

## **City of North Bay Report to Council**

Report No: IO-2021-016

Date: November 4, 2021

Originator: Adam Lacombe

Business Unit:

Department:

Infrastructure and Operations

Engineering

Subject: Petition to Convert Four Mile Creek to a Municipal Drain

Closed Session: yes ☐ no ☒

---

### **Recommendation**

That Council not approve the petition for drainage works provided by Mr. Robert Duchesne to convert Four Mile Creek into a municipal drain.

---

### **Background**

In December of 2018, the City of North Bay received a letter from Mr. Robert Duchesne, a property owner living on Four Mile Lake, indicating his intent to petition to convert Four Mile Creek to a municipal drain under the Drainage Act. Four Mile Creek is the outlet for Four Mile Lake and beavers periodically build a dam at the mouth of the creek which creates an impact on the water level of the lake (i.e. the water level would rise). Mr. Duchesne stated that he is concerned about rising water levels impacting his property (dock, water well, etc.). Schedule A provides a map showing the lake, creek, and private property at the outlet of the lake.

Four Mile Creek is predominantly located on private property. In his letter, Mr. Duchesne stated that he did approach the land owner where the beaver dam is located, requesting that the land owner break the dam but his request was denied.

In the subsequent time period, the City Engineering Department had multiple discussions with Mr. Duchesne with respect to the proper form for the petition as required by the Drainage Act. For a petition to be considered, the Drainage Act requires that it be made by a majority of owners in the area or by the owners of at least 60% of the hectarage in the area, and that the petition be submitted to the City Clerk using the prescribed form "Petition for Drainage Works by Owners Form 1". Mr. Duchesne was advised of the above and was

requested to provide further documentation.

On October 21st, 2021, the City's Clerk office received a formal petition from Mr. Duchesne and other land owners within the vicinity of Four Mile Lake. Schedule B provides a copy of the letter, Form 1, and petition. The Drainage Act requires that once a petition has been filed with the municipality, it shall be considered by the council within thirty days after the filing (November 20<sup>th</sup>, 2021). City staff reviewed the documentation provided by Mr. Duchesne and determined that the petition may not be complete in terms of the requirements under the Drainage Act in that page 2 of Form 1 may need to be completed by every petitioner.

---

## **Financial/Legal Implications**

### **Legal Implications**

Under Section 5 of the Drainage Act, City Council is obligated to consider a petition for a new drainage works that has been filed with the clerk of the municipality within thirty days after the filing of the petition, and to make a decision as to whether or not to proceed with the drainage works for the area of land that requires drainage as described in the petition.

Should Council decide to proceed with the drainage works, Section 8 of the Drainage Act requires that it shall subsequently appoint a drainage engineer. The engineer is required to determine the petition's validity in terms of compliance with the requirements of the Act. Further to this, the engineer is also required to examine the area requiring drainage as described in the petition and to prepare a report which shall include a description of the area that the engineer determines requires drainage, an estimate of the total cost of the drainage works, and the proportion of the total cost to be assessed to each parcel of land within the drainage area.

A person who is prescribed by regulations and who has received notice of the petition under section 5(1)(b) may, within thirty days after receiving the notice, send to the council of the initiating municipality a notice that an environmental appraisal of the effects of the drainage works on the area is required. The costs of an environmental appraisal required shall be paid by the person who sends the notice requiring it.

If Council decides not to proceed with the drainage works the City is required to send notice of its decision to the prescribed persons. Any petitioner may appeal to the Tribunal and the Tribunal may direct Council to take such action under the Drainage Act as the Tribunal considers proper, including directing Council to proceed with the drainage works and appoint a drainage engineer to prepare a report.

## Financial Implications

Should Council proceed with the petition, the City will be responsible for the appointed engineer's fees. A portion of these fees will be recovered from the petitioners and future maintenance costs will be attributed to the petitioners based on the future assessment schedule outlined in the engineer's report. The City may also be included in the assessment schedule should the engineer determine that the City would also benefit from the drainage works.

