

Director's Order

Director's Order Number

1-20755483

Director's Order Issued To

BRIAN HENRY CLEMENTS
1624 COUNTY RD 42 ELGIN, RIDEAU LAKES, ON, K0G 1E0

G. W. MALLORY LIMITED
1624 COUNTY RD 42 ELGIN, RIDEAU LAKES, ON, K0G 1E0

DAWSON ALEXANDER MASSEY
6 CAINTOWN RD , FRONT OF YONGE, ON, K0E 1R0

DONNA MAE AVERY
1376 COUNTY RD 2 , LEEDS AND THE THOUSAND ISLANDS, ON, K0E 1R0

GREGORY JOSEPH HAYES
1376 COUNTY RD 2 , LEEDS AND THE THOUSAND ISLANDS, ON, K0E 1R0

LISA ANN MARIE LISQUM
2834 SECOND CONCESSION RD , ELIZABETHTOWN-KITLEY, ON, K6V 5T1

RONALD ISAAC FERNAND LISQUM
2834 SECOND CONCESSION RD , ELIZABETHTOWN-KITLEY, ON, K6V 5T1

MOHIT GUPTA
163 KIMBER CRES , VAUGHAN, ON, L4L 9K3

RAJNI GUPTA
163 KIMBER CRES , VAUGHAN, ON, L4L 9K3

RAKESH KUMAR GUPTA
163 KIMBER CRES , VAUGHAN, ON, L4L 9K3

RICE LAKE DEVELOPMENTS INC.
163 KIMBER CRES , VAUGHAN, ON, L4L 9K3

PAUL MARCEL CADIEUX
4 BALMORAL PL UNIT 3, BROCKVILLE, ON, K6V 6K1

Site

1376 County Road 2
Township of Leeds and the Thousand Islands
Ontario

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: Aug-07-2024

By August 7, 2024, retain the services of a Qualified Person(s) satisfactory to the Director to carry out the work as described in Work Ordered Item No. 3 and Work Ordered Item No. 5 of this Order.

Item No. 2 Compliance Due Date: Aug-07-2024

By August 7, 2024, submit written confirmation from the Qualified Person (s) to the Director by email to cathy.chisholm@ontario.ca and to environment.kingston@ontario.ca that they have: (a) received a copy of the Director's Order; (b) been retained to carry out the work as described in Work Ordered Item No. 3 and Work Ordered Item No. 5; and (c) the experience and qualifications to carry out such work.

Item No. 3 Compliance Due Date: Aug-16-2024

By August 16, 2024, have the retained Qualified Person(s) prepare a written plan which describes the steps that will be taken to conduct an environmental site assessment in accordance with Schedule E of O. Reg. 154/04 which will fully assess and delineate the Contaminants of Concern in soil and groundwater which originate at and from the Site and which have migrated or may migrate from the Site (hereafter referred to as the Delineation Work Plan). The Delineation Work Plan shall include a proposed implementation schedule such that the work, including a final report, is completed by March 31, 2025.

Item No. 4 Compliance Due Date: Sep-30-2024

By September 30, 2024, submit the Delineation Work Plan prepared by the retained Qualified Person(s) to the Director by email to cathy.chisholm@ontario.ca and to environment.kingston@ontario.ca for review and acceptance.

Item No. 5

Upon receipt of the Director's written acceptance of the Delineation Work Plan, arrange for the retained Qualified Person(s) to implement and complete the accepted Delineation Work Plan in accordance with the accepted implementation schedule.

Item No. 6 Compliance Due Date: Mar-31-2025

By March 31, 2025, submit to the Director by email to cathy.chisholm@ontario.ca and to environment.kingston@ontario.ca, a written report, prepared by the retained Qualified Person(s) in accordance with Table 1 entitled 'Mandatory Requirements for Phase Two Environmental Site Assessment Reports' in Schedule E of O. Reg. 153/04, which

describes the steps taken to implement the accepted Delineation Work Plan and summarizes the findings on the implementation of the accepted Delineation Work Plan.

Item No. 7 **Compliance Due Date:** Jul-05-2024

I order Donna Avery and Gregory Hayes to jointly and severally do the following:

Upon service of the Director's Order and before dealing with the Site in any way, provide a copy of the Director's Order to every person who will acquire an interest in the Site as a result of the dealing.

Item No. 8

I order Donna Avery and Gregory Hayes to jointly and severally do the following:

Within thirty (30) days of receipt of a signed acknowledgment and direction form enclosing a Certificate of Requirement issued pursuant to subsection 197(2) of the EPA, register the Certificate of Requirement on title to the Site in the appropriate land registry office.

Item No. 9

I order Donna Avery and Gregory Hayes to jointly and severally do the following:

Within seven (7) days of registration of the Certificate of Requirement on title, provide written confirmation to the Director, by email to cathy.chisholm@ontario.ca and to environment.kingston@ontario.ca, that the Certificate of Requirement has been registered on title to the Site, as required by Item No. 8.

