

Director's Order

To: The Corporation of the City of Belleville
169 Front Street
Belleville, ON K8N 2Y8
Attention: Richard Kester, Chief Administrative Officer

And To: 835267 Ontario Inc.
132 Sheppard Avenue West, Suite 100
Toronto, ON M2N 1M5
Attention: Sidney Spiegel

And To: Sidney Spiegel
2 Chedington Place, Suite 8C
North York, ON M4N 3R5

And To: Naomi Spiegel
2 Chedington Place, Suite 8C
North York, ON M4N 3R5

And To: 105 Pinnacle Limited
105 Pinnacle Street
Belleville, ON K8N 3A3
Attention: Kent D. Hawkins

And To: Kent D. Hawkins
48 Greenvalley Circle
Newmarket, ON L3Y 4W1

And To: Darlene Hawkins
48 Greenvalley Circle
Newmarket, ON L3Y 4W1

And To: Anthony J. McGarvey
173 William Street
Belleville, ON K8N 3J9

Site:

The Belleville Former Manufactured Gas Plant Site (the "Site") consists of:

Lots 9, 10 and Part Lot 11 (the most southerly twenty-five feet) on the west side of South Church Street, and Part Lot 11 (the most southerly twenty-five feet) on the east side of Pinnacle Street, City of Belleville, County of Hastings, Ontario

These lots and part lots are located within the land parcel having Ontario Land Registry System property identification number 40482-0037 with municipal address 100 South Church Street, City of Belleville, County of Hastings, Ontario;

and

Lot 9 and Part Lot 11 (the most southerly twenty-five feet) on the east side of Pinnacle Street City of Belleville, County of Hastings, Ontario.

This lot and part lots are located within the parcel having Ontario Land Registry System property identification number 40482-0027 with municipal address 105 Pinnacle Street, City of Belleville, County of Hastings, Ontario.

and

The parcel of land lying and being part of South Church Street, and being east of Part Lots 10 and 11 on the west side of South Church Street, City of Belleville, County of Hastings, Ontario

This land is located within the parcel with the City of Belleville Land Registry System property identification number 40482-0038 and is part of South Church Street, City of Belleville, County of Hastings, Ontario.

Part 1: Legal Authority and Reasons

- 1.1. Pursuant to subsection 1(1) of the Environmental Protection Act, R.S.O. 1990, c. E.19, (EPA), "contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect.
- 1.2. Pursuant to subsection 1(1) of the EPA, "source of contaminant" means anything that discharges into the natural environment any contaminant.
- 1.3. Pursuant to subsection 1(1) of the EPA, "adverse effect" means one or more of impairment of the quality of the natural environment for any use that can be made of it, injury or damage to property or to plant or animal life, harm or material discomfort to any person, an adverse effect on the health of any person, rendering any property or plant or animal life unfit for human use, loss of enjoyment of normal use of property, and interference with normal conduct of business.
- 1.4. Section 17 of the EPA provides that the Director may, by Order, require a person who causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured damaged or endangered to do any one or more of the following:
 - 1.4.1 repair the injury or damage;
 - 1.4.2 prevent the injury or damage; or
 - 1.4.3 where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide temporary or permanent alternate water supplies.
- 1.5. Subsection 18(1) of the EPA provides that the Director may, by Order, require a person who owns or owned or who has or had management or control of an undertaking or property to do any one or more of the following:
 - 1.5.1 To have available at all times or during such periods of time as are specified in the Order, the equipment, material and personnel specified in the Order at the locations specified in the Order.
 - 1.5.2 To obtain, construct and install or modify the devices, equipment and facilities specified in the Order at the locations and in the manner specified in the Order.
 - 1.5.3 To implement procedures specified in the Order.

- 1.5.4 To take all steps necessary so that procedures specified in the Order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.
- 1.5.5 To monitor and record the presence or discharge of a contaminant specified in the Order and to report thereon to the Director.
- 1.5.6 To study and to report to the Director on:
- The presence or discharge of a contaminant specified in the Order,
 - The effects or the presence or discharge of a contaminant specified in the Order,
 - Measures to control the presence or discharge of a contaminant specified in the Order
 - The natural environment into which a contaminant specified in the Order may be discharged.
- 1.5.7 To develop and implement plans to:
- Reduce the amount of a contaminant that is discharged into the natural environment,
 - Prevent or reduce the risk of a spill of a pollutant within the meaning Part X of the EPA, or,
 - Prevent, decrease, or eliminate any adverse effects that result or may result from a spill of a pollutant within the meaning of Part X of the EPA or from any other discharge of a contaminant into the natural environment, including,
 - Plans to notify the ministry, other public authorities and members of the public who may be affected by a discharge, and
 - Plans to ensure that appropriate equipment, material and personnel are available to respond to a discharge.
- 1.5.8 To amend a plan developed under paragraph 1.5.7 above or section 91.1 of the EPA in the manner specified in the Order.
- 1.6. Subsection 18(2) of the EPA provides that the Director may make an Order under subsection 18(1) if the Director is of the opinion, on reasonable and probable grounds, that the requirements specified in the Order are necessary or advisable so as,
- 1.6.1 to prevent or reduce the risk of a discharge of a contaminant into the natural environment from the undertaking or property; or
- 1.6.2 to prevent, decrease or eliminate an adverse effect that may result from,
- (i) the discharge of a contaminant from the undertaking,
 - (ii) the presence or discharge of a contaminant in, on or under the property.

- 1.7. Subsection 196(1) of the EPA specifies that the authority to make an Order under the EPA includes the authority to require the person or body to whom the Order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the Order and as are specified in the Order.
- 1.8. Subsection 196(2) of the EPA provides that a person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.
- 1.9. Subsection 197(1) of the EPA provides a person who has authority under this Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 1.10. Subsection 197(2) of the EPA provides that a certificate setting out a requirement imposed under subsection 197(1) of the EPA may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) of the EPA and is accompanied by a registerable description of the property.

1.11. Events Leading to the Issuance of the Order

Background information regarding the Site and the manufactured gas plant, including their management and ownership, and summaries of environmental investigations undertaken are presented in Provincial Officer's Report dated January 29, 2015 ("POR") prepared by Provincial Officer Katrina M. Benesch, P. Eng. In addition, Ms. Benesch prepared two summary reports entitled "Belleville's Former Manufactured Gas Plant Site – History of Ownership, Construction, Operation and Management of the Belleville Gas Plant" dated January 21, 2015 and "Belleville's Former Manufactured Gas Plant Site – History of Land Ownership" dated January 22, 2015 which are appendices to the POR. In preparing this Order, I have relied on the information presented in the POR and these two summary reports.

Contaminant Findings at a Residential Property

- 1.11.1 In 2010, it was determined that contaminants typically associated with former manufactured gas plants ("FMGPs"), including polycyclic aromatic hydrocarbons ("PAHs"), volatile organic chemicals ("VOCs"), and petroleum hydrocarbons ("PHCs"), were found at a depth of approximately 1.5 metres below ground surface at 22 St. Paul Street, a residential property in Belleville, Ontario.
- 1.11.2 The 22 St. Paul Street property shares a property boundary with a property (the Site) that was formerly the location of a manufactured gas plant, referred to as the Belleville Gas Plant ("BGP"). The BGP manufactured gas at the Site from coal and oil from 1854 until 1947.
- 1.11.3 In 2010, information regarding the contamination at the 22 St. Paul Street property was reviewed by the ministry's Eastern Region Technical Support Section's hydrogeologist and Provincial Officer Frank Crossley, Professional Geoscientist. A 1994 environmental subsurface investigation of the Site, and a 1997 ministry report which ranked the Site as a low risk to the general public, were also taken into account during Frank Crossley's review. The 1994 investigation of the Site established that contaminants associated with manufactured gas plants were present at the Site and at some locations at the Site at concentrations high enough to exceed ministry standards.
- 1.11.4 The resulting memorandum, dated May 14, 2010, by Frank Crossley contained several conclusions and recommendations which are summarized as follows:
 - Exceedances of MOE's guidelines (MOE, 2009) for the concentration of contaminants have been found both on and off the Site in both soil and groundwater.

- The extent and degree of soil and groundwater contamination both on and off the Site should be determined. This will require a comprehensive subsurface investigation consisting of a borehole drilling program for soil sampling and a borehole network for groundwater sampling and monitoring.
- Soil and groundwater contamination at the Site and at 22 St. Paul Street are related to coal tar.
- It should be determined whether or not there are any on-going sources of contaminants such as free coal tar or impacted soils.
- Potential exists for indoor and outdoor air quality issues which should be addressed.

