

DOC/2019/04752-03

November 19, 2019



Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MAE/213/2019]

On October 21, 2019, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

“August 2019 information note titled Stantec Closure Report for Drum Removal program, Forebay Area of Humber Canal.”

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs and Environment to provide access to some of the requested information.

However, certain text contained within the records has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act, 2015 (the Act)*:

Section 40.(1): “The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.”

As required by 8(2) of the *Act*, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.



The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
 2 Canada Drive
 P. O. Box 13004, Stn. A
 St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
 Toll-Free: 1-877-729-6309
 Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-7183 or by e-mail at DesireeNewman@gov.nl.ca.

Sincerely,

Desirée Newman

DESIREE NEWMAN
 ATIPP Coordinator
 Municipal Affairs and Environment
 Enclosures

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.
- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
 - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
 - (b) a decision respecting an extension of time under section 23;
 - (c) a variation of a procedure under section 24; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26.
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
- (2) An appeal shall be commenced under subsection (1) not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
 - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.
- (4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

Information Note
Department of Municipal Affairs and Environment

Title: Stantec Closure Report for Drum Removal Program, Forebay Area of Humber Canal.

Issue: To provide a summary of drum removal work in the Humber Canal completed by Stantec on behalf of Kruger Inc.

Background and Current Status:

- The Humber Canal Protected Water Supply Area services the Towns of Deer Lake and Reidville. The water supply originates back to the construction of the Deer Lake Power (DLP) system in 1924. s. 40(1)
- On February 8, 2017, [REDACTED] contacted the Minister of MAE regarding the appearance of old equipment in the Humber Canal, approximately 7.5 km upstream of the Town of Deer Lake's water supply intake. s. 40(1)
- On March 16, 2017, the MAE Minister sent a letter to [REDACTED] advising that a site visit would be conducted by WRMD officials in the spring. On May 2, 2017, WRMD officials conducted the investigation and collected water samples from the Humber Canal at the site of the old equipment.
- On May 17, 2017, WRMD of MAE issued a letter to DLP, owned by Kruger Inc., advising on the removal of an abandoned piece of equipment in the Humber Canal, located inside the Humber Canal Protected Water Supply Area. The Department advised DLP to take the following action:
 - Remove the identified pieces of equipment, and
 - Identify and remove any equipment, debris, or foreign material present in the canal that may impact drinking water quality.
- On January 3, 2018, Stantec, the company retained by Kruger Inc. to carry out a drum removal program in the Humber Canal, applied for a permit under Section 39 of the *Water Resources Act* for the removal of approximately 55 drums from the Canal. It was reported that the drums appeared empty and mostly intact with some deterioration.
- On March 2, 2018, Stantec sent a remedial action plan to MAE that was specific to the drum removal work. After discussions with Stantec, PPD indicated their satisfaction with the revised remediation plan on May 24, 2018. Discussion relating to sampling results, water monitoring program, temporary intake design and other items relating to drum removal from the Humber Canal continued between MAE, Town, and DLP's consultant throughout 2018.
- On January 31, 2019, WRMD approved the remediation plan and Section 39 permit (PR09701-2019) was issued to Stantec by WRMD. The scope of the permit include the removal of the drums from the Humber Canal and the installation of a temporary water supply intake to ensure continuous supply of water to the Town of Deer Lake during the drum removal operation.

- During the week of June 3, 2019, Stantec removed 60 drums from the bottom of the Humber Canal. MAE officials were on-site to monitor the removal process. On the same day, the water supply intake was switched over to the temporary intake after laboratory analytical results of the water samples collected from the temporary intake were reviewed and approved by WRMD. The drum removal operation was completed on June 7th. At that point, divers conducted final inspection of the area to confirm all drums were removed.
- Stantec provided MAE with a copy of their “Closure Report for Drum Removal Program” on August 6, 2019. Kruger and the Town of Deer Lake intend to release Stantec’s final report on August 21, 2019.

