

June 29,2010

Denise Holmes

Re: Letter to the editor - rail line

As mentioned at the last Council meeting I was asked by Richard Vivian of the Orangeville Banner to explain my position regarding the above in view of the June 10 misleading headline. The Banner did put in a clarification about the headline. When the letter appeared however, it was "different" than the one I sent.

After talking to Richard and some investigation I found out that I made an error. I started the letter but had to stop to go on an appointment. When I came back and couldn't find the letter in my "word file" so I retyped it. When I went to attach the letter to the e-mail I picked up the original "part letter" and that was what was printed. I usually open attachments before I hit "send" and for sure should have this time. The error was mine.

However I would appreciate it if you would include the correct letter as correspondence as I think the residents of Melancthon should know my view.

Regards,



Bill Hill

①  
JUL - 8 2010

To the Editor

Re June 10 page four headline "Hill could be convinced to lease land to the Highland Railway Group"

The above headline is misleading at best and inappropriate at worst. I feel an apology is in order. I have NOT suggested I would support ANY company.

My letter to the County was sent in the event that I could not attend the June 10<sup>th</sup> meeting, as I was to be out of the County.

My hope is that the County will decide there is not enough to be gained financially to sell the line and they will develop the trail in the spirit of the gifting agreement that was signed four years ago. The Master Trails and Transportation Plan calls for the rail line to be a significant part of the plan. The plan was paid for by the County and is the only "real" money that has been spent on the potential development of the trail. I find it ironic the County would undertake that initiative and then sell the rail line. I pointed out several examples of Communities that have developed their lines to exciting multi-use trails for their residents and visitors.

I also believe the process should be more open than it has. There is one unsolicited offer discussed in camera. As a result of the June 10<sup>th</sup> County Council meeting public meetings will be set up at the June 28<sup>th</sup> General Government Services meeting. Presumably the topics will be, Should the County dispose of the rail line? Should it be leased? Should the property be tendered to the public to see if there are other interested parties? If not how much money should be budgeted to develop the line? These are important questions that the public should have input on.

So to be clear, I do NOT support the SALE of the rail line to anyone. IF the residents of Dufferin County supported the lease of the line to some company or group AND that body could show significant economic benefit to the citizens of Dufferin County and the Municipalities the rail line will go through, I could be convinced to support a lease.

Otherwise keep the trail and get on with developing it in the spirit of the gifting agreement signed by the County.

Regards,

Bill Hill  
Deputy Mayor  
Township of Melancthon

JUL - 8 2010



**THE CORPORATION OF THE  
TOWNSHIP OF ADJALA – TOSORONTIO**

7855 Sideroad 30 \* R.R.#1 \* Alliston, Ontario \* L9R 1V1  
Telephone: (705) 434-5055 Fax: (705) 434-5051

Office of the Clerk

BY E-MAIL ONLY

June 15, 2010

Mrs. Denise Holmes  
CAO/Clerk-Treasurer  
Township of Melancthon  
R.R.#6  
Shelburne, Ontario L0N 1S9

Dear Mrs. Holmes:

Re: Proposed Limestone Quarry

The Township Council at the meeting Monday June 7, 2010 passed the following resolution.

Please be advised that the following motion was made Councillor Wallace, seconded by Councillor Webster and carried:

BE IT RESOLVED THAT Council receive e-mail dated Friday May 21, 2010 from the Township of Melancthon and letter dated May 24, 2010 from The Highland Companies and direct that they be filed as information;

AND FURTHER THAT Council direct that the letter dated January 19, 2010 from Karren Wallace also be filed as information;

AND FURTHER THAT Staff are directed to send a letter to the Township of Melancthon requesting that the Township of Melancthon provide Council with future updates on the proposed quarry.

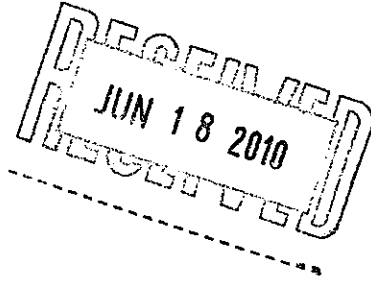
Yours truly,

A handwritten signature in cursive script that reads "Barbara Kane".

Barbara Kane  
Township Clerk

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## ONTARIO GOOD ROADS ASSOCIATION

6355 KENNEDY ROAD, UNIT 2  
MISSISSAUGA, ONTARIO L5T 2L5  
TELEPHONE 905-795-2555  
FAX 905-795-2660  
[www.ogra.org](http://www.ogra.org)

June 16, 2010

Township of Melancthon  
R.R. #6, 157101 Highway 10,  
Shelburne, ON L0N 1S9

Attention: Debbie Fawcett,  
Mayor

Dear Mayor Fawcett:

As you know, the Minimum Maintenance Standards (MMS) were created to help Ontario municipalities manage their risk from legal action stemming from personal injury on municipal roads. Unfortunately, claims are repeatedly brought against road authorities for personal injury and property damage alleging inadequate maintenance of roads, signage or failing to provide proper winter deicing, sanding and/or plowing. The MMS have been very successful in defending against these claims. If the municipality can show that they were following the minimum level of maintenance set out in the regulations, plaintiffs are often discouraged from proceeding with their claims either by their lawyers or upon presentation of proof in discovery. Further, upon making it to the Courts, usually with a claim for catastrophic injury, the courts have been looking for the compliance with MMS with regards to municipal liability.

Recently an application was filed with the Superior Court of Justice to have the Minimum Maintenance Standards declared null and void. This application has been filed by individuals who have also filed suit against a municipality for a winter related accident. The municipality is attempting to defend the action, in part, by proving that they were in compliance with the Minimum Maintenance Standards.

The application to have an order declaring the MMS null and void, if successful, will have huge implications for all Ontario municipalities. Municipalities, who are exercising due diligence and maintaining their roads in good repair, or providing excellent winter maintenance, will no longer have a viable defence against spurious claims of liability. With no viable defence, claims that might otherwise be thrown out will continue onto expensive trials and old claims could possibly be re-filed. The courts may once again start awarding large settlements which will result in higher insurance premiums for municipalities. For this reason the Ontario Good Roads Association is filing notice with the court that we wish to oppose the application on behalf of our municipal members.

(3)

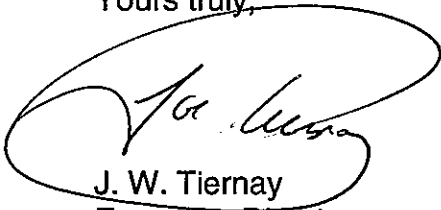
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OGRA does not have the financial resources to defend this application and any subsequent appeals, which potentially could go as high as the Supreme Court of Canada. We are therefore turning to you, our members, to ask you to consider contributing to a "**MMS Litigation Fund**". A small contribution to the fund will greatly assist OGRA in fighting this application on behalf of all our members.

We are suggesting that each municipality consider contributing 10¢ per-capita with the maximum contribution capped at \$50,000 and the minimum being \$1,000. We appreciate that municipal budgets are stretched; however a small contribution now could save significant money in the future. Please feel free to contribute whatever you can to the cause. Any funds not used will be refunded back to contributing municipalities on a pro-rated basis.

Thank you for your consideration of this request. If you have any questions or concerns please contact me.

Yours truly,

A handwritten signature in black ink, appearing to read "J. W. Tiernay", enclosed within a large, loopy oval scribble.

J. W. Tiernay  
Executive Director



CORPORATION OF THE  
**township of mulmur**

758070 2nd Line E., Terra Nova  
R.R.2, Lisle, Ontario • L0M 1M0  
TELEPHONE: 705-466-3341 • FAX 705-466-2922

June 25<sup>th</sup>, 2010

Ms. Pam Hillock, Clerk  
County of Dufferin  
51 Zina Street,  
Orangeville, Ontario. L9W 1E5

Dear Ms. Hillock:

**Re: County of Dufferin Authority for Waste Management Assumption**

With regards to the above matter, Mulmur Township Council passed the following motion;

“That be it resolved that the Township of Mulmur consents to the County of Dufferin assuming its waste in accordance with Section 189 (1) of the Municipal Act conditional upon:

- a) that the assumption of waste will only take place if the energy from waste facility is deemed feasible per the report of CDC-10-08, from the Director of Public Works from the County of Dufferin
- b) that the timing of the assumption of waste be upon the commissioning of the energy from waste facility at the Dufferin Eco Energy Park
- c) that the assumption of waste does not include the assumption of any landfill site, active or closed and owned by a local municipality
- d) until the assumption, the County of Dufferin will work with the local municipalities at the request of individual municipalities, to administer the waste collection process, and at the cost of those local municipalities. “

Should you have any questions, please do not hesitate to contact the undersigned.

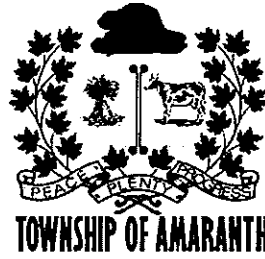
Yours truly,

Terry Horner, A.M.C.T.  
CAO/Clerk

c. Dufferin Municipalities

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DOUG PRICE, Director of Public Works  
ROADS TELEPHONE: (519) 941-1065  
FAX: (519) 941-1802



RR 7, Orangeville, ON L9W 2Z3

SUSAN M. STONE, C.A.O./Clerk-Treasurer  
TELEPHONE: (519) 941-1007  
FAX: (519) 941-1802  
email: [suestone@amaranth-eastgarry.ca](mailto:suestone@amaranth-eastgarry.ca)

June 25, 2010

County of Dufferin  
51 Zina Street  
Orangeville, Ontario  
L9W 1E5

Dear Sir/Madam:

Re: County Dufferin By-law 2010-29 Waste Collection

Please be advised that at the special meeting of Council held June 24, 2010, the following resolution was set forth.