1.11.5 The ministry requested that 835267 Ontario Inc. and W.T. Hawkins Limited as the current owners of the Site at that time, and The Corporation of the City of Belleville (“City”) as a past owner of the Site, undertake environmental investigations to address Frank Crossley’s recommendations, dated May 14, 2010.

Environmental Investigations: 2010 - 2012

- 1.11.6 In June of 2010, a proposed work plan for a screening level environmental subsurface investigation was submitted to the ministry by one or more of the aforementioned parties. The proposed work plan was subsequently reviewed and accepted by the ministry.
- 1.11.7 At a number of times during the remainder of 2010 and into 2011, the City informed the ministry that negotiations to share the cost of carrying out the accepted screening level environmental subsurface investigation were ongoing with W.T. Hawkins Limited, 835267 Ontario Inc. and Sidney Spiegel who was a previous owner of a portion of the Site, a Director of a previous owner of a portion of the Site, and a Director of the current owner of a portion of the Site.
- 1.11.8 When it became apparent to the ministry that negotiations between the aforementioned parties was stalled and no party was proceeding to implement the environmental subsurface investigation, the ministry prepared a draft Director’s Order requiring work, including the implementation of the previously accepted screening level environmental subsurface investigation, to be done by the City, the Public Utilities Commission of the City of Belleville (“PUC”), W.T. Hawkins Limited, 835267 Ontario Inc., and Sidney Spiegel.
- 1.11.9 In 2011, the ministry sent the draft Director’s Order to the City, the PUC, 835267 Ontario Inc., W.T. Hawkins Limited, and Sidney Spiegel.

- 1.11.10 In October 2011, one or more of the parties noted above voluntarily proceeded with implementing the environmental subsurface investigation.
- 1.11.11 In December of 2011, the ministry received the report “Environmental Subsurface Investigation, Former Belleville Gas Plant Property, Former Belleville Gas Plant Property, Belleville, Ontario”, dated December 2, 2011 and prepared by Golder Associates Inc. (“2011 ESI Report”).
- 1.11.12 The 2011 ESI Report was reviewed by the ministry’s Eastern Region Technical Support Section hydrogeologist and Provincial Officer Greg Faaren, Professional Geoscientist. Greg Faaren’s review memorandum, dated December 14, 2011, stated the following:
- Coal tar impacts (including free phase coal tar product) are present in the soil and groundwater on the Site and the impacts extend off of the Site onto adjacent properties to the west and southwest.
 - Golder reported that the vertical and horizontal extent of the impacts is undelineated. Greg Faaren concurred.
 - Golder recommended further investigations to determine the full extent of the polycyclic aromatic hydrocarbons (“PAHs”) and volatile organic chemical (“VOCs”) contamination. Greg Faaren concurred.
 - Greg Faaren recommended that petroleum hydrocarbons (“PHCs”) be added to the suite of parameters for future laboratory analysis.
 - Assessments of the potential for vapour intrusion were recommended by Greg Faaren.
- 1.11.13 In February of 2012, the ministry received the proposed work plan entitled “DRAFT Assessment Work Plan, Additional Environmental Subsurface Investigation, Former Belleville Gas Plant Property, Belleville, Ontario”, dated January 11, 2012 and prepared by Golder. Its review by Greg Faaren and recommendations by the ministry resulted in a revised proposal entitled “Revised Assessment Work Plan, Additional Environmental Subsurface Investigation, Former Belleville Gas Plant Property, Belleville, Ontario”, dated April 20, 2012 and prepared by Golder (Golder, 2012b). The revised assessment work plan addressed the ministry’s recommendations and included a soil vapour assessment component to assess the potential for vapour intrusion at residential locations off the Site. This Work Plan is described here as the Additional Environmental Subsurface Investigation Workplan (“AESI Work Plan”).
- 1.11.14 In July of 2012, discussions took place between the ministry, the City, 835267 Ontario Inc., W.T. Hawkins Limited, and Sidney Spiegel. During these discussions the ministry reiterated the request for voluntary implementation of the AESI Work Plan.

- 1.11.15 By August 2012, the ministry had not received confirmation from any party that the AESI Work Plan would be voluntarily implemented, therefore, the ministry sent a draft Director's Order that would require work, including the implementation of the AESI Work Plan, to the potential orderees:
- The Corporation of the City of Belleville
 - The Public Utilities Commission of the City of Belleville
 - Sidney Spiegel
 - 835267 Ontario Inc. and its directors and officers, and
 - W.T. Hawkins Limited and its directors and officers.
- Subsequently, the draft Director's Order was posted on the Environmental Registry for a forty-five (45) day comment period.
- 1.11.16 In November of 2012, one or more of the potential orderees voluntarily proceeded to implement the AESI Work Plan. Consequently, the proposed Director's Order was not issued.
- 1.11.17 In March of 2013, the report, "Additional Environmental Subsurface Investigation, Former Belleville Gas Plant Property, Belleville, Ontario", prepared by Golder Associates Inc. and dated March 2013 ("2013 AESI Report"), was submitted to the ministry. This report described the work completed in accordance with the AESI Work Plan.
- 1.11.18 The 2013 AESI Report was reviewed by Greg Faaren. His review memorandum, dated March 14, 2013, highlighted the following:
- Coal tar impacts have been identified in the shallow overburden (at the bedrock contact) and deeper bedrock zones at the Site. Impacts extend off of the Site and have not been fully delineated. Golder has recommended that further investigations be conducted at the Site and surrounding properties. Greg Faaren concurred with this recommendation.
 - Golder identified free phase coal tar product in deep bedrock well BH12-6D located off of the Site to the southwest of the former coal tar site. The impacts at this well appear to have originated from the former coal tar site. Greg Faaren suggested that further investigations be conducted in the deeper bedrock zones to fully delineate the extent of the coal tar impacts.
 - Coal tar impacts likely extend off of the Site to Victoria harbour. Greg Faaren recommended that the potential for impacts to the harbour be investigated as soon as practical.
 - Golder reported that concentrations of chloroform in the analysed sample from vapour probe VP12-4 exceeded the proposed vapour criteria from the ministry's proposed "Draft Technical Guidance: Soil Vapour Intrusion Assessment", dated September 2013. Golder also noted that concentrations of PHC Fraction F1 and PHC Fraction F2 were detected in the sample from vapour probe

VP12-1, but were below the ministry's proposed soil vapour criteria. Greg Faaren recommended that soil vapour sampling data be provided to the ministry's Standards Development Branch for further review and comment.

- Golder recommended that any further bedrock investigations conducted at the Site below a depth of three metres be fully cored so that detailed analysis of the bedrock geology be conducted (i.e. stratigraphic analysis, geophysical analysis, etc.). Greg Faaren agreed with this recommendation.
- Golder indicated that a multi-property risk assessment might be considered for the Site and surrounding lands. Greg Faaren recommended that approaches to risk assessment work be discussed further with the ministry.

1.11.19 The ministry's review resulted in a request for the following work from the City, 835267 Ontario Inc., Sidney Spiegel and W.T. Hawkins Limited:

- Determine the full extent of the coal tar contamination.
- Investigate the potential for discharge of coal tar and coal-tar related products to the Moira River and Victoria Harbour.
- Complete future drilling and installation of boreholes and monitoring wells using bedrock coring techniques.
- Develop a management strategy to address the contamination and potential for adverse effects.
- Develop a schedule for the implementation of the management strategy.

1.11.20 Following several iterations, in July of 2013, a proposed Focused Environmental Subsurface Investigation work plan ("FESI Work Plan") was submitted to the ministry to address recommendations made in Greg Faaren's review, dated March 14, 2013, of the 2013 AESI Report. The ministry accepted the proposed FESI Work Plan and subsequently requested that the potential orderees implement the FESI Work Plan.

1.11.21 By October of 2013, none of the potential orderees had given any indication to the ministry that the FESI Work Plan would be implemented.

1.11.22 In October of 2013, the ministry notified the potential orderees that a further revised draft Director's Order requiring work items, including the implementation of the FESI Work Plan, was being prepared and would be shared with them.

1.11.23 Due to voluntary implementation of the FESI Work Plan by one or more of the potential orderees, a further revised draft Director's Order was not shared with the potential orderees nor was it posted on the Environmental Bill of Rights Registry in 2013.