Analysis

- Stantec’s final report notes that a total of 74 drums were actually removed from the Canal during the removal program. Most of the drums were covered in a thick layer of sediment and were scattered amongst a layer of sunken pulp logs. Many were heavily deteriorated and many were removed in large sections.
- Water samples collected from the Town’s water supply were analyzed for a variety of parameters, including general chemistry, metals, petroleum hydrocarbons, PAHs, VOCs, and PCBs. Stantec advises that laboratory analytical results indicate that the concentrations of these parameters were either not detected or were below Health Canada’s Guidelines for Drinking Water Quality, indicating that drinking water quality for the Town of Deer Lake was not compromised during the removal program.
- Following the completion of the drum removal program, a total of 18 sediment samples were also collected throughout the area where the drums were located to determine any potential impacts in sediment from the abandoned drums. Samples were analyzed for petroleum hydrocarbons (PHCs), Polycyclic aromatic hydrocarbons (PAHs), Volatile organic compounds (VOCs), polychlorinated biphenyls (PCBs), and metals. Laboratory analytical results determined the following:
 - VOCs were not detected in the sediment samples analysis.
 - Concentrations of trace metals were not detected at levels that are a concern.
 - Total PHCs concentrations ranged from non-detectable to 2,000 mg/kg.
 - Concentration of PAHs were generally not detected and slightly elevated concentrations of some PAHs were detected in three samples but were generally of the low molecular weight.
 - Concentrations of PCBs were detected in two sediment samples.
- Stantec advised that the principle potential contaminants of concern identified in the sediment samples were PHCs and PAHs, likely from a fuel oil source, and to a lesser extent PCBs. Stantec noted that these have low solubility in water, with a preference to partition to sediments. Additionally, Stantec noted that the drinking water system in Deer Lake includes a filtration system capable of removing particulate matter down to two microns which would be the bulk of any matter raised from the sediments to the water column. In summary, there has been no impairment to drinking water quality due to above noted factors.

- Both MAE's WRMD and Pollution Prevention Division (PPD) have reviewed Stantec's final report.
- WRMD advises that from a drinking water quality perspective, there are no further concerns and no hydrocarbons were detected in water quality samples.
- PPD advises that further work is required to address identified sediment impacts in accordance with the Department's Management of Impacted Sites process prior to seeking regulatory site closure.
- PPD notes that samples indicated impacts from an ecological perspective. In summary, 11 of the 18 sediment samples exceeding the Tier I Sediment Ecological Screening Levels for Protection of Freshwater and Marine Aquatic Life for PHCs, 4 exceed the CCME guideline for Protection of Freshwater Aquatic Life for PAHs, and 1 exceed the CCME guideline for Protection of Freshwater Aquatic Life for PCBs.
- PPD advises that one of the minimum environmental site assessment requirements is delineation of impacts to Tier 1 Sediment Ecological Screening Levels. PPD advises that PHC, PAH, and PCB impacts found in sediment have not been fully delineated. The Ecological Screening Levels and CCME guideline for Protection of Freshwater Aquatic Life, while not applicable to human health, are a screening guideline from an ecological perspective.
- As per the NL Guidance Document for the Management of Impacted Sites, upon completion of work, Kruger, is required to have a final report and a Record of Site Condition submitted to PPD for review. The Record of Site Condition needs to be prepared and signed by a registered Site Professional, and if satisfactory, would be signed by PPD to provide regulatory site closure.
- PPD officials have reached out to Kruger to advise the company about the remaining work at the site and next steps for managing the impacts.
- Pending Kruger does not demonstrate progress toward cleanup, a directive can be issued by Service NL to Kruger.

Action Being Taken:

- MAE will await confirmation from Kruger that it will address remaining concerns related to the management of impacted sites.
- Kruger will submit a final report and Record of Site Condition for review and signature by PPD.

Prepared/ Approved by: E. Thompson, R. Locke, H. Khan/ S. Squires/ T. Kelly

Ministerial Approval: Received from Hon. Lisa Dempster [pending]

August 20, 2019