

Environmental Review Tribunal
Tribunal de l'environnement



ISSUE DATE: March 18, 2021

CASE NO.: 20-068

PROCEEDING COMMENCED UNDER section 140(1) of the *Environmental Protection Act*, R.S.O. 1990, c. E.19

Appellant:	Jason Geil (File No. 20-068)
Appellant:	Geil Style Enterprises Inc. (File No. 20-069)
Respondent:	Director, Ministry of the Environment, Conservation and Parks
Subject of appeal:	Order to implement a monthly inspection, maintenance and reporting program to manage potential for any off-site adverse effects from the soils deposited on the site
Reference No.:	1222-BTNKFB-1
Property Address/Description:	1943 Roseville Road
Municipality:	North Dumfries
Upper Tier:	Regional Municipality of Waterloo
ERT Case No.:	20-068
ERT Case Name:	Geil v. Ontario (Environment, Conservation and Parks)

APPEARANCES:

Parties

Jason Geil
Geil Style Enterprises Inc.

Director, Ministry of the
Environment, Conservation and
Parks

Counsel

Sean Biesbroek

Amanda Landre

HEARD:

ADJUDICATOR(S):

March 9, 2021 by videoconference
Helen Jackson, Member

ORDER

BACKGROUND

[1] On December 2, 2020, Amy Shaw, Director, Ministry of the Environment, Conservation and Parks (“MECP”) issued Director’s Order No. 1222-BTNKFB-1 (“Director’s Order”) to Jason Geil and Geil Style Enterprises (“Appellants”) to undertake work at the property municipally know as 1943 Roseville Road (“Subject Property”) in North Dumfries within the Regional Municipality of Waterloo.

[2] The Director’s Order requires the Appellants, by specified dates, to provide a monthly inspection and maintenance report of soil berms (item 1); and to retain a Qualified Person acceptable to the MECP to prepare and complete work as required in the order, including preparing a Site Assessment and Evaluation Report regarding the current soil and groundwater conditions and the potential for offsite impacts (items 2 to 5).

[3] On December 16, 2020, the Appellants filed a Notice of Appeal of the Director’s Order with the Environmental Review Tribunal (“Tribunal”). The Appellants appealed the Director’s Order in its entirety, including the work ordered pursuant to each item, and set out the grounds of appeal. To summarize, the Appellants dispute that they are running a waste disposal site, dispute various contentions, and request disclosure of the information upon which allegations are made.

[4] The Appellants requested a stay of all the items in the Director’s Order. The Tribunal held a telephone conference call (“TCC”) on January 13, 2020 to address this request. By Order issued January 25, 2021, items 2 to 5 of the Director’s Order were stayed until the final disposition of the proceeding with the consent of the Director.

Pre-hearing Conference of March 9, 2021

[5] The Tribunal held a Pre-hearing conference (“PHC”) on March 9, 2021 for the purpose of identifying whether there are others who wish to request party, participant, or presenter status in the matter; to identify and scope issues in this matter; and to address procedural matters for the hearing.

[6] Ms. Landre indicated that the Director was in the process of assembling material that the Director had relied upon for the Director’s Order for the Appellants to review. Mr. Biesbroek indicated that the dispute is mainly factual, and he hoped that the issues could be narrowed following the review of the disclosed material. The parties were open to mediation depending on the review of the information following disclosure.

[7] The parties agreed upon simultaneous disclosure and suggested it would take about six weeks to compile the materials. On that basis, the Tribunal scheduled a disclosure date of April 23, 2021 for the parties to disclose to each other a copy of every relevant document in the possession, control or power of the party, except for the documents that are privileged. No disclosure to the Tribunal is required.

[8] Mr. Biesbroek indicated that it would take the Appellants about three weeks to complete a review of the materials provided through disclosure, at which time they would be in a better position to determine whether the issues could be scoped, and to identify the next steps in the matter.

[9] The Tribunal scheduled a further PHC for May 27, 2021, at which time the parties are to advise the Tribunal of the issues in the appeal, and to address procedural matters for setting a hearing. At the PHC, the parties can indicate whether they wish to pursue Tribunal-assisted mediation.

Requests for Status

[10] The Tribunal asked those who wished to request party, participant or presenter status to this matter to advise the Tribunal in advance of the PHC scheduled for March 9, 2021. A request for Participant status was made by Francisco Dominguez, a resident nearby the Subject Property. Mr. Dominguez stated that he is concerned about the environmental condition of the Subject Property due to the materials he has seen being deposited at the Subject Property, and the smell of garbage in the springtime. He also stated that he has seen an oily sheen on water on his own property.

[11] Ms. Landre submitted that Mr. Dominguez has a relevant contribution to this matter as he can provide insight into the risk of discharge of contaminants from the Subject Property. Mr. Biesbroek did not object to granting Participant status to Mr. Dominguez. The Tribunal is satisfied that Mr. Dominguez has a genuine interest in this matter and his participation will assist the Tribunal in its understanding of this matter, and on that basis, Participant status was granted.

ORDER

[12] The Tribunal orders that:

1. The parties are to disclose to each other a copy of every relevant document in the possession, control or power of the party, except those subject to privilege, by **Friday, April 23, 2021**.
2. A further Pre-hearing Conference by telephone conference call is scheduled for **Thursday, May 27, 2021, at 9 a.m.** The call-in details will be provided by the Case Coordinator.

*Participant Status Granted
Procedural Directions Ordered
Pre-hearing Conference Continuation Scheduled*

"Helen Jackson"

HELEN JACKSON
MEMBER

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Environmental Review Tribunal

A constituent tribunal of Ontario Land Tribunals

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