

TRENTON talk

Fisheries Act Violation

In December 2023, the Town of Trenton pled guilty to an offence under the federal government's *Fisheries Act*. The Town was sentenced in February 2024. This issue of *Trenton Talk* has been designated to the recent sentencing provisions of this violation. The following are included in this newsletter:

- ◆ **Public Works Emergencies Contact Info**

Addressing requirement # 5 - See box below.

- ◆ **Sentencing Court Order (Sec. 79.2 FA)**

Addressing requirement # 6 - See next 2 sections on this side.

Due to the limited space available in this newsletter, the Order was copied in its entirety and recreated rather than providing a photocopy. A copy of the original Order is available on the Town of Trenton's website at: <http://www.trenton.ca>

- ◆ **Fisheries Act Violation - Statement of Events**

Addressing requirement # 6 - See reverse side in full.

Information regarding the details of the fine, sentencing requirements and message from the Town of Trenton Mayor, Council and CAO (included in the March 2024 newsletter) have also been made available on the Town's website at:

<https://www.trenton.ca>

Public Works Emergencies Contact Info

To report Public Works Emergencies, including but not limited to emergencies related to wastewater and storm water systems, (other examples: water line breaks, leaking water meters, etc.), please contact:

- ◆ **Public Works Superintendent**, Darryl Marcott

Available for calls during daytime office hours & for afterhours emergencies.
Tel: 902-752-6907

- ◆ **Town Administration Office** (120 Main Street)

Available for calls Monday to Friday (*excluding holidays*) - 8:30am to 4:30pm
Tel: 902-752-5311

Holiday Office Closure

The Trenton Admin Office (120 Main Street) will be closed on:
Good Friday (March 29, 2024) & Easter Monday (April 01, 2024)

The office will reopen the following business day:
Tuesday, April 02, 2024 for public office hours (9:00am to 4:00pm).
We hope everyone has a great Easter weekend!

April 2024 Meetings

Town Council - April 09 & Committee of the Whole - April 30
Town meetings begin at 6:00pm in Council Chambers (upstairs at Town Hall).

2024

No. 8639545

Provincial Court of Nova Scotia

Between:

His Majesty the King
V.
TOWN OF TRENTON

Order
(Sec. 79.2 FA)

Before The Honourable Judge Bryna Hatt, the following is ordered:

Defendant: TOWN OF TRENTON

1. (a) Town of Trenton Chief Administrative Officer (CAO), or delegate, shall give to all elected officials (mayor & council) a copy of the *Fisheries Act* provisions, namely **Fish and Fish Habitat Protection and Pollution Prevention**; offences and penalty provisions within the said Protection and Pollution provisions, and, sections 79.2, 79.4 to 79.6 of the said *Act*.

(b) Within 10 days of the signing of the Order, the CAO or delegate shall provide written confirmation of having complied with clause 1(a) to ECCC c/o Enforcement Officer Zack Branscombe.

2. (a) Within 90 days of the signing of the Order, the Town of Trenton, at its expense, shall require the following desired positions to participate in third party training on the federal *Fisheries Act* **Fish and Fish Habitat Protection** and Pollution Prevention provisions, related legislative requirements and penalties, spill response, reporting and notification requirements, and clean-up of sewage and other pollutants:

- The CAO, Public Works Superintendent, Manager of Water Utility, Town Engineer, and,
- Town of Trenton employees, contracted and casual workers employed in the Public Works and Water Utility departments. On completion of the said training, the participants must pass a test prepared by the third-party trainer.

(b) Prior to such training, ECCC must review and approve the proposed training program and test.

(c) Within 14 days of completion of the requirements set out in clause 2(a), the third-party trainer shall provide a written report to ECCC c/o Enforcement Officer Zack Branscombe.

3. (a) At the expense of the Town of Trenton, employees, contracted and casual workers in the Public Works and Water Utility departments shall be trained by an independent 3rd party to properly collect, store and transport effluent samples taken from prescribed locations to an accredited laboratory. Training completion must be within 90 days of the signing of the Order.

(b) Within 5 days of completing the training described in clause 3(a) and continuing throughout the 18 months following the signing of the Order, trained employees or workers shall from the prescribed locations identified in clause 3(c):

- Collect effluent samples once per month at least 10 days apart and arrange analysis of those samples for the following:

CBOD matter

(Continued from previous section)

Total Suspended Solids

Total Ammonia

pH

Field Temperature

Total Coliforms and E. Coli

(ii) Collect effluent samples once per quarter at least 60 days apart and arrange analysis of those samples for acute lethality to Rainbow Trout in accordance with Referenced Method EPS 1/RM/13 using the procedure set out in section 5 or 6 of that Method.

(iii) Analysis shall be carried out by a facility whose accreditation includes the analytical method of the parameters to be analyzed.

(iv) Within 2 working dates of the final report of the analysis results being prepared, the accredited laboratory shall send the report by way of an agreed means to the Town of Trenton's CAO and to ECCC c/o Enforcement Officer Zack Branscombe.