Resolution

Moved by J. Aultman - Seconded by W. Kolodziechuk

Resolved that the Council of the Township of Amaranth does not consent to County of Dufferin By-law 2010-29, being "A By-law to Empower the County of Dufferin to assume authority for the establishment, operation and delivery of waste collection and treatment programs and services for the County of Dufferin and all its constituent lower-tier municipalities" ("The County By-law").

And Further, that Township Council calls on County Council to make the following change to the said by-law;

The inclusion of a firm date of May 1<sup>st</sup>, 2012, on or before which the County shall assume authority for waste management from the Township of Amaranth, and assume all related contracts and agreements, including but not limited to all rights, obligations and liabilities thereunder, to which the Township is a party relating to waste collection, management and/or disposal and or related matters, which assumption shall be to the satisfaction of the Township. For greater certainty, the Township is not calling on County Council to assume its operating landfill site. Carried

Yours truly,

Susan M. Stone, A.M.C.T.  
CAO/Clerk-Treasurer  
Township of Amaranth

SMS:cd  
cc: Dufferin Area Municipalities

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## Denise Holmes, AMCT

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**From:** Denise Holmes, AMCT [dholmes@melancthontownship.ca]  
**Sent:** Monday, June 28, 2010 3:14 PM  
**To:** dholmes@melancthontownship.ca  
**Subject:** FW: Clean Water Act - Reg 287/07 amendments for source protection plans - Information for Municipalities  
**Importance:** High  
**Attachments:** RegAmendment287-07-MunicipalInfo.pdf

Ministry of  
the Environment

Source Protection Programs  
Branch

8<sup>th</sup> Floor  
2 St. Clair Ave. West  
Toronto ON M4V 1L5

Ministère de  
l'Environnement

Direction des programmes de  
protection des sources

8<sup>e</sup> étage  
2, avenue St. Clair Ouest  
Toronto (Ontario) M4V 1L5



June 22, 2010

Greetings,

I am pleased to announce that the Ministry of the Environment has now finalized the regulation in support of the development and implementation of source protection plans under the *Clean Water Act, 2006*. The goal of the Act is to protect existing and future sources of drinking water, as part of an overall commitment to human health and the environment. The development of regulations to enable local source protection committees to complete their respective source protection plans is required by the Act.

The requirements for source protection plans are set out as amendments to the General Regulation (O. Reg. 287/07) under the Act, and will come into effect July 1, 2010. These amendments follow a public consultation process that included a policy discussion paper posted on the Environmental Bill of Rights' Environmental Registry (EBR) website in June 2009, and a draft regulation posted on the EBR in January 2010. All comments provided in writing and at multi-stakeholder discussion sessions and focus groups were taken into consideration and were helpful in finalizing the regulatory amendments.

We wish to thank all those who took the time to provide their input on the proposals. I believe that the contribution of our partners will strengthen the protection of drinking water sources in Ontario and result in a source protection framework that is beneficial to everyone living in source protection areas.

Since your municipality is located within a source protection area defined under the Act, we encourage you to forward this information to your municipal planners and any other municipal staff that are involved in source protection planning.

I have attached a fact sheet explaining the regulation, which will also be posted on the ministry's website [www.ontario.ca/cleanwater](http://www.ontario.ca/cleanwater). The regulation itself is currently posted under "Source Law" on the [e-Laws website](#). The consolidated version of O. Reg. 287/07 will be posted on e-Laws in the near future. We look forward working with you and source protection committees, municipalities, and other stakeholders as we

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continue to implement the Clean Water Act and the recent amendments.

If you have any questions, please contact Debbie Scanlon, Senior Drinking Water Program Advisor, at (416) 212-8839 or [Debbie.Scanlon@ontario.ca](mailto:Debbie.Scanlon@ontario.ca).

Sincerely,

Ian Smith, Director  
Source Protection Programs Branch  
Ministry of the Environment

c: Conservation Ontario  
Ministry of Natural Resources  
Ontario Ministry of Agriculture and Rural Affairs  
Ministry of Municipal Affairs and Housing  
Keith Willson, Manager, Source Protection Programs Branch, MOE  
Katie Fairman, Supervisor, Source Protection Programs Branch, MOE  
Debbie Scanlon, Source Protection Programs Branch, MOE

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6/28/2010

# Preparing Source Protection Plans

## Municipal Role and Participation

The province has amended Ontario Regulation 287/07 to include requirements for the preparation and implementation of source water protection plans under the Clean Water Act. This document outlines the changes that may be of interest to municipalities. Municipalities are already responsible for the delivery of municipal drinking water and land use planning, and source protection builds on this work.

A key focus of the legislation is the preparation of locally-developed, collaborative, science-based assessment reports and source protection plans.

## Source Protection Plans

The source protection committees, who represent a range of interests within their local watershed, must prepare source protection plans. These plans are designed to protect existing and future sources of drinking water by creating a set of policies that help ensure activities carried out near municipal wells and surface water intakes do not threaten the quality of the drinking water supply.

Together, the Act and the regulation set out the requirements for preparing the source water protection plans and enables new authorities to address threats to drinking water sources.

The regulation:

- Sets out rules for the content of the plans, including significant drinking water threat policies and other optional policies, including:
  - spills prevention policies along highways, railways and shipping lines; and
  - education and outreach programs for other drinking water systems, including non-municipal and private systems.
- Requires extensive consultations with municipalities during the preparation of the plans
- Includes record-keeping requirements along with the preparation of an explanatory document to accompany the plans
- Contains minimum training and qualifications requirements for the designated officials<sup>1</sup> overseeing the implementation of risk management plans

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<sup>1</sup> Affected municipalities may take on this role or delegate to conservation authorities or others.

- Identifies prescribed instruments (permits and other legal documents) that must conform to the plans
- Requires regular reporting on the progress of implementing the plan

The regulation provides municipalities and source protection committees with important new authorities to protect local drinking water supplies, including when:

- a municipality **can elect to address significant** drinking water threats through an interim risk management plan **in advance of source protection plan approval**
- source protection committees can require municipally-developed risk management plans to address threats to drinking water
- a significant threat to drinking water can be prohibited – this may only be used in rare cases where management of the threat is not an option
- a local risk management official, with specific training and qualifications, will have the authority to enforce aspects of the source protection plan

### **Role for Municipalities in the Source Protection Planning Process**

Municipal input on policy development and draft plan policies will be an essential part of the plan preparation process beginning in 2010 and continuing until plans are submitted to the Minister of the Environment for approval in 2012.

Source protection committees must consult municipalities throughout the source protection planning process including:

1. Notifying a municipality when the source protection committee begins preparing the source protection plan. For example, source protection committees are encouraged to **make a presentation on source protection planning to municipal council**, if possible.
2. **Pre-consultation** - providing an opportunity for municipalities to give feedback on policies before the *draft* plan is finalized.
3. Giving **municipalities at least 35 days to comment** on the *draft* plan. A minimum of **one public meeting** to get feedback will be held, and a copy of the *draft* plan made available for public review. **All comments received must be considered** during the preparation of the *proposed* plan.
4. Informing municipalities and the public that the *proposed* plan has been posted on the Internet for review and comment. **Municipalities will have at least 30 days to provide feedback** on the *proposed* plan before it is submitted to the Minister for approval.
5. Providing an explanatory document with the draft and proposed source protection plan, to **show how the plan policies were developed** and summarizing how municipal and stakeholder comments, climate change considerations, and **costs affected the development of the policies** in the plan. **This document may aid in the implementation** of source protection plan policies.

6. Posting the approved plan on the Internet and in any other manner that the source protection committee considers appropriate.

Potentially affected municipalities will be notified if the Minister requests a hearing on any matter related to a source protection plan.

The province will post notification of approved source protection plans on the Environmental Registry website ([www.ontario.ca/environmentalregistry](http://www.ontario.ca/environmentalregistry)).

Source protection planning builds on the work that many municipalities are already doing to protect drinking water. **Municipalities have the opportunity** to work with local source protection committees to **shape the policies** intended to protect sources of drinking water for their communities. In addition to holding one third of the membership of source protection committees, municipalities may participate in the policy development process by proposing and providing input on policies, and reviewing and commenting on draft plans.

For more information please visit [www.ontario.ca/cleanwater](http://www.ontario.ca/cleanwater).

June 28, 2010

VIA EMAIL

Denise Holmes  
Clerk-Treasurer  
Township of Melancthon  
R. R. #6  
Shelburne, ON L0N 1S9

Dear Ms Holmes:

**Strada Aggregates Inc. Planning Applications,  
Proposed Aggregate Extractive Industrial Use  
Part W½ Lots 11 & 12, Conc. 3, O.S.**

This will provide a summary of the background and current processing status of the above referenced applications by Strada Aggregates Inc. for planning amendments relating to a proposed gravel pit.

Background Summary

1. The original applications were submitted in May, 2008, and related to a proposal for the extraction of aggregates above the water table on the subject lands.
2. Later that year the Township held a public information meeting and open house on the applications.
3. At approximately the same time as the public information meeting, the applicant revised the proposal to include extraction below the water table with site rehabilitation involving the creation of a large pond.
4. The Township then terminated the processing of the applications and advised the applicant of its concerns with this change in the proposal and the need for additional technical information. A preference for holding the processing of the new pit application pending the rehabilitation of the existing pit was also noted.
5. Early this year the proponent notified the Township that it had revised the proposal and would be submitting a new set of plans and studies for a proposed pit operation that would not extend below the water table. Also, the proponent was now proposing to split the existing annual extraction limit for their pit to the north with the new pit thus eliminating any increase in total annual extraction and the related truck traffic.

