

Subject: Quinn Branch of the Quaile Municipal Drain – Appointment of Engineer

File Number: ACS2023-IWS-WL-0003

**Report to Agriculture and Rural Affairs Committee on 6 July 2023
and Council 12 July 2023**

Submitted on June 13, 2023 by Marilyn Journeaux, Director, Water Linear and Customer Services, Infrastructure and Water Services

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Ward: Osgoode (20)

**Objet : Drain secondaire Quinn Branch du drain municipal Quaile –
Nomination d'un ingénieur**

Dossier : ACS2023-IWS-WL-0003

Rapport au Comité de l'agriculture et des affaires rurales

le 6 juillet 2023

et au Conseil le 12 juillet 2023

Soumis le 13 juin 2023 par Marilyn Journeaux, directrice, Eau linéaire et services à la clientèle, Services d'infrastructure et d'eau

Personne-ressource : Dave Ryan, directeur des installations de drainage, Services d'infrastructure et d'eau

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Quartier : Osgoode (20)

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Andy Robinson, P. Eng. of Robinson Consultants Inc. as the Engineer of record to prepare a report describing the impact of extending the existing Quinn Branch

of the Quaile Municipal Drain as described in this report and provide an assessment pursuant to Subsection 65(3) of the *Drainage Act*.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de nommer M. Andy Robinson, ing., de la firme Robinson Consultants Inc., en tant qu'ingénieur officiel chargé de rédiger un rapport décrivant les répercussions liées au prolongement du drain secondaire Quinn actuel, qui fait partie du drain municipal Quaile, comme le décrit le présent rapport, et de fournir une évaluation en vertu du paragraphe 65(3) de la *Loi sur le drainage*.

BACKGROUND

Staff are recommending the appointment of a qualified drainage engineer to provide information on the implications of allowing an existing quarry to discharge to the Quinn Branch of the Quaile Municipal Drain.

Council approval of the engineer is an initial step within Subsection 65(5) of the [*Drainage Act*](#). Following which, the engineer will meet with the landowner to collect information prior to their site visit and investigation. Finally, the engineers report will be circulated to Council for approval. This report includes a recommendation concerning the requested connection to the municipal drain, and associated costs to the landowner.

The subject property (1653 Sale Barn Road) is within the existing watershed of the Quinn Branch of the Quaile Municipal Drain and is proposing the connection of the drain to an existing quarry which will result in changes in the land use, surface, subsurface and storm water flows from the existing parcel of land. The quarry is located at 1653 Sale Barn Road, in Part of Lot 9, 10 and 11, Concession 6 former Osgoode Township, Osgoode Ward.

The Quaile Municipal Drain and its various branches are located in Osgoode Ward southeast of the village of Greely near the intersection of Sale Barn Rd. and Parkway Rd. and was first constructed in 1982, under a report by A.J. Graham Engineering Consultants Ltd, by the former Township of Osgoode (now Osgoode Ward).

In 1982 when the report was adopted through by-law 62-1982 the subject lands were owned by the Township of Osgoode and not operated as a quarry at that time. The change in land use and subdivision of land will need to be examined by a drainage engineer to determine any implications of allowing an existing quarry to discharge to the Quinn Branch of the Quaile Municipal Drain.

Description of site and surroundings

The subject property is within the existing watershed of the Quinn Branch of the Quaile Municipal Drain and has changed the land use to a quarry which may result in a change to the surface, subsurface, and storm water flows from the quarry parcel of land. The subject property is located at 1653 Sale Barn Road, in Part of Lot 9, 10 and 11, Concession 6 former Osgoode Township, Osgoode Ward.

DISCUSSION

Staff are recommending the appointment of a qualified drainage engineer to provide information on the implications of allowing an existing quarry to discharge to the Quinn Branch of the Quaile Municipal Drain. Council approval of the engineer is an initial step within Subsection 65(5) of the [Drainage Act](#).

Staff are recommending the appointment of Mr. Andy Robinson, P.Eng. of Robinson Consultants Inc., as the engineer of record as he has over 40 years of experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario.

In order to satisfy the requirements of Subsection 65(3) of the [Drainage Act](#) the engineer will be asked to include the financial assessment for just the proportion of the drainage works for the land not assessed for benefit¹ in his report. Under Subsection 65(3) of the Drainage Act, following the investigation a second site visit is completed to look at assessment factors. To streamline the process and minimize costs, the engineer will look at both factors in the initial visit.