(c) The prescribed locations for collecting effluent samples are:

(i) the end of pipe outfall located behind the residence at 25 Bruce Street, at approximate coordinates 45.6228, -62.6353;

(ii) the downstream end of the culvert under the driveway at 312 North Main Street, Trenton NS, at approximate coordinates 45.6250, -62.6370.

(d) In the event of weather conditions that impede adequate sample collection during any of the collection periods described in clause 3(b):

(i) Repeated attempts must be made to collect samples at the prescribed outfall and culvert locations. When samples can be taken from only one location during the described collection period, sampling compliance is deemed complete.

(ii) when samples cannot be collected from either location after repeated attempts, then before the end of that collection period ECCC c/o Zack Branscombe must be notified.

(iii) Collection efforts must be documented by employees or workers assigned to collect the samples.

5. Within 2 months of the signing of this Order, and every 4 months thereafter for the duration of this Order, the Town of Trenton shall publish on its website and in its newsletter, *Trenton Talk*, contact information for Town officials responsible for wastewater and storm water systems that includes afterhours contact information for emergencies related to such systems.

6. Within 3 months of the signing of this Order, the Town of Trenton shall publish on its website and in its newsletter, *Trenton Talk* a copy of the signed court Order and an article that includes detailing the facts led on sentencing, acknowledging the importance of *Fisheries Act* compliance, and identifying the environmental risks associated with non-compliance. Prior to publication, ECCC shall review the article for accuracy and completeness, and agree to its content.

Issued *Picou, February 21*, 2024


Judge Bryna Hatt

JUDGE BRYNA HATT
Judge of the
Provincial Court

Fisheries Act Violation - Statement of Events

Offence Summary

1. In the fall of 2017, the Town of Trenton received a complaint of a significant sewage odour from the owner of a residence located on Bruce Street in Trenton. Behind the residence there was a sewage outfall pipe. As a result, the Town of Trenton conducted a video inspection of the sewer pipe running from the Park Road manhole on October 12, 2017, and located a significant blockage in the pipe. The blockage caused the backup of untreated sewage into the Park Road manhole, which then over-flowed through the outfall pipe before discharging into the discharge path leading to Lowden Brook. However, the Town of Trenton did not take any action to remove the blockage in the Park Road sewage pipe or to stop the deposit of the untreated sewage effluent into the discharge path leading to Lowden Brook. The Chief Administrative Officer for the Town of Trenton at the time created a plan to replace the entire sewer pipe in the Park Road area. However, that plan was never implemented.
2. On October 30, 2019, *Environment and Climate Change Canada* (“ECCC”) received a complaint from a local property owner of a strong sewage odour in the area of Lowden Brook, where untreated sewage from the discharge path deposits into the Brook. Subsequent interviews with local residents indicated that there had been a noticeable sewage odour in that area for years.
3. In response to the complaint, ECCC Enforcement Officers conducted an onsite inspection on November 20, 2019. During the inspection, Enforcement Officers observed that the outfall pipe was continuously discharging a significant volume of what appeared to be untreated sewage effluent. That effluent then flowed along the discharge path before depositing directly into Lowden Brook.
4. At the time of the initial inspection on November 20, 2019, Enforcement Officers notified the Chief Administrative Officer (“CAO”) for the Town of Trenton of the discharge of untreated sewage from the outfall pipe. The CAO indicated he would meet with the Trenton Public Works staff to try and determine a response to the problem.
5. During the approximately two-year time period between the above-referenced inspection of the Park Road sewer pipe by the Town of Trenton in October 2017 and the initial onsite ECCC inspection on November 20, 2019, the Town of Trenton failed to report the ongoing deposit of untreated sewage effluent to *Environment and Climate Change Canada* as required by s.38(5) of the *Fisheries Act*.
6. During the November 20, 2019, inspection, ECCC Enforcement Officers collected samples of the sewage effluent flowing from the outfall pipe, as well as from the point at which the effluent deposited directly into Lowden Brook from the culvert at the end of the discharge path. The samples were collected for the purpose of chemistry and microbiology analysis. Enforcement Officers noted a distinct sewage odour at the time of collecting the effluent samples.
7. Subsequent lab analysis determined that the effluent discharging from the outfall pipe and depositing into Lowden Brook contained high levels of total Coliforms and *Escherichia Coli* (E. Coli), which is indicative of untreated sewage. Untreated sewage has been determined to be a “deleterious substance” as defined in s.34(1) of the *Fisheries Act*.