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6. A meeting of Township and Strada representatives in January of this year reviewed Township issues and concerns with the company's revised proposal, aspects of the processing of the applications, and related matters.
7. Subsequent to that meeting the undersigned provided written responses to questions from the Strada representatives. On the matter of additional Township requirements, they were advised of the October 22<sup>nd</sup>, 2008, letter the Township received from the Six Nations Council concerning the proposed pit. They were also advised of the need to consult with aboriginals and to report to the Township on those consultations.
8. In April the Township received copies of the material Strada's consultants were then submitting to the Ministry of Natural Resources for approval under the Aggregate Resources Act. This included the required site plans, and reports on planning, the natural environment, hydrogeology, soils and agriculture, archaeology, traffic and noise.

#### Summary of Current Status

The following summarizes the current status of the processing of the applications and the assessment of the applicant's related materials.

1. Prior to the submission of the applicant's full documentation, the draft environmental and hydrogeology reports were reviewed by the Nottawasaga Valley Conservation Authority and that agency provided comments to the applicant's consultants, with copies to the Township.
2. Subsequent to the applicant's submission of the full documentation on the updated aggregate extraction proposal, the Township has initiated peer reviews on the environmental, hydrogeology, soils, and noise reports.
3. The draft peer review of the environmental report and the hydrogeology peer review have been provided to the applicant's consultants for a response.
4. The applicant's hydrogeologist has met with the Township's hydrogeologist and the Township's planner to discuss the peer review comments. At that meeting the applicant's hydrogeologist indicated that she would prepare a written response to the peer review.
5. No written responses to either of these peer reviews have yet been received although it is understood these will be provided shortly.
6. The peer review on the soils and agricultural report has been received and will be provided to the applicant's consultant for a response.

7. The peer review of the applicant's noise study has just been received. As with the other peer reviews, it will be briefly reviewed by the undersigned and, if there are no questions or concerns, it will also be provided to the applicant's consultants for a response.
8. The undersigned is reviewing the applicant's planning report and the details of the proposed pit operation including the four site plans. Any questions or concerns will be identified and provided to the applicant's consultants for a response.
9. No information has been provided by the applicant's representatives concerning any aboriginal consultations.

The Next Steps

As a result of the peer review process, there are several items to be addressed. The discussion and attempted resolution of these aspects of the proposal and the related technical studies will form the next major phase of the planning review and evaluation process.


At the end of that phase I will report to Council on the status of the various issues. It would then be appropriate to circulate the applications to the review agencies for comment and to hold either the statutory public meeting under the Planning Act or another public information meeting.

The applicant will be required to hold a public information meeting as part of the processing of the pit license application under the Aggregate Resources Act. Apparently the Ministry of Natural Resources has not yet deemed that application to be complete.

I will update and advise Council as the processing of the applications continues. At a minimum this will occur when the peer review process is completed and when it appears appropriate to make a decision on further public participation. The Township will also be notified of the applicant's public information meeting under the Aggregate Resources Act and will be given an opportunity to submit comments to the Ministry on the related license application.

All documents provided by the applicant and prepared by the municipality's representatives are available at the Township office for examination.

Sincerely,

  
G. W. Jorden, RPP

**Denise Holmes, AMCT**

**From:** JOHN LEVER [jlever@sympatico.ca]  
**Sent:** Tuesday, June 29, 2010 10:54 AM  
**To:** lorrie gillis  
**Cc:** Denise Holmes, AMCT  
**Subject:** RE: Grey Highlands Passes Arran Elderslie By-Law today!

Dear Lorrie,  
 Congratulations to Grey Highlands. They truly have back-bone to support the Arran Elderslie by-law. I wish our Melancthon Council had the same concern for the health and safety of its residents.

Sincerely,  
 Joan Lever

Dear CAO Denise Holmes:  
 Please include this e-mail in correspondence, as well as all the other documentation I sent you regarding the Arran Elderslie by-law, and wind turbines. You told me you sent all the information to Lawyer Osyany for a legal opinion. What was his response? Is it only Deputy Mayor Hill that does not support the Arran Elderslie by-law, or did the entire Melancthon Council make a recorded vote?

Joan Lever

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**From:** lpcgillis@bmts.com  
**Subject:** Grey Highlands Passes Arran Elderslie By-Law today!  
**Date:** Mon, 28 Jun 2010 15:59:56 -0400

The Arran Elderslie by-law was passed in Grey Highlands council today, June 28th, 2010 and council deferred approval of road use to AIM/IPC again!

Grey Highlands council will be the first ones to be challenged with the bylaw in place since there is an active proposed turbine project by AIM/IPC that creeps from Melancthon into Grey Highlands at the moment.

Regardless of this, the council had the moral courage and determination to move forward with this by-law because they are concerned about ALL of the residents they represent.

We will see what kind of a corporate citizen AIM/IPC is. Will they use bullying tactics to force industrial wind turbines into our township? Will the Ontario government use the same tactics in backing a corporation to steamroll over a small rural municipality?

I hope more and more municipalities pass this by-law. At a time when so many have lost any faith in any kind of government, our municipality stepped up to the plate and has shown that they are still there for the people.

I'm proud to live in this community.

---

**Total Control Panel**

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To: [Remove](mailto:Remove) this sender from my allow list  
[dholmes@melancthontownship.ca](mailto:dholmes@melancthontownship.ca)  
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<http://www.eset.com>

6/29/2010

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**THE TOWNSHIP OF MELANCTHON**

**POLICE SERVICES BOARD**

R.R. # 6, Shelburne, Ontario, L0N 1S9

*John Crowe, Chair*  
*Denise Holmes, Secretary*

Telephone - (519) 925-5525

Fax No. - (519) 925-1110

Website: [www.melancthontownship.ca](http://www.melancthontownship.ca)

Email: [info@melancthontownship.ca](mailto:info@melancthontownship.ca)

June 29, 2010

Township of Melancthon  
R.R. # 6  
Shelburne, Ontario  
L0N 1S9

Dear Mayor and Members of Council:

At the Police Services Board meeting held on Monday, June 28, 2010, the following motion was introduced and passed:

**Be it resolved that:**

"We recommend to Melancthon Township Council that a separate section be set up on the Melancthon Township website for the purpose of Melancthon Township Police Services Board information - i.e. - minutes, agendas, correspondence, etc. "

**Carried.**

Yours truly,

Denise B. Holmes, AMCT  
Board Secretary

c. Amaranth, East Garafraxa, East Luther Grand Valley, Mulmur and Mono PSB's

9  
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Shepherd, Osyany & King LLP  
Barristers and Solicitors

155 Main Street West  
P.O. Box 760  
Shelburne, Ontario, L0N 1S0  
☎ (519) 925-5331  
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Andrew Osyany Professional Corporation - [osyany@sok-law.com](mailto:osyany@sok-law.com)  
Douglas J. King Professional Corporation - [king@sok-law.com](mailto:king@sok-law.com)  
Ruhia Jokhio - [jokhio@sok-law.com](mailto:jokhio@sok-law.com)

File No. 20023

June 28, 2010

The Corporation of the Township of Melancthon  
157101 Highway 10  
R.R.#6  
Shelburne, Ontario L0N 1S9

Dear Mesdames & Sirs:

Re: TOWNSHIP OF MELANCTHON 2010 GENERAL MATTERS

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You have referred to me the letter from the City of Kawartha Lakes, dated May 1, 2010, dealing with the provisions of Environmental Protection Act, hanging the cost of a clean-up on the innocent municipality.

This horrific provision has been in the Act for some time, and we have actually relied on it in the case of the original sludge control by-law, to lean on the owners, since the Township can be made to pick up the costs of a clean-up.

There is no fairness in environmental protection legislation. There is no fairness in how the Ministry is enforcing it in some instances. Innocent parties have been made to suffer. The Brownfields legislation has been made necessary in part because of these inherent unfairness problems.

There is no answer to this. I do not know what insurance coverage municipalities have for these liabilities. It is an issue that should be dealt with by municipalities through their organizations (ROMA, etc.).

This letter is not confidential legal advice, but a public matter.

Yours very truly,  
SHEPHERD, OSYANY & KING, LLP  
per:

Andrew Osyany

(ext. 233)

AO/ofa

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JUL - 8 2010



## NOTTAWASAGA VALLEY CONSERVATION AUTHORITY HIGHLIGHTS FROM BOARD MEETING ON JUNE 11<sup>TH</sup>, 2010

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### **UPDATE ON NVCA HEARING BOARD'S DECISION ON APPLICATION UNDER ONTARIO REGULATION 172/06 FROM LEESA TURNBULL AND CANADIAN TIRE REAL ESTATE LIMITED**

NVCA staff and the applicant requested clarification on a provision in the Hearing Board's motion passed on May 14<sup>th</sup>, 2010. The provision in question was the "termination of the proposed severance application." Staff proposed three options to address the matter, which are:

1. Re-apply for a Boundary Adjustment with no new lots created (e.g. add floodway lands to an adjacent existing property owned by the applicant or others); or
2. Continue with current application and convey the retained part to a public agency (e.g. Essa Township); or
3. Revise current severance application to address the latest proposed Canadian Tire.

The NVCA Board of Directors approved a motion directing staff to facilitate the new Canadian Tire store based on the three options listed above.

### **UPDATE ON MEMORANDUM OF UNDERSTANDING FOR SERVICE DELIVERY IN SEVERN SOUND WATERSHED IN THE TOWNSHIP OF ORO-MEDONTE**

Staff from all parties continue to work on the MOU. However, given the NVCA Board does not meet in July, it is unlikely the August 31<sup>st</sup> deadline will be met. The Board indicated that if Oro-Medonte requests an extension from the Mining and Lands Commissioner, the NVCA would be willing to support the request.

