

Section 40 Report
James Berry Municipal Drain Extension
Norfolk County
(Former Township of Townsend)



DIETRICH ENGINEERING LIMITED
CONSULTING ENGINEERS

Reference No. 0957

October 30, 2023



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Kitchener, Ontario

October 27, 2023

**Section 40 Report for the
James Berry Municipal Drain Extension
Norfolk County
(Former Township of South Walsingham)**

To the Mayor and Council
of Norfolk County

Members of Council:

1.0 Authorization

Dietrich Engineering Limited was appointed by a motion of Norfolk County Council to prepare a report under Section 4 of the Drainage Act R.S.O., 1990, during their June 24, 2009, Council meeting. Instructions to proceed were received from a petition filed by the Norfolk County Roads Authority and the affected landowner; R. Forrest, Pt Lot 13, Concession 3 in Norfolk County, former Township of South Walsingham.

The petition is valid in compliance with Section 4(1)(a) of the Drainage Act, R.S.O., 1990.

An onsite meeting was held on Friday, November 6, 2009, to review the scope of the project with the Landowners involved, a representative from the Long Point Conservation Authority, and the Norfolk County Drainage Superintendent were present.

2.0 Existing Conditions & Findings

This project proposed extending a closed tile drain system from the James Berry Municipal Drain (Open Drain) on Lot 12, Concession 2, approximately 1,200 metres into Lot 13, Concession 3. The proposed extension was intended to provide drainage for County Road No. 59. Two different designs for the proposed drain were developed by Deitrich Engineering Limited. Option one proposed routing a portion of the tile drain behind a trucking yard on the G. & A. Zakel property (Roll No. 20-267), option 2 proposed routing the tile drain along County Road No. 59 in front of the trucking yard on the G. & A. Zakel property (Roll No. 20-267).

3.0 Conclusions

At this present time, the petitioners (R. Forrest and the Norfolk County Roads Department) are no longer interested in pursuing this drainage project. In accordance with Section 40 of the Drainage Act, R.S.O. 1990, the undersigned Engineer has determined that drainage works arising from the Petition are not required because the current owners of the petitioning parcels have indicated they do not want the project to continue. No further work is needed unless the decision outlined in this report is reversed on an appeal to the Tribunal under Section 48 of the Drainage Act, R.S.O. 1990.

4.0 Assessment of Cost to Date

Project costs to date include onsite meeting, engineering survey and design work, Landowner meetings and correspondence, interest charges and preparation of this Section 40 report.

Project costs shall be the responsibility of the current owner of the property identified on the petition and Norfolk County. The total costs to date incurred for work associated with this petition is \$11,577.68 + net H.S.T. for a total of \$11,699.27 to be assessed. Norfolk County shall bear the cost of all accumulated interest charges (\$1,835.22). A 20%/80% split shall be used to assess the remaining costs, with the petitioning property responsible for 20% of the costs and Norfolk County responsible for 80% of the costs, as per the schedule below.

Lot	Concession	Roll No.	Current Owner	Assessment
Pt. 13	3	2-26-80	Tanya Forrest	\$1,972.81
Norfolk County – Interest Charges				\$1,835.22
Norfolk County – Assessment				\$7,891.24
Norfolk County – Total Assessment				\$9,726.46
Total				\$11,699.27

5.0 Report Procedure

We recommend that the County Council formally provide notice of the filing of this report to the requesting landowners in accordance with procedures of the Drainage Act R.S.O. 1990, along with a copy of this report. No other circulation of this report is required, and no further action will be taken under the Drainage Act R.S.O. 1990, on the petition submitted unless the decision of the Engineer in this report is reversed by an appeal to the Drainage Tribunal under Section 48 of the Drainage Act R.S.O. 1990.

In good faith, our outstanding balance of \$1,200.00 for engineering services will not be invoiced.

Respectfully submitted,

DIETRICH ENGINEERING LIMITED



W. J. Dietrich
W. J. Dietrich, P.Eng.

WJD:sm