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31 October 2019

Town of Tecumseh
917 Lesperance Road
Tecumseh, Ontario
N8M 1Y6

Attention: Mr. Sam Paglia, P. Eng.
Drainage Superintendent/Engineering

Re: Notice of Request for Repair & Improvement of a Municipal Drain
Merrick Creek Drain

This office acknowledges receipt of the Notice of Request for Repair & Improvement to the Merrick Creek Drain under Section 78 of the *Drainage Act*. We have the following information to provide.

The subject lands are located within the limit of regulation (Section 28 of the *Conservation Authorities Act*) for the Merrick Creek Drain which is under the jurisdiction of the Essex Region Conservation Authority. Prior to undertaking work in this area, a "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Permit" is required from this office.

Based on a review of our files, this office has three records of local natural heritage features within this section of the waterway. Please refer to your 2011 Town of Tecumseh Natural Heritage Inventory regarding Site #24 Sedgewood, Site #25 Higgin's Woods, and Site #28 Paquette Station Woods North for your information. This does not however remove the Town's responsibility to contact other provincial or federal agencies that may have concerns with this proposal.

If during the design of the project, significant natural heritage features are identified, this office could request a biological assessment of the identified features as part of our requirements under Section 28 of the *Conservation Authorities Act*. The proponent would have a qualified biologist undertake a biological assessment of the proposed works. The purpose of the biological assessment is to ensure that the proposed works will not adversely impact any natural heritage issues and/or to determine measures that will mitigate any potential adverse impacts. For any biological assessment that is required in order to satisfy issues related to the *Conservation Authorities Act*, the cost of the biological assessment is the responsibility of the proponent.

With respect to the Department of Fisheries and Oceans (DFO) concerns and comments, the proposed works to the Merrick Creek Drain will need to be self-assessed by the Town of Tecumseh, the proponent, through the DFO website at <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>. Through the self-assessment process, the proponent will be able to determine if the proposed works will require a formal authorization under the *Fisheries Act*.

In order to obtain a federal authorization, it may be necessary to provide habitat compensation for the proposed works. In general, the resulting habitat impacts must be replaced with equivalent habitat

features. Determining if a proposed project is acceptable/compensable would require biological investigations and would depend on the actual proposed works. The costs related to the biological investigations are the responsibility of the proponent.

The DFO will also need to be contacted regarding any potential *Species at Risk Act* for federally listed aquatic species at risk fish and mussels and associated approval requirements.

The Merrick Creek Drain may contain significant species (aquatic species at risk as well as plants, animals, habitat, etc.) that are protected under the provincial *Endangered Species Act*. The ERCA does not screen for species that are protected under the provincial *Endangered Species Act*. It is the proponent's responsibility to ensure all issues related to the provincial *Endangered Species Act* are addressed. The *Ontario Endangered Species Act* inquiries are now handled by the Ministry of the Environment, Conservation and Parks, specifically the "Species at Risk Branch" and the new e-mail address for handling these inquiries is now SAROntario@ontario.ca.

It is our understanding that an engineering firm will be preparing a Section 78 report for the Merrick Creek Drain. Prior to your consultant moving forward with design for any proposed works, we recommend that they contact this office to discuss same.

We note that the ERCA-owned Chrysler Canada Greenway is located within the drainage area of the Merrick Creek Drain. All inquiries and concerns with respect to property questions regarding the Greenway and proposed drainage works should be directed to Mr. Kevin Money of this office at 519-776-5209, ext. 351 or email at kmoney@erca.org.

If further information or clarification is required, please do not hesitate to contact this office.

Yours truly,



Cynthia Casagrande,
Regulations Coordinator
/cc

cc/ John Henderson, Manager Engineering Services, Town of Tecumseh
Tony Peralta, N. J. Peralta Engineering Ltd.
Laura Moy, Director Corporate Services & Clerk, Town of Tecumseh
Kevin Money, Director Conservation Services, ERCA
James Bryant, Water Resources Engineer, ERCA
Dan Jenner, Regulations Analyst, ERCA