8. As a result, ECCC Enforcement Officers conducted a follow up inspection on December 2, 2019. On that date, Enforcement Officers again observed a significant volume of untreated sewage effluent flowing continuously from the outfall pipe and then along the discharge path before depositing directly into Lowden Brook.
9. The Enforcement Officers proceeded to collect additional samples of the sewage effluent flowing from the outfall pipe. Those effluent samples were then submitted to Environment Canada’s accredited Atlantic Laboratory for Environmental Testing (“ALET”) for toxicity analysis. At the time of collecting the effluent samples on December 2, 2019, the Officers noted the distinct smell of sewage from the effluent, as well as grey masses of what appeared to be used toilet paper where the outfall pipe discharged into the discharge path leading to Lowden Brook. Enforcement Officers had made similar observations at the time of the initial onsite inspection on November 20, 2019.

Deleterious Substance

10. On December 12, 2019, ALET provided a report of the results of the analysis of the effluent samples collected on December 2, 2019, from the outfall pipe. The results of a rainbow trout acute lethality test confirmed that the effluent discharged from the outfall pipe was acutely lethal to fish. The results of the acute lethality test demonstrated that the concentration of the collected sewage effluent that would be lethal to 50% of the fish exposed to it was 70.7%. All of the fish used in the conduct of the acute lethality test died within 24 hours of exposure to the 100% concentration of the effluent.
11. The untreated sewage effluent flowing from the outfall pipe and subsequently deposited directly into Lowden Brook therefore constituted a “deleterious substance” as defined in s. 34(1) of the *Fisheries Act*.
12. The volume of untreated sewage effluent deposited into Lowden Brook during the offence period cannot be established with precision. However, during the ECCC inspection on November 20, 2019, and again during the follow-up inspection on December 2, 2019, enforcement officers observed the outfall pipe to be flowing at at least 15% to 20% capacity. At that rate, the amount of untreated sewage effluent being deposited from the outfall pipe on those dates would range between 213,400 liters per day (when flowing at 15% capacity) and 384,500 liters per day (when flowing at 20% capacity).

Water Frequented by Fish

13. Lowden Brook is a tributary to the East River. The point at which the sewage effluent entered Lowden Brook is approximately 270 meters upstream of the point at which Lowden Brook converges with the East River.
14. The East River begins in the interior of Nova Scotia and flows northwards through several municipalities (including the Town of Trenton) before entering Pictou Harbour and the Northumberland Strait, which forms part of the Gulf of St. Lawrence. The East River system contains populations of a number of fish species, including speckled trout, brown trout, Atlantic salmon, and striped bass, amongst other fish species. Atlantic salmon use the East River and its upstream tributaries to spawn. Atlantic salmon in the Gaspé-Southern Gulf of St. Lawrence population, which includes those present in the East River system, have seen a population decline of 20% over three generations of fish and are listed as a “species of special concern” by the Committee on the Status of Endangered Wildlife in Canada – “species of special concern” meaning that the population may become threatened or endangered because of a combination of biological characteristics and identified threats.

15. The Lowden Brook and East River system into which the untreated sewage effluent was deposited, therefore constitute “water frequented by fish” as defined in s. 34(1) of the *Fisheries Act*.
16. In the present case, there was no overt indication of environmental harm to the impacted fish habitat as a result of the deposit of the untreated sewage effluent into the Lowden Brook and East River and no dead fish were observed.

Town of Trenton Response to the Deposit

17. Following receipt of the ALET toxicity analysis report confirming that the untreated sewage effluent being deposited into Lowden Brook was acutely lethal to fish, ECCC issued an *Inspector’s Direction* pursuant to s. 38(7.1) of the *Fisheries Act* (on December 20, 2019) requiring the Town of Trenton to take all reasonable measures to prevent the ongoing deposit of the deleterious sewage effluent into Lowden Brook.
18. In response, in early January of 2020, the Town of Trenton replaced approximately 200 feet of sewage pipe connected to the Park Road manhole from which the outfall pipe was depositing the untreated sewage effluent into Lowden Brook. During the replacement, a substantial blockage of the sewer pipe being replaced was discovered. That blockage was causing raw sewage to back up and accumulate in the Park Road manhole before discharging through the outfall pipe. This was the same sewer pipe that was subject to the previously referenced inspection by the Town of Trenton in October 2017, during which a similar blockage in the pipe was observed.
19. The sewage pipe replacement was completed on January 3, 2020. The replacement was done over two days at a cost to the Town of Trenton of approximately \$20,000. The sewer pipe replacement appeared to correct the overflow of raw sewage into the outfall pipe and the consequent deposit into the Lowden Brook. In addition, the Town of Trenton undertook to regularly inspect the outfall pipe to ensure there were no further discharges of untreated sewage.
20. The Town of Trenton was cooperative with the ECCC investigation of the offence.
21. The Town of Trenton pled guilty to one count of violating subsection 36(3) of the *Fisheries Act*. On February 15, 2024, the Town of Trenton was sentenced and given a penalty of \$100,000 to be paid within three years along with a series of court orders.
22. Failure to comply with the *Fisheries Act* can cause death to fish, destruction of fish habitat, non-lethal impacts on fish such as small size and reduced spawning success, and a risk to human health through water contamination. The Town of Trenton would like to use this as