1.11.24 During the fall of 2013 and through early 2014, the FESI Work Plan was voluntarily carried out by one or more of the potential orderees. The report, "Former Belleville Gas Plant Property, Focused Environmental Subsurface Investigation", dated June 3, 2014, prepared by Golder Associates Inc., was submitted to the ministry in June 2014.

1.11.25 The 2014 FESI Report included a summary of key information in the 2011 ESI Report and in the 2013 AESI Report, and provided further information regarding the nature and extent of contamination on and off the Site. The 2014 FESI Report also outlined potential options to consider regarding remediation, risk assessment and risk management measures.

1.11.26 Greg Faaren's comments dated June 18, 2014 regarding the 2014 FESI Report included the following points:

- Soil impacts have been identified on the Site and the surrounding properties. In some places, impacts that are possibly related to other sources were identified. However, the extent of the coal tar impacts in soil is not delineated due to the spotty nature of the impacts found.
- PAH impacts may be migrating along sewer lines as a preferential pathway. Sewer bedding along St. Paul Street shows PAH impacts. It was noted that the sediment around the storm sewer outfalls at the foot of St. Paul Street are also showing PAH impacts. Further investigations of this issue may need to be conducted.
- Free Phase coal tar product is now present in all deep bedrock wells on the Site and the surrounding properties. The free phase product present in these wells is most likely the result of product migration from the former coal gas site. The extent of the free phase product is not delineated to the west and southwest of the Site.
- Significant shallow impacts are present on the former coal gas plant property and some of the surrounding lands. Many shallow boreholes show that coal tar impacts are present at the bedrock surface. It is recommended that measures to address the shallow coal tar impacts at the Site and on the adjacent residential properties to the south along St. Paul Street be developed and implemented as soon as practical. The reason for this action is to address these impacts and thereby reduce the associated risk to affected residents.

1.11.27 Provincial Officer Victor Castro, Surface Water Specialist, Eastern Region Technical Support Section, provided the comments on the 2014 FESI Report in a memorandum entitled "City of Belleville, Former

Belleville Gas Plant Property, Focused Environmental Sub-Surface Investigation” and dated July 22, 2014:

- Ecological receptors do not appear to be adversely affected by the BGP contamination. This may be the case, but it is premature to make this conclusion until such time as the extent of coal tar contamination in the deeper bedrock is further investigated and delineated. Further, free product has been confirmed along South Front Street and groundwater elevations near the Moira River indicate possible upwards gradients to the river.
- PAH concentrations remain similar to historic levels, with the exception of the upstream sampling locations which showed an increase in total PAH's. The consultants attribute this trend to possible surface run-off sources. One, and possibly two storm sewers discharge to the Moira River at the foot of St. Paul Street, and the backfill material may act as preferential pathways for subsurface impacts. This should be investigated further to determine if localized sediment impacts are attributed to this source. The other possible source continues to be coal tar seepage into the river. Upstream stations may be within the influence of the BGP impacts, or may be acting as a depositional area for contaminated sediment in the harbour.
- The results of this study have not provided a full delineation of soil impacts or shallow or deep groundwater impacts. The presence of free product in the deeper wells along South Front Street is a concern because of their proximity to the harbour.

1.11.28 In August of 2014, at a meeting between the ministry and the potential orderes identified above, the 2014 FESI Report was discussed. The ministry indicated that concerns were related to the following three main areas: the source Site; the immediate area south of the Site including residential properties and, further off-Site areas of contamination associated with the Site. The ministry requested the submission of a proposed work plan(s) which would address the potential adverse effects of contaminants existing off the Site as well as abate the egress of contaminants from the Site. Discussions included possible future work including any or all of the following: remediation, risk assessment, risk management, and environmental investigations. Further, the ministry expressed the expectation that one of more of the parties would contact the ministry by the end of October 2014 to indicate intention to develop and submit a proposal that would address the ministry's concerns.

1.11.29 By the end of October 2014, none of the potential orderes had provided the ministry with an indication that a proposed work plan would be developed voluntarily.

- 1.11.30 In November 2014, the parties requested a delay until late January 2015 to determine whether or not one or more of the parties would be able to proceed voluntarily with the submission of a proposed work plan.
- 1.11.31 In December 2014, one of the parties verbally informed the ministry that a consultant had been retained and that the development of a work plan addressing the ministry's concerns was underway. However, no written commitment was received by January 2015.
- 1.11.32 In January 2015, a proposed Director's Order was prepared by the ministry and was sent out to all of the potential orderees on February 5, 2015.
- 1.11.33 By March 19, 2015, comments on the draft Director's Order had been submitted to the Director by the legal representatives of the potential orderees, with the exception of Sidney Spiegel, Naomi Spiegel and 835267 Ontario Inc.
- 1.11.34 At a number of times during the late summer and fall of 2014, Mr. Tom Friedland the legal representative for Sidney Spiegel, Naomi Spiegel, and 835267 Ontario Inc. notified the ministry that his clients did not have access to the 2014 Golder Report. The Director was informed that as soon as the 2014 Golder Report was available for review by all potential orderees, then the legal representative(s) for Sidney Spiegel, Naomi Spiegel and 835267 Ontario Inc. would be willing to meet with the Director to discuss that report as well as the review the ministry's comments regarding the 2014 Golder Report.
- 1.11.35 On September 2, 2014, 2014, Mr. Friedland requested the 2014 Golder Report through the provisions of the Freedom of Information and Protection of Privacy Act ("FIPA"). The ministry's FIPA office was prepared to release the report; however, this decision was appealed by Mr. Dahme, legal representative for the City.
- 1.11.36 On April 8, 2015, the ministry posted the draft Director's Order on the Environmental Registry for public comment and any further comment from the potential orderees. This posting was for a 45-day period ending on May 23, 2015.
- 1.11.37 On May 8, 2015, Mr. Friedland informed the Director that, even though the City's appeal of the ministry's decision to release the 2014 Golder Report had been withdrawn, the 2014 Golder Report had not yet been released due to further notifications being carried out by the FIPA office. On May 21, 2015, Mr. Friedland informed the Director that the 2014 Golder Report had not yet been released to him and, therefore, he requested another extension to the comment period for his client.

- 1.11.38 The Director extended the comment period for Mr. Friedland and his clients to June 5, 2015. This was done to allow time for the meeting Mr. Friedland and the ministry had agreed to, in September 2014, could take place with a subsequent written submission to the Director concerning the proposed Director's Order.
- 1.11.39 On May 22 , 2015, the 2014 Golder Report was released by the ministry's FIPA office to Mr. Friedland. Upon request by Mr. Friedland, the Director extended the comment to June 12, 2014 for Mr. Friedland and his clients such that the Mr. Friedland could meet with the ministry on June 9, 2015.
- 1.11.40 On June 9, 2015, Mr. Friedland met with the ministry to discuss the 2014 Golder Report and the proposed Director's Order. Upon the conclusion of the meeting, the Director granted a final extension for a written submission from Mr. Friedland and his clients until the end of June 19, 2015. On June 19, 2015, Mr. Friedland submitted comments regarding the proposed Director's Order.
- 1.11.41 During the time period from May 23, 2014 and June 19, 2014, the Director considered submissions regarding the proposed Director's Order. Twenty-one (21) submissions to the Director were made through the on-line Environmental Registry. These on-line submissions plus the three submissions made by the legal representatives of the potential orderees brought the total number of submissions to twenty-four (24). All but one (1) of the on-line submissions, were related to the proposed Director's Order, hence twenty-three (23) submissions were considered by the Director.
- 1.11.42 Submissions to the Director identified the following concerns:
- Owners of property located within the contaminant plume were concerned that they might be ordered to undertake actions similar to those proposed for 835267 Ontario Inc., and 105 Pinnacle Ltd. The reasoning was that, similarly to those corporations, they own property impacted by contamination that was not caused by them.
 - The ministry named all of the persons currently in existence that had owned or currently own a portion(s) of the Site. There are no other persons who are in the same circumstance as the orderees.
 - Concern was noted that, if 105 Pinnacle Ltd. were to be ordered to do the work per the proposed Director's Order, the company would suffer financial hardship which might result in the closure of its snack food manufacturing facility. Submissions stated that manufacturing snack food has for decades provided stable employment and loss of

this facility would likely cause a serious negative economic impact in the City.

- 105 Pinnacle Ltd. has not sought relief from the proposed Director's Order for financial reasons.
- The proposed work for 105 Pinnacle Ltd. has a narrower scope than the scope of work proposed for 105 Pinnacle Ltd. in 2012.
- Potential ordererees are free to negotiate amongst themselves regarding how best to finance work or to apportion financial responsibility for the ordered work.