### **NVCA BOARD ENDORSES PROVINCIAL REPORT ON CONSERVATION AUTHORITY ROLES AND RESPONSIBILITIES IN PLANNING SERVICES (a.k.a. CALC REPORT)**

The Board of Directors strongly endorsed the final version of the report titled "MNR's Policies and Procedures for Conservation Authority Plan Review and Permitting Activities." The final report is posted on the NVCA web site at

<http://www.nvca.on.ca/OurProgramsandServices/Planning/PlanningPolicies/index.htm>.

### **UPDATE ON THIRD PARTY REVIEW OF NVCA PLANNING PROGRAM**

Karen Wianeki, Director of Practice, Planning Solutions Inc., presented an overview of the NVCA Planning Program Review to be conducted in July 2010. Staff, board members, partners and clients will be involved in the review process which will focus on determining if the program as a whole is meeting corporate objectives and supports corporate needs. The board members were given an opportunity to provide their input and to complete a questionnaire.

#### **Future Meetings and Events**

Nature at Night at the Tiffin Centre – June 18  
Executive Committee meeting – June 25  
Trails Open at Nottawasaga Bluffs – August 15  
Board of Directors & Executive meetings – August 27

#### **For more information contact:**

Wayne Wilson, CAO/Secretary-Treasurer  
(705) 424-1479, ext. 225  
[wwilson@nvca.on.ca](mailto:wwilson@nvca.on.ca)

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JUL - 8 2010

Wayne Hannon  
R.R. # 6  
Shelburne, Ontario  
L0N 1S9

June 28, 2010

Hand Delivered

Corporation of the Township of Melancthon  
R.R. # 6  
Shelburne, Ontario  
L0N 1S9

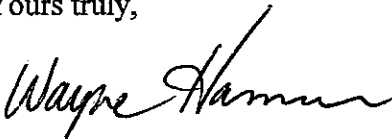
Attention: Denise Holmes, Clerk

Dear Denise:

I wish to refer you to my letter dated May 15, 2009. This letter requested under Section 74 and Section 79 of the Drainage Act that the necessary maintenance and repair work be completed on the McNabb Drain forthwith. To date a small and insufficient amount of maintenance and no repair work has been noted on the McNabb Drain. Significant crop damage has occurred since June of last year. It has caused significant problems with day to day farm operations and the normal use of the property. I would like to draw your attention again to Section 74 and Section 79 of the Drainage Act. In addition I am attaching a copy of a Ontario Superior Court of Justice in the Court of the Drainage Referee decision between Tom Hancock and Wasaga 500 Go-Karts Ltd. (Appellants) and The Corporation of the Town of Wasaga Beach (Respondents) for your information.

**TAKE NOTICE THAT:** The maintenance and repairs necessary on the McNabb Drain are still not completed as required under Section 74 and Section 79 of the Drainage Act. Significant crop damage and disruptions to my farming operation have resulted from your failure to comply. I would again request that you comply with Section 74 and Section 79 of the Drainage Act forthwith.

Yours truly,



Wayne Hannon

Attached: Ontario Superior Court of Justice  
in the Court of the Drainage Referee

Tom Hancock and Wasaga 500 Go-Karts Ltd. (Appellants)  
and  
The Corporation of the Town of Wasaga Beach (Respondents)

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**ONTARIO**

**Court File No. 04-B7341**

**SUPERIOR COURT OF JUSTICE**

**IN THE COURT OF THE DRAINAGE REFEREE**

**BETWEEN:**

**TOM HANCOCK AND WASAGA 500 GO-KARTS LTD.**

**Appellants**

**and**

**THE CORPORATION OF THE TOWN OF WASAGA BEACH**

**Respondents**

**Appearances**

**Counsel for the Appellants**

Ian J. Rowe,  
Burgar, Rowe Professional Corporation  
90 Mulcaster Street  
Barrie ON L4M 4Y5

**Counsel for the Respondents**

Michael D. Stahr  
Baulke Augaitis Stahr LLP  
Barristers & Solicitors  
150 Hurontario Street,  
P.O. Box 100,  
Collingwood ON L9Y 3Z4

**DECISION**

This matter came before the Ontario Drainage Referee in a Hearing, which commenced on the 20<sup>th</sup> day of February, 2006 continuing for three days.

The Hearing resulted from an Appeal filed by Tom Hancock and Wasaga 500 Go-Karts Ltd., requesting the Drainage Referee compel The Corporation of the Town of Wasaga Beach "Wasaga Beach" to appropriately maintain and clean out the Marl Creek Municipal Drain.

The Grounds for Relief further requested the Referee compel Wasaga Beach to commission an appropriate report to determine the extent of the benefiting area for the Marl Creek Municipal Drain with a corresponding schedule of assessment and requested damages in an amount to be determined with respect to Wasaga Beach's failure to appropriately maintain the Marl Creek Municipal Drain.

A brief history of the Marl Creek Municipal Drain is necessary for a complete understanding of the issues that arose at the Hearing. The Marl Creek Municipal Drain (as it is now known), was originally established in 1898 by by-law number 303 of the Township of Flos and was named the Marl Lake Drain.

A supplementary by-law was passed on September 15, 1911 to authorize the borrowing of funds to complete the Marl Lake Drainage Work in accordance with the intention of the original by-law. There appears to be no further work in relation to the Drain, which was established on the report of M. Gaviller until the passage of By-law number 1283 of the Township of Flos in 1942. This authorized the repair of the Marl Lake Drain, based on the report of James H. Diamond, Township Engineer. Mr. Diamond's report dealt with two sections of this Drain; one described as the north part started at the north limit of King's Highway No. 92 between Lots 23 in the 8<sup>th</sup> and 9<sup>th</sup> Concessions of the Township of Flos and ran southerly to a point in the south half of Lot 23, Concession 8.

Shortly after continuing from the outlet of the north section, water from the Drain enters into Marl Lake and water from Marl Lake exits the lake through Little Marl Creek until the Drain commences again in Lots 26 and 27, Concession 6 in its southern or second section, continuing until it reaches the Nottawasaga River. A third northerly portion of the Drain, which I will describe as the headwaters section, continues northerly into Lots 23 and 22, Concession 9 in the former Township of Flos.

The work in 1942 was one of repair and improvement, according to the report of James H. Diamond.

Further work was done on the Drain in 1976. At that time there was discussion of whether there should be a Petition for Drainage Work and a new Engineering Report done. However, it was decided that the clean out be done in the form of maintenance under the previous by-law and the assessment schedule, in accordance with the 1942 Report, would be used. It was acknowledged by all parties that no maintenance was

done from 1976 until 2004 when it occurred in the form of a clean out. The Township's Engineer, Ainley and Associates Limited carried out the work in 1976. It was also Engineer at the time of the Hearing. There is considerable disagreement between the parties to this hearing as to whether the profiles used in 1976 are an extra copy or an attempt at replacement of those used by Diamond in 1942.

By a letter dated March 7, 2002, one of the Appellants, Tom Hancock, wrote to Eric Collingwood, Clerk of the Town of Wasaga Beach, requesting that the Marl Creek Municipal Drain be cleaned out. This letter referenced the fact that it was a formal request for maintenance of Drainage works, as set out in Section 79 of the Drainage Act. This request provided the correct statutory citation and further provided information that the Drain south of the River Road, (formerly Highway 92), was plugged with trees, reeds and grass. This letter was acknowledged by a letter to the Appellants, Tom Hancock and Bob Croll, the owner of Wasaga 500 Go-Kart Ltd., from Eric E. Collingwood, the Clerk-Treasurer/Administrator of Wasaga Beach on March 25, 2002.

While the Respondents dispute the sufficiency of this notice, I find it as a fact that the notice was received by the Town of Wasaga Beach and acknowledged by Wasaga Beach in a letter dated March 25, 2002.

The Hearing in this matter revolved around the following issues:

1. Was the Town of Wasaga Beach required to complete the maintenance requested by Hancock and Croll in a timely fashion? Did it do so?
2. Was the clean out undertaken in 2004 adequate to fulfill Wasaga Beach's responsibilities pursuant to Section 79 of the Drainage Act?
3. Do the obligations of Wasaga Beach, pursuant to Section 79, requiring it to maintain and repair Drainage works, extend to improvement of the Drainage works through deepening, widening or extending in the particular fact situation of the Marl Creek Municipal Drain?
4. Did the Appellants establish that there were damages suffered by them, and if so, what was the quantum of those damages?

## ISSUES

### **1. Was the Town of Wasaga Beach required to complete the maintenance requested by Hancock and Croll in a timely fashion? Did it do so?**

Most of the evidence in relation to the response of Wasaga Beach to the request for maintenance was provided by P. William Ainley, P. Eng. of Ainley Group Consulting Engineers and Planners and by the Appellant, Tom Hancock. It appears David H. Grahman; P. Eng. of Gamsby & Mannerow Limited became involved in the project after Wasaga Beach completed the maintenance work in December of 2004. Mr. Ainley is a senior member of the firm and Chairman of the Board of Directors of Ainley and Associates Limited in Collingwood.

In his résumé, Mr. Ainley provided evidence as to the firm's involvement in Municipal Drains, especially from 1962 to 1973. The firm also completed work under the Drainage Act 1975 for Municipal Drains in the Province of Ontario, including a prior clean out in connection with the Marl Creek Municipal Drain in 1976.

The request for maintenance of the drainage works known as the Marl Creek Municipal Drain came in the form of a letter to Eric Collingwood; Clerk of Wasaga Beach dated March 7, 2002. That letter, recounting a conversation, which had occurred March 5, 2002, confirmed that Mr. Hancock felt the intention of Mr. Collingwood, was to proceed with the work as soon as possible. The letter went on to make a formal request under Section 79(1) of the Drainage Act for maintenance of the drainage works. The letter described (Exhibit 1 Tab 16) in detail the location where the work was being requested (i.e. south of the River Road/Highway 92) and confirmed that the area was plugged with trees, reeds and grass. The letter incorrectly suggested that the clean out had last occurred in 1980 and that it was time to be done again. Later evidence provided by Mr. Ainley confirmed that the clean out was done some time after November 26, 1976 when Wasaga Beach entered into a contract for the Marl Lake Drain clean out.

