

March 17, 2020

SENT VIA EMAIL: minister.mecp@ontario.ca

The Honourable Jeff Yurek
Minister of Environment, Conservation and Parks
College Park 5th Floor, 777 Bay Street
Toronto, ON M7A 2J3

Dear Minister Yurek:

I am writing to inform you that the Stewardship Ontario Board of Directors decided, at its meeting on March 10, to proceed with paying out reserve funds for certain Municipal Hazardous or Special Waste (MHSW) to Industry Stewardship Organizations (ISOs).

The Stewardship Ontario MHSW Wind Up Plan was developed to meet the requirements of ministerial direction letters and received approval from the Resource Productivity and Recovery Authority (RPRA) on December 27, 2019. The approved wind up plan requires the return of surplus program funds to consumers through the implementation of a fee reduction for stewards of both Stewardship Ontario and Industry Stewardship Plans (ISPs). Under the wind up plan, this fee reduction was to be implemented gradually over the final 18 months of the program by way of fee reductions on steward invoices.

Subsequent to the Wind Up Plan's approval, Stewardship Ontario staff and the Board learned of stakeholders' requests to advance the payment of reserve funds. In response, Stewardship Ontario held a special Board meeting on March 10, 2020 to assess whether accelerated reserve fund payouts could be implemented in a financially responsible manner consistent with the wind up plan and in a way that is both fair and reasonable for all producers of Municipal Hazardous or Special Materials (MHSM).

The Board considered your July 2019 direction letter, which states "any proposal to return surplus funds to MHSM consumers should be determined in a manner that would provide for sufficient funds for the costs of operating the program during the wind up period, as well as costs incurred to wind up the waste diversion program for MHSW."

Board members agreed that to carry out this direction, sufficient funds needed to be maintained in the MHSW reserves to deal with the inherent uncertainties and risks of the wind up, including a potential extension of the wind up timeline. Depleting the MHSW reserves could pose a significant risk to Stewardship Ontario in the event new regulations to replace the MHSW program are delayed. For example, the extension of termination dates for waste diversion programs, including MHSW, has already added costs to the wind up of Industry Funding Organizations (IFO), such as Stewardship Ontario. As such, the possibility of a further extension of the MHSW program is something that the Stewardship Ontario Board needed to carefully consider.

If further delay were to occur and reserves were not sufficient, stewards of materials that are not part of an ISO would bear the cost of wind up, which would be an unfair and unreasonable result that could be challenged by a number of stakeholders. The directors were bound to consider these matters as part of their deliberations on how to prudently fulfil the requirements of the direction letters.

As fiduciaries, the Board takes its duty to safeguard IFO funds very seriously. As a government-mandated organization, Stewardship Ontario holds monies in trust to ensure that the Government's policy objectives are met, and that wind up occurs absent any financial or reputational risk. Stewardship Ontario must make prudent allowance for the possibility of regulatory delay and must have enough funds on hand in the event the Government requires additional time to implement new regulations.

With respect to stakeholder impacts, it should be noted that accelerating the payment of reserve funds to ISOs will not generate any benefits for their stewards. The timing by which stewards would be eligible to receive fee reductions is set to occur on a monthly or quarterly basis and would not be affected by front-end loading payments to their stewardship organizations, which would be holding these funds.

After careful consideration of the front-end load request, the Board of Directors determined that 90% of the reserve funds could be advanced to ISOs by April 30 provided that the remaining 10% of ISP funds are held back to provide a buffer for unforeseen events. These hold-back amounts would be disbursed in the last quarter of the program to offset stewards' final invoices as anticipated under the approved wind up plan.

Under this proposal, and subject to agreements with ISOs on permitted uses of advanced reserve funds, Automotive Materials Stewardship (AMS) would receive approximately \$15.9 million, and approximately \$14.4 million would be distributed to Product Care Association (PCA). Stewardship Ontario would hold back a modest \$3.4 million to be distributed to AMS and PCA later in the wind-up process.

The Board's decision now provides a mandate for Stewardship Ontario staff to start negotiations with the ISOs on fee reduction agreements. We would like to begin these negotiations as soon as possible to ensure that the reserve funds can be advanced to the ISOs by April 30.

Staff are available to review the details of program financing with your staff and answer any questions they may have about our Board's decision. Board Directors are also available to meet with you or discuss if you have questions about the attached.

Thank you for your attention to this matter.

Sincerely,



Debbie Baxter, Independent Director
Chair of the Finance, Audit & Performance Committee
CMC, FCPA, FCMA, ICD.D

CC:

liam.o'brien2@ontario.ca

isaac.apter@ontario.ca

Charles.O'Hara@ontario.ca

John.Armiento@ontario.ca

fdenton@rpra.ca