

Director's Order

Director's Order Number

1-225995602

Director's Order Issued To

HARRY RUBIN & SON LIMITED
1810 ALLANPORT RD , THOROLD, ON, L0S 1A0

ALLAN RUBIN

HOWARD RUBIN

RONALD RUBIN

TENI STEVENS

Site

Harry Rubin & Son Ltd.
1810 ALLANPORT RD, THOROLD, ON, L0S 1A0

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

PART A - WORK ORDERED

This work is ordered pursuant to my authority under **EPA | 136**, I order you, jointly and severally, unless otherwise indicated, to do the following:

Item No. 1

I hereby require the performance of environmental measures in Director's Order 6763-ADTQ7X, including the applicable requirements in Director's Order 8468-8XTKD3 and Director's instructions issued on June 19, 1995, and authorize the Crown to carry out the environmental measures for which the Crown holds financial assurance, and require the use of the financial assurance for the performance of such environmental measures as are required.

PART B - BACKGROUND AND REASONS

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

Definitions

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

"Director" means the undersigned Director or any other person as may be designated as a Director for the purposes of this Order.

"PCB" means any monochlorinated or polychlorinated biphenyl or any mixture of them or any mixture that contains one or more of them as outlined in WASTE MANAGEMENT - PCB'S Regulation 362, R.R.O. 1990.

"PCB waste" has the same meaning as defined in WASTE MANAGEMENT - PCB'S Regulation 362, R.R.O. 1990.

"Waste" means "Waste" as defined in section 25 of the EPA, to include ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other materials as are designated in the regulations.

Description of Person(s) Subject to the Director's Order

A Land Registry Title search of the property known as 1810 Allanport Road, Thorold, ON (the "Site") revealed that it is currently owned by Harry Rubin & Son Limited (the "Company"). Current corporate documents for the company list the director as Philip Rubin who passed away January 2010. Philip Rubin has executed a trust deed on December 2, 2005 (the "Trust Deed"), which states that he wishes to establish a trust by transferring the shares of Harry Rubin & Son Limited to the trust (the "Trustee"). Teni Stevens was named as the sole trustee of the Trust however, information received by the ministry in November 2010 indicated that the individual administering the site "In Trust" had resigned as the administrator of the trust. Prior to resigning, the administrator did not find a replacement trustee as required by the Trust Deed.

Historical corporate documents show that both former director and officer positions of the Company were held by Howard Rubin, Allan Rubin and Ronald Rubin (collectively, the "Rubins"). Historical documentation in Ministry files confirm that Allan Rubin and Ron Rubin were actively involved with the Site. Howard Rubin had corporate designation as Director and Vice-President, Allan Rubin had corporate designation as President (ceased in 1996) and Ronald Rubin had corporate designation as Director, Secretary and Treasurer of the Site which ceased in 1999.

Description of the Site and/or System/Facility

Harry Rubin & Son Limited operated a PCB storage site at 1810 Allanport Road in Thorold, ON (the "Site"). Director's Instructions were issued in 1995 under Ontario Regulation 362 (Waste Management – PCB's) made under the EPA for the Site.

Some of the PCB wastes of concern to the Ministry included PCB contaminated soils stored both above ground in various containers, and in an engineered underground cell located in the northwest portion of the Site with a geomembrane liner above and below the PCB contaminated soil.

Reasons for the Director's Order

Between 2012 and 2016 Director's Orders # 8365-8RXNEP, #8468-8XTKD3, # 6763-ADTQ7X were issued by a ministry Director under the authority of the EPA to the above-named parties ordering environmental measures at the Site, including the security, compliance with instructions, removal and management of PCB waste and other work on the Site. Financial assurance has been provided for the performance of such environmental measures as described below.