---

## Corporate Strategic Plan

- |   |  |
|---|--|
| <input type="checkbox"/> Natural North and Near                           | <input type="checkbox"/> Economic Prosperity     |
| <input type="checkbox"/> Affordable Balanced Growth                       | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government |  |

## Specific Objectives

- Ensure the efficient and effective operations of the city, with particular consideration to the impact of decisions on the property tax rate

---

## Options Analysis

The proposed drainage works of the petition do not appear to affect municipally owned infrastructure. Approving the petition could incur long-term operation costs and liabilities by the municipality. Other options by the petitioners could be explored including resuming negotiations with the property owner where the beaver dam is located or requesting further assistance from the Ministry of Natural Resources and Forestry.

Staff's investigation included review of the Drainage Act and consultation with other jurisdictions, the North Bay-Mattawa Conservation Authority and other City Departments (Public Works, Legal and Clerks). The Conservation Authority suggested that there may other opportunities for beaver management and that should the drainage works be approved, a permit may be required by them to undertake work within a waterbody. Public Works was not supportive of the petition for the reasons stated in the above paragraph.

### Option 1:

That Council not approve the petition for drainage works provided by Mr. Robert Duchesne to convert Four Mile Creek into a municipal drain.

### Option 2:

That Council approve the petition brought forward and continue with the process outlined under the Drainage Act to convert Four Mile Creek into a Municipal Drain.

Option 3:

Request that the Ministry of Natural Resources and Forestry review the beaver dam matter and potentially resolve the issue.

---

**Recommended Option**

Option 1 is the recommended option.

That Council not approve the petition for drainage works provided by Mr. Robert Duchesne to convert Four Mile Creek into a municipal drain.

---

Respectfully submitted,

Name: Adam Lacombe, P. Eng.

Title: Senior Capital Program Engineer

**I concur with this report and recommendation**

Name John Severino, P.Eng., MBA

Title: City Engineer – Infrastructure and Operations

Name Peter E.G. Leckie, B.A. (Hons.), LL.B.

