
HALDIMAND COUNTY

Report ENG-19-2023 McNichol Municipal Drain Updated Engineer's Report For Consideration by Council in Committee on September 19, 2023



OBJECTIVE:

To seek Council approval to adopt the McNichol Drain updated Engineers Report and continue the process outlined in the Drainage Act.

RECOMMENDATIONS:

1. THAT Report ENG-19-2023 McNichol Municipal Drain Updated Engineer's Report be received;
2. AND THAT the appointment of Robinson Consultants Inc. Consulting Engineers as Drainage Engineers under Section 78(1) of the Drainage Act, RSO, 1990 c.D.17., be confirmed;
3. AND THAT the McNichol Municipal Drain Updated Engineer's Report be adopted by Provisional By-law as per Section 45 (1) of the Drainage Act, R.S.O. 1990 c.D.17.;
4. AND THAT the first sitting for the Court of Revision be held on a date to be determined by the Court of Revision, between 20 and 30 days from the date of mailing of the Provisional By-law;
5. AND THAT the Clerk be directed to send a copy of the Provisional By-law and a notice of first sitting of the Court of Revision to the required landowners;
6. AND THAT the revised budget as outlined in Report ENG-19-2023 be approved;
7. AND THAT upon the successful completion of the required appeal process, staff be directed to continue with the Drainage Act procedure and make the required arrangements for the construction of the proposed drainage works.

Prepared by: John Van Rooy, Project Manager, Municipal Drains

Reviewed by: Kristopher R. Franklin, Manager, Engineering Services

Respectfully submitted: Tyson Haedrich, M. Eng., P. Eng., General Manager of Engineering & Capital Works

Approved: Cathy Case, Interim Chief Administrative Officer

EXECUTIVE SUMMARY:

In 2021, Haldimand County staff initiated the McNichol Drain Updated Engineer's Report under Section 78 of The Drainage Act, R.S.O. 1990 (Act) in order to update and ensure the Engineer's Report and By-Law are available in conformance with the Act and propose improvements (where necessary) and ultimately to complete maintenance on the drain.

This updated Engineer's Report makes provision for modifications and improvements to ensure that the drain continues to function effectively and efficiently. Additionally, it outlines any necessary repairs or upgrades to the existing infrastructure to prevent future drainage issues. The report also takes into consideration any environmental concerns, incorporates sustainable practices for long-term

maintenance of the drain and ensures that the drain has all the necessary components to be in compliance with the Act.

BACKGROUND:

The McNichol Drain is located in the former Moulton Township in Haldimand County (see Attachment 1). The McNichol Drain begins at the connection with the Dent Drain and continues in a northeasterly direction to Bird Road and follows Bird Road southeasterly as a roadside ditch crossing under Jenny Jump Road and ultimately to the upstream Limit of Construction.

The first Engineer's Report for the McNichol Drain dates back to 1915 when the drain consisted of approximately 800 metres of open ditch. The last maintenance on the McNichol Drain took place in 2009 and through the billing of the maintenance it was determined that the records were incomplete for the drain and the costs of the maintenance could not be assessed to the properties in the watershed of the McNichol Drain.

In order to complete the maintenance of Municipal Drains, a valid, applicable Engineer's Report is required. Based on a thorough review of the file for the McNichol Drain, staff determined that the components required to maintain and assess the drain to the watershed did not exist and as outlined in Report FIN-09-2023 Municipal Drain Billing, considered at the May 23, 2023 Council in Committee meeting, the cost of the last maintenance could not be assessed to the lands and roads in the watershed of the drain. In order to address this and modernize the drain, an updated Engineer's Report is required.

Through Award of Contract ENG-80-2021, McNichol Drain – Updated Engineers Report, staff engaged Robinson Consultants Inc. to complete an updated Engineer's Report for the McNichol Drain as per Section 78 (1) of the Drainage Act.

Since the award of the contract, the Engineer has followed the process outlined in the Drainage Act, holding on-site and evening public meetings to discuss concerns and requests of landowners, as well as examinations of the drain and drain watersheds. This process culminated in the final McNichol Drain Engineer's Report dated June 23, 2023 (see Attachment 3).

ANALYSIS:

Based on a review of the updated McNichol Drain Engineer's Report, staff confirm that the report is sufficient. Council can now proceed to adopt the Engineer's Report by giving two readings to the by-law. The adopted by-law will be provisional until sufficient time has been allowed for the required appeal process and the Court of Revision. Once the by-law is formally adopted by the third reading and following the appeal period, Council is committed to the adoption of the report. Should Council not proceed with the adoption of the by-law, any landowner within the drain may appeal to the appropriate appeal body.

Within 30 days of the adoption of the report, a copy of the by-law and notice of the time and date of the first sitting of the Court of Revision must be sent to any landowner receiving allowances, compensation or assessments. The date of the first sitting must be between 20 and 30 days of the mailing of the last notice.

The jurisdiction of the Court of Revision is limited to three types of appeals. Any landowner assessed for the drainage works can appeal to the Court on the following grounds:

- That land or road has been assessed too high or too low.
- That land or road should have been assessed, but has not been assessed.
- Due consideration has not been given to the type of use of the land.

