

Director's Order

Director's Order Number

1-311122495

Director's Order Issued To

2476790 ONTARIO INC.
444 CASEY RD , BELLEVILLE, ON, A1A 1A1

ART MCCAFFREY'S GARAGE & TOWING LIMITED
54 CANNIFTON RD N , BELLEVILLE, ON, K8N 4Z6

ARTHUR MCCAFFREY
534 CANNIFTON RD N , BELLEVILLE, ON, K0K 1V0

KIMBERLY REID
444 CASEY RD , BELLEVILLE, ON, A1A 1A1

Site

McCaffrey's Garage and Towing Ltd.
54 CANNIFTON RD N, BELLEVILLE, ON, K8N 4Z6

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 | 18 | (1)**, **EPA | 197 | (1)**, I order you, jointly and severally, unless otherwise indicated, to do the following:

Item No. 1 **Compliance Due Date:** Jul-05-2024

By July 5, 2024, retain the services of a Qualified Consultant satisfactory to the Director to carry out the work as described in Work Ordered Item Nos. 3, 4 and 5.

Item No. 2 **Compliance Due Date:** Jul-05-2024

By July 5, 2024, submit to the Director written confirmation from the Qualified Consultant by email to cathy.chisholm@ontario.ca and to sharilyn.kennedy@ontario.ca that they have, (1) received a copy of the Order; (2) been retained to carry out the work as described in Work Ordered Item Nos. 3, 4, and 5; and (3) the experience and qualifications to carry out such work.

Item No. 3 **Compliance Due Date:** Jul-30-2024

By July 30, 2024, have the Qualified Consultant commence implementing the accepted Work Plan and complete the Work Plan in accordance with the accepted implementation schedule.

Item No. 4 **Compliance Due Date:** Jun-27-2025

By June 27, 2025, have the Qualified Consultant prepare a Delineation Report, which includes at a minimum: a) information collected through the implementation of the accepted Work Plan; and b) the steps, with a proposed implementation schedule, that will be taken to address soil and groundwater impacted by Contaminants of Concern originating at and from the Site which may have migrated off Site, as identified through the implementation of the accepted Work Plan.

Item No. 5 **Compliance Due Date:** Jun-27-2025

By June 27, 2025, submit to the Director, by email to cathy.chisholm@ontario.ca and to sharilyn.kennedy@ontario.ca, a copy of the Delineation Report referred to in Item No. 4 above.

Item No. 6 **Compliance Due Date:** Jun-27-2024

Upon service of this Order, 2476790 Ontario Inc., and any other person with an interest in the Site shall, before dealing with the Site in any way, give a copy of this Order, including any amendments thereto, to every person who will acquire an interest in the Site as a result of the dealing.

Item No. 7

Within thirty days of receipt of an acknowledgment and direction form signed by the Director enclosing a certificate of requirement, 2476790 Ontario Inc. shall register the certificate of requirement issued under s. 197 (2) of the EPA, on title to the Site, in the appropriate land registry office.

Item No. 8

Within seven days of registration of the Certificate of Requirement on title, 2476790 Ontario Inc. shall provide written verification to the Director by email to cathy.chisholm@ontario.ca and to sharilyn.kennedy@ontario.ca that the Certificate of Requirement has been registered on title to the Site as required by Item No. 7 above.

PART B – DIRECTOR'S REPORT

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:

"Adverse Effect" has the same meaning as in subsection 1(1) of the EPA.

"Contaminants of Concern" are: volatile organic compounds (VOC), metals, and petroleum hydrocarbons.

"Director" means the undersigned, or any other person appointed for purposes of sections 18, and 197 of the EPA.

"Director's Order" means this Director's Order 1-311122495, as it may be amended.

"EPA" means the Environmental Protection Act, R.S.O. 1990, c. E.19.

"Ministry" means the Ontario Ministry of the Environment, Conservation and Parks.

"Provincial Officer" means Sharilyn Kennedy, or in the event that she is unable to act, any other provincial officer authorized to act pursuant to the EPA.

"Qualified Consultant" means a third-party consultant or contractor satisfactory to the Provincial Officer 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" means the property located at 54 Cannifton Rd., N., Belleville, Ontario and legally described as: LT 1 E/S FRONT ST, 1 W/S CENTRE ST PL 36 Thurlow; Belleville; County of Hastings with the Property Identifier Number (PIN) 404330012 and operating as McCaffrey's Garage and Towing Ltd.

"UST" means underground storage tank.

