
MEMORANDUM

CWCD 2021-191

Subject: Response to Councillor Information Request re Ministry of Environment, Conservation and Parks Investigation

Date: September 3, 2021

To: Regional Council

From: Bruce Zvaniga, P.Eng., Commissioner of Public Works (Interim)

At the meeting of Niagara Region Council on August 26, 2021 in relation to correspondence item CWCD 2021-179, Councillor Gale asked:

1. Did staff advise the independent investigators from Kroll, that the Ministry of Environment was also investigating Thomas Nutrient Solutions?
2. Why was Council not informed of the Provincial investigation into Thomas Nutrient Solutions?
3. Why was the Province requested by the Region to file an FOI for specific information being requested; and,
4. What was the result of the Provincial investigation into Thomas Nutrient Solutions related to the Region's biosolids program? Or is it still ongoing?

Key Facts:

- On February 25, 2020, a letter (attached as Appendix 1) from the Ministry of Environment, Conservation and Parks (MECP) Investigations and Enforcement Branch was received by Niagara Region. The letter requested information to assist in the investigation of alleged offences by Thomas Nutrients under the Ontario Water Resources Act and the Nutrient Management Act related to material generated by Niagara Region during the period September 1, 2019 to November 30, 2019. The Region was not the subject of the investigation.
- On March 10, 2020, Regional staff advised the MECP investigator that they would provide information responsive to their requests with the exception of the requested copies of contract documents. The MECP was directed to use the FOI process to request contract documents, which is a standard response, to ensure that the Region complied with its obligations under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) regarding third party commercial information contained in those documents that may be confidential.
- The MECP did not subsequently make a FOI request for a copy of the contract.

- On May 6, 2020, Niagara Region staff provided a final response to the MECP investigation including a detailed description of the source and composition of hauled materials, and land application logs for the September 1 to November 30, 2019 period. All requested information was provided directly with the exception of the contract document.

Response to Questions:

1. Staff did not advise Kroll, and Kroll has confirmed this on August 30, 2021 that, "We were not aware that the MECP was/is investigating Thomas Nutrient Solutions – no staff, the Whistleblowers or Councillor Gale mentioned this to us." At the time of the Kroll investigation, the MECP had not (and still has not) provided any findings/actions to the Region for consideration.
2. In the normal course of business, Niagara Region Council is informed of investigations where the Region itself is being investigated; or where, the MECP has formally advised Regional staff that an investigation has concluded with findings/actions that impact our activities. In this specific event, the only communications from the MECP has been that they are investigating allegations against a contractor to the Region. No details of the nature or substance of the allegations has been shared; nor has any information been provided about how this may impact our operations.
3. As noted in the key facts, Niagara Region provided all requested information to the MECP investigator with the exception of contract documents. These documents may contain commercial confidential information that is protected by the MFIPPA legislation. The FOI process ensures the release of all requested information that is not specifically protected by MFIPPA. To date, MECP has not initiated the FOI process in relation to this investigation.
4. On August 31, 2021, the MECP Manager of Investigations advised: "Regarding 2386246 Ontario Inc. o/a Thomas Nutrient Solutions, the Ministry is continuing to investigate alleged violations of the Ontario Water Resources Act and the Nutrient Management Act. It would be inappropriate to provide any additional comment at this time."

Respectfully submitted and signed by

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)

Appendix 1: Letter dated February 25, 2021 from MECP Investigations and Enforcement Branch

**Ministry of the Environment,
Conservation and Parks**

**Ministère de l'Environnement,
de la Protection de la nature et des Parcs**



**Environmental Enforcement and
Compliance Office**

**Bureau de l'application des lois
environnementales et de la conformité**

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February 25, 2020

Mr. Jason Oatley
Manager, Quality and Compliance
Water and Wastewater Services
Regional Municipality of Niagara
1815 Sir Isaac Brock Way,
Thorold, ON
L2V 4T7

Dear Mr. Oatley,

RE: Investigation into Thomas Nutrient Solutions

The Ontario Ministry of the Environment, Conservation and Parks is currently investigating 2386246 Ontario Inc. o/a Thomas Nutrient Solutions for alleged offences under the Ontario Water Resources Act and the Nutrient Management Act. The alleged offences relate to material that is generated by the Regional Municipality of Niagara.

The Regional Municipality of Niagara is not the subject of this investigation.

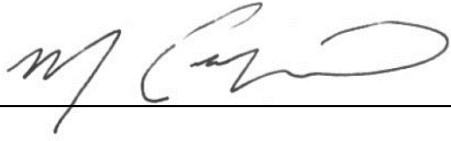
I'm writing to inquire as to whether the Regional Municipality of Niagara is willing to voluntarily provide me with information relating to this investigation. If so, I am formally requesting the following:

1. A description of any material in the possession of the Regional Municipality of Niagara that is hauled off-site by Thomas Nutrient Solutions.
2. Any documentation relating to the source and composition of this material.
3. A copy of any contracts between the Regional Municipality of Niagara and Thomas Nutrient Solutions.
4. Any invoices or bills of lading relating to Thomas Nutrient Solutions hauling the material off-site between September 1 and November 30, 2019.
5. Any information relating to land application of the material, including date, location, and quantity of material applied between September 1 and November 30, 2019.
6. Any other information or documentation relating to this investigation that you may wish to provide.

Should you have any questions or concerns regarding this request please contact me by telephone at

519-200-8267 or by email at Matthew.Crawford@Ontario.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Crawford', is written above a horizontal line.

M. Crawford

Investigator, Badge #1544

Ministry of the Environment, Conservation and Parks

Environmental Enforcement and Compliance Office

Investigations and Enforcement Branch