Title: City Solicitor

Name David Euler, P.Eng., PMP

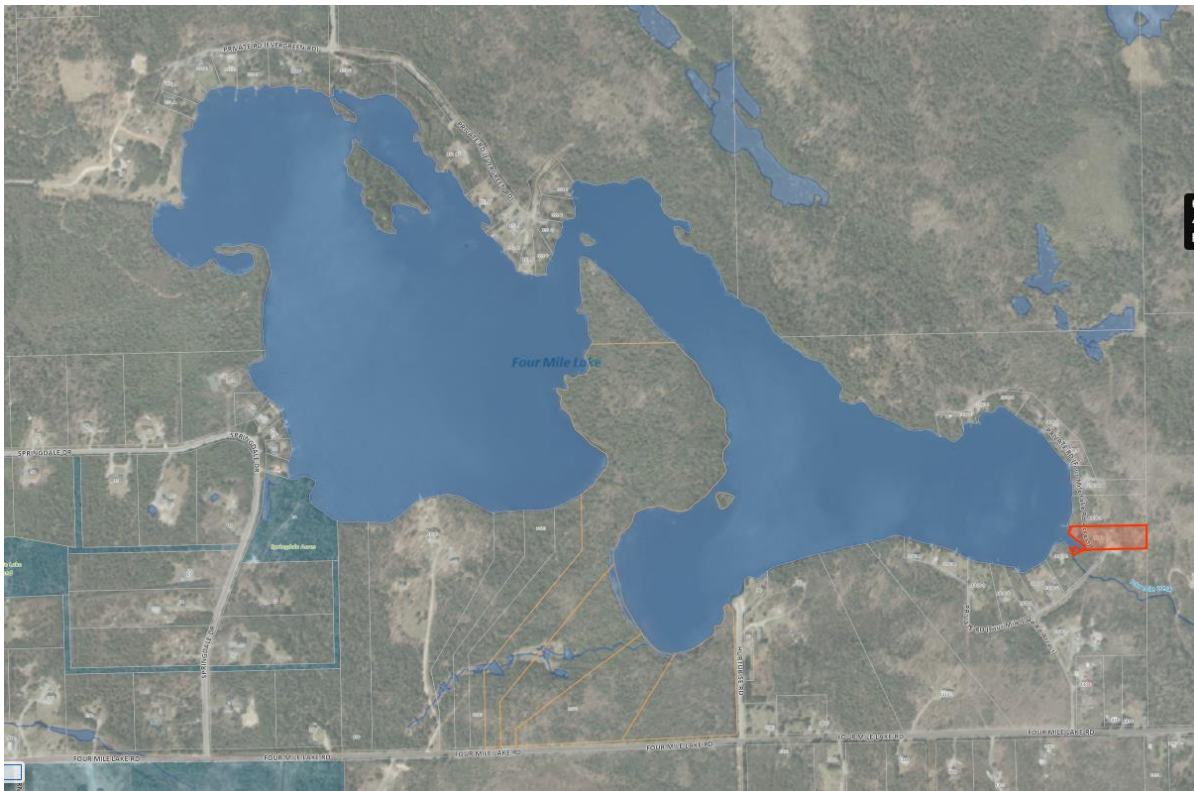
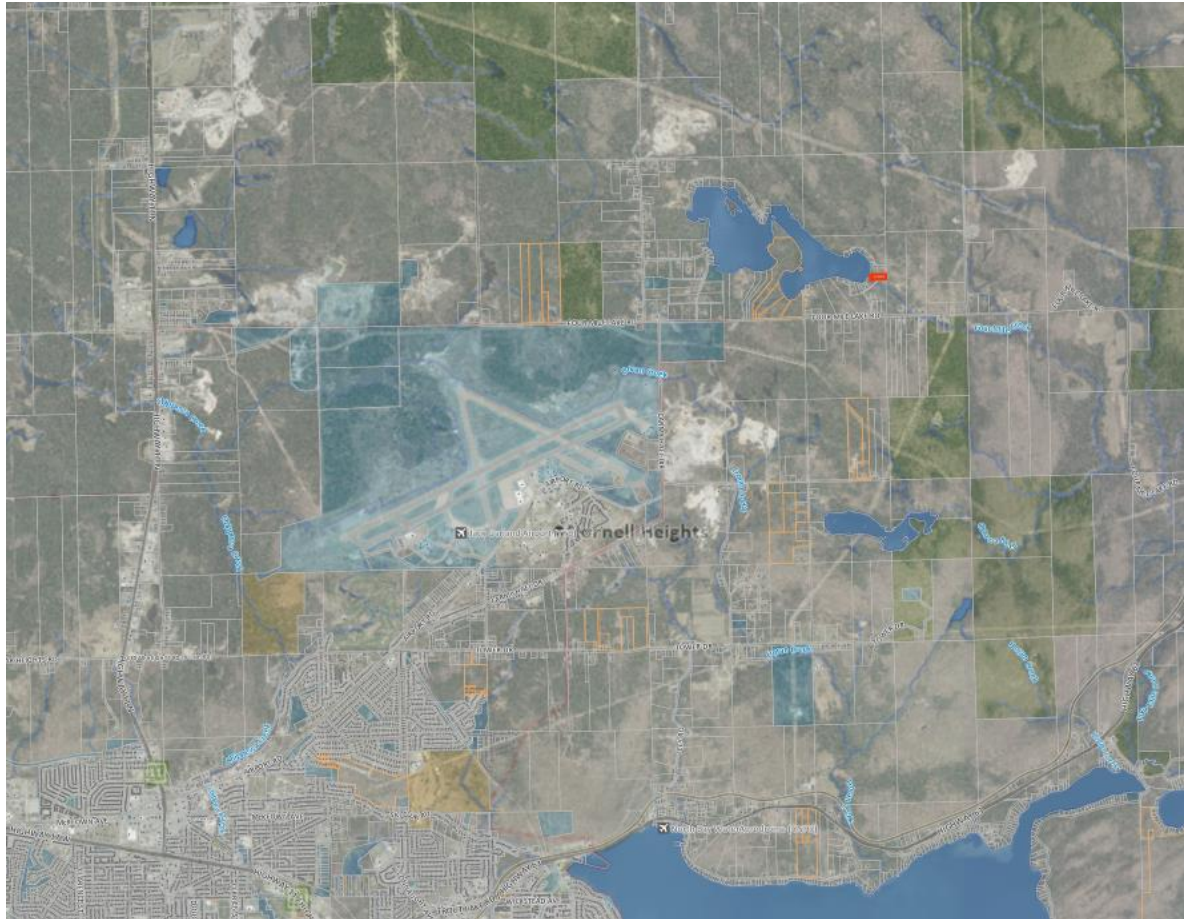
Title: Chief Administrative Officer