On February 29, 2012, the ministry served Director's Order #8365-8RXNEP and a second Director's Order #8468-8XTKD3 was served on September 6, 2012 requiring the removal of the PCB waste from the abandoned Site among other things. Both orders were issued to Howard Rubin, Allan Rubin and Ronald Rubin (collectively, the "Rubins"), Harry Rubin & Son Limited and Teni Stevens. The Rubins appealed both Director's Orders. They requested a stay of the Order. Harry Rubin & Son Limited and Teni Stevens did not appeal the Orders.

In addition, a Director's Notice under Section 147 of the EPA was issued authorizing the Ministry to cause the work required by the Order be done to secure the Site. The Site was secured by the Ministry on March 1, 2012.

The Environmental Review Tribunal (the "Tribunal" or "ERT") rendered its decision on the stay motion on December 31, 2012. The Tribunal did not grant a stay for the portions of the order relating to monitoring, recording and reporting on the storage security and contamination at the site. All other requirements in the Director's Orders were stayed until the final disposition of the appeals.

In April 2016, the Rubins submitted a report on the integrity of the liner of the containment cell for the PCB site. The report indicates the liner has a remaining service life of more than 100 years.

On June 1, 2016, the ERT provided its provisional approval of a Settlement Agreement reached among the parties to the hearing. On September 1, 2016 the ERT issued a verbal order to proceed with the agreed upon settlement which required the Rubins to implement an agreed upon plan to remove above ground PCB waste on Site and to secure the below ground PCB storage cell with a fence with locked gate. Part of the settlement included a release of liability provided to the Rubins, signed by the ministry Director and Deputy Minister.

A third Director's Order (# 6763-ADTQ7X) was served on September 29, 2016 requiring the Rubin's to implement the approved plan and to post \$250,000 in financial assurance in 5 yearly installments between 2018 and 2022.

The financial assurance is provided as assurance for performance of the following work:

- The work Harry Rubin & Son Limited and Teni Stevens are ordered to perform in Director's Order Number 8468-8XTKD3; and
- The work required by the Director's Instructions for the Site issued under Regulation 362 to Harry Rubin & Son Limited on June 19, 1995, and as those Director's Instructions may be amended, from time to time, and re-issued to Harry Rubin & Son Limited or any future owner of the Site.

The Order also requires that Harry Rubin & Sons Ltd. and the Trustee for the site grant the Rubins access and register the Order on title. The ERT formally dismissed the Rubin's appeals in a written decision dated October 12, 2016 which allowed implementation of the Settlement Agreement to proceed. On October 19, 2016 a Notice was posted on the EBR Registry of the Issuance of Director's Order # 6763-ADTQ7X for clean-up and removal of above ground PCB waste at the Site.

On December 13, 2016, the Rubins retained a consultant to ensure all above-ground PCB waste was disposed of accordingly, there is fencing and locked gate for access around the Cell and the consultant has submitted a written report detailing the removal of PCB waste to the Director.

The Rubins have provided all financial assurance installments as required by Director's Order # 6763-ADTQ7X. The ministry currently holds \$250,000 in financial assurance for this Site in the form of certified cheque.

Based on the above information and Site history, the ministry officials have conducted monthly Site inspections and yearly groundwater monitoring of the PCB waste cell on Site.

Recent ministry Site inspections in 2022 and 2023 and groundwater monitoring by ministry technical staff in October 2022 have identified some PCB storage cell deficiencies including the need to decommission and replace groundwater monitoring well MW-1, remove phragmites/reedy vegetation and large trees around the perimeter of the PCB storage cell and the 4 groundwater monitoring wells, repair exposed areas of the top liner of the PCB storage cell where soil and vegetative cover are no longer present, replace signs indicating the presence of the PCB storage cell, and replace the PCB storage cell gate lock for access to the cell.

The ministry intends to use the financial assurance on the Site in furtherance of the environmental measures for which the financial assurance was provided, as set out in Director's Order # 6763-ADTQ7X.

Based on the forgoing, I have reasonable and probable grounds to believe that the environmental measures in respect of which the Financial Assurance was given will not be

carried out in accordance with the requirements of the Director's Order previously issued in respect of the Site.

