

Provincial Officer's Order

Environmental Protection Act, R.S.O. 1990, c. E.19 (EPA)
Nutrient Management Act, 2002, S.O. 2002, c. 4 (NMA)
Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA)
Pesticides Act, R.S.O. 1990, c. P.11 (PA)
Safe Drinking Water Act, 2002, S.O. 2002, c. 32 (SDWA)

Order Number

1-15221638

Order Issued To

MCASPHALT INDUSTRIES LIMITED
8800 SHEPPARD AVE E , TORONTO, ON, M1B 5S1

PETER ODDI

180 PIER 24 GATEWAY, HAMILTON, ON, L8H 0A3

Site

McAsphalt - Hamilton Terminal
180 PIER 24 GATEWAY, HAMILTON, ON, L8H 0A3

Refer to the Definitions section in the Provincial Officer's Report, Part B of this Order, for the meaning of all the capitalized terms that are used in this Order.

PART A - WORK ORDERED

This work is ordered pursuant to my authority under **EPA | 157**, I order you, to do the following:

Item No.1 **Compliance Date:** 03/01/2021

By no later than March 1, 2021, the company shall retain the services of a Qualified Person to complete an application to amend the ECA for all sources of air emissions from the facility located at the Site, as required by section 9 of the EPA.

Item No.2 **Compliance Date:** 03/08/2021

By no later than March 8, 2021, the company shall submit to the undersigned Provincial Officer written confirmation from the Qualified Person(s) who has been retained, that they have the experience and qualifications to carry out the work specified in the order and that they have received a copy of the Order.

Item No.3 **Compliance Date:** 06/04/2021

By no later than June 4, 2021 the company shall submit a completed application for an amendment to their ECA with all necessary supporting documentation and applicable fees, to the Director, Environmental Assessment and Approvals Branch of the Ministry, 135 St. Clair Avenue West, 1st Floor, Toronto, Ontario, M4V 1P5.

Item No.4 **Compliance Date:** 06/04/2021

By no later than June 4, 2021 a copy of the work ordered in Item No.3 shall be submitted to the undersigned Provincial Officer via email.

PART B - PROVINCIAL OFFICER'S REPORT

This Order is being issued for the reasons set out below.

Definitions

For the purposes of this Order, the following capitalized terms shall have the meanings set out below:

- "Company" means McAsphalt Industries Limited;
- "ECA" means Environmental Compliance Approval;
- "Ministry" or "MECP" means the Ontario Ministry of the Environment, Conservation and Parks;

- "Provincial Officer" means the undersigned provincial officer or, in the event that the undersigned is unable to act, any other provincial officer authorized to act pursuant to the EPA.
- "Qualified Person" means a person who has obtained the appropriate education and training and has demonstrated experience and expertise in the areas relating to the work required to be carried out in this Order;
- "Site" mean the property municipally known as 180 Pier 24 Gateway, Hamilton, Ontario.

Events Leading up to Order

- 1 On November 18, 2020 I Tyler Kelly, Provincial Officer badge number 1887 attended McAsphalt Industries Limited, Hamilton Terminal located at 180 Pier 24 Gateway, Hamilton, Ontario, L8H 0A3 to conduct an inspection of the site pursuant to my authority under the EPA. The inspection was conducted with Peter Oddi (McAsphalt Industries Limited, Regional Operations Manager) and William Hulcup (McAsphalt Industries Limited, Production Manager). During the inspection, I assessed compliance with the EPA and the site's ECA, number 4270-92PMVJ issued on December 14, 2012.

During the inspection, I determined that the company constructed an additive tank (Tank TK-404) in April 2020 at the site. This tank discharges contaminants to the natural environment. The company is also in the process of constructing a reaction tank at the site. Once commissioned this tank will discharge contaminants to the natural environment. An amendment to ECA number 4270-92PMVJ issued on December 14, 2012 was not made by the company to reflect these modifications.

