

**TYENDINAGA MOHAWK COUNCIL MINUTES  
OCTOBER 27, 2010**

A special meeting of the Tyendinaga Mohawk Council was held on Wednesday, October 27, 2010, at 11:00 a.m. in the Council Chambers to have a conference call with Roger Horst, Legal Counsel, and Kevin Shipley, XCG Consultants Ltd., to review the contamination on Band property at the former Mohawk Liquidation/Bench Tech site which was illegally occupied by Andrew Clifford Maracle (Miracle).

Present: Chief R. Donald Maracle  
Councillors: Roy C. Maracle, Douglas E. Maracle and Keith A. Sero. Velma Hill-Dracup was absent due to medical commitment  
Staff: Todd Kring, Director of Infrastructure  
Others: Roger Horst, Legal Counsel, and Kevin Shipley, XCG Consultants Ltd. (both by telephone)

Testing has identified exceedances above the Ministry of the Environment (MOE) groundwater quality standards for petroleum hydrocarbons (PHCs) in the diesel and heavy oil ranges (PHC fractions F2, F3 and F4). The hydrogeology is quite complex and it is difficult to determine the flow direction.

Kevin Shipley said the source of contamination for the monitoring wells near the northern property boundary (MW4-09, MW6-10 and BH1) could be off site. The ground water may be impacted from off-site sources. The flow is expected to be toward the south in general. There is contamination along the northern boundary. Some of the contamination could be originating on site.

Oil contamination was seen on one occasion in the fall of 2004 running in the ditch on the west side of the building and in the roadside ditch at the southern edge of the property. Kevin Shipley said this historic oil spill is a potential on-site source of contamination, and there may be other on-site sources also.

There are methods to clean up the contamination at the site. Kevin Shipley suggested that oxidizing compounds could be injected into the subsurface or Waterloo emitters could be installed to oxygenate the ground water and encourage bacteria to break down the hydrocarbons. It may take 6 months or longer to break down the hydrocarbon contamination.

Kevin Shipley said Build All and Mohawk Liquidation are likely responsible for the contamination. As a rough preliminary cost, the clean up costs may be in the range of \$50,000 to \$100,000.

There were no major problems with the dispensing equipment but there are repairs needed. The pump sumps were leaking; sensors in the pump sumps need to be fixed; there was a leaking union in the diesel tank sump; the premium product line failed its pressure test likely due to a faulty shear valve. There are likely about \$2,000 in repairs needed.

The equipment could be repaired and the property sold with remediation work carrying on after the sale by utilizing existing monitoring wells to infuse oxidizing compound and/or operating Waterloo Emitters on the site. Some additional drilling would likely be needed to conduct the remediation but there would be minimal disruption of a future service station operation cause by the remediation activities.

It is very speculative to apportion responsibility to the parties for the contamination – i.e. 80% Mohawk Liquidation and 20% Build All.

The investigation costs to date have been on the order of \$50,000 to \$60,000. There is a bill of about \$150,000 in damages.

The Jumpin Johnnie's site is not responsible for the diesel contamination. The MOE Table 6 PHC F3 range limit in groundwater is 500 ug/L.

Disclaimer: Comments of individual members may not necessarily reflect the opinion of the whole Council.

New MOE standards were published in 2009 but are not in effect yet. They take effect on July 1, 2011. However, in the meantime they are useful as a standard of comparison.

Roger Horst stated the PHC F3 concentrations on the Mohawk Liquidation site are as high as 5500 ug/L (in a sample from MW1-09). As indicated above, the MOE standard for PHC F3 is 500 ug/L.

Roger Horst said at some point the report will be sent to Golder. Roger will check into the statute of limitations applying to this situation.

MOTION #1: Moved by Roy C. Maracle, seconded by Keith A. Sero that this Council acknowledge receipt of the XCG Consultant Inc. draft report regarding the former Mohawk Liquidation/Bench Tech building. Carried.

MOTION #2: Moved by Roy C. Maracle, seconded by Keith A. Sero that this Council approve to post for sale the property at 5439 Old Highway #2, the site previously illegally occupied by Mohawk Liquidation. Carried.

MOTION #3: Moved by Keith A. Sero, seconded by Roy C. Maracle that this Council approve to instruct Roger Horst to proceed on the seizure of Andrew Clifford Maracle (Miracle) personal and real property to satisfy the outstanding judgment resulting from the illegal occupation of the property at 5439 Old Highway #2 west of Shannonville, Ontario. Carried.

MOTION #4: Moved by Keith A. Sero, seconded by Douglas E. Maracle that this meeting adjourn. (12:30 p.m.) Carried.

Recorded by:

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Chief R. Donald Maracle