

AYLMER MEAT PACKERS INC. AND CO-OWNER/CO-OPERATORS OF FEEDLOT AND ABATTOIR FINED TOTAL OF \$72,750

BRANTFORD—Aylmer Meat Packers Inc., Richard Clare and Elaine Warren have collectively been fined a total of \$72,750, following their convictions on several violations of the *Ontario Water Resources Act (OWRA)*.

Aylmer Meat Packers Inc. (the corporation), Richard Clare and Elaine Warren were all involved in the ownership and/or operation of a feedlot in Brant County with the capacity for 3,000 cattle. The corporation and Clare also owned and operated an abattoir in the Town of Aylmer.

The feedlot contained two storm water ponds connecting to the site's field tile drainage system. One had direct access to the system (the south pond), while the other had occasional access. The field tile system drained into a watercourse (which included a ditch, catch basin and subterranean tile) that ultimately led to Kenny Creek.

The Court heard that in September 2001, the Ministry of the Environment (MOE) responded to a complaint about a black, odorous liquid discharging from the defendants' feedlot via the tile drain. The responding officer issued an order to Clare, instructing him to stop the liquid from traveling further along the watercourse, and to clean-up all liquid that had already drained off site. Clare hired a contractor to address the requirements of the order, however, the contractor's work did not satisfy the requirements.

MOE issued a second order at a later date to all three defendants, requiring them to hire a consultant to manage the runoff and make containment recommendations. The defendants did not comply with this order.

The black liquid was determined to be a mixture of water, manure and abattoir waste water that impaired water quality throughout the watercourse, including parts of Kenny Creek.

The Court also heard that in July 2002, MOE responded to a report of another discharge of waste material from the feedlot to the watercourse, this time appearing to be the result of a weather-generated overflow. Dead fish were observed in Kenny Creek, downstream from the area of discharge.

The responding provincial officer took samples of the discharge and the receiving water. The discharge was later determined to again be a mixture of water, manure and abattoir waste water. The officer also noted that the overflow continued for two days, unabated, after it was first reported.

The Court was told that in the spring of 2003, the MOE issued an order to the defendants requiring them to decommission the south pond, which was the main source of the feedlot discharges. The defendants failed to comply with the order.

Following investigations of the three incidents, conducted by MOE's Investigations and Enforcement Branch, charges were laid. The defendants were later convicted on all counts, after a four-week trial.

For the September 2001 discharge, all three defendants were convicted of the following:

- Permitting the discharge of field tile drainage, which had the ability to impair water quality, into a watercourse that led to Kenny Creek.
- Failing to retain a qualified agricultural engineer or agronomist.
- Failing to advise the MOE in writing that an agricultural engineer or agronomist had been retained.
- Failing to submit an engineer's or agronomist's assessment and recommendations.

For the same discharge, Richard Clare was also convicted of failing to:

- Cease the discharge of black liquid from the field tile drain.
- Cease the discharge of black liquid from the open ditch to the drain tile.
- Remove all black liquid from the open ditch.

The offence of permitting the discharge of field tile drainage was a violation of section 30(1) of the *OWRA*. The other six offences were violations of section 107(2) of the *OWRA* for failing to comply with conditions of a Provincial Officer's Order.

Clare was fined \$3,000 for each of his seven offences (totaling \$21,000); the corporation was fined \$5,000 for each of its four offences (totaling \$20,000); and Warren received was fined \$500 for the first offence, and received suspended sentences for the remaining three offences.

For the July 2002 matter, all defendants were convicted of permitting the discharge of feedlot runoff, which had the ability to impair water quality, into a watercourse that led to Kenny Creek—an offence under section 30(1) of the *OWRA*. The corporation was fined \$7,500; Clare was fined \$3,000; and Warren was fined \$250.

With respect to the spring 2003 order to decommission the south pond on the feedlot, all defendants were convicted of failing to decommission the pond, thereby violating the Provincial Officer's Order—another offence under section 107(2) of the *OWRA*. The corporation was fined \$15,000; Clare was fined \$5,000; and Warren was fined \$500.

All fines are exclusive of the 25 per cent victim fine surcharge.

Justice of the Peace Dan M. MacDonald sentenced the defendants on November 7, 2006, in the Ontario Court of Justice in Brantford. The matter was adjourned to December 19, 2006 for the purpose of determining whether a court order is required to ensure the decommissioning of the south pond at the feedlot.

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