

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement, de la Protection
de la nature et des Parcs



PUBLICLY RELEASED BY COUNCIL ON NOVEMBER 27, 2019

Provincial Officer's Report

Order Number
1-J3XAY

To:
HAMILTON, CITY OF
700 WOODWARD Ave N
HAMILTON ON L8H 6P4
Canada

Site:
700 WOODWARD AVE,
HAMILTON, L8H 6P4,
Canada

Observations

Definitions Section:

SLR = SLR Consulting (Canada) Ltd.
Wood = Wood Environmental & Infrastructure Solutions a division of Wood Canada Limited.

Provincial Officer Order (POO) Number 1-J25YB was issued on August 2, 2018 requiring, among others, the submission of the following:

"1. (b) Retain a licensed external Qualified Person (QP) with appropriate expertise in remediation of wastewater discharges to the natural environment, to evaluate impacts to Chedoke Creek from the sewage discharged from the Main/King CSO facility to Chedoke Creek between January 28, 2014 and July 18, 2018. This evaluation shall identify whether remediation and/or mitigation of Chedoke Creek is required, and (if remediation and/or mitigation is recommended), make recommendations regarding the most effective way to complete the remediation and/or mitigation. Submit a written report on the results of 1. (b) to the undersigned Provincial Officer by October 31, 2018."

and

"1.(c) Submit a written report on the associated implementation timeline for any necessary remedial and/or mitigation work with respect to Chedoke Creek, to the undersigned Provincial Officer by November 30, 2018."

Item 1. (b) and (c) were both submitted on January 31, 2019 after the approval of two (2) request for extensions.

On March 20, 2019, the City reported that a peer review was being conducted of the original reports.

On May 30, 2019 the Ministry received both: a Peer Review Report by SLR, dated May 15th, 2019; and a Memo from Wood, dated May 23, 2019.

On September 19, 2019 clarification/confirmation was requested from the City due to the Ministry's review, which found that requested information in the POO was not provided. The Ministry had expected that the City would do the following:

- evaluate impacts at the time of the spill through to date to Chedoke Creek and Cootes Paradise from the sewage discharged and possible material remaining in the creek from the Main/King CSO facility spilled to Chedoke Creek between January 28, 2014 and July 18, 2018;
- identify any anticipated on-going impacts, including the impacts noted above, and review options to remediation and/or mitigation, and/or monitoring of Chedoke Creek/Cootes Paradise and recommend and justify what is and is not required for cleanup and further mitigation; and
- and (if remediation and/or mitigation and/or monitoring is recommended), make recommendations regarding the most effective way to complete the remediation and/or mitigation and/or monitoring.

On October 1, 2019 the City reported additional sampling work was completed at the site during the last week of September 30, 2019.

On October 10, 2019 the Ministry requested a final report and recommendations by November 15th. Due to field work just completed and lab analysis turn around time, the City indicated that a final SLR report could not be provided until the end of January 2020.

The City was requested to provide more information to support the delay in the submission by October 18, 2019.

The City plan to receiving a draft Ecological Risk Assessment (ERA) by SLR at the end of January 2020.

Offence(s)

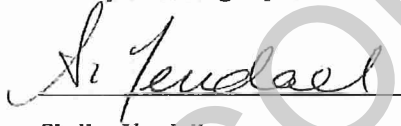
Suspected Violation(s)/Offence(s)

Act – Regulation – Section

Description

Environmental Protection Act, Section 14 (1) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect. 2005, c. 12, s. 1 (5).

Ontario Water Resources Act, Section 30 (1) Every person that discharges or causes or permits the discharge of any material of any kind into or in any waters or on any shore or bank thereof or into or in any place that may impair the quality of the water of any waters is guilty of an offence. R.S.O. 1990, c. O.40, s. 30 (1).



Shelley Yeudall
Provincial Officer
Badge Number: 881

Ministry of the Environment,
Conservation and Parks

Ministère de l'Environnement, de la Protection
de la nature et des Parcs



Provincial Officer's Order

Order Number
1-J3XAY

Environmental Protection Act, R.S.O. 1990, c.E 19 (EPA)
Nutrient Management Act, R.S.O. 2002, c.4 (NMA)
Ontario Water Resources Act, R.S.O. 1990, c.O. 40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P11 (PA)
Safe Drinking Water Act, S.O. 2002, c.32 (SDWA)

To: HAMILTON, CITY OF
700 WOODWARD Ave N
HAMILTON ON L8H 6P4
Canada

Site: WW HAMILTON-WOODWARD AVE WWTP
700 WOODWARD AVE,
HAMILTON, L8H 6P4,
Canada

Work Ordered

Pursuant to my authority in sections 16 and 16.1, and subsection 104(2) of the Ontario Water Resources Act, and in section 157 and 157.1 and subsection 196(1) of the Environmental Protection Act, I hereby require you to take all necessary steps and to do the following:

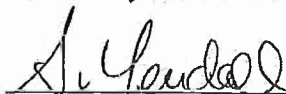
As per Provincial Officers Report and Order # 1-J25YB, Report # 1-J3XAY and discussions with Cari Vanderperk, Manager, Compliance & Regulations, Public Works, Hamilton Water, the Ministry requires that the City submit the following reports and information to the undersigned Provincial Officer by February 14, 2020:

- i) Final Report of Chedoke Creek Ecological Risk Assessment (ERA), by SLR Consulting (Canada) Ltd. This report shall include an evaluation of the impact to Chedoke Creek and Cootes Paradise from the sewage discharged between January 28, 2014 and July 18, 2018, an evaluation of the material remaining in the creek, identification of any anticipated on-going impacts, and review of options for remediation, mitigation and monitoring of Chedoke Creek/Cootes Paradise.
- ii) City's final conclusion with respect to remediation, mitigation and monitoring of Chedoke Creek and Cootes Paradise if recommended and if so, include the selected option for remediation, mitigation and monitoring, including all supporting documentation for the selected option and implementation timeline for all work with respect to Chedoke Creek spill cleanup, including significant milestones and approvals from MNR and Hamilton Conservation Authority.

- A. While this Order is in effect, a copy or copies of this order shall be posted in a conspicuous place.
- B. While the Order is in effect, report in writing, to the District or Area Office, any significant changes of operation, emission, ownership, tenancy or other legal status of the facility or operation.

This Order is being issued for the reasons set out in the annexed Provincial Officer's Report which forms part of the Order.

Issued at City of Hamilton this 14/11/2019 (dd/mm/yyyy)


Shelley Yeudall
Badge Number: 881
Hamilton District

APPEAL/REVIEW INFORMATION

REQUEST FOR REVIEW

You may request that this order be reviewed by the Director. Your request must be made in writing (or orally with written confirmation) within seven days of service of this order and sent by mail or fax to the Director at the address below. In the written request or written confirmation you must,

- specify the portions of this order that you wish to be reviewed;
- include any submissions to be considered by the Director with respect to issuance of the order to you or any other person and within respect to the contents of the order;
- apply for a stay of this order, if necessary; and provide an address for service by one of the following means:
 1. Mail
 2. Fax

The Director may confirm, alter or revoke this order. If this order is revoked by the Director, you will be notified in writing. If this order is confirmed or amended by order of the Director, the Director's order will be served upon you. The Director's order will include instructions for requiring a hearing before the Environmental Review Tribunal.

DEEMED CONFIRMATION OF THIS ORDER

If you do not receive oral or written notice of the Director's decision within seven days of receipt of your request, this order is deemed to be confirmed by order of the Director and deemed to be served upon you.

You may require a hearing before the Environmental Review Tribunal if, within 15 days of service of the confirming order deemed to have been made by the Director, you serve written notice of your appeal on the Environmental Review Tribunal and the Director. Your notice must state the portions of the order for which a hearing is required and the grounds on which you intend to rely at the hearing. Except by leave of the Environmental Review Tribunal, you are not entitled to appeal a portion of the order or to rely on grounds of appeal that are not stated in the notice requiring the hearing. Unless stayed by the Environmental Review Tribunal, the order is effective from the date of service.

Written notice requiring a hearing must be served personally or by mail upon:

The Secretary
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto, ON M5G 1E5

and

Director (Provincial Officer Orders)
Ministry of the Environment, Conservation and Parks
119 King St. W., 9th floor Hamilton, ON, L8P 4Y7
Fax: (905) 521-7806

Where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and the time for requiring a hearing is not extended by choosing service by mail.

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal by

Tel: (416) 212-6349

Fax: (416) 326-5370

www.ert.gov.on.ca

FOR YOUR INFORMATION

- Unless stayed by the Director of the Environmental Review Tribunal, this order is effective from the date of service. Non-compliance with the requirements of this order constitutes an offence.
- The requirements of this order are minimum requirements only and do not relieve you from complying with the following:
 - Any applicable federal legislation;
 - Any applicable provincial requirements that are not addressed in the order; and
 - Any applicable municipal law.
- The requirements of this order are severable. If any requirement of this order or the application of any requirement to any circumstances is held invalid, the application of such requirement to other circumstances and the remainder of the order are not affected.
- Further orders may be issued in accordance with the legislation as circumstances require.
- The procedures to request a review by the Director and other information provided above are intended as a guide. The legislation should be consulted for additional details and accurate reference.



Ministère de l'Environnement, de la Protection
de la nature et des Parcs

Ministry of the Environment,
Conservation and Parks

Certificate of Service

Environmental Protection Act s.175(1)(b)
Nutrient Management Act, R.S.O. 2002, c.4 (NMA)
Ontario Water Resources Act s.115(1)(b)
Pesticides Act s. 51(1)(b)
Safe Drinking Water Act, 2002 s.159(3)

I, Shelley Yeudall a designated Provincial Officer under the Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act and Safe Drinking Water Act, certify that I served a true copy of this Provincial Officer's Order order number: 1-J3XAY on the following person(s) or company ordered in the manner indicated.

SERVICE DECLARATION

Person/Company
HAMILTON, CITY OF

Address
700 WOODWARD Ave N
HAMILTON ON L8H 6P4
Canada

Left With
Andrew Grice

Position
Director, Hamilton Water

Date of Service
14/11/2019

Method of Service
Email

A handwritten signature in black ink, appearing to read "S. Yeudall", written over a horizontal line.

Shelley Yeudall
Provincial Officer
Badge Number: 881
14/11/2019 (dd/mm/yyyy)
Hamilton District

CONFIDENTIAL