The file copy of Mr. Hancock's letter, which also appeared to have been signed by Mr. Croll or was made on his behalf, acknowledged that a local subdivider to the south of the River Road might be doing improvements to the Drain in connection with their housing development, but still requested an immediate clean out.

I note that Wasaga Beach responded quickly in providing a letter dated March 25, 2002 to Messrs. Hancock and Croll acknowledging their request for the clean out under Section 79 of the Drainage Act and further advising that it would be on the next Council agenda. In order to visualize the drain location and Marl Creek Drain history, I attach Tab C 1 of Exhibit 2, the Respondent's Document Brief.

Unfortunately Wasaga Beach did not have a Drainage Superintendent, according to Mr. Ainley. Mr. Ainley advised that Jim McIntosh, Director of Public Works handled these matters. It was also evident that there was no by-law appointing Ainley and Associates Limited as Drainage Superintendent.

Progress of this project may have been hindered because the Nottawasaga Valley Conservation Authority gave notice that any possible disruption or destruction of fish habitat arising from maintenance activities in type A, B, or C municipal (agricultural) drains (Exhibit 1 Tab 17) would require authorization under the Fisheries Act.

The letter went on to describe the types of authorizations for types A, B and C drains, which were valid until March 14, 2003 and requested that if the authorizations could not be met, that they should be referred to the Nottawasaga Valley Conservation Authority for a site specific review of proposed maintenance.

Nonetheless, on May 28, 2002, Wasaga Beach requested the Ainley Group prepare a Drainage Report, pursuant to the Drainage Act, as it related to Marl Creek Municipal Drain, with its scope to include lands from County Road 92 (River Road) south to Jack's Lake.

At this time the proposal of a report regarding the clean out seemed to be moving relatively quickly. A considerable number of photographs were taken in June of 2002 for a meeting, which was proposed for July 17, 2002 between the municipality and its engineers. Steps were taken to contact the Drainage Superintendent of the abutting Township of Springwater to obtain assessment information with regard to properties that form part of the drainage assessment area within that Township. Serg Kouadio, of Ainley Group, appeared to be taking the lead in pursuing this matter.

William Ainley was very candid and forthright in his testimony in this area. It appeared that a number of problems were arising. The lower section of the Marl Creek Municipal Drain appeared to have been classified as a Class E drain because of the presence of bass and pike. A map of the Town of Wasaga Beach and surrounding areas with fisheries habitat classification (Exhibit 10) was presented in cross-examination, at which point it was noted, although the southern portion of the Marl Creek Municipal Drain was fish habit, the portion that is subject to this Appeal was not. However, Wasaga Beach had increased the scope of the work to be undertaken by Ainley and Associates, beyond that requested by the Appellant Tom Hancock. By the end of the summer of 2002 a number of other concerns became evident to Wasaga Beach, which widened the range of work to be undertaken beyond mere maintenance requested by Tom Hancock, including beaver dam removal in the portion of the project within the area described as fish habitat.

Earlier in the process, Ainley Group noted that as part of the Drain passed through a golf course, which is part of a new housing development, it would be advisable to do the clean out under the Drainage Act, but give the Developer the responsibility of cleaning out the Hancock and Croll section.

After the final Memo of Serg Kouadio on August 22, 2002, it appears that Mr. Kouadio left the employ of Ainley and Associates Limited. Whether this was the problem, or whether the additional concerns raised in the project, which widened its scope in relation to the beaver dams in the southern portion of the Drain, protection of fish habitat or Wasaga Beach's desire to await the Developer, nothing occurred in this matter until a letter was forwarded to the Clerk-Treasurer/Administrator of the Town of Wasaga Beach, Eric Collingwood by the Appellants' Solicitors on February 6, 2004.

Wasaga Beach was, again, put on notice that damages were being suffered by the Appellants. In a reply to Messrs. Hancock and Croll on February 10, 2004, the Clerk-Treasurer/Administrator indicated that the main area of concern was the downstream portion of the drain at Ryther Road where farmland was being flooded due to beaver dams. Mr. Hancock did not contemplate maintenance of this portion of the drain in the request for a clean out. The Clerk-Treasurer/Administrator further indicated at the same period that Baywood Homes, (the developer described above), was developing a residential subdivision and golf course and that as part of the process of obtaining a storm water management plan, there would be an upgrading of the Marl Lake Drain in

the area of Hancock and Croll's concerns. No copy of a report preparatory to a storm water management plan had been received. William Ainley confirmed this in cross-examination. Wasaga Beach took the position that the Drain was to be upgraded by the Developer.

There again appears to have been a delay through the summer of 2004. I note, however, that the draft plan approval of subdivision from the Planning Authority for the County of Simcoe dated June 24, 2004 was received in the interim. In paragraph 11 of that draft plan approval; there was a requirement that the subdivision agreement between the Town of Wasaga Beach and the Developer was to provide for the clean out of the Marl Creek Municipal Drain. In addition, under paragraph 21 of that draft plan approval; there was a requirement that the storm water management plan address watercourse maintenance, and renaturalization plans referenced in the Master Drainage Plan dated November 2001.

Mr. Ainley was forthright in admitting that Wasaga Beach was hoping to propose the Developer pay the cost of the repair. He stated that Wasaga Beach was willing to wait for Baywood from February 2004, when they received further notice from the Solicitors for Mr. Hancock until November 5<sup>th</sup>, 2004, where Ainley and Associates Limited acknowledged in their correspondence and Memos the necessity of meeting with landowners to discuss the clean outs. Wasaga Beach decided on its own to pay the cost of the maintenance. I find that no formal report, in accordance with the requirements of Section 8 of the Act was completed for this maintenance or repair. However, the document forwarded to Council dated November 12, 2004 by William Ainley did outline the series of events, which lead to the delay. Most noticeable of these was the assumption by the Municipality and its Engineers that the problems in the southerly section were more urgent and the desire for caution because the portions of the northerly land had been approved for residential development. On December 8, 2004, a letter confirming Mr. Collingwood's instructions, advising that the work was done, was submitted with plans and profiles to Wasaga Beach. This is described by the engineer as Ainley Report 2004.

Despite this late effort, I find that the Town of Wasaga Beach failed to complete its maintenance, as required by Section 79 (1) of the Drainage Act RSO 1990 c.D17.

**2. Was the clean out undertaken in 2004 adequate to fulfill Wasaga Beach's responsibilities pursuant to Section 79 of the Drainage Act?**

David H. Grahman P. Eng. of Gamsby and Mannerow Limited of Guelph provided considerable evidence. Mr. Grahman has lengthy experience in drainage matters. As drainage engineer, he was involved (at least up to 2001) in approximately 60 municipal drain projects. In addition, Mr. Grahman advised that he was currently drainage superintendent for the Townships of Woolwich and Georgian Bluffs, and had previously been drainage superintendent for the Townships of Grey, Colborne, Wellington North, West Luther and the Village of Blyth. In addition, his curriculum vitae supplied evidence regarding bridge and culvert design and construction supervision.

Mr. Grahman indicated that in the past, 25% of his practice was in relation to drainage matters, while currently about 10% of his billing is in that area.

Although Mr. Grahman's evidence was that he became involved in this matter in late 2004, it appears that this involvement was too late to make any comment with regard to the work, which was undertaken to complete a clean out of the drain.

When Mr. Grahman became involved, he requested the Municipality provide information regarding the drain to insure that he was knowledgeable on the portions of the drain upon which he was providing his opinion. Mr. Grahman advised the hearing that Mr. Norfolk with Ainley and Associates had been told not to release documents, as the Municipal authorities had indicated the matter was now in the hands of its Solicitor. It is further noted by the Referee that additional requests needed to be made through the Municipal Freedom of Information and Protection of Privacy Act.

In the spring of 2005, Mr. Grahman attended with Mr. Hancock to obtain photographic evidence of the cleanout. The location of the clean out was confirmed in Tab C 1 of Exhibit 2 the Respondent's Disclosure Brief.

Mr. Grahman provided a good description of the portions of the drain, which are subject to this hearing and gave an unbiased history of the drain. He indicated that the original Gaviller Report had stated the drain should be 3 feet deep and if the Diamond profiles could be confirmed in the 1976 documents from Ainley and Associates Limited it would be 3 to 5 feet deep.

In general, I accept the evidence of Mr. Grahman that the drain was shallow and not 3 feet deep. I further accept his evidence that shallow drains need more maintenance, however, it was also Mr. Grahman's opinion that the clean out was completed in a workmanlike manner, but still left a shallow drain.

In evidence, it was Mr. Grahman's thesis that the repair or maintenance did not improve the flow of the drain. It was his opinion that in order to improve the flow of the drain, it was necessary to lower the water level in the culvert.

In Exhibit 2 Tab C 2 a cross section was given of the County Road 92 culvert of the Marl Creek drain. This document was in the main produced by Ainley but also contained information, which was supplied by Mr. Grahman in the form of the location of the gravel in the bottom portion of the culvert in accordance with an investigation completed by Mr. Grahman on October 19, 2005.

Since he had formed an opinion that this was one of the shallowest municipal drains he had seen, Mr. Grahman felt that any new report that should have been completed by Ainley and Associates Limited would have tended to deepen the drain.

Mr. Grahman reviewed at length the three sets of plans and profiles that were provided with regard to the northerly portion of the Marl Creek Municipal Drain by Ainley. He confirmed that in connection with the portions of the drain nearest Marl Lake, almost no work was required, and in the portions of the headwaters, which have been described previously, beyond the area where the actual work occurred in 2004, minimal removal was required.