In light of the legal proceedings and settlement relating to this matter, it will be necessary for the Crown to use the Financial Assurance and carry out, or have an agent of the Crown carry out, the required environmental measures. The Company is no longer operating, and Ms. Stevens is no longer involved, and has not been involved significantly with the Company or the waste management operations at the Site. Work has been undertaken by the Rubins in accordance with the terms of the settlement agreement.

This order is being directed to the above noted affected parties pursuant to clause 136(3)(a) and (b) of the EPA and authorizes the Crown to use the financial assurance provided for the environmental measures and for the performance of those environmental measures.

Authority to Issue the Director's Order

I am issuing this Director's Order under my authority as a Director under the following legislation, which also includes the authority to take intermediate action and/or procedural steps:

Pursuant to subsection 136(1) of the Environmental Protection Act, R.S.O. 1990, c. E.19 (EPA), the Director may, by order, require the performance of environmental measures for which the Crown holds financial assurance and may require the use of the financial assurance for the performance of the environmental measures.

Subsection 136(2) of the EPA provides that the Director may make an order mentioned in subsection (1) if the Director has reasonable and probable ground to believe that any environmental measure required by the approval, order or certificate of property use in respect of which the financial assurance was given has not been or will not be carried out in accordance with the requirement.

Subsection 136(3) of the EPA provides that this order shall be directed to the person to whom the original order requiring financial assurance was issued or directed and to any person that to the knowledge of the Director has provided the financial assurance for or on behalf of the person to whom the original order was issued, or to their successor or assignee.

Subsection 136(4) of the EPA provides that, upon issuance of this order, the Crown may use the financial assurance for the performance of the environmental measures and may carry out the environmental measures.

Attachments

The attachments listed below, if any, form part of this Director's Order:

ISSUING DIRECTOR

APPEAL TO THE ONTARIO LAND TRIBUNAL INFORMATION

REQUEST FOR HEARING

You may require a hearing before the Ontario Land Tribunal if, within 15 days of service of this Director's Order, you serve written notice of your appeal on the Ontario Land Tribunal and the Director as indicated in the Contact Information below. Your notice of appeal must state the portions of this Director's Order for which a hearing is required and the grounds on which you intend to rely at the hearing. Unless you receive leave (permission) from the Ontario Land Tribunal, you are not entitled to appeal a portion of this Director's Order or to rely on grounds of appeal that are not stated in the notice of appeal.

CONTACT INFORMATION

The contact information for the Director and the Ontario Land Tribunal is the following:

Registrar
Ontario Land Tribunal
655 BAY STREET, SUITE 1500
TORONTO, ON M5G 1E5
Email: OLT.Registrar@ontario.ca

and

Director
Ministry of the Environment,
Conservation and Parks
Hamilton District Office
119 KING ST W, 9TH FLR
HAMILTON, ON L8P 4Y7
Office Email: Environment.
Hamilton@ontario.ca
Fax: (905) 521-7806

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at:

Tel: (416) 212-6349, Toll Free: 1(866) 448-2248 or www.olt.gov.on.ca

SERVICE INFORMATION

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

ADDITIONAL INFORMATION

Unless stayed by the Director or the Ontario Land Tribunal, this Director's Order is effective from the date of service.

Failure to comply with a requirement of this Director's Order constitutes an offence. Unless otherwise indicated, the obligation to comply with a requirement of this Director's Order continues on each day after the specified compliance date until the obligation has been satisfied.

The requirements of this Director's Order are minimum requirements only and do not mean that you are not required to comply with any other applicable legal requirements, including any:

- statute, regulation, or by-law;
- federal, provincial, or municipal law; or
- applicable requirements that are not addressed in this Director's Order.

The requirements of this Director's Order are severable. If any requirement of this Director's 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. It also does not invalidate or render unenforceable the other requirements of this Director's Order.

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

This Director's Order is binding upon any successors or assignees of the persons to whom this Director's Order is issued.

The procedures to request a hearing and an appeal of this Director's Order 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 www.ontario.ca/laws.