

FINAL DRAFT
2009 DRAINAGE PRACTITIONERS MEETING
MINUTES OF MEETING
Thursday October 29, 2009
Best Western Royal Brock Hotel and Conference Centre
Guelph, Ontario

1.0 Attendance and Call to Order

The meeting was called to order at 7:20 p.m. An attendance sheet was circulated at the meeting and there were 29 people in attendance of which 19 were practitioners.

2.0 Minutes of the Last Meeting

Motion by John Kuntze and seconded by Jeff Dickson that the minutes of the Thursday October 23, 2008 meeting (as distributed) be accepted. Carried. The minutes now can be found on the website www.landdrainageengineers.com.

3.0 Old Business

No old business.

4.0 Chairman's Report

Chairman, Tim Oliver reported on the activities of the O.S.P.E. Land Drainage Committee for the past year.

- Check the LDC website for the minutes. The old website will be decommissioned.
- Topics for this year's conference are: stress, environmental farm plans, Clean Water Act, fish species at Risk in Ontario, Bruce 19 Drain, Lidar, Garry Fischer.
- MNR not participating on LDC. LDC is looking into a replacement for Leo Christl.
- DFO wants to participate through the DAWG committee and not attend LDC meetings.
- There has been no DAWG meetings since April. Guidance documents not done.
- Missed tile drain connections – a recommendation was sent to DSAO and LICO for comment.
- Drainage Act and Section 28 Regulations Team (DART) – held 6 meetings in 2009. They are drafting a Best Management Protocol.
- LDC has been dealing with MNR and Species at Risk Act.
- LDC is looking into making changes to Section 58(4) of the Drainage Act through the Provincial Open for Business policy.
- Tribunal representative was unable to attend this meeting. Gloria Marco Borys, Tribunal Coordinator forwarded the following: there were 4 tribunal hearings under sections 48 and 54 of the Drainage Act, considered 2 requests for review, 5 appeals were withdrawn, considered an application under Section 76 of the Act to vary assessments, 2 appeals the

Tribunal did not deal with because in their opinion they had no jurisdiction to deal with the matter under the Drainage Act.

5.0 OMAFRA Report - Sid VanderVeen

KEY OMAFRA CONTACTS

In the Ministry of Agriculture, Food and Rural Affairs, drainage is administered by the Environmental Management Branch. The following are a few of the key people in the Ministry responsible for the administration of the program:

- The Minister of Agriculture, Food and Rural Affairs continues to be the Honorable Leona Dombrowsky. She has been the Member of Provincial Parliament for the riding of Prince Edward – Hastings in south central Ontario since 1999.
- The Deputy Minister, appointed in December 2008 is George Zegarac.
- Jim Richardson was appointed as Director of the Environmental Management Branch in November 2008.
- Your specific drainage contacts at OMAFRA continue to be:
 - Valerie Anderson is responsible for data entry for the Tile Loan Program and the *Drainage Act* grants. Valerie can be reached by phone at 519-826-3324 or by email at valerie.j.anderson@ontario.ca
 - Andy Kester is the Drainage Analyst/Inspector and is responsible for the review and processing of tile loans and of grants under the *Drainage Act*. Andy can be reached 519-826-3551 or by email at andy.kester@ontario.ca
 - Sid Vander Veen is the Drainage Coordinator and is responsible for policy, issues management, training for the Drainage Act and Tile Drainage Act. Sid can be reached by phone at 519-826-3552 or by email at sid.vanderveen@ontario.ca
- Beginning last June, Sharon McCartan has also joined us for a one-year period through the Ontario Internship Program. Sharon is a law school graduate and is leading or assisting on a number of different projects.

NAVIGABLE WATERS PROTECTION ACT:

The Navigable Water Protection Act is federal legislation that protects the navigability of waterways. When this legislation is applied to Drainage Act projects, it can require crossings to be increased in size to accommodate navigation. The federal government has recently defined ...“Artificial irrigation channels and drainage ditches, other than ones created or built in whole or in part from a natural body of water, that have an average width of less than 3.00 m...” as a class of work that does not require approval from the Minister of Transport.