Personnel designated for continuance:

Adam Lacombe, P. Eng.

Senior Capital Program Engineer

## Schedule A





## Schedule B

### PETITION TO ASK THE CITY OF NORTH BAY COUNCIL TO RECLASSIFY FOUR MILE LAKE TO A MUNICIPAL DRAIN as per SECTION 4 OF THE DRAINAGE ACT OF ONTARIO

TO THE MUNICIPALITY OF NORTH BAY, ONTARIO

October 20, 2021

The lake level of 4 MILE LAKE is controlled by a four-foot-wide creek at the north eastern limit of the lake, which is the sole drain for the whole lake and surrounding area. Now and then beavers build a dam on this 4-foot-wide creek, and by such raise the lake level.

When the water level is raised too high, damage can be done to all the landowners surrounding the lake: wells, docks, lawns, water in basements, etc....

The beavers usually build their dam on 4-mile creek in a very short parcel of privately owned land (maybe 50 feet) at the outflow of the lake. This landowner sometimes refused to break the dam to properly control the lake level.

This petition is for the City of North Bay to reclassify 4-mile creek from a private ditch to a municipal drain as per section 4 of the DRAINAGE ACT OF ONTARIO. **NO WORK AND NO COSTS ARE INVOLVED.**

By doing so the City of North Bay would be allowed legally to go onto this private land and break this 4-foot-wide dam to control the water level of 4-MILE LAKE thereby saving possible damages to all the landowners around the lake. Accompanied is the signed petition by the majority of these other landowners around Four Mile LAKE.

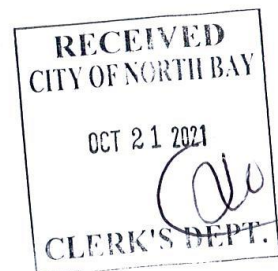
4-mile creek is also a long drain which runs along 4-mile road to highway 63 and finally dumps into TROUT LAKE. Therefore, it drains a large area. The City of North Bay should be in control of this important drain.

Robert Duchesne

18 Springdale Dr.

North Bay, ON

705-980-0544



# Petition for Drainage Works by Owners Form 1

*Drainage Act, R.S.O. 1990, c. D.17, clause 4(1)(a) or (b)*

This form is to be used to petition municipal council for a new drainage works under the *Drainage Act*. It is not to be used to request the improvement or modification of an existing drainage works under the *Drainage Act*.

To: The Council of the Corporation of the City \_\_\_\_\_ of NORTH BAY \_\_\_\_\_

The area of land described below requires drainage (provide a description of the properties or the portions of properties that require drainage improvements)

THE WHOLE AREA SURROUNDING 4 MILE LAKE

In accordance with section 9(2) of the *Drainage Act*, the description of the area requiring drainage will be confirmed or modified by an engineer at the on-site meeting.

As owners of land within the above described area requiring drainage, we hereby petition council under subsection 4(1) of the *Drainage Act* for a drainage works. In accordance with sections 10(4), 43 and 59(1) of the *Drainage Act*, if names are withdrawn from the petition to the point that it is no longer a valid petition, we acknowledge responsibility for costs.

