? What is the likely impact on service, safety and reliability? If the proposed plant's supply is not going to be available, what alternatives are likely to be needed to maintain service – e.g. other power plants, additional transmission lines, or the like?

What are the costs associated with the alternatives? (Again, I'm not asking for details of any payments that might have to be made relating to cancellation of the Eastern Power project.)

I'd be grateful for any studies or analyses that the OPA might have done bearing on these questions.

Thank you.

John Spears  
Toronto Star  
416-869-4353

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**Fisher, Petra (ENERGY)**

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**From:** McKeever, Garry (ENERGY)  
**Sent:** October-18-11 12:03 PM  
**To:** Jennings, Rick (ENERGY)  
**Cc:** Jenkins, Allan (ENERGY)  
**Subject:** Draft deck  
**Attachments:** Greenfield South Construction Oct 18 2011.ppt

Rick

Allan has drafted a deck and I have made some additions/comments. Once we have the OPA's material we can make any necessary changes.

G