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:

"2017 Order" means Provincial Officer's Order 8737-9LTS24 issued to Paul Cadieux by Provincial Officer Nathalie Matthews on March 30, 2017. A copy of the 2017 Order is enclosed and is identified as Document 1 in the Attachments section of this Order.

"Contaminants of Concern" are: benzene, toluene, ethylbenzene, xylenes, petroleum hydrocarbons (F1 to F4 fractions) and polycyclic aromatic hydrocarbons.

"Director" means the undersigned, or any other person appointed for purposes of sections 18, 132, 196 and 197 of the EPA.

"Director's Order" means Director's Order 1-20755483 with the issue date of June 28, 2024, as it may be amended

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

"January 2013 Report" means the report entitled 'Phase II Environmental Site Assessment (ESA) 1376 County Road 2 Escott, ON' dated January 2013 and prepared by Genivar Inc. A copy of the January 2013 Report is enclosed and is identified as Document 2 in the Attachments section of this Order.

"January 2024 Report" means the report entitled 'Soil Delineation, Former Gasoline Service Station, 1376 County Road 2 Leeds Thousand Islands, Ontario' dated January 12, 2024 and prepared by CM3 Environmental. A copy of the January 2024 Report is enclosed and is identified as Document 3 in the Attachments section of this Order.

"m.b.g." means metres below grade.

"March 2024 Email" means the email with the subject line 'RE: Draft Director's Order - 1376 County Road 2, Township of Leeds and the Thousand Islands' written by Thomas Guo, hydrogeologist with the Ministry sent to Nathalie Matthews and dated March 12, 2024. A copy of the March 2024 Email is enclosed and is identified as Document 4 in the Attachments section of this Order.

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

"O. Reg. 153/04" means Ontario Regulation 153/04 (Record of Site Condition – Part XV.1 of the Act), made under the EPA.

"Orderees" means Brian Henry Clements, G.W. Mallory Limited, Dawson Alexander Massey, Donna Mae Avery, Gregory Joseph Hayes, Lisa Ann Marie Lisqum, Ronald Isaac Fernand Lisqum, Mohit Gupta, Rajni Gupta, Rakesh Kumar Gupta, Rice lake Developments Inc. and Paul Marcel Cadieux.

"PHC" means petroleum hydrocarbons.

"Provincial Officer" means Nathalie Matthews, or in the event that she 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 by this Order. For the purposes of this Director's Order, the person shall also meet the qualifications set out in Section 5 of Ontario Regulation 153/04 made under the EPA.

"Site" means the property located at 1376 County Road 2 in the Township of Leeds and the Thousand Islands, Ontario and legally described as: PT LT 17 CON 2 ESCOTT PT 5 TO 8 28R6613; S/T LR318370; LEEDS/THOUSAND ISLANDS with the Property Identifier Number (PIN) 44214-0244.

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

Donna Avery and Gregory Hayes are the current owners of the Site and have been the owners since October 26, 2022. In this capacity, Donna Avery and Gregory Hayes currently have 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.

Donna Avery and Gregory Hayes purchased the Site from Dawson Massey, who had been the owner of the Site since October 1, 2020 and up until the sale to Donna Avery and Gregory Hayes on October 26, 2022.

Dawson Massey purchased the Site from Rice Lake Developments Inc. (hereafter referred to as 'RDL'), who was the owner of the Site from January 17, 2020 until the transfer to Dawson Massey on October 1, 2020. According to a corporate search, RDL is an active Ontario incorporated company and has been active since December 19, 2007. Its Ontario corporate number is 1758020. Mohit Gupta and Rakesh Kumar Gupta are the sole directors of RDL. Mohit Gupta has been a director of RDL since October 21, 2013 and Rakesh Kumar Gupta has been a director of RDL since May 31, 2018. As directors of RDL, both Mohit Gupta and Rakesh Gupta exercised a certain degree of management and control of the Site and the contaminants present on and beneath the Site.

RLD purchased the Site from Rajni Gupta, who became the owner of the Site on July 30, 2019.

From July 30, 2019 to January 17, 2020, Rajni Gupta, in her personal capacity, exercised a certain degree of management and control of the Site and the contaminants present on and beneath the Site.

Paul Cadieux owned the Site in his personal capacity from February 1, 2002 to July 30, 2019 during which time he was in management and control of the Site and the contaminants present on and beneath the Site.

Prior to Paul Cadieux, both Ronald Lisqum and Lisa Anne Marie Lisqum owned the Site from October 2, 1998 to January 2, 2002. Both exercised a certain degree of management and control of the Site and the contaminants present on and beneath the Site.