1.12. History of Ownership, Construction, Operation and Management of the Belleville Gas Plant

- 1.12.1 In 1854, the Town of Belleville passed by-laws that authorized a fifty (50) year franchise to The Belleville Gas Company for the production and sale of manufactured gas.
- 1.12.2 The Belleville Gas Plant was constructed in 1854 on Lot 10 on the west side of South Church Street. Although no exact date was found for the start-up of the BGP, it is believed to have occurred in 1854.
- 1.12.3 On January 5, 1904, at the expiry of the fifty (50) year agreement between The Belleville Gas Company and The Corporation of the City of Belleville, the BGP, the BGP land, the gas distribution system and other property owned by The Belleville Gas Company were transferred to The Corporation of the City of Belleville.
- 1.12.4 Between January 5, 1904, and September 1, 1931, the BGP was owned and operated by the City.
- 1.12.5 The City's gas department, named the Belleville Gas Department, continued to operate the BGP and gas distribution system until 1931. During the time period from 1925 to 1931 the City made changes to the BGP, details of which are set out in the "Summary Report – Belleville's Former Manufactured Gas Plant Site; History of Ownership, Construction, Operation and Management of the Belleville Gas Plant" dated January 22, 2015 and prepared by K.M. Benesch.
- 1.12.6 On September 1, 1931, the City transferred ownership of the BGP, the Site, and the gas distribution network to Ontario Shore Gas Company Limited.
- 1.12.7 After November 5, 1936 and prior to the establishment of The Public Utilities Commission of the City of Belleville ("PUC") in March of 1937, the City owned and operated that BGP.
- 1.12.8 After the PUC was established it operated the BGP, but the City maintained ownership of the Site until 1948. It is unclear whether or not the City maintained ownership of the BGP during this time period.
- 1.12.9 In 1947, the Belleville Gas Plant manufactured gas production ceased.
- 1.12.10 The history of the Belleville Gas Plant, 1854 to 1947, in terms of ownership, operating authority, construction, and gas manufacturing processes is summarized in Table 3.1 of the "Summary Report – Belleville's Former Manufactured Gas Plant Site History of Ownership,

Construction, Operation and Management of the Belleville Gas Plant” dated January 22, 2015 and prepared by K.M. Benesch, provided in the Provincial Officer’s Report. In addition to what is set out in the aforementioned Provincial Officer’s Report, on August 31, 2015 counsel to the City of Belleville provided documentation to the Ministry to confirm that the PUC no longer exists as a legal entity. Consequently, the PUC was removed as an Orderee. An updated version of the table is set out below:

Operating Authority	Year	Property Transfers	Construction Events	Gas Manufacturing Process
The Belleville Gas Company	1854	purchase of land by The Belleville Gas Company where the gas plant would be built	initial construction of the gas plant: - gas manufacturing building - one gas holder	gas produced by heating coal in retorts; raw material: coal
	between 1873 & 1888		- second gas holder added - Carburetted Water Gas process equipment added - underground oil storage tanks installed	Carburetted Water Gas Process replaces retort process; raw materials: coal, coke and oil
	1903	gas plant & land advertised for sale		
The Corporation of the City of Belleville	1904	gas plant and land ownership transferred to the City		
	1923		- process equipment for the Tully process added	gas henceforth produced by both the Carburetted Water Gas and Tully processes; raw materials: coal, coke and oil
	between 1926 & 1929		- third gas holder added - new gas meter building added	
Ontario Shore Gas Company Limited	1931 to Nov. 1936	1931: gas plant and land ownership transferred to Ontario Shore Gas	no known changes to the gas plant or to the property	
The Corporation of the City of Belleville	Nov. 1936 to mid-1937	Nov. 1936: gas plant and land ownership transferred to the City	no known changes to the gas plant or to the property	
The Public Utilities Commission of the City of Belleville	mid-1937 to 1947	mid-1937: gas plant operations transferred to the PUC	no known changes to the gas plant or to the property	
	1947			- gas production ceased

1.13 Ownership of the Site from the year 1854 to the end of 2014

1.13.1 Ownership of the Site, or portion(s) of the Site, from 1854 until 1947, is summarized in Table 3.1 of “Summary Report – Belleville’s Former Manufactured Gas Plant Site History of Land Ownership of the Belleville Gas Plant”, dated January 21, 2015 and prepared by K.M. Benesch, provided in the Provincial Officer’s Report. A copy of the table is set out below:

Ownership of the Site or Portions of the Site During the Operational Time Period of the Belleville Gas Plant, 1854 - 1947	
1854 - 1904	The Belleville Gas Company
1904 - 1931	The Corporation of the City of Belleville
1931 - 1936	Ontario Shore Gas Company Limited
1936 – 1947	The Corporation of the City of Belleville

Details regarding Site ownership during the time that gas was manufactured at the Site are provided in the aforementioned report prepared by K.M. Benesch, and dated January 21, 2015.

1.13.2 The Belleville Gas Plant ceased operation in 1947 while The Corporation of the City of Belleville owned the Site.

1.13.3 In mid-1948, the City transferred the Site to The Public Utilities Commission of the City of Belleville.

1.13.4 In 1965, the Site was divided into the East Portion of the Site and the West Portion of the Site. These two portions were transferred by the PUC to two different parties in 1965.

1.13.5 Ownership of the Site from mid-1948 to January 28, 2015 is summarized in Table 3.2 of the “Summary Report - Belleville’s Former Manufactured Gas Plant Site History of Land Ownership” by K.M. Benesch, dated January 22, 2105. A copy of the table is set out below:

Ownership of the Site or Portions of the Site after the Belleville Gas Plant Ceased Operations, 1948 - 2015	
<i>East Portion of the Site: Lots 9, 10, and Part Lot 11 on the west side of South Church Street</i>	
1948 - 1965	The Corporation of the City of Belleville (Site owner from November 5, 1936 until June 1, 1948) The Public Utilities Commission of the City of Belleville (Site owner after June 1, 1948)
1965 – 1968	Dora Greenbloom; Murray Greenbloom (in Trust)
1968 – 1973	Belleville Metal & Waste Limited
1973 - 1991	Sidney Spiegel
1991 - 2014	835267 Ontario Inc.
<i>West Portion of the Site:</i>	
<i>Lot 9 and Part Lot 11 on the east side of Pinnacle Street</i>	
1948 - 1965	The Corporation of the City of Belleville (Site owner from November 5, 1936 until June 1, 1948) The Public Utilities Commission of the City of Belleville (Site owner after June 1, 1948)
1965 - 1975	W. Graham
1975 - 1989	Irvine and Stotesbury (in Trust)
1989 - 2015	1989: W.T. Hawkins Limited (Ont. Corp. No. 61888) 1991: W.T. Hawkins Limited (amalg. to Ont. Corp. No. 925676) 1993: W.T. Hawkins Limited (amalg. to Ont. Corp. No. 1057098) 2014: 105 Pinnacle Limited (name change Ont. Corp. No. 1057098)

1.14 Status of Corporations and Individuals who Own or Owned the Site or a Portion or Portions of the Site

1.14.1 Past and current owners of the Site or a portion or portions of the Site are or were:

- The Belleville Gas Company
- The Corporation of the City of Belleville
- Ontario Shore Gas Company Limited
- The Public Utilities Commission of the City of Belleville
- W. Graham and Irvine and Stotesbury (in Trust)
- W.T. Hawkins Limited (Ont. Corp. 61888, 925676 and 1057098) and as 105 Pinnacle Limited (Ont. Corp. No. 1057098)
- D. Greenbloom and M. Greenbloom (in Trust),
- Belleville Metal & Waste Limited
- Sidney Spiegel
- 835267 Ontario Inc.

Of the individual persons who owned a portion(s) of the Site, only Sidney Spiegel remains living. Sidney Spiegel owned a portion(s) of the Site from March 1, 1973, until January 10, 1991. Sidney Spiegel did not own the Site or a portion of the Site during the BGP operational time period.

1.14.2 In its response to the proposed Director's Order posted on the Environmental Registry in the year 2012, The Corporation of the City of Belleville informed ministry that:

- The Belleville Gas Company no longer exists, and
- Ontario Shore Gas Company Limited was dissolved in 1957, and
- The Public Utilities Commission of the City of Belleville was dissolved in the year 2000 under By-Law 2000-85 of The Corporation of the City of Belleville. In addition, on August 31, 2015 counsel to the Corporation of the City of Belleville provided documentation to the Director to confirm that the Public Utilities Commission of the City of Belleville had been dissolved.