ISSUING OFFICER

Name: Tyler Kelly

Badge Number: 1887

Address: 119 KING ST W 9TH FLR, HAMILTON, ON, L8P 4Y7

Email: tyler.kelly@ontario.ca

Date: 2021/02/17



Signature:

REVIEW AND APPEAL INFORMATION

REQUEST FOR REVIEW

You may request that this Order be reviewed by the Director. Your request must be made in writing or orally with written confirmation. Your written request or written confirmation of your oral request must be served on the Director within 7 days after the date this Order was served on you and must be served on the Director at the address, email address or fax number in the Contact Information below.

In your written request or written confirmation, you must:

- Specify the portions of this Order that you wish to be reviewed.
- Include any submissions to be considered by the Director with respect to issuance of this Order to you or any other person and within respect to the contents of this Order.
- Apply for a stay of this Order, if necessary.
- Provide an address for service by one of the following means, in person, by mail, by commercial courier, by fax, or by email.

In response to your request, the Director may confirm, alter/amend or revoke this Order.

The Director will serve you with a copy (written notice) of the decision to revoke this Order or of an order, a Director's Order, to confirm or alter/amend this Order, together with reasons.

DEEMED CONFIRMATION OF THIS ORDER

If within 7 days of the Director receiving your request for review you do not receive oral or written notice of the Director's decision on your request for review, this Order is considered (deemed) to have been confirmed by order of the Director and deemed to have been served upon you at the expiry of those 7 days.

APPEAL INFORMATION (REQUIRE A HEARING)

A. If this Order is deemed confirmed as explained above, you may require a hearing by the Environmental Review Tribunal on the deemed confirmed order within 15 days of the deemed service date:

- You must serve written notice of your appeal on the Environmental Review Tribunal and the Director within those 15 days of the deemed service date.

- Your notice must state the portions of the deemed confirmed order for which a hearing is required and the grounds on which you intend to rely at the hearing.
- Unless you have permission (leave) of the Environmental Review Tribunal, you are not entitled to appeal a portion of the deemed confirmed order or to rely on grounds of appeal that are not stated in your notice requiring the hearing.
- Unless stayed by the Environmental Review Tribunal, the deemed confirmed order is effective from the deemed service date.
- Written notice requiring a hearing must be served at the address, email or fax number for the Environmental Review Tribunal and the Director in the Contact Information below.

If this Order is confirmed or altered/amended by the Director by a written order served upon you (as opposed to the deemed confirmation noted above), such Director's Order will include the appropriate instructions for appealing that order to the Environmental Review Tribunal.

CONTACT INFORMATION

The address, email address and fax numbers of the Director and the Environmental Review Tribunal are:

The Secretary
Environmental Review Tribunal
655 BAY STREET, SUITE 1500
TORONTO, ON M5G 1E5

Director (Provincial Officer's Orders)
Ministry of the Environment, Conservation and Parks
Hamilton District Office
119 KING ST W
, 9TH FLR
HAMILTON, ON L8P 4Y7

Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal:

Tel: (416) 212-6349

Fax: (416) 326-5370

Email: erttribunalSecretary@ontario.ca

Webpage: www.olt.gov.on.ca

SERVICE INFORMATION

Service of the documentation referred to above can be made personally, by mail, by fax, by commercial courier or by email in accordance with the legislation under which this Order is made and any corresponding Service Regulation.

Please note that where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and choosing service by mail does not extend any of the above-mentioned timelines.

ADDITIONAL INFORMATION

Unless stayed by the Director or the Environmental Review Tribunal, this Order is effective from the date of service.

Failure to comply with a requirement of this Order constitutes an offence.

The requirements of this Order are minimum requirements only and do not relieve you from complying with the following:

- any applicable federal legislation;
- any applicable provincial requirements that are not addressed in this Order; and
- any applicable municipal law.

The requirements of this Order are severable. If any requirement of this Order, or the application of any requirement to any circumstance, is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of this Order.

Further orders may be issued in accordance with the legislation as circumstances require.

The procedures to request a review by the Director or require a hearing and other information provided above are intended as a guide. The legislation should be consulted for additional details and accurate reference. Further information can be obtained from e-Laws at <https://www.ontario.ca/laws>.