"Work Plan" means plan entitled Work Plan – Environmental Sampling and Analysis 51 & 54 Cannifton Road North, Cannifton, ON. Prepared by GHD and dated December 21, 2023.

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

Art McCaffrey's Garage and Towing Ltd. was established as an Ontario incorporated company on September 27, 1974, corporation number 294257. Arthur McCaffrey and June Eleanor McCaffrey were both initial directors and officers of the company. Corporate filings indicate that Henry Arthur McCaffrey also became a director on October 4, 1974. However, it is my understanding that Henry Arthur McCaffrey and Arthur McCaffrey are the same person. Both Mr. and Mrs. McCaffrey remained in these positions until approximately August 20, 2015. Henry Arthur McCaffrey and Eleanor June McCaffrey owned the Site from May 15, 1973, to January 18, 2021. Further, during this period, they both exercised management and control of the Site as the directors and officers of the company, and the contaminants present on and beneath the Site. The McCaffrey's operated the Site as an automobile repair shop and heavy truck towing company until July 28, 2015, when Kimberly Reid purchased the company.

Ms. Reid became the sole director of Art McCaffrey's Garage and Towing Ltd. on August 20, 2015. The company continues to operate the business located at the Site.

On January 18, 2021, 2476790 Ontario Inc. purchased the Site from Henry Arthur McCaffrey and June Eleanor McCaffrey. 2476790 Ontario Inc. is an Ontario incorporated company, incorporated on July 28, 2015. Kimberly Reid is the sole director of 2476790 Ontario Inc., in this capacity and in her capacity as the sole director of Art McCaffrey's Garage and Towing Ltd., Kimberly Reid currently has management and control of the Site and the Contaminants of Concern originating from the Site which may be migrating beyond the Site's property boundaries.

The Director has reason to believe that June Eleanor McCaffrey is deceased.

Description of the Site and/or System/Facility

The Site is located at 54 Cannifton Rd. North, Belleville, Ontario.

Art McCaffrey's Garage and Towing Ltd. operates as a 24-hour heavy truck towing business and retail motor vehicle service garage. The Site is located in the north end of Belleville in a commercial and residential area that is municipally serviced. The Moira River is approximately 100 metres west of Site.

The Site consists of an irregularly shaped parcel of land approximately 2,657 square metres (28,600 ft²) in size with a single-story, two bay auto garage and office at the west end, and a works yard on the east end. A retail fuel outlet operated on-site from the early 1950's with fueling equipment removed some time before 1977, according to historical aerial photographs.

On March 11, 2015, Pinchin Ltd. (Pinchin) provided Kimberly Reid the Phase I Environmental Site Assessment (2015 Phase I ESA; attached) for the Site. The report identified the potential for subsurface impacts due to a historic hydraulic hoist reportedly located within the garage; a waste oil underground storage tank (UST) located beneath the garage; the removal of USTs associated with the fuel outlet operations could not be confirmed; and a subsurface fuel spill

identified in 1989 approximately 1 to 5 metres southwest (downgradient) of the Site at the intersection of Cannifton Road North and Black Diamond Road. As such Pinchin recommended that a Phase II ESA be completed. To the Ministry's knowledge, this work was never completed.

On December 13, 2018, Pinchin completed a Phase I ESA at 51 Cannifton Rd. North, a commercial property 15 metres downgradient and across the street from the Site. The results of the Phase I ESA also identified the subsurface gasoline spill at the intersection of Cannifton Road North and Black Diamond Road. Pinchin concluded the historic fuel spill could potentially impact 51 Cannifton Rd. and recommended a Phase II ESA be conducted.

On September 6, 2019, Pinchin completed a Phase II ESA at 51 Cannifton Rd. North (2020 DDRA; attached). The report identified soil exceedances of Table 9 Condition Standards for petroleum hydrocarbon (PHC) in the F1 and F2 fractions (F1-F2), benzene, toluene, ethylbenzene, xylenes (collectively referred to as 'BTEX'), 1&2-methylnaphthalenes, and naphthalene at the northeast corner of the property. Groundwater collected from the same location exceeded Table 9 Condition Standards for PHC F1, benzene, chloroform, hexane, and xylenes.

On January 15, 2020, the Ministry conducted an inspection of the Site and determined that given the previous reports for both 51 and 54 Cannifton Rd. N. a Phase II ESA was still required. To the Ministry's knowledge, this was never completed, and the property was sold to 2476790 Ontario Inc. in early 2021.

Between February 2020 and June 2022 significant efforts were made by the Ministry to have the work completed to no avail. On June 28, 2022, it was determined that a phased approach would be acceptable, with the first step to identify if there are any USTs at Site. Step two was to remove any USTs and complete testing of the subsurface soils beneath them. Step three was to install monitoring wells downgradient of any USTs.