The Court of Revision has no authority to change the Engineer's Report in any way other than to alter the schedule of assessments. If one assessment is reduced, others must be increased.

Following the adoption of the final Engineer's Report, the tendering and construction for the work may proceed once all Court of Revision appeals (if any) are resolved.

FINANCIAL/LEGAL IMPLICATIONS:

In the preparation for the meeting to consider the updated Engineers Report for the McNichol Drain, it was discovered that the step to formally appoint Robinson Consulting as the Engineer to complete the Updated Engineers Report as required under the Drainage Act was not completed. A resolution that addresses the formal appointment has been included in this report.

The Engineers Report outlines the billing schedule for all future construction or maintenance activity on the drain. All lands and roads within the drainage area of the McNichol Municipal Drain will be assessed a portion of the total project costs. The costs are comprised of the Engineer's fees, construction costs, allowances and other miscellaneous costs (advertising, taxes, etc.).

The following table outlines the total estimated costs for the McNichol Drain as identified in the new Engineers Report:

Drain	Engineer's Fees (estimate)	Construction Costs (estimate)	Allowances	Total Cost of Report Allowances and Construction (estimate)	Haldimand County Portion of Total Cost (estimate)	Total Cost to Landowners(e stimate)
McNichol Drain	\$90,737.50	\$74,533.00	\$15,228.00	\$180,498.50	\$70,771.57	\$137,112.90

At this time, only the cost for the Engineers Report will be assessed to landowners and the proposed upgrades will be implemented as needed over time with the regularly scheduled maintenance of the McNichol Drain. The actual billing of the costs to provide the report, future upgrades and maintenance work will be the subject of subsequent drain billing reports to Council.

An estimated breakdown of the costs of this project including future upgrades and the County's assessed share is shown in the following table. The cost of construction for the drain will be assessed as per Schedules 'A', 'B' and 'C' of the McNichol Drain 2023 Engineer's Report, minus the agricultural grant, if eligible. All costs below are exclusive of HST.

Land Use	Total Assessment	Eligible Grant	Allowances	Special Benefit & Utilities	Net Assessment
Agricultural Haldimand	\$48,756.46	\$16,089.63	\$9,396.00		\$23,270.86
Non- Agricultural Haldimand	\$60,970.49	\$0	\$5,832.00		\$55,138.47
Haldimand County	\$ 27,385.97	\$0	\$0	\$43,385.60	\$70,771.57
Total	\$137,112.92	\$16,089.63	\$15,228.00	\$43,385.60	\$149,180.89

The McNichol Drain Updated Engineers Report project currently has a budget of \$75,000. The active project currently has expenditures totalling just under \$59,000 (including the non-rebateable portion of HST) relating to engineering costs, mailings and public consultation. As a result of the Engineer's estimate and need for an additional environmental study report, a revision to the budget is recommended as follows:

Project Expenditures	Current Approved Budget	Change	Proposed Revised Budget
379011 – McNichol Updated Engineers Report	\$75,000	\$20,000	\$95,000
Total Capital Expenditures	\$75,000	\$20,000	\$95,000
<u>Financing:</u>			
<u>CRR Roads Infrastructure</u>			
241800 - Drainage recoveries	\$52,500	\$23,500	\$ 76,000
298300 – Transfers from Municipal Drain Fund	\$22,500	(3,500)	\$19,000
Total Financing	\$75,000	\$0	\$95,000

Once all costs have been incurred and grants have been received, the total cost is assessed to landowners according to Schedule 'A' of the Engineer's Report. The Schedule of Net Assessment (see Attachment 2) indicates the estimated actual assessment that landowners will receive once all applicable grants and allowances are accounted for.

Once completed, the McNichol Drain will be maintained as part of the annual Haldimand County Municipal Drain Maintenance Program, where all municipal drains are maintained on a ten year cycle. Costs of future maintenance will be assessed to the watershed according to Schedule 'A' of the McNichol Drain 2023 Engineer's Report.

STAKEHOLDER IMPACTS:

Lands and Roads within the McNichol Drain Watershed

The Drainage Act process is a public process involving all landowners within the McNichol Drain watershed. All lands and roads within the watershed of the McNichol Drain are assessed a portion of the cost of constructing and maintaining the drain and landowner input is key to the effectiveness of the design of the drain.

Public meetings both on site and indoors were held throughout the process, including prior to the meeting to consider the report. During the meetings, both the Engineer and Haldimand County staff were available to answer questions.

Finance Division

Due to the number of landowners in the assessment area, there is an impact to the Finance Division related to the number of properties that will have the final assessment amount tax-rolled, once the final cost of the construction is known and provincial grants have been received.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: Yes

Policy: No

REFERENCES:

1. [The Drainage Act, R.S.O 1990, c. D. 17](#)
2. [FIN-09-2023 Municipal Drain Billing](#)

ATTACHMENTS:

1. Map of McNichol Drain
2. Schedule of Net Assessment (including estimated OMAFRA Grant)
3. By-law – including Updated Engineer's Report