The Engineer's Report will provide information on whether the Quaile Municipal Drain located downstream has the existing capacity to accommodate the additional volume and rate of water from the subject property that is proposed to be connected. Without an assessment, the subject property cannot benefit through having access to the municipal drain. Examination by a qualified drainage engineer is required in order to evaluate the changes in the extent and nature of use within the watershed of the Quinn Branch of the Quaile Municipal Drain.

This report has no tax or budget implications. All costs associated with the engineer's report will be initially paid by the Infrastructure and Water Services Department and will be recovered from the owner of the subject property (1653 Sale Barn Road). The

¹ Drainage Act, R.S.O. 1990, Chapter D.17, Definitions 1 In this Act, "benefit" means the advantages to any lands, roads, buildings or other structures from the construction, improvement, repair or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or subsurface water, or any other advantages relating to the betterment of lands, roads, buildings or other structures; ("avantage")

estimated cost of the report is \$35,000. Funding is available in capital internal order 910905 Municipal Drains Improvements for the cost of the engineer's report. A separate new internal order will be created for this specific drain and all necessary funding will be transferred to it from internal order 910905.

The [Drainage Act](#) prescribes the process and timelines to be followed for any modification or construction of a municipal drain however this timing is directly tied to the comprehensive development approval process and other related legislative requirements.

The request for an engineer's report regarding the consideration to connect to drainage works is before the Agriculture and Rural Affairs Committee and Council as required under Section 5 of the *Drainage Act*.

Next Steps

Council approval of the engineer is an initial step within the Drainage Act. Following their appointment the engineer will meet with the landowner to collect information prior to the engineer's site visit and investigation. Finally, the engineers report will be circulated to Council for approval. This report includes a recommendation concerning the requested connection to the municipal drain, and associated costs to the landowner.

If Council approves the connection, and if the assessment is for an amount greater than \$500, the owner of the assessed land may appeal the engineer's assessment to the Ontario [Agriculture, Food and Rural Affairs Appeal Tribunal](#). If no appeal is received within 40 days, the decision is final. Similar to a by-law amendment, this would be listed on the Council agenda for three readings.

RURAL IMPLICATIONS

The existing lands and roads will benefit from this undertaking through improved drainage, storm water management, watercourse management reduced risk of flooding and the provision of a legal and sufficient outlet.

CONSULTATION

Consultation with the Ward Councillor and City staff is ongoing.

COMMENTS BY THE WARD COUNCILLORS

The Councillor is aware of this report.

LEGAL IMPLICATIONS

The *Drainage Act* stipulates that no person shall connect to or disconnect from drainage works without the approval of the council of the municipality (Subsection 65(5)) but the *Drainage Act* does not set out any process that Council must follow or documentation that Council must consider prior to making its decision. However, if Council were to approve a connection to a drainage works without first considering a drainage engineer's report on the implications of the connection, the decision would likely be set aside if appealed.

If Council approves the connection of the land to the drainage works, the clerk of the municipality shall instruct an engineer to inspect the land that is to be connected and assess it for a just proportion of the drainage works (Subsection 65(3) of the *Drainage Act*)

Rights of Appeal:

If the engineer's assessment is for an amount greater than \$500, the owner of the land may appeal the assessment to the Tribunal pursuant to Subsection 65(11).

Additionally, any person may appeal to the Drainage Referee under s. 106 of the *Drainage Act* the following:

1. Council's appointment of the engineer to prepare the engineer's report recommended by staff under this staff report, and
2. Council's decision under Subsection 65(5) approving or not approving the connection.

As long as Council uses its best efforts to make an informed decision on the approval or disapproval of the connection the land unassessed for benefit to the existing drainage works, there are no legal impediments to the implementation of the recommendation in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations in this report.

FINANCIAL IMPLICATIONS

All costs associated with the engineer's report will be initially paid by the Infrastructure and Water Services Department but eventually recovered from the owner of the subject lands (1653 Sale Barn Road). The estimated cost of the report is \$35,000. Funds are available in the 2023 approved Capital Budget - Municipal Drainage Program.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

Any proposed works will require compliance with City, provincial and federal policies, standards, regulations and legislation.

TERM OF COUNCIL PRIORITIES

The recommendations of this report align with the current strategic priorities of Environmental Stewardship and Sustainable Infrastructure.

SUPPORTING DOCUMENTATION

Document 1 Location Map

DISPOSITION

The Drainage Superintendent shall notify all affected landowners and the local conservation authority of the decision of Council. Once this report is approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred to it from internal order 910905.

Document 1 – Location Map

