
HALDIMAND COUNTY

Report PW-ES-20-2017 Consolidated South Wainfleet Drain - Drainage Tribunal Letter of Support

For Consideration by Council in Committee on October 3, 2017



OBJECTIVE:

To seek Council approval for a letter of support to the Drainage Tribunal for the Township of Wainfleet's Consolidated South Wainfleet Drain assessment schedule modification.

RECOMMENDATIONS:

1. THAT Report PW-ES-20-2017 Consolidated South Wainfleet Drain - Drainage Tribunal Letter of Support be received;
2. AND THAT a letter be sent to the Township of Wainfleet supporting the creation of new assessment schedules for the Consolidated South Wainfleet Drain under Section 76 (1) of the Drainage Act.

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Reviewed by: Tyson Haedrich, M. Eng., P. Eng., Director, Engineering Services

Respectfully submitted: Paul Mungar, C.E.T., CMM III, General Manager of Public Works

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The current combined assessment schedule for the Consolidated South Wainfleet Drain (C.S.W. Drain) does not meet the requirements of Section 74 of the Drainage Act whereby costs are to be assessed to the upstream lands. This causes issues with drain maintenance costs as there is no provision to assess individual branch drain maintenance and all maintenance is assessed to the entire watershed.

The Township of Wainfleet has indicated their intent to apply to the Drainage Tribunal for direction to create a series of new assessment schedules and as part of this process, a letter of support from Haldimand County is required because the drain watershed crosses into Haldimand County.

BACKGROUND:

In 1969, R. Blake Erwin consolidated more than forty municipal drains and branch drains (currently forty-six) into one large system called the Consolidated South Wainfleet Drain (C.S.W. Drain) with one assessment schedule. The location of the actual drainage works is completely within the Township of Wainfleet, however the drainage watershed extends into Haldimand County (see Attachment 1).

Section 74 of the Drainage Act states that the cost of maintenance works is at the expense of all upstream lands and roads in any way assessed. The current assessment schedule for the C.S.W. Drain does not make provision to assess individual branch drain maintenance and any and all maintenance is assessed to the entire watershed. In most cases where specific branches of the drain are maintained, there are limited amounts of lands contributing to that specific branch. As the assessment schedule currently exists, those that do not directly benefit or contribute to that branch are still assessed.

In 2014, several complaints were received by the Township of Wainfleet regarding the billing of maintenance costs associated with the C.S.W. Drain. The concerned landowners indicated that their land did not contribute water to the drains that were maintained the previous year. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has verified that the assessment schedule was not a fair assessment and that OMAFRA had considered not allowing payment of grants on the maintenance of the C.S.W. Drain.

In 2015, Haldimand County sent a letter to the Township of Wainfleet requesting the location of the drain maintenance for the C.S.W. Drain and questioning how the County's lands and roads are located upstream of the work. The letter advised Wainfleet that the County was considering challenging the drain to the Drainage Tribunal if the Township could not show how lands being billed in Haldimand County were upstream of the completed drain maintenance work.

In a letter dated August 3, 2017 (see Attachment 2) the Township of Wainfleet has formally indicated their intent to apply to the Drainage Tribunal for direction to procure a report to modify the current assessment schedule.

ANALYSIS:

As the drain watershed crosses the boundary of the Township of Wainfleet and Haldimand County, Section 76 of the Drainage Act requires an application to the Drainage Tribunal to create a series of new assessment schedules. A requirement of the Drainage Tribunal for this application is a letter of support from any local municipality within the drainage watershed to vary the assessment schedule.

As Haldimand County is in the C.S.W. Drain watershed, a letter of support from the County is required for the Township of Wainfleet's application to the Drainage Tribunal. The modification of the assessment schedule will ensure that only the lands contributing to the drainage watershed being maintained, will be billed for the work.

FINANCIAL/LEGAL IMPLICATIONS:

At this time, there is no cost associated with this application to the Drainage Tribunal. If the application is approved, the Township of Wainfleet will appoint an engineer to create the new assessment schedules. Lands and roads in Haldimand County will be assessed a portion of the cost of the engineer at a rate indicated in the new assessment schedules.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Haldimand County Watershed - Consolidated South Wainfleet Drain.
2. Township of Wainfleet Letter Regarding Appeal to Drainage Tribunal.