On October 24, 2022, the waste oil UST located in front of the garage doors was removed by GHD. The tank was empty but in poor condition with several small holes and hydrocarbon odours observed. No other tanks were found. GHD collected soil samples and provided results in the Environmental Testing and Inspection Report dated December 5, 2022 (2022 ETI Report; attached). The report identified PHC F2 in soil at the west wall of the excavation at a concentration of 473 ppm, more than three times the MECP Table 7 Standard of 230 ppm. Zinc, lead, and arsenic were also found to exceed the Table 7 standards. GHD recommended further investigation be completed to delineate the extent of soils, and potentially groundwater, exceeding the Table 7 Standards and evaluate potential remediation options.

On August 10, 2023, GHD completed an Environmental Investigation for the Site (2023 EI Report; attached) which included the advancement of 11 boreholes, four of which were fitted with monitoring wells. The results identified soil in the northwestern corner of the Site exceed the Table 7 Standards for lead and the southwest corner of the Site exceeded for arsenic. Groundwater samples collected from a monitoring well in the center of the front parking lot

exceeded Table 7 standards for PHC F1 (1,530 µg/L) by almost four times, benzene (362 µg/L) by over 720 times, ethylbenzene (357 µg/L) by almost seven times, and hexane (25 µg/L) by five times. Given the proximity of this sample location to the western property boundary, off-site migration of contaminated groundwater is possible. GHD recommended further monitoring of the groundwater quality.

On December 21, 2023, GHD provided a work plan for environmental sampling and analysis at both 51 Cannifton Road North and the Site (2023 Work Plan; attached). The plan aimed to complete confirmatory testing of groundwater from existing wells at both sites. The plan was accepted by the MECP in February 2024 and expected to take place in March of 2024. However, the plan has been suspended indefinitely due to alleged financial hardship of the Site owner.

To the Ministry's knowledge, soil impacted with Contaminants of Concern are present on the Site and contaminated soil is an ongoing source of contamination to groundwater beneath the Site. A full delineation of Contaminants of Concern originating from the Site, as required by the 2023 Work Plan, has not been conducted and it is still likely that Contaminants of Concern extend beyond the Site's property boundaries and have the potential to impact indoor air quality of neighbouring buildings.

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:

- Section 18 of the EPA; and
- Section 197 of the EPA.

Therefore, based on the foregoing, I am of the opinion that Henry Arthur McCaffrey and 2476790 Ontario Inc. were previously or are currently the owner of the Site. Further, Henry Arthur McCaffrey and Kimberley Reid are or were persons in charge, management or control of the Site that is contaminated with Contaminants of Concern and that the requirements specified in the Director's Order are in the public interest to ensure the protection of public health and the natural environment.

Based on the foregoing, I am of the opinion that it is reasonable to believe that the Site is currently contaminated, and has been contaminated for some time, with Contaminants of Concern and that the Site is a source of Contaminants of Concern which have likely migrated off Site and onto adjacent properties. The extent of the contamination on and off Site has not been fully delineated and, in the absence of an active groundwater remediation and/or containment program at and related to the Site and/or other appropriate remedial and/or monitoring programs, groundwater contaminated with Contaminants of Concern may have and may continue to migrate off Site onto adjacent properties where adverse effects related to groundwater impacts may occur or have already occurred, posing a potential risk to human health and the natural environment.

I reasonably believe that the requirements of this Director's Order are necessary and advisable to prevent, decrease or eliminate any adverse effects that may result from such a discharge or have resulted from such discharges that occurred in the past or from the presence or discharge of the Contaminants of Concern in, on or under the Site.

Attachments

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

Addendum A – 2015 Phase I ESA

Addendum B – 2020 DDRA

Addendum C – 2022 ETI Report

Addendum D – 2023 EI Report

Addendum E – 2023 Work Plan

ISSUING DIRECTOR

Name: Cathy Chisholm

Job Title: District Manager

Badge Number: 1723

Address: 1259 GARDINERS RD UNIT 3, KINGSTON, ON, K7P 3J6

Director Email: cathy.chisholm@ontario.ca

Office Email: Environment.Kingston@ontario.ca

Date: Jun 26, 2024

Signature:



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
Kingston District Office
1259 GARDINERS RD, UNIT 3
KINGSTON, ON K7P 3J6
Office Email: Environment.Kingston@ontario.ca
Fax: (613) 548-6908

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.