From May 11, 1988 to April 23, 1997, G.W. Mallory Limited was the registered owner of the Site. G.W. Mallory Limited is an Ontario incorporated company, corporation number 129822. The company is inactive. To the ministry's knowledge, Brian Clements was the director of G.W. Mallory Limited during that time and is the current sole director of the company. Therefore, as director of G.W. Mallory Limited, Brian Clements exercised a certain degree of management and control of the Site and the contaminants present on and beneath the Site.

To the Director's knowledge, the owner of the Site between April 23, 1997 and October 2, 1998 and the owners prior to May 11, 1988 are deceased.

Description of the Site and/or System/Facility

The Site is located at 1376 County Road 2 in the Township of Leeds and the Thousand Islands.

The Site consists of a parcel of land covering approximately 0.5 hectares or 1.3 acres with a dwelling, a shed and a pasture field separated by an unpaved driveway. The Site is privately serviced with a drilled well and a septic system. A second unused drilled well is also located at the Site.

The Site is in a mixed residential and agricultural land use area. The Site and adjacent properties are privately serviced and rely on local groundwater for their domestic and drinking water supplies.

According to the January 2013 Report, the Site had been occupied by a retail fuel service station starting in the 1950s. The structures were demolished and the fuel storage tanks were removed in the 1980s.

Reasons for the Director's Order

In and around April 4, 2017, the 2017 Order was served on Paul Cadieux, who was the owner of the Site at the time. The 2017 Order includes a detailed summary of the background information since the Ministry's first involvement with the Site in February 2013. Briefly, the issuing Provincial Officer reasonably believed, based on the January 2013 Report, that the Site was contaminated with Contaminants of Concern and that those Contaminants of Concern

have impacted the soil and groundwater at the Site and that there was good reason to believe that the contaminants had migrated off the Site, potentially causing an adverse effect, as defined by the EPA, to the natural environment.

The 2017 Order required Paul Cadieux to undertake certain environmental work in respect of the Site and lands potentially impacted by contamination originating from the Site including additional off-site groundwater impact delineation. This work was not completed.

In October 2019, Paul Cadieux was convicted and fined for not complying with the requirements of the 2017 Order.

In 2023, the current owners of the Site retained CM3 Environmental to conduct additional environmental assessments at the Site. The information gathered during this assessment are outlined in the January 2024 Report. Comments from the Ministry's hydrogeologist on the January 2024 Report are summarized in the March 2024 Email.

In summary, the January 2024 Report identified the following: Thirteen test pits were excavated with a maximum depth of 3.3 m.b.g.

- > The water table was encountered at an average depth of 2.7 m.b.g.
- > Field evidence of PHC impacted soil was observed in TP1, TP2, TP3, TP6, TP7, TP9, TP10 and TP12 (nine of the thirteen test pits).
- > Soil vapour readings from the nine impacted test pits ranged from 280 parts per million (ppm) to 11,000 ppm.
- > BTEX and PHC F1 and F2 fractions exceedances were measured.
- > PHC sheen was observed in groundwater in six of the nine test pits with PHC staining and odours.
- > Impacts are present at the eastern and southern property boundaries, which suggests that the impacts have migrated off site.

The January 2024 Report confirmed that soil impacted with Contaminants of Concern are present on the Site and the contaminated soil is an ongoing source of contamination to groundwater beneath the Site. The January 2024 Report further confirmed that contaminants have migrated beyond the Site's southern and eastern property boundaries.

To the Ministry's knowledge, a full delineation of the Contaminants of Concern originating from the Site, as required by the 2017 Order, has not been conducted and that Contaminants of Concerns are continuing to extend beyond the Site's property boundaries beneath at least two adjacent properties.

To the Ministry's knowledge, soil impacted with Contaminants of Concern are present on the

Site and the contaminated soil is an ongoing source of contamination to groundwater beneath the Site. According to the January 2013 Report, sampling results suggests that soil and groundwater impairment has migrated beyond the Site's south property line and beyond the Site's east property boundary.

To the Ministry's knowledge, a full delineation of the Contaminants of Concern originating from the Site, as required by the 2017 Order, has not been conducted and that it is still likely that the Contaminants of Concern are continuing to extend beyond the Site's property boundaries beneath at least two adjacent properties.

The information presented in the 2017 Order and the January 2024 Report supports the issuance of this Order.

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 the Orderees were previously or are currently the owners or 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 migrated and are likely continuing to migrate off the Site and onto adjacent properties. The extent of the contamination on and off the 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 the 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 as identified by impairment to drinking water supplies.

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 related to groundwater impacts.

I reasonably believe that a complete environmental subsurface investigation is necessary to: a) fully delineate all contaminants at and originating from the Site which have migrated and may

continue to migrate beyond the Site's property boundaries; and b) develop a remediation plan to address the impacts associated with contaminants at and originating from the Site which have migrated and may migrate beyond the Site's property boundaries.

Attachments

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

Document 1 - 2017 Order

Document 2 - January 2013 Report

Document 3 - January 2024 Report

Document 4 - March 2024 Email

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 28, 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.