ENDANGERED SPECIES ACT

The revised *Endangered Species Act* (ESA), administered by the Ministry of Natural Resources (MNR), has been in effect since June 30, 2008. The Act prohibits activities that threaten the lives and habitat of endangered species. An endangered species is any living being (including plants) that is at risk of extinction or of disappearing from the province. For more information on this Act, check out the MNR website: <http://www.mnr.gov.on.ca/en/Business/Species>.

While there is no doubt that the Act will have an impact on some future drainage activities, it does not mean that activities that may affect endangered species will not be allowed. The ESA has a permitting process where activities can be authorized. However, the permitting process can be limiting and restrictive.

As an alternative, ESA Regulation 242/08 allows *Drainage Act* activity to continue provided the municipality enters into an agreement with the MNR. The agreement must be in place before any work is undertaken and no later than June 30, 2010. Municipalities should work with their local MNR office to identify those drains that may be affected by endangered species. For those drains, the municipality should enter into an agreement with MNR to ensure that management of the drain can be allowed to continue in the future.

LAKE SIMCOE PROTECTION ACT

The Act provides measures to protect Lake Simcoe including a phosphorous reduction strategy and promoting immediate action to address threats to the lake ecosystem. It also targets new and emerging causes of stress to Lake Simcoe such as invasive species and climate change. OMAFRA is involved with the implementation of the Lake Simcoe Protection Act to ensure that the interests of agriculture and drainage are represented.

E-LEARNING

There is a factsheet entitled “Top 10 Common Law Drainage Problems Between Rural Neighbours” that tries to address many of these questions. However, there are limitations in conveying this information through a written factsheet. So we are working on developing an e-learning tool to explain the common law as it relates to drainage. This will be an interactive website that will guide the individual to specific points they need to understand as well as provide them with specific suggestions to resolve their issues. We hope that this tool will also be useful for municipal staff.

OPEN FOR BUSINESS: www.ontariocanada.com/ontcan/1med/en/ofb_main_en.jsp

The McGuinty government has introduced an “Open for Business – Action Now” strategy that has a vision for a competitive economic climate supported by faster, smarter government.

- **Reg 18 under the Agricultural Tile Drainage Installation Act:** OMAFRA put forward a proposal to amend this regulation to change the expiry date of licenses, the reporting requirements for their work, the experience requirements for tile drainage operators and it will generalize the course content. These changes were put into effect in July 2009.
- **Reg 275 under the Drainage Act** is entitled “Rules of Practice and Procedure to be Followed in all Proceedings Before the Drainage Referee”. This regulation has not been changed in a very long time. It contains instructions such as “Where an appellant resides more than five miles from the office of the local registrar...” We are reviewing the regulation with the Drainage Referee to see how the regulation can be modernized to make it more applicable to proceedings before the Referee today. Sharon is leading this review.
- **Drainage Act:** Similarly, the Drainage Act was reviewed to see if there were opportunities to clarify sections or to remove obsolete ones. Possible changes were discussed with the Land Drainage Committee and the Drainage Superintendents Association of Ontario.

DRAINAGE BMP (Best Management Practices):

Last year at the Drainage Practitioners Meeting, I reported that a Drainage BMP was in the very early stages of development. The purpose of the Drainage BMP is to help farmers and other rural land owners learn about cropland drainage. This book is intended as a primer on agricultural land drainage and, as such, will cover the benefits, challenges, principles and management practices relevant to cropland sub-surface drainage systems and surface drains with a special regard to environmental sustainability. The primary audience is the farming community, but it should also be valuable to regulatory and environmental agency staff, municipal employees, drainage contractors, engineers, farm organizations, teachers and government agency staff.

A second draft of the BMP has been sent to selected reviewers for comment. From past experience, a BMP usually goes to print after the fifth draft. Our original target completion date was February 2010. However, there are some policy issues that need to be resolved and this has extended the expected completion date. Completion is now expected towards the end of 2010.

Greg Nancekivell (Dietrich Engineering Limited) is involved in this project. Please refer to the 2008 Drainage Engineers Conference proceedings for other members involved in this project.

Courses

The following upcoming Courses have been planned:

- The 2010 Drainage Superintendents Course will be held from March 1 to 5, 2010 at the Provincial Government Building at 1 Stone Road West in Guelph.
- The dates and locations for the Rural Municipal Drainage Courses and the Calculating Drainage Assessment Courses have not been set yet.