## Purpose of the Petition (To be completed by one of the petitioners. Please type/print)

Contact Person (Last Name) DUCHESNE	(First Name) ROBERT	Telephone Number 705 980-0544 ext.
Address		
Road/Street Number 18	Road/Street Name SPRINGDALE DR.	

Location of Project	Concession	Municipality	Former Municipality (if applicable)
Lot			

What work do you require? (Check all appropriate boxes)

- ☐ Construction of new open channel  
☐ Construction of new tile drain  
☐ Deepening or widening of existing watercourse (not currently a municipal drain)  
☐ Enclosure of existing watercourse (not currently a municipal drain)  
☒ Other (provide description ▼)

NO WORK REQUIRED - SIMPLY RECLASSIFY 4 MILE CREEK TO A MUNICIPAL DRAIN

Name of watercourse (if known)

4 MILE CREEK

Estimated length of project

0

General description of soils in the area

N.A.

What is the purpose of the proposed work? (Check appropriate box)

- ☐ Tile drainage only    ☒ Surface water drainage only    ☐ Both

Petition filed this 20th day of October, 2021

Name of Clerk (Last, first name)

Signature

<b>Property Owners Signing The Petition</b>		Page      of
<ul style="list-style-type: none"> <li>Your municipal property tax bill will provide the property description and parcel roll number.</li> <li>In rural areas, the property description should be in the form of (part) lot and concession and civic address.</li> <li>In urban areas, the property description should be in the form of street address and lot and plan number if available.</li> <li>If you have more than two properties, please take copy(ies) of this page and continue to list them all.</li> </ul>		
Number	Property Description	
Ward or Geographic Township		Parcel Roll Number
I hereby petition for drainage for the land described and acknowledge my financial obligations.		
Ownership		
<input type="checkbox"/> Sole Ownership		
Owner Name (Last, First Name) (Type/Print)		Signature
		Date (yyyy/mm/dd)
<input checked="" type="checkbox"/> Partnership (Each partner in the ownership of the property must sign the petition form)		
Owner Name (Last, First Name) (Type/Print)		Signature
DUCHESNE ROBERT		2021/10/21
A PETITION, ACCOMPANIED, WAS SIGNED BY		
ALL SURROUNDING LANDOWNERS		
<input type="checkbox"/> Corporation (The individual with authority to bind the corporation must sign the petition)		
Name of Signing Officer (Last, First Name) (Type/Print)		Signature
Name of Corporation		I have the authority to bind the Corporation.
Position Title		Date (yyyy/mm/dd)
Number	Property Description	
Ward or Geographic Township		Parcel Roll Number
I hereby petition for drainage for the land described and acknowledge my financial obligations.		
Ownership		
<input type="checkbox"/> Sole Ownership		
Owner Name (Last, First Name) (Type/Print)		Signature
		Date (yyyy/mm/dd)
<input type="checkbox"/> Partnership (Each partner in the ownership of the property must sign the petition form)		
Owner Name (Last, First Name) (Type/Print)		Signature
		Date (yyyy/mm/dd)
<input type="checkbox"/> Corporation (The individual with authority to bind the corporation must sign the petition)		
Name of Signing Officer (Last, First Name) (Type/Print)		Signature
Name of Corporation		I have the authority to bind the Corporation.
Position Title		Date (yyyy/mm/dd)
<input type="checkbox"/> Check here if additional sheets are attached		Clerk initial
<b>Petitioners become financially responsible as soon as they sign a petition.</b> <ul style="list-style-type: none"> <li>Once the petition is accepted by council, an engineer is appointed to respond to the petition. <i>Drainage Act</i>, R.S.O. 1990, c. D. 17 subs. 8(1).</li> <li>After the meeting to consider the preliminary report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible in equal shares for the costs. <i>Drainage Act</i>, R.S.O. 1990, c. D. 17 subs. 10(4).</li> <li>After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible for the costs in shares proportional to their assessment in the engineer's report. <i>Drainage Act</i>, R.S.O. 1990, c. D. 17 s. 43.</li> <li>If the project proceeds to completion, a share of the cost of the project will be assessed to the involved properties in relation to the assessment schedule in the engineer's report, as amended on appeal. <i>Drainage Act</i>, R.S.O. 1990, c. D. 17 s. 61.</li> </ul>		
<b>Notice of Collection of Personal Information</b> Any personal information collected on this form is collected under the authority of the <i>Drainage Act</i> , R.S.O. 1990, c. D.17 and will be used for the purposes of administering the Act. Questions concerning the collection of personal information should be directed to: where the form is addressed to a municipality ( <i>municipality to complete</i> )		