The area where most of the evidence was presented related to drawing number 102113-PP2. Mr. Grahman took issue with the fact that in portions of the Plans and Profiles number 2 (PP2), a deepening of only 8" was required. He made the comment that he had never seen so little material removed in a ditch clean out.

In summary, Mr. Grahman felt that there was an opportunity for the Wasaga Beach Engineer to improve the drain and this was not done. He suggested that a method of improving the drain would have been to complete work on the culvert, pursuant to section 77 (1) of the Drainage Act. This provision provides for the deepening, widening

or extending without a report of an engineer. This provision allows Council, whose duty it is to maintain and repair drainage work, to make improvements to the drain by deepening, widening, or extending the drainage work. The provision, however, is limited because the cost of the deepening, widening or extending is not to be more than \$4,500.00, subject to certain percentage increases.

The evidence given later in Mr. Grahman's testimony, however, was that the bracing in the concrete floor necessary to lower the depth of the culvert would cost \$10,000.00 and riprap of a further \$3,000.00. He went on to say that the culvert is a good candidate for replacement. Exhibit 9 provided at a later juncture in the hearing by the engineers for Wasaga Beach, indicated a cost estimate for the culvert replacement of \$95,150.00.

Mr. Ainley, in his evidence, suggested that the reduction of the depth of the culvert bottom by removing gravel and putting in a concrete bottom and bracing was not good engineering practice. Although the idea might be useful, he would not recommend it.

What both parties agreed is that the culvert appears to have been built prior to the 1942 maintenance work. According to the testimony of Mr. Ainley, the culvert was built approximately between 1935 and 1940. Most culverts have a life span of 100 years before replacement is required, however, in cross-examination he acknowledged that he did not disagree with the opinion of Mr. Grahman that the replacement should occur within the next 5 years. This is confirmed independently in a memo forwarded by Ainley Consulting to Wasaga Beach confirming the structural condition of the culvert is questionable. In cross-examination, Mr. Ainley took the position that a cost benefit analysis would be needed before a new culvert could be built, rather than the suggestion put forward by Mr. Grahman that the replacement of the culvert was delayed by the fact that Wasaga Beach would have to pay, pursuant to Section 26 of the Drainage Act, for culvert replacement, as reason for not proceeding. When asked whether Mr. Hancock would have to wait for the repair of the culvert Mr. Ainley provided a qualified "yes" based on his cost benefit analysis. The issue before me, however, is whether the improvement of the culvert, as suggested by Mr. Grahman, or the replacement of the culvert, as posited by Ainley and Associates, is a part of a repair.

A further question that must be asked is, whether the work undertaken by Wasaga Beach was a matter of simple maintenance, or was it a matter of improvement. Mr. Grahlman suggests that the matter was one of improvement and that this should have occurred under Section 77 of the Drainage Act. I find, however, that if the type of work, which has been suggested by the engineer for the Appellant, were to occur, it would have had to be completed under Section 78 of the Drainage Act and would have required a report of an engineer. Section 74 is adequate for the work, which needed to be undertaken for Messrs. Hancock and Croll. Any reference in Section 74 to construction or improvement is tied solely to assessments, which occurred at the time of the original construction or improvement of the drain in order to provide a method for collecting the cost of the maintenance and repair. Under Section 1 of the Act, Definitions, it should be noted that "maintenance" means "the preservation of a drainage works", and "repair" means "the restoration of a drainage works to its original condition", while "improvement" means "a modification of or an addition to a drainage work intended to increase the effectiveness of the system". While Mr. Grahlman's suggestion for improvements may be laudable, they are not a part of the responsibility of Wasaga Beach pursuant to Section 79 of the Drainage Act.

A considerable amount of disagreement has occurred between the engineers with regard to whether maintenance and repair was properly completed in 2004. Most importantly, my understanding of the definition of "repair", which requires the restoration of a drainage works to its original condition, I find to be persuasive in arriving at my conclusions.

There was considerable discussion regarding the loss of the 1942 Diamond repair original plans and profiles. Lengthy testimony was given with regard to top of stake measurements and the quality for the plans completed in 1976, which appeared to have occurred as a form of copy of the 1942 Diamond profiles. The difficulty was that a fire occurred and those original profiles no longer exist. Regardless, I note that in Mr. Grahlman's evidence, he indicated that this drain was a shallow drain and that the gradient of the drain at .25 percent grade was inadequate.

I find that the clean out undertaken in 2004 was adequate to meet the responsibilities of Wasaga Beach pursuant to Section 79 of the Drainage Act, although barely adequate. I further find that the quality of the repair in 2004 is such that maintenance will have to occur more frequently than it has in the past, given that only 2 repairs or maintenance

have occurred to the section at issue during the history of the drain, those being in 1942 and 1976. I do find it persuasive in reaching this conclusion that the culvert, which Mr. Grahlman suggests impedes the flow of the drain, was in its current position in 1942 when the Diamond maintenance occurred.

**3. Do the obligations of Wasaga Beach, pursuant to Section 79, requiring it to maintain and repair Drainage works, extend to improvement of the Drainage works through deepening, widening or extending in the particular fact situation of the Marl Creek Municipal Drain?**

For the reasons stated above, the obligation of Wasaga Beach, pursuant to Section 79, is limited to Wasaga Beach maintaining and repairing the drainage works, not improving the drainage works. If Mr. Hancock and his neighbours are looking for the types of improvements suggested by Mr. Grahlman they would be well advised to proceed under Section 78 (1) of the Drainage Act. Given the lack of original plans from the Diamond repair in 1942, the lack of up to date assessments, and the lack of mapping of lands and roads liable for assessment, Wasaga Beach would be well advised should it be requested, to obtain a report from an engineer addressing needed improvements.

I further find that the Notice was properly given pursuant to Section 79; in that a person affected by the condition of the drainage works, being Messrs. Hancock and Croll, gave it, although they were not owners of all of the lands where damage resulted. I further find that there were sufficient particularity in the notice to Wasaga Beach of the location and the lack of maintenance and repair of the drainage works so that pursuant to Section 79 (2), Tom Hancock, as a person, affected by the non-repair, is entitled to damages.

**4. Did the Appellants establish that there were damages suffered by them, and if so, what was the quantum of those damages?**

The evidence provided by Mr. Hancock, with additional evidence provided by his neighbour Sam Langman, I find generally persuasive as to the fact that damages were suffered by Mr. Hancock, and, through him Mr. Croll. I find Mr. Langman's evidence presented on behalf of the Appellant particularly helpful, as he was a very straightforward witness providing excellent information regarding cash cropping in the area surrounding the Town of Wasaga Beach, being the Township of Flos the abutting municipality.

Although I accepted the basis of the claim that damages did occur, I did however, have difficulty with some of the assertions made by the Appellant in his claim for damages, which is found in Tab 12 of Exhibit 1.

As I previously found, the maintenance undertaken by Wasaga Beach in the fall of 2004, in my opinion, although barely adequate, was adequate to relieve Wasaga Beach of its obligation for damages in 2005.

My finding is further buttressed by the fact that Mr. Langman's evidence, which was confirmed by Mr. Hancock, indicated that the year 2005 was dry after an initial wet spring. This combination prevented high yields. According to Mr. Langman, the average yields on his farm in other years were 135 bushels of corn per acre, 40 bushels of soya beans per acre and 80 bushels of wheat per acre. He also mentioned other edible bean crops, which are not necessary for my calculation of damages.

In 2005, however, Mr. Langman indicated that the corn yields were not as high. In fact, he said that his yields were 105 bushels per acre for corn, 30 bushels per acre for soya beans and 70 bushels per acre for wheat.

This is a substantial reduction in yield. When added to the fact the Mr. Langman's land is entirely systematically tiled and the lands of Tom Hancock, which are subject to the claim, are not, I do not believe that the claim of loss set out in Tab 13 of Exhibit 1 is sustainable. According to Mr. Hancock, 2.65 tonnes multiplied by the number of acres in corn, being 100.5 equal 266.325 tonnes projected yield. There are 39.368 bushels in one tonne, which meant that there should be a total of 10,484.68 bushels yield of corn from 100.5 acres.

When this acreage is divided into this total production of corn, there is approximately a yield of 104 bushels per acre claimed. This is very similar to the amount that Mr. Langman said he had with regard to his property, however as previously stated, Mr. Hancock's property was not systematically tiled. When I compare the average yield figures of Sam Langman for prior years to Sam Langman's figures for 2005, as the percentage of other years I found that in 2005 his corn yields represented 77% of his normal yield, where his soya bean yield was 75% of his regular yield and his wheat was 87.5% of his regular yield.

According to the production invoice summary of Tom Hancock found on Exhibit 1, Tab 11, page 55, the crops that were insured by Mr. Hancock in 2005 were 47 acres of canola and 115 acres of corn. There was no evidence as to where the canola was planted, but the claim with regard to the property in 2005 appeared to totally relate to the corn acreage. Given that the yield averages for Mr. Hancock, according to Agricornp, were anywhere from 93.5 bushels per acre for corn to 104.9 bushels per acre in previous years, a reduction in 2005 similar to Mr. Langman's, of 77% of normal production would have reduced the average yield over the period for which evidence was given of 99.82 bushels per acre to 76.9 bushels per acre if a comparable reduction in production occurred at the Hancock farm as did in the Langman farms. Added to this is a further difficulty for Mr. Hancock in that Mr. Langman's farms were systematically tiled. In his evidence, Mr. Hancock acknowledged that the lands which he rented from Heather McArthur in trust for Mr. Amendola and Lucy Lastoria in trust for Mr. Batista were not systematically tiled and that only two runs of tile, one in 2,000 feet in length and one 500 feet in length had been installed on rented land. I find that lack of tile, as a further factor in reducing the yields in 2005 must be taken in account.