AGRICULTURAL DRAINAGE INFRASTRUCTURE PROGRAM (ADIP) REVIEW

Implementation of the results of the Agricultural Drainage Infrastructure Program policy review is being delayed until the 2010/2011 fiscal year.

ADIP GRANTS:

If you are expecting the payment of grants this year, it is important to note the following:

- Grant applications, complete with all supporting documentation, must be received on or before the deadline. The deadline for drain maintenance & superintendent grant application submission is Monday, February 1, 2010. The deadline for drain construction or improvement projects is Monday, February 15, 2010.
- Faxed or emailed grant application packages will be accepted until the end of the day of the deadline. However, the grant application with original signatures must be received within one week of the deadline (February 8, 2010). If the original documents are not received, the application is deemed incomplete and will not be processed.

FISHERIES ACT – DRAINS ACTION WORKING GROUP (DAWG):

The Drains Action Working Group (DAWG) had been actively working to develop a guidance document for the application of the Fisheries Act to drain maintenance/repair work and to drain construction/improvement projects. A rough draft of the document had been written and was undergoing an internal Fisheries and Oceans Canada review. However, this project has stalemated and currently no DAWG meetings have been held since April.

DRAINAGE ACT and SECTION 28 REGULATIONS TEAM (DART)

A multi-stakeholder committee has been established to investigate these issues and recommend some practical guidelines and protocols. The last meeting of this committee was held in early September. The committee is jointly chaired by Darlene Dove of MNR and Sid Vander Veen of OMAFRA. Drainage representatives on the committee include Brett Ruck (Fort Erie – DSAO), Wray Wilson (Howick Twp. – DSAO) and John Kuntze (K. Smart Associates Ltd. – Land Drainage Committee).

OTHER ITEMS OF INTEREST:

- Sharon McCartan is working on developing a Referee section to the Drainage page on our Ministry website. This Referee section would include some basic information about the Referee, some history of the position, and hopefully some past decisions.
- Sharon is also working on a Court of Revision Info-Sheet. This info-sheet will provide some guidance to municipal councils and clerks as well as members of the Court of Revision on the duties and responsibilities of the position. If you are willing to be a reviewer of this Info-Sheet, please provide Sharon with your contact information.
- In order to process tile loans under the Tile Drainage Act, OMAFRA purchases debentures from the municipality. The municipality must submit a debenture along with an assortment of other properly completed documents. Some of these forms are legal documents and when they aren't properly completed, it causes delays and frustrations. We have developed a "Tile Loan Debenture Generator" that assists municipalities in completing these documents. We have sent the document to a few municipal clerks for review and comment and we hope to distribute it more broadly in the near future.
- The forms under the Agricultural Tile Drainage Installation Act have been posted on Ontario's "Central Form Repository": (www.forms.ssb.gov.on.ca). Sharon is working on posting the forms for the Drainage Act and the Tile Drainage Act on this site as well.
- Andy Kester and I are working on a "Service Standard" document for the processing of grants, loans and licenses.
- Andy is also working on a project to update our computer system that is used to process grants, loans and licenses. This is a large, longer-term project.

RURAL DRAINAGE WEBSITE: www.omafra.gov.on.ca/english/landuse/gis/map_dis.htm

This project was implemented in 2009 to showcase the drainage information online. The website shows the location of municipal drains and tile drainage information.

DRAINAGE STATISTICS

2008/09 drainage statistics will be included in the proceedings of the 41st Drainage Engineers Conference.

6.0 Election of New Members

Sid VanderVeen presided over the nominations for new members. Wil Bartlett, Tim Oliver and Tom Marentette were nominated as new members. Wil Bartlett declined, Tim Oliver and Tom Marentette were acclaimed.

7.0 Open Discussion

- Motion by Tom Pridham and seconded by Ray Dobbin that the membership in the OSPE LDC Terms of Reference be reviewed by the LDC. The LDC bring a recommendation with respect to the length of term to be served on the committee to the members at the 2010 annual practitioners meeting to be voted upon.

8.0 Adjournment

The meeting was adjourned at 9:30 p.m.

Tim Oliver, Chairman

Bill Dietrich, Secretary