1.14.3 It has been determined that the Belleville Metal & Waste Limited company no longer exists, W. Graham and D. Greenbloom are deceased and W.T. Hawkins Limited is currently named 105 Pinnacle Limited (as at January 1, 2014).

1.14.4 Of the persons who own or owned the Site or a portion or portions of the Site, the following persons are identified by the ministry as active corporations or living individuals:

- The Corporation of the City of Belleville
- Sidney Spiegel
- 835267 Ontario Inc.
- 105 Pinnacle Limited.

1.14.5 Of the persons identified as past or current directors of corporations who owned or own a portion or portions of the Site the following have been identified:

- Kent D. Hawkins
- Darlene Hawkins
- Anthony J. McGarvey
- Sidney Spiegel
- Naomi Spiegel.

1.15 Identification of Orderees

- 1.15.1 The Corporation of the City of Belleville is identified as an Orderee on this Order due to:
- having had ownership and/or management and control of the Site or a portion or portions of the Site;
 - having had ownership and/or management and/or control of the Belleville Gas Plant during all or some of the years when gas was manufactured at the BGP at the Site; and
 - having caused or permitted the discharge of contaminants associated with the operation of the BGP into the natural environment during its ownership and/or management and/or control of the BGP and the Site.
- 1.15.2 Sidney Spiegel is identified as an Orderee on this Order due to:
- having personally had ownership and/or management and/or control of the East Portion of the Site;
 - having had management and/or control of the East Portion of the Site as a past director of a company, named Belleville Metal & Waste Limited, which was a past owner of the East Portion of the Site while Sidney Spiegel served as a director; and
 - having had management and/or control of the East Portion of the Site as a past director of 835267 Ontario Inc. which owned the East Portion of the Site; and
 - having management and/or control of the East Portion of the Site as a current director of 835267 Ontario Inc., which is the current owner of the East Portion of the Site.
- 1.15.3 835267 Ontario Inc. is identified as an Orderee on this Order due to having had ownership and/or management and/or control of a portion or portions of the Site in the past and having current ownership of the East Portion of the Site.
- 1.15.4 Naomi Spiegel is identified as an Orderee on this Order as she serves and/or has served as a director and/or officer of 835267 Ontario Inc. and in this capacity currently has and in the past had management and/or control of the company that owned and currently owns the East Portion of the Site.
- 1.15.5 105 Pinnacle Limited is identified as an Orderee on this Order as the current owner of the West Portion of the Site and in this capacity has ownership and/or management and/or control of the West Portion of the Site.

1.15.6 Kent D. Hawkins, Darlene Hawkins and Anthony J. McGarvey are identified as Orderes on this Order as they currently serve as directors and/or officers of 105 Pinnacle Limited, the current owner of the West Portion of the Site, and as directors/and or officers of the predecessor corporations, namely W.T. Hawkins Limited (Ontario Corporation numbers 61888 and 925676) and in these capacities have and/or had management and /or control of companies that currently own and previously owned a portion of the Site.

Based on the foregoing, I am of the opinion that:

- (a) The Site is contaminated by contaminants associated with the operation and /or decommissioning of the Belleville Gas Plant including but not limited to coal tar, PAHs, VOCs and PHCs.
- (b) These contaminants were initially noted at a private residential property in 2010 and have been subsequently confirmed to be present on and off the Site by various environmental investigations reviewed by the ministry including but not limited to the 2011 ESI Report, 2013 AESI Report and 2014 FESI Report.
- (c) It has been determined that some contaminants, such as benzene which is a known carcinogen, is present in, on or under the Site and off the Site at concentrations above ministry standards for this contaminant and as such may cause adverse effects. Those contaminants on the Site have migrated off the Site and have caused adverse effects.
- (d) The contaminants on the Site have the potential to continue to migrate off the Site where they may continue to cause adverse effects to either or both the natural environment and human health.
- (e) Contaminants in, on or under the Site were discharged into the natural environment from activities that were conducted on the Site during the ninety-three (93) year operation of the Belleville Gas Plant on the Site beginning in the year 1854 and continuing until a time in the year 1947 and /or during the decommissioning of the Belleville Gas Plant.
- (f) The discharge of contaminants into the natural environment from the operation of Belleville Gas Plant were caused or permitted by a number of entities who owned and/or operated and/or had management and/or control of the Belleville Gas Plant at various times during the operation of the plant at the Site beginning in the year 1854 and continuing until a time in the year 1947.
- (g) The Corporation of the City of Belleville is the only party which still exist as viable legal entity that owned and/or operated and/or exercised a degree of management and control over the Belleville Gas Plant while it operated on the

Site.

- (h) The Corporation of the City of Belleville and the Public Utilities Commission of the City of Belleville are parties that caused or permitted the discharge of contaminants associated with the operation of the Belleville Gas Plant into the natural environment so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered.
- (i) All of the Orderees were previously or are currently the owners and/or persons in charge, management and/or control of the Site or portions of the Site or are persons in charge, management or control of companies that currently own or have in the past owned the Site or portions of the Site at times when the Site was contaminated thereby causing or having the potential to cause adverse effects off the Site.
- (j) 105 Pinnacle Inc., as well as its directors and/or officers, currently have ownership and/or management and/or control of a portion(s) of the Site which is currently contaminated and may, therefore, currently be causing or having the potential to cause adverse effects off of the Site.
- (k) 835267 Ontario Inc., as well as its directors and/or officers, currently have ownership and/or management and/or control of a portion(s) of the Site which is currently contaminated and may, therefore, currently be causing or having the potential to cause adverse effects off of the Site.
- (l) The requirements specified in this Order are reasonable and appropriate in order to repair and prevent the injury or damage to the soil, groundwater, surface water, and human health or safety that has occurred or is likely to occur as a result of the discharge of contaminants into the natural environment at the Site associated with the operation and / or decommissioning of the former Belleville Gas Plant.
- (m) The requirements specified in this Order are necessary or advisable to prevent or reduce the risk of the discharge of contaminants, such as coal tar, PAHs, VOCs, and PHCs, into the natural environment from in, on, or under the Site.
- (n) The requirements specified in this Order are necessary or advisable to prevent, decrease or eliminate adverse effects, such as environmental impacts and / or human health impacts that may result from the presence of contaminants, such as coal tar, PAHs, VOCs, and PHCs in, on or under the Site and which have migrated and which may continue to migrate off the Site.

Part 2: Work Ordered

EAST PORTION OF THE SITE

Pursuant to my authority in section 18 and 196(1) of the EPA, I order 835267 Ontario Inc., Sidney Spiegel, Naomi Spiegel and The Corporation of the City of Belleville jointly and severally to do the following:

Item No. 1

Within fifteen (15) days of the date of issuance of this Order, submit to the Director written confirmation of having retained a Qualified Person(s) as defined in Part 3 of this Order, who has/have experience and expertise in disciplines appropriate for carrying out the work ordered in Part 2 – “East Portion of the Site” of this Order. The written confirmation shall include the name(s) and contact information for the retained Qualified Person(s) and confirmation of their retention to do the work ordered in Part 2 – “East Portion of the Site”.

Item No. 2

Within sixty (60) days of the date of issuance of this Order, submit to the Director, for his review and acceptance, a proposed work plan with respect to the East Portion of the Site (“East Portion Work Plan”) prepared by the Qualified Person(s) retained in accordance with Item No. 1 of this Order. The East Portion Work Plan proposed implementation schedule shall have a final work completion date within two (2) years of the date of issuance of this Order. The East Portion Work Plan shall include but not necessarily be limited to the following:

- (a) plans to develop and implement measures that abate the discharge of contaminants related to the Belleville Gas Plant, including but not necessarily limited to PAHs, VOCs, and PHCs, into the natural environment from on, in or under the East Portion of the Site;
- (b) plans to develop and implement measures that prevent, decrease or eliminate any adverse effects that result or may result from the discharge of contaminants related to the Belleville Gas Plant, including but not necessarily limited to PAHs, VOCs, and PHCs, into the natural environment from on, in or under the East Portion of the Site; and
- (c) plans to notify the ministry, other public authorities and members of the public who may be affected by the discharge of contaminants related to the Belleville Gas Plant including but not necessarily limited to PAHs, VOCs, and PHCs, that are discharged into the natural environment from on, in or under the East Portion of the Site.
- (d) A statement confirming that all of the parties named with respect to the East Portion of the Site, have been consulted regarding the East Portion Work Plan.