In the absence of evidence on this subject, I take notice of the publications of the Ministry of Agriculture and Food as demonstrative of certain information and principles. On page 19 (table 2) in the Handbook of Drainage Principles, (Publication 73), crop yields from drainage systems have been compared. For example, corn yields were shown in another jurisdiction to have been 79 bushels per acre based on surface drainage only, with tile drainage the yield went to 103 bushels per acre and with a combination of tile and surface drainage, the yield went to 110 bushels per acre. There is an approximate 28% drop in yield between combined surface and systematic tile drainage and surface drainage only. As a result, the lack of systematic tiling has been shown to lead to lost yield. The combination of bad weather in 2005 and this lack of tile, I find, lead to the losses in yield suffered by Mr. Hancock, not the improper maintenance of the Marl Creek Drain.

With certain reservations, I tend to accept the evidence of Mr. Hancock on behalf of Mr. Croll found in Tab 12, Exhibit 1. This Exhibit details the losses of income from the years 2002 through 2004 inclusive. During the process of providing evidence, Mr. Hancock acknowledged that drying costs did not apply with regard to his crops in 2005, as no drying was required. However, these calculations were included in the calculation of losses. As stated previously, I am not allowing any amounts for losses in 2005.

Since Mr. Hancock's evidence was not contradicted with regard to the 10 acre parcel cropped on Mr. Croll's land, I am able to accept his calculation of lost income for the years 2002, 2003, and 2004, after a 28% reduction for the lack of systematic tile drainage. The total lost income of \$4,524.00, less this reduction, leads to damages in the amount of \$3,257.28.

In addition, I am willing to give Mr. Hancock the benefit of the doubt on land that was left fallow, being 12 acres in 2003 and 13 acres in 2004, again with a 28% reduction in damages. This is a total of \$3,213.00 reduced to \$2,313.36.

Under the heading "Lost income on 45 acres of corn in 2003" I am willing to accept the calculations provided by Mr. Hancock, of damages in the amount of \$11,170.00, less the above reduction to reflect the lack of tile on this portion of land. The reduced lost income is \$8,042.40.

On "Lost income on 52 acres in 2004", also found in Tab 12 of Exhibit 1, I am further willing to accept the revised figure of \$12,138.50. This represents the amount of \$14,550.00 claimed, revised downward because the calculation did not include drying costs. This is to be further reduced by 28% to \$8,739.72.

I note that in a somewhat glaring error, the rental expense for Mr. Batista's land was not deducted from the total, which leads to a reduction of \$2,600.00 from the loss of income for the years 2003 and 2004, as the claim for 2002 was for the Croll lands only. This expense could have been factored into direct costs, which would then reduce income, but for simplicity sake I have reduced it from the total losses. The total of the losses described above was \$22,352.76. From this I am deducting the \$2,600.00 rent expense not properly deducted.

I note that in review of Exhibit 7, being the Income Tax Returns for years 2001 through 2004, the average of the pesticide costs, which are found in the Statement of Farm Income, are considerably lower than the average for chemical costs contained in note 3, Exhibit 12. In the absence of any contradictory evidence, I am, however, willing to give the benefit of doubt to Mr. Hancock. Each year, in an attempt to obtain cash advances for crop inputs, Mr. Hancock entered into the Spring Credit Advance Program (SCAP). Although there was approximately \$200.00 worth of expense in each year to enter into this program, I find that the expense, which could have been reduced from the

damages, is not totally related to the lands affected by the Marl Creek Drain and as a result I will not be reducing the amount of damages allowed for that expense.

Finally, a claim was made for interest costs as a result of these crop losses. While I am certain that some interest costs have arisen, I am satisfied that the crop losses do not outweigh the herd health issues which lead to the Farm Credit Canada loan approval in which Mr. Hancock received \$39,000.00 to reduce payables which arose in the year 2003 due to herd health and crop issues. The evidence provided in the Income Tax Returns of Mr. Hancock was persuasive in this matter. Mr. Hancock went from an income of \$54,326.00 in 2001, in which his swine herd contributed \$35,153.00 worth of income to a total income of \$23,805.00 in 2003 with the swine herd providing only \$17,827.00 of income. It appears that in 2004, Mr. Hancock began a rebound and the income from swine increased by approximately \$10,000.00 in one year.

In Note 7 found in Tab 12, Exhibit 1 on page 58, Mr. Hancock claimed interest on the entire amount of increase in the Farm Credit Canada loan to crop losses. The loan approval and acceptance stated that the payable in 2003 arose from herd health and crop losses. Given the income information received, I am satisfied that the loss of income from the swine operation provided greater reason for the need of a loan than did the crop losses.

While Mr. Hancock's loan of \$60,000.00 was certainly necessitated from problems that occurred on the farm, the interest that will be required to be paid should relate to the total amount of damages, which I have allowed.

Therefore, interest payable at 6.1%, being the loan rate as set out in the Farm Credit Canada Loan Approval, will accrue from May 2004 until payment. I calculate the accruing interest to date to be \$1,205.00 per year commencing May 1<sup>st</sup>, 2004. In addition, I find that one half (1/2) of the legal costs for the mortgage shall be payable as a result of Wasaga Beach's negligence being \$566.06.

Finally, it is my view that the reduction of the amount of loan with Farm Credit Canada, upon payment of the amount due by Wasaga Beach to Mr. Hancock, as a result of lower rates on current Farm Credit Canada loans will, in all likelihood, attract a three (3) month penalty on the amount paid, which I calculate to be \$22,162.75. Three months penalty interest on this would be \$336.00.

I do not accept the suggestion of Mr. Hancock that the interest on the loan from the date of this decision forward would have to be paid, as it is within Mr. Hancock's power to reduce the loan upon paying penalty.

Judgment is given against the Town of Wasaga Beach in the amount of \$23,064.00

Costs shall be payable in this matter on a partial indemnity basis.

If the parties are unable to agree on an amount which should be payable by Wasaga Beach for costs, written submissions can be made within 90 days of the date of this Judgment by the Appellants with further submissions by the Respondents within 30 days thereafter.

DATED at Strathroy, Ontario this 5th day of May, 2006.

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**ROBERT G. WATERS**  
**ONTARIO DRAINAGE REFEREE**

**Denise Holmes, AMCT**

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**From:** Bart Malloy [bartnancymalloy@yahoo.ca]  
**Sent:** Thursday, July 01, 2010 9:57 AM  
**To:** dholmes@melanctontownship.ca  
**Subject:** July 8 council meeting correspondence submission & question for question period.  
**Attachments:** Waste Plama Arc Technology July 2010.doc

Hi Denise

Please add this correspondence to the agenda for the July 8 council meeting. It is in MS Word format

I also have a question for question period.

Directed to councillor John Crowe. The jurisdiction of Mono, Caledon and New Tecumseh are just a couple of areas that have initiated the Road Watch Program for several years now.. I have tried to schedule a meeting with Detachment Commander Steve Sills to discuss the Road Watch Program and have been unsuccessful in getting a response.

Question:

Does the Melancthon police services committee or the local OPP detachment have any statistics on the success of this program. Please provide the residents of Melancthon with these statistics.and if it has ever been proposed for Melancthon.

Regards  
Bart Malloy.

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Total Control Panel

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To: [dholmes@melanctontownship.ca](mailto:dholmes@melanctontownship.ca) [Remove](#) this sender from my allow list  
From: [bartnancymalloy@yahoo.ca](mailto:bartnancymalloy@yahoo.ca)

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Information from ESET NOD32 Antivirus, version of virus signature database 5251  
(20100704)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

7/5/2010

JUL - 8 2010

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## **Plasma Arc Technology Proposal for Dufferin County**

I am submitting this correspondence to identify that the system proposed by Alter NRG is not the only proposal on the table within Canada and the USA.

Attached to this correspondence are details of systems that are currently in operation and projects that have been proposed, but not yet in full operation.

It appears that there is a facility in operation in the Ottawa area, that supplies energy back to the grid. It also appears though it has its own problems . There is a facility planned for the Port Hope area, that was to be kicked off in the fourth quarter of 2009, did this occur?

Based on the information provided at the last council meeting regarding the trip to Pennsylvania, the venture appears to not have been as advantages as it may appear.

The PA site is operational 2 days per week. They don't typically burn garbage, just wood chips and for your tour they gathered up garbage for demonstration purposes only.

I believe that before Melancthon can comit or agree to any venture with the county on the waste energy plant planned for Dufferin county, they need to investigate the sites mentioned in the details below. Especially Ottawa and Port Hope. I would like to suggest that council assigned a member to gather up statistics and report back to the local municipality and that these statistics be brought forth to the county. I believe the Mayor should question the county at the next meeting, on why these sites were not visited rather than going to Pensilvania.

It appears that there are lots of projects in the works world wide and even in Canada and another in Dufferin County is not warranted. At present support for the Dufferin County system, needs to be put on hold.

Regards

Bart Malloy

**Below are excerpts from artilces on the web**

**<http://www.articlesbase.com/business-articles/plasma-arc-waste-disposal-2313832.html>**

## **Principle of Operation**

Relatively high voltage, high current electricity is passed between two electrodes, spaced apart, creating an electrical arc. Inert gas under pressure is passed through the arc into a sealed container of waste material, reaching temperatures as high as 25,000 F (13,900 C) in the arc column. The temperature a few feet from the torch can be as high as 5,000,000 F (2,760,427 C). At these temperatures, most types of waste are broken into basic elemental components in a gaseous form, and complex molecules are separated into individual atoms.

The reactor operates at a slightly negative pressure, meaning that the feed system is complemented by a gaseous removal system, and later a solid removal system.

Depending on the input waste (plastics tend to be high in hydrogen and carbon), gas from the plasma containment can be removed as syngas, and may be refined into various fuels at a later stage.

The latest independent review of plasma technology providers was undertaken by Juniper Consulting in 2008, as well as a separate independent review on Alter NRG/Westinghouse technology.

