



## COMMUNICATION UPDATE

<b>TO:</b>	Mayor and Members City Council
<b>DATE:</b>	March 15, 2023
<b>SUBJECT:</b>	Chedoke Creek Remediation - MECP Order Amendment - HW.23.01
<b>WARD(S) AFFECTED:</b>	City Wide
<b>SUBMITTED BY:</b>	Nick Winters Director, Hamilton Water Public Works Department
<b>SIGNATURE:</b>	

As Council is aware, on March 3, 2023, the Ministry of the Environment, Conservation and Parks (MECP) amended Director's Order No.1-PE3L3 (Order) related to the Chedoke Creek Remediation, requiring that the City complete the in-water targeted dredging work on or before August 31, 2023.

Council considered the Order amendment with recommendations from staff (Report LS21012(c)), at a Special Council meeting on March 9, 2023, and provided the following direction to staff:

- (a) That the City Solicitor and external legal counsel be directed to file an appeal in respect of the March 3, 2023, amendment to Director's Order dated December 4, 2020 (1-PE3L3).

This past Friday, City representatives engaged with representatives from the MECP to discuss the City's concerns with the amendments to the deadline in the Order. This was a positive and collaborative discussion with the goal of identifying a common path forward that would not require the City to file an appeal, supports the City's concerns regarding the August 31, 2023 deadline to complete the in-water targeted dredging work, and still expedites the remediation of Chedoke Creek. During that discussion, it was agreed that a deadline to complete the in-water targeted dredging work of October 31, 2023 would be more achievable provided the City and its contractor are able to gain free and unimpeded access to the work site and able to assure the contractor of same.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Chedoke Creek Remediation - MECP Order Amendment (City Wide) -  
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As a result, yesterday afternoon the MECP again amended the Order with a new date, requiring that the City complete the in-water targeted dredging work on or before October 31, 2023. The March 14, 2023 letter from the MECP amending the Order is attached to this communications update as Appendix "A".

The issuance of the March 14, 2023 amendment to the Order effectively revokes the previous amendment to the Order, and as a result Council's direction to staff to proceed with an appeal (Report LS21012(c) recommendation (a)) has been nullified.

The City does have the option to appeal the March 14, 2023 revised amendment to the Order, but it is staff's opinion that October 31, 2023 is a reasonable timeframe to complete the in-water targeted dredging work. As a result, and unless otherwise directed by Council, staff will not be recommending that the March 14, 2023 amendment to the Order be appealed.

As a reminder, staff have been directed by Council to provide a public report at the March 22, 2023 General Issues Committee Meeting regarding an update to the Chedoke Creek Order and Remediation. That report will also speak to the March 14, 2023 amendment to the Order.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Communication Update HW23.01 - Letter from MECP dated  
04/14/2023 - Director's Order 1-  
PE3L3 Amendment

Ministry of the Environment, Conservation  
and Parks  
Drinking Water and Environmental  
Compliance Division  
West Central Region  
Hamilton District Office

Ministère de l'Environnement de la Protection  
de la nature et des Parcs  
Division de la conformité en matière  
d'eau potable et d'environnement  
Direction régionale du Centre-Ouest  
Bureau de district de Hamilton



119 King Street West, 9<sup>th</sup> Floor  
Hamilton, Ontario L8P 4Y7

119 rue King Ouest, 9<sup>e</sup> étage  
Hamilton (Ontario) L8P 4Y7

March 14, 2023

The City of Hamilton  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5

Attention Nick Winters, Director, Hamilton Water:

**Re: Amendment of Item No.6 of Director's Order No.1-PE3L3**

I am in receipt of your letter and appended correspondence dated March 13, 2023, in which the City of Hamilton outlines the reasons they are unable to complete the dredging activities by the August 31, 2023 deadline as set out in the amended Director's Order No.1-PE3L3 as of March 3, 2023. I have considered the City's request to extend the compliance date for the dredging activities specified in Item No. 6 of the Order from August 31, 2023 to October 31, 2023.

In considering this request, I have reviewed the City's letter and supplementary correspondence from its contractors. Based on my review of the materials provided to support the City's request, I understand there are many complexities that can occur on the project which could result in delays. Unexpected events such as staffing and supply chain challenges, work stoppages due to prolonged wet weather creating high flows as well as mechanical and equipment issues create project timeline uncertainties and could impact the City's ability to comply with the August 31, 2023 deadline. The City of Hamilton remains responsible to address their contractors concerns and their request for a confirmation letter regarding a safe and secure work environment.

Having considered your submissions, I am of the view that the compliance date may be amended. To ensure the ministry is made aware of any impacts to the revised timelines as soon as possible, I will also require that the City of Hamilton provide the ministry with weekly written reports outlining progress on key milestones before dredging begins and weekly written project updates once the dredging begins. Further discussions on format of these project updates can be held at our next monthly Chedoke Creek update meetings required by the Order, the next of which is scheduled on April 4, 2023.

As such, pursuant to my authority under sections 157.3 of the *Environmental Protection Act*, s.16.4 of the *Ontario Water Resources Act*, and sections 49 and 54 of the *Legislation Act, 2006*, I hereby alter the compliance date in Item No. 6 as requested so that Item No. 6 now reads as follows:

6. Commence activities in the approved Chedoke Creek Workplan as soon as possible such that all dredging activities are completed by October 31, 2023, with the remaining activities in the approved Chedoke Creek Workplan completed by December 31, 2023.

All other Items in the Order remain in effect, and unaltered. This Order alters and constitutes part of Director's Order No. 1-PE3L3, issued on December 4, 2020 (as amended). You may require a hearing before the Ontario Land Tribunal (OLT) in respect of this amendment to Item No. 6 in accordance with the *Environmental Protection Act* and the *Ontario Water Resources Act*. If you require a hearing, you have 15 days after the service of this Order to serve notice upon the OLT and the Director.

I encourage you to inform the indigenous communities and various stakeholders who are interested in the work that is required pursuant to the Director's Order, of this amendment.

If you have any questions concerning this amendment to Director's Order No. 1-PE3L3, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read 'S. Burt', is placed over a light gray rectangular background.

Stephen Burt

District Manager & Director appointed for the purposes of s.157.3 EPA, s.16.4 OWRA.

Cc. Lubna Hussain, Director, West Central Region, MECP  
Elizabeth Chee Sing, Supervisor, MECP  
Carlyle Khan, General Manager Public Works, City of Hamilton  
Cari Vanderperk, Director, Watershed Management Hamilton Water  
Susan Girt, Compliance & Regulations Manager, Hamilton Water