Item No. 3

Upon receipt of the Director's acceptance of the East Portion Work Plan(s), implement the East Portion Work Plan(s) as accepted.

Item No. 4

Within seven (7) days of commencement of implementation of the East Portion Work Plan(s) as accepted, provide written confirmation to the Director that implementation of the East Portion Work Plan(s) as accepted has (have) commenced.

Item No. 5

If at any time a Deviation from the East Portion Work Plan(s) as accepted occurs, report the Deviation immediately to the Director, with an explanation of the reason(s) for the Deviation(s).

Item No. 6

If at any time an Alteration to the East Portion Work Plan(s) as accepted is proposed, seek the acceptance of the Director prior to the implementation of the proposed Alteration.

Item No. 7

Commencing by the date fourteen (14) months after the commencement of implementation of the accepted East Portion Work Plan(s), and annually thereafter, until the completion of implementation of the activities described in the East Portion Work Plan(s) as accepted, submit to the Director an annual report (East Portion Annual Report), prepared by a Qualified Person(s). The East Portion Annual Report shall include but not necessarily be limited to a description of all remediation, investigation and monitoring work undertaken in the year covered by the report, an analysis of results, interpretation of results and analysis, and recommendations.

Item No. 8

Upon completion of implementation of the East Portion Work Plan(s) as accepted, submit to the Director a final report (East Portion Final Report) prepared by a Qualified Person(s) that includes but is not necessarily limited to a summary and analysis of the matters completed in accordance with the East Portion Work Plan(s) as accepted and recommendations resulting from the implementation of the East Portion Work Plan(s) as accepted.

Pursuant to my authority in sections 196 and 197 of the EPA, I order 835267 Ontario Inc., to do the following:

Item No. 9

Pursuant to my authority in subsection 196(2) of the EPA, provide access, as noted below, to the East Portion of the Site to the Qualified Person(s) and his or her employees or agents for the purpose of carrying out the work required by this Order.

Access shall:

- (a) begin upon service of this Order;
- (b) continue every Monday through Friday, excluding public holidays, from 7 a.m. to 7 p.m. on each of those days;
- (c) include access to any borehole, monitoring well or other installation intended to provide environmental data and which is located on the East Portion of the Site; and
- (d) continue until notified otherwise by the Director.

Item No. 10

Pursuant to my authority in subsection 197(1) of the EPA, before dealing with the East Portion of the Site in any way, give a copy of this Order to every person who will acquire an interest in the East Portion of the Site as a result of the dealing.

Item No. 11

Within thirty (30) days of issuance of this Order, register a copy of the accompanying Certificate of Requirement (Attachment A) which relates to the property identified by PIN 40482-0037 and which is issued pursuant to subsection 197(2) of the EPA on title to the property identified by PIN 40282-0037 in the appropriate registry office.

Item No. 12

Immediately after registration of the Certificate of Requirement provide a duplicate registered copy of the Certificate to the Director.

Item No. 13

Within thirty (30) days of a Certificate of Withdrawal of Requirement and a replacement Certificate of Requirement being issued by the Director, register a copy of the Certificate of Withdrawal of Requirement and the replacement Certificate of Requirement under Section 197 of the EPA on the title of that property to which the Certificate relates.

Item No. 14

Immediately after registration of a Certificate of Withdrawal of Requirement and a replacement Certificate of Requirement, provide a duplicate registered copy of each Certificate to the Director.

Item No. 15

Upon receiving a registered copy of the Certificate of Withdrawal of Requirement and the replacement Certificate of Requirement, the applicable provisions of this Order will relate to the lands described in the replacement Certificate of Requirement and not the withdrawn Certificate of Requirement.

WEST PORTION OF THE SITE

Pursuant to my authority in sections 18 and 196(1) of the EPA, I order 105 Pinnacle Limited, Kent D. Hawkins, Darlene Hawkins, Anthony McGarvey and The Corporation of the City of Belleville jointly and severally to do the following:

Item No. 16

Within fifteen (15) days of the date of issuance of this Order, submit to the Director written confirmation of having retained a Qualified Person(s) as defined in Part 3 of this Order, who has/have experience and expertise in disciplines appropriate for carrying out the work ordered in Part 2 –“West Portion of the Site” of this Order. The written confirmation shall include the name(s) and contact information for the retained Qualified Person(s) and confirmation of their retention to do the work ordered in Part 2 –“West Portion of the Site”.

Item No. 17

Within sixty (60) days of the date of issuance of this Order submit to the Director, for his review and acceptance, a proposed work plan concerning the West Portion of the Site (“West Portion Work Plan(s)”) with an implementation schedule having a work completion date within two (2) years of the date of issuance of this Order. The West Portion Work Plan(s) shall be prepared by the Qualified Person(s) retained under Item No.16 of this Order. The proposed West Portion Work Plan(s) shall include but not necessarily be limited to the following:

- (a) plans to develop and implement measures that abate the discharge of contaminants related to the Belleville Gas Plant, including but not necessarily limited to PAHs, VOCs, and PHCs, into the natural environment from on, in or under the West Portion of the Site;
- (b) plans to develop and implement measures that prevent, decrease or eliminate any adverse effects that result or may result from the discharge of contaminants related to the Belleville Gas Plant, including but not necessarily limited to PAHs, VOCs,

and PHCs, into the natural environment from on, in or under the West Portion of the Site; and

- (c) plans to notify the ministry, other public authorities and members of the public who may be affected by the discharge of contaminants related to the Belleville Gas Plant, including but not necessarily limited to PAHs, VOCs, and PHCs that are discharged into the natural environment from on, in or under the West Portion of the Site.

Item No. 18

Upon receipt of the Director's acceptance of the proposed West Portion Work Plan(s), implement the West Portion Work Plan(s) as accepted.

Item No. 19

Within seven (7) days of commencement of implementation of the West Portion Work Plan(s) as accepted, provide written confirmation to the Director that the implementation of the West Portion Work Plan(s) as accepted has (have) commenced.

Item No. 20

If at any time a Deviation from the West Portion Work Plan(s) as accepted occurs, report the Deviation immediately to the Director, with an explanation of the reason(s) for the Deviation(s).

Item No. 21

If at any time an Alteration to the West Portion Work Plan(s) as accepted is proposed, seek the acceptance of the Director prior to the implementation of the proposed Alteration.

Item No. 22

Commencing by the date fourteen (14) months after the commencement of implementation of the West Portion Work Plan(s) as accepted, and annually thereafter until the completion of implementation of the activities in the West Portion Work Plan(s) as accepted, submit to the Director an annual report prepared by a Qualified Person(s) (West Portion Annual Report). The West Portion Annual Report shall include but not necessarily be limited to a description of all remediation, investigation and monitoring work undertaken in the year covered by the report, analysis and interpretation of results and recommendations.

Item No. 23

Upon completion of implementation of the West Portion Work Plan(s) as accepted, submit to the Director a final report (West Portion Final Report) prepared by a Qualified Person(s) that includes but is not necessarily limited to a summary and analysis of the matters completed in accordance with the West Portion Work Plan(s) as accepted and recommendations resulting from the implementation of the West Portion Work Plan(s) as accepted.

Pursuant to my authority in sections 196 and 197 of the EPA, I order 105 Pinnacle Limited to do the following:

Item No. 24

Pursuant to my authority in subsection 196(2) of the EPA, provide access, as noted below, to the West Portion of the Site to the Qualified Person(s) and his or her employees or agents for the purpose of carrying out the work required by this Order. Access shall:

- (a) begin upon service of this Order;
- (b) continue every Monday through Friday, excluding public holidays, from 7 a.m. to 7 p.m. on each of those days;
- (c) include access to any borehole, monitoring well or other installation intended to provide environmental data and which is located on the West Portion of the Site; and
- (d) continue until notified otherwise by the Director.

Item No. 25

Pursuant to subsection 197(1) of the EPA, before dealing with the West Portion of the Site in any way, give a copy of this Order to every person who will acquire an interest in the West Portion of the Site as a result of the dealing.

Item No. 26

Within thirty (30) days of issuance of this Order, register a copy of the accompanying Certificate of Requirement (Attachment B) which relates to the property identified by PIN 40482-0027 and which is issued pursuant to subsection 197(2) of the EPA on title to the property identified by PIN 40482-0027 in the appropriate registry office.

Item No. 27

Immediately after registration of the Certificate of Requirement, provide a duplicate registered copy of the Certificate to the Director.