## **Existing facilities**

### **National Cheng Kung University - Tainan City, Taiwan (PEAT International)**

PEAT International constructed a plasma arc waste disposal facility at National Cheng Kung University (NCKU) in Tainan City, Taiwan, which uses its proprietary Plasma Thermal Destruction Recovery method. The facility is able to handle 35 metric tons (3.35.5 short tons) of waste per day from a variety of waste streams, including incinerator fly ash, medical waste, organic industrial process waste and inorganic sludges. It can also process waste consumer batteries and other materials, including heavy metal sludges, and refinery catalysts (waste streams that would generate valuable metal alloys). The facility was constructed as part of a comprehensive resource recovery facility funded by the Taiwanese government, marking the first time the Government of Taiwan committed financial and ..... to the utilization of plasma technology. It was commissioned in November 2004 and received its operating permit in January, 2005. PEAT has been an active participant in the operations and maintenance of the facility on behalf of NCKU for its research purposes.

### **Yoshii, Utashinai, and Mihama-Mikata, Japan (Hitachi Metals Ltd.)**

Three similar small plants are in operation in Japan a 166-short-ton (151,000 kg) per day "pilot" plant in Yoshii, co-developed by Hitachi Metals Ltd. and Westinghouse Plasma, which was certified after a demonstration period in 19992000; a 165-short-ton (150,000 kg) per day plant in Utashinai City, completed in 2002; and a 28-short-ton (25,000 kg) per day plant commissioned by the twin cities of Mihama and Mikata in 2002. Two similar facilities run by different companies in Australia and Germany closed after changes in senior management.

### **Ottawa, Ontario, Canada (Plasco Energy Group Inc.)**

A new and different type of plasma arc waste conversion that uses plasma to refine gases produced during waste conversion, rather than to destroy waste by brute force as do other plasma systems, **has yet to show itself to be successful on a full commercial scale.**

Plasco Energy Group completed a plasma-arc waste demonstration plant in Ottawa, Canada at the Trail Road Landfill, to process 85 metric tons (94 short tons) per day of municipal solid waste. Unlike other plasma waste processing facilities, Plasco Energy Group's process does not use plasma to destroy waste, but rather to refine gases produced during waste conversion, in order to allow them to be used to run an internal combustion gas engine. On 24 October 2007, the Plasco Trail Road facility began delivering power to the grid.

The Plasco conversion system, which uses plasma to refine gases rather than expose them to extremely high temperatures, and whose liner is composed of refractory brick rather than metal, is not susceptible to premature attack of vessel liners. Plasco's internal studies claim that its emissions are also much lower than any other thermal waste processing system. By converting waste to CO<sub>2</sub> and water, rather than to methane, the greenhouse gas emissions of the process might be much less than competing technologies such as landfills. Plasco Energy is proposing a scaled up residual waste plasma gasification facility for Los Angeles, California.

**In an update to local area residents on 6 December 2008, Plasco president Rod Bryden said delays at its facility were caused by malfunctioning machinery, not problems with the waste-to-energy technology.**

### **Faringdon, Oxfordshire, England (Advanced Plasma Power)**

Advanced Plasma Power has built a Gasplasma modular test facility in Faringdon, Oxfordshire that uses refuse-derived fuel feedstock to produce hydrogen, syngas, energy and vitrified gravel. APP have also commissioned a commercial test facility in Swindon, Wiltshire and have plans for a larger 100,000-tonnes/yr-sized commercial or municipal gasplasma facility in the UK. Swindon, Wiltshire APP

The heart of this technology, the Gasplasma process, forms the basis of APP Swindon Plant, the first Gasplasma facility in the world. Gasplasma is the sequential use of gasification, plasma gas treatment, syngas polishing and gas engine power generation. A full scale plant will treat 100,000 short tons (91,000 t) per annum of municipal waste and produce: Enough power for 10,000 homes, Enough heat for around 700 homes over 99% landfill diversion of feedstock with minimal residues and emissions

Increase recycling rates by over 20%

High performance, high-value aggregate glass (trademark Plasmarok)

Novel combination of three existing and proven technologies (termed Gasplasma)

Negative carbon footprint and lowest environmental impact plant and building

A full scale plant will be 150 metres (490 ft) long, 50 metres (160 ft) wide, and along most of its length only 11 metres (36 ft) high. Above the thermal plant, the roof height is about 14 metres (46 ft), and the single exhaust for the engines 10 metres (33 ft) higher, at only 34 metres (110 ft). The building is approximately the size of a supermarket store and operates under a light vacuum, meaning it contains all odors. The entire process occurs within the building.

## **Planned facilities**

### **St. Lucie County, Florida (GeoPlasma)**

The first plasma-based waste disposal system in the USA was announced in 2006 in St. Lucie County, Florida. The county stated that it hopes to not only avoid further landfill, but completely empty its existing landfill 4,300,000 short tons (3,900,000 t) of waste collected since 1978 within 18 years. **The plant was scheduled to come into operation in 2009. However, no permits as yet have been submitted for construction.**

Backers have announced that the facility would produce 600 short tons (540,000 kg) of solid rubble from around 3,000 short tons (2,700,000 kg) of waste per day at 5,500 C (9,900 F). Uncertainties have arisen however regarding the safety of such a facility. The public and environmental threats from incinerators coupled with the uncertainty of the community's ability to produce such large quantities of waste consistently have led GeoPlasma to submit a new proposal for a much smaller facility that would convert 200 short tons (180 t) of waste per day.

### **Vancouver, British Columbia, Canada (Plasco Energy Group Inc.)**

A proposed Plasma arc gasifier has been planned for the Metro Vancouver area. However residents of the area have protested. Metro Vancouver is currently conducting an RFP process to determine a long-term solution for waste management. Plasco is not proposing that Metro Vancouver discontinue the RFP process, but rather to establish an interim solution that can quickly address the shortfall in landfill capacity, while also providing a facility that will allow Metro Vancouver to closely scrutinize and evaluate this new technology as part of its long-term decision making process.

### **Port Hope, Ontario, Canada (Sunbay Energy Corporation)**

Utilizing technology licensed from Europlasma, the plasma arc facility proposed for lands in the vicinity of Wesleyville in Port Hope, Ontario (approximately 45 minutes east of Toronto) will handle 400 short tons (360 t) per day of Municipal Solid Waste (MSW) and Tire Derived Fuel (TDF). **Sunbay Energy is currently obtaining the required approvals from Provincial authorities and intends to have the facility operational during the 4<sup>th</sup> Quarter of 2009.**

### **Tallahassee, Florida (Green Power Systems)**

The city of Tallahassee, Florida has signed the largest plasma arc waste to energy contract (35 MW) to date with Green Power Systems to process 1,000 short tons (910 t) daily from the city and several surrounding counties. **Completion of the project is scheduled for October 2010.**

### **Hirwaun, Wales (EnviroParks Limited)**

EnviroParks Limited plan **(31/9/07)** a consortium to build an Organic Park in Tower Colliery at Hirwaun, South Wales. This includes a plasma gasification plant combined with advanced anaerobic digestion to divert municipal solid waste from the landfill. EnviroParks are currently collaborating with partner Europlasma of Bordeaux to provide the plasma gasification unit to the park.

As much as 60 million is being put into the project by EnviroParks Ltd and its partners, to establish organic waste and mixed waste treatment facilities next to the Tower Colliery at

Hirwaun. The Hirwaun site itself is large enough for the processing of over 250,000 metric tons (280,000 short tons) of non-hazardous waste a year. Initially, though, an anaerobic digestion plant will be designed to handle 50,000 metric tons (55,000 short tons) of organic wastes a year.

### **Jackson, Georgia (PR Power Company)**

PR Power Co. plans to open a plant south of Atlanta, near Jackson, Georgia, that will use a “plasma torch” to vaporize tires down to their natural elements mainly hydrocarbons and scrap steel. The gases will be converted to electricity for sale to electric utilities and the scrap steel will be sold at an estimated \$50 a ton.

### **Red Deer, Alberta (Plasco Energy Group Inc.)**

Plasco is preparing to start construction on a commercial-scale facility in Red Deer, Alberta in the Summer of 2009. This facility, the company’s first commercial plant, is expected to be completed by the end of 2010.

Maharastra Enviro Power Limited, SMSIL Pune, Maharastra India SMS Infrastructures Limited (SMSIL), Central India largest civil engineering and ..... company, constructed 68 tonne-per-day hazardous waste-to-energy plants, located in Pune, India, that will use Westinghouse Plasma Corporation (WPC) plasma technology and reactor vessel design. Each plant will provide comprehensive disposal services for a wide variety of hazardous waste, and will produce up to 1.6 MW (net) of electricity. The facilities will be the largest plasma gasification WTE plants in the world processing hazardous waste.

### **Concerns**

Numerous municipal plasma arc gas plants (see above) are currently in development, including one for the city of Los Angeles. Practical (limited use of land space for landfills), technological (large-scale use of technology versus small-scale, e.g. plasma arc is currently favored as a means to destroy medical and hazardous waste), logistical (transportation infrastructure requirements) and budgetary considerations can affect the viability of individual projects. It is important to note that no municipal-scale waste disposal plasma arc facilities have as yet been constructed, which could present a considerable technological and budgetary challenge to even the largest municipalities.

**An issue regarding plasma systems that rely on high temperatures for processing is in the life of their liners. The liner is an important aspect of separating the high interior temperatures of the plasma system from the [metal] shell of the plasma container. Liners are highly susceptible to both chlorine attack and to local variabilities in [high] temperatures, both of which would be found with typical municipal waste systems, and are not likely to last more than a year in service. This concern can be addressed by using the method demonstrated at the Trail Road Plant in Ottawa, Canada, which requires lower temperatures and a more robust material (brick) for a liner instead of the expensive and fragile metal.**