and where the form is addressed to a territory without municipal organization, the Drainage Coordinator, Ministry of Agriculture, Food and Rural Affairs, 1 Stone Rd W, Guelph ON N1G 4Y2, 519 826-3552.

0173E (2012/08)



copy

WE THE PEOPLE LIVING AROUND FOUR MILE LAKE PETITION THE CITY OF NORTH BAY TO TAKE OVER  
FOUR MILE LAKE CREEK ACCORDING TO SECTION 4 OF THE DRAINAGE ACT, TO DECLARE IT A MUNICIPAL  
DRAIN AND TO PROPERLY CONTROL A CONSTANT WATER LEVEL ON FOUR MILE LAKE.

NAME	ADDRESS	PHONE NUMBER
Robert Duchesne	18 Springdale Dr	
H.D. ADAMS	22 SPRINGDALE DR.	
N. DAVIS	24 Springdale	
Warne (Pitts) /	351 - F Evergreen Rd.	
Bradley Martin	351 - G Evergreen	
Regy. GINGRAS	351 H EVERGREEN	
Conna May	16 Springdale Dr.	
<del>Samuel</del>	1300 - R FOUR MILE LK. R	
Stewart	1300 T Four Mile Lake R	
Judith Bainbridge	1300 G Four Mile Lake Rd	
Sherry Brown /	1300 G Four Mile Lake Rd	
John Biron	1300 C Four Mile LK Rd	
Michael Bell	1300 A Four Mile LK Rd	
Isabel Bell	1300 A Four Mile LK Rd	
Reenie Lacasse	1210 FOUR MILE LAKE ROAD	
Peter Mathieu	90 HURTUBISE RD	
Shelly Mathieu	90 HURTUBISE Rd	

copy

WE THE PEOPLE LIVING AROUND FOUR MILE LAKE PETITION THE CITY OF NORTH BAY TO TAKE OVER  
FOUR MILE LAKE CREEK ACCORDING TO SECTION 4 OF THE DRAINAGE ACT, TO DECLARE IT A MUNICIPAL  
DRAIN AND TO PROPERLY CONTROL A CONSTANT WATER LEVEL ON FOUR MILE LAKE.

NAME	ADDRESS	PHONE NUMBER
Robert Duchesne	18 Springdale	
Peter Merce	70 Hurtubise Rd.	
Helen Norman	1000 4-mile lake Rd	
CARLIN METERS	351Q EVERGREEN RD.	
Marc Gagne	351 Q Evergreen RD	
Ken MacDowell	1020 Four Mile Lk RD	
Diane Travis	54 Chadbourn Rd	
WAYNE PHILLIPSON	54 CHADBOURNE DR	
LANE CHADBOURN	351 "B" EVERGREEN RD	
Bill McCaskill	351 "A" Evergreen RD	
CLIFF PILON	351 L EVERGREEN RD	
ROD SINCLAIR	351 N EVERGREEN	
MARIA WHITE	351-R. EVERGREEN RD.	
DAVID WATTS	351 K Evergreen Rd.	
Tanya Dunn	351 K Evergreen Road	
RANDY SCOTT	20 SPRINGDALE DR.	