Item No. 28

Within thirty (30) days of a replacement Certificate of Requirement and a Certificate of Withdrawal of Requirement being issued by the Director, register a copy of the replacement Certificate of Requirement and the Certificate of Withdrawal of Requirement under Section 197 of the EPA on the title of that property to which the Certificate relates.

Item No.29

Immediately after registration of a replacement Certificate of Requirement and Certificate of Withdrawal of Requirement, provide a duplicate registered copy of each Certificate to the Director.

Item No. 30

Upon receiving a registered copy of the replacement Certificate of Requirement and Certificate of Withdrawal of Requirement, the applicable provisions of this Order will relate to the lands described in the replacement Certificate of Requirement and not the withdrawn Certificate of Requirement.

IMMEDIATE AREA

Pursuant to my authority in Sections 17, 18 and 196(1) of the EPA, I order The Corporation of the City of Belleville to do the following:

Item No. 31

Within fifteen (15) days of the date of issuance of this Order submit to the Director written confirmation of having retained a Qualified Person(s) as defined in Part 3 of this Order, who has/have experience and expertise in disciplines appropriate for carrying out the work ordered in Part 2 of this Order – “Immediate Area”. The written confirmation shall include the name(s) and contact information for the retained Qualified Person(s) and confirmation of their retention to do the work ordered in Part 2 – “Immediate Area”.

Item No. 32

Within sixty (60) days of the date of issuance of this Order, submit to the Director, for his review and acceptance, a proposed work plan(s) (“Immediate Area Work Plan”) prepared by the Qualified Person(s) retained under Item No. 31 of this Order. The Immediate Area Work Plan(s) shall relate to the properties located in Lot 8 East of Pinnacle Street and Lot 8 West of South Church Street in the City of Belleville. The proposed Immediate Area Work Plan implementation schedule shall have a final work

completion date within two (2) years of the date of issuance of this Order. The proposed Immediate Area Work Plan shall include but not necessarily be limited to the following:

- a) plans to develop and implement measures that prevent, decrease or eliminate any adverse effects that result or may result from the contaminants related to the Belleville Gas Plant including but not necessarily limited to PAHs, VOCs and PHCs that are present on, in or under the Immediate Area, including potential adverse effects occurring as a consequence of dermal contact or inhalation of these contaminants; and
- b) plans to notify the ministry, other public authorities and the owners of property, and any other persons who may be affected by the presence of contaminants related to the Belleville Gas Plant including but not necessarily limited to PAHs, VOCs, and PHCs in, on or under the Immediate Area.

Item No. 33

Upon receipt of the Director's acceptance of the Immediate Area Work Plan(s), implement the Immediate Area Work Plan(s) as accepted.

Item No. 34

Within seven (7) days of commencement of implementation of the Immediate Area Work Plan(s) as accepted, provide written confirmation to the Director that the implementation of the Immediate Area Work Plan(s) as accepted has commenced.

Item No. 35

If at any time a Deviation from the Immediate Area Work Plan(s) as accepted occurs, report the Deviation immediately to the Director, with an explanation of the reason(s) for the Deviation(s).

Item No. 36

If at any time an Alteration to the Immediate Area Work Plan(s) as accepted is proposed, seek the acceptance of the Director prior to the implementation of the proposed Alteration.

Item No. 37

Commencing by the date fourteen (14) months after the commencement of any Immediate Area Work Plan(s) as accepted, and annually thereafter, until the completion of implementation of the Immediate Area Work Plan(s) as accepted, submit to the Director an annual report, prepared by a Qualified Person(s) (Immediate Area Annual Report). The Immediate Area Annual Report shall include but not necessarily be limited to a description of all remediation, investigation and monitoring work undertaken in the year covered by the report and an analysis and interpretation of results and recommendations.

Item No. 38

Upon completion of implementation of the Immediate Area Work Plan(s) as accepted, submit to the Director a final report (Immediate Area Final Report) prepared by a Qualified Person(s) that includes but is not necessarily limited to a summary and analysis of the matters completed in accordance with the Immediate Area Work Plan(s) as accepted and recommendations resulting from the implementation of the Immediate Area Work Plan(s) as accepted.

GREATER AREA

Pursuant to my authority in sections 17, 18 and 196(1) of the EPA, I order The Corporation of the City of Belleville to do the following:

Item No. 39

Within fifteen (15) days of the date of issuance of this Order, submit to the Director, written confirmation of having retained a Qualified Person(s) as defined in Part 3 of this Order, who has/have experience and expertise in disciplines appropriate for carrying out the work ordered in Part 2 - "Greater Area" of this Order. The written confirmation shall include the name(s) and contact information for the retained Qualified Person(s) and confirmation of their retention to do the work ordered in Part 2 – "Greater Area".

Item No. 40

Within sixty (60) days of the date of issuance of this Order, submit to the Director, for his review and acceptance, a proposed work plan(s) (the "Greater Area Work Plan"), prepared by the Qualified Person(s) retained under Item No. 39 of this Order. The area considered in the Greater Area Work Plan shall include: the geographic area of the City of Belleville in the vicinity of the former BGP where potential adverse effects associated with the Site may occur excluding the Site and the Immediate Area. The proposed Greater Area Work Plan shall have a schedule with a work completion date within two (2) years of the date of issuance of this Order. The proposed Greater Area Work Plan shall include but not necessarily be limited to the following:

- (a) plans to develop and implement measures that prevent, decrease or eliminate any adverse effects that result or may result from the contaminants related to the Belleville Gas Plant including but not necessarily limited to PAHs, VOCs and PHCs that are present on, in or under the Greater Area, including potential adverse effects occurring as a consequence of dermal contact, inhalation and / or discharge to surface water of these contaminants; and
- (b) plans to notify the ministry, other public authorities and the owners of property, and any other persons who may be affected by the presence of contaminants related to the Belleville Gas Plant including but not necessarily limited to PAHs, VOCs, and PHCs in, on or under the Greater Area.

Item No. 41

Upon receipt of the issuing Director's acceptance of the Greater Area Work Plan(s) implement the Greater Area Work Plan(s) as accepted.

Item No. 42

Within seven (7) days of commencement of implementation of the Greater Area Work Plan(s) as accepted provide written confirmation to the Director that implementation of the Greater Area Work Plan(s) as accepted has commenced.

Item No. 43

If at any time a Deviation from the Greater Area Work Plan(s) as accepted occurs, report the Deviation immediately to the Director, with an explanation of the reason(s) for the Deviation(s).

Item No. 44

If at any time an Alteration to the Greater Area Work Plan(s) as accepted is proposed, seek the acceptance of the Director prior to the implementation of the proposed Alteration.

Item No. 45

Commencing by the date fourteen (14) months after the commencement of implementation of the Greater Area Work Plan(s) as accepted, and annually thereafter, until the completion of implementation of the Greater Area Work Plan(s) as accepted, submit to the Director an annual report, prepared by a Qualified Person(s) (Greater Area Annual Report). The Greater Area Annual Report shall include but not necessarily be limited to a description of all remediation and monitoring and other work undertaken in the year covered by the report and an analysis and interpretation of results and recommendations

Item No. 46

Upon completion of implementation of the Greater Area Work Plan(s) as accepted, submit to the Director a final report (Greater Area Final Report) prepared by a Qualified Person(s) that includes but is not necessarily limited to a summary and analysis of the matters completed in accordance with the Greater Area Work Plan(s) as accepted and recommendations resulting from the implementation of the Greater Area Work Plan(s) as accepted.

Pursuant to my authority in sections 196 of the EPA, I order The Corporation of the City of Belleville to do the following:

Item No. 47

Pursuant to my authority in subsection 196(2) of the EPA, provide access, as noted below, to property owned by The Corporation of the City of Belleville and also municipal easements and municipal roads to the Qualified Person(s) and his or her employees or agents for the purpose of carrying out the work required by this Order. Access shall:

- (a) begin upon service of this Order;
- (b) continue every Monday through Friday, excluding public holidays, from 7 a.m. to 7 p.m. on each of those days;
- (c) include access to any borehole, monitoring well or other installation intended to provide environmental data and which is located on property owned by the City;
and
- (d) continue until notified otherwise by the Director.

Part 3: Definitions

In this Order, the following terms have the meanings described below:

“105 Pinnacle Limited” means Ontario Corporation Number 1057098.

“2011 ESI Report” means the report prepared by Golder Associates Inc. titled “Environmental Subsurface Investigation, Former Belleville Gas Plant Property, Belleville” and dated December 2, 2011.

“2013 AESI Report” means the report prepared by Golder Associates Inc. titled “Additional Subsurface Environmental Assessment, Former Belleville Manufactured Gas Plant” and dated March 2013.

“2014 FESI Report” means the report prepared by Golder Associates Inc. titled “Former Belleville Gas Plant Property Focused Environmental Subsurface Investigation” and dated June 3, 2014.

“Act” means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19.

“adverse effect” has the same meaning as in the Act.

“Alteration” in the context of Part 2 - Work Ordered means something that, in consideration of all relevant facts and circumstances, could not be reasonably foreseen or anticipated.

“Belleville Gas Plant” or “BGP” or “BFMGP” mean Belleville’s former manufactured gas plant which was located on the Site.

“City” means The Corporation of the City of Belleville.

“contaminant” has the same meaning as in the Act.

“Deviation” in the context of Part 2 - Work Ordered means something that, in consideration of all relevant facts and circumstances, could be reasonably foreseen or anticipated

“Director” means the undersigned Director, or his delegate, and is a person appointed for the purpose of issuing an Order under sections 18, 196 and 197 of the Act.

“East Portion of the Site” means the areas of the Site described as Lots 9 and 10 west of South Church Street and the most southern twenty-five feet of Lot 11 west of South Church Street and Part Lot 11 east of Pinnacle Street in the City of Belleville.

“EBR” means the Environmental Bill of Rights.

“Environmental Registry” means the registry of proposals, decisions and other documents registered in accordance with the Environmental Bill of Rights.

“EPA” means the *Environmental Protection Act*, R.S.O. 1990, c. E.19.

“FMGP” means a former manufactured gas plant, including plants that produced gas from coal and/or oil.

“Golder” means the consulting firm Golder Associates Inc.

“Greater Area” means: the geographic area of the City of Belleville in the vicinity of the former BGP where potential adverse effects associated with the Site may occur excluding the Site and the Immediate Area.

“Immediate Area” means the area of the City of Belleville adjacent to the Site which includes the following properties: Ministry of Government and Consumer Services Property Index Map City Block 40482 of City of Belleville, County of Hastings (sheet 3), Government Plan of Belleville: Plan 21R9898, 0028, 0029, 0030, 0031 Lot 8 East of Pinnacle Street Government Plan of Belleville; Plan 21R-15802, 0032 Lot 8 East of Pinnacle Street, Lot 8 West of Church Street; Plan 21R-16763, 0033, 0034 Lot 8 West of Church Street; Plan 21R-10256, 0035, 0036 Lot 8 West of Church Street.

“ministry” or “MOE” or “MOEE” or “MOECC” mean the Ontario Ministry of the Environment and Climate Change.

“PAH(s)” means any one or more of a group of chemicals known as polycyclic aromatic hydrocarbons.

“PHC(s)” means any one or more of a group of chemicals known as petroleum hydrocarbons.

“POR 2015” means the POR dated January 29, 2015 prepared by Provincial Officer Katrina M. Benesch, P.Eng., and District Engineer in the ministry’s Kingston District Office.

“POR” or “Provincial Officer’s Report” means a report by a person designated under the Act as a provincial officer.

“Provincial Officer” means a person designated under the Act as a provincial officer.

“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 in this Order and the person meets the qualifications to be a qualified consultant if (a) the person holds a licence, limited licence or temporary licence under the *Professional Engineers Act*; or (b) the person holds a certificate of registration under the *Professional Geoscientists Act, 2000* and is a practicing member,

temporary member or limited member of the Association of Professional Geoscientists of Ontario.

“VOCs” for the purpose of this order means one or more chemicals in a group of volatile or semi-volatile organic chemicals.

“West Portion of the Site” means the areas of the Site and described as Lot 9 on the east side of Pinnacle Street and the most southern twenty-five (25) feet of Part Lot 11 on the east side of Pinnacle Street in the City of Belleville.

Part 4: General

- 4.1 All orders are issued in the English language and may be translated into the French language. In the event that there should be a conflict between the English original and the French translation, the English original shall prevail.
- 4.2 The requirements of this Order are severable. If any requirement of this Order or the application of any requirement to any circumstance is held invalid, the application of such requirement to other circumstances and the remainder of the order shall not be affected thereby.
- 4.3 Subsection 19(1) of the EPA provides that an order of the Director is binding upon the successor or assignee of the person to whom it is directed.
- 4.4 Subsection 186(2) of the EPA provides that non-compliance with the requirements of this Order constitutes an offence.
- 4.5 Any request to change a requirement in this Order shall be made in writing to the Director, with reason for the request, at least 14 days prior to any compliance date for that requirement.
- 4.6 The requirements of this Order are minimum requirements only and do not relieve you from:
- i. complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or
 - ii. obtaining any approvals or consents not specified in this order
- 4.7 Notwithstanding the issuance of this Order, further or other orders may be issued in accordance with legislation as circumstances require. In particular, the Director shall issue an order where the approval of the Director is required in respect of a matter under this order and,
- i. the Director does not grant approval; or
 - ii. the Director does not grant approval because the changes which the Director considers necessary for granting approval have not been agreed to by the persons to whom this order is issued.
- 4.8 In the event that any party to this Order is, in the opinion of the Director, rendered unable to perform or comply with any obligations herein because of:
- i. natural phenomena of an exceptional, inevitable or irresistible nature, or insurrections; or
 - ii. strikes, lockouts or other labour disturbances; or
 - iii. inability to obtain materials or equipment for reasons beyond the control of the company; or
 - iv. any other cause whether similar to or different from the foregoing beyond the reasonable control of the parties, the obligations hereof, as they are affected by the above shall be adjusted in a manner defined by the

Director. To obtain such an adjustment, the party must notify the Director immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the compliance dates in question.

- 4.9 Failure to comply with a requirement of this Order by the date specified does not absolve the parties from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.

Part 5: Hearing Before the Environmental Review Tribunal

- 5.1. Pursuant to section 140 of the EPA, you may require a hearing before the Environmental Review Tribunal (the "Tribunal"), if, within fifteen (15) days after service upon you of this Order, you serve written notice upon the Tribunal and the Director as set out in paragraph 5.3.
- 5.2. Pursuant to section 142 of the EPA, notice requiring the hearing must include a statement of the portions of the Order for which the hearing is required and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the Order or to rely on grounds of appeal that are not stated in the notice requiring the hearing.
- 5.3. Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the EPA and Ontario Regulation 227/07: Service of Documents made under the EPA as they may be amended from time to time.
- 5.4. The address, email address and fax numbers of the Director and the Tribunal are:

The Secretary
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, Ontario
M5G 1E5
Fax: (416) 326-5370
Fax (toll free): 1 (844) 213-3474
Email: ERTTribunalSecretary@ontario.ca

and

Brian Kaye, Director
Ontario Ministry of the Environment and Climate Change
Kingston District Office
1259 Gardiners Road, Unit 3
Kingston, Ontario
K7P 3J6
Fax: (613) 548-6920
Email: Brian.Kaye@ontario.ca

Where service is made by mail, the service shall be deemed to be made on the fifth (5) day after the day of mailing and the time for requiring a hearing is not extended by choosing service by mail.

- 5.4. Unless stayed by application to the Tribunal under section 143 of the EPA, this Order is effective from the date of issue.

- 5.5. If you commence an appeal before the Tribunal, under section 47 of the Environmental Bill of Rights (EBR), you must give notice to the public in the EBR registry. The notice must include a brief description of this Order (sufficient to identify it) and a brief description of the grounds of appeal.
- 5.6. The notice must be delivered to the Environmental Commissioner who will place it on the EBR registry. The notice must be delivered to the Environmental Commissioner at: 605-1075 Bay Street, Toronto, Ontario M5S 2B1 by the earlier of:
 - i. two (2) days of commencing the appeal before the Tribunal; and
 - ii. fifteen (15) day after this Order.
- 5.7. Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 5.8. For your information, under section 38 of the EBR, any person resident in Ontario with an interest in this Order may seek leave to appeal the Order. Under section 40 of the EBR, the application for leave to appeal must be made to the Environmental Review Tribunal by the earlier of:
 - i. fifteen (15) days after notice of this Order is given in the EBR registry; and
 - ii. if you appeal fifteen (15) days after your notice of appeal is placed in the EBR registry by the Environmental Commissioner.

Issued at Kingston this 31 day of August, 2015.



Brian Kaye
Director
Sections 17, 18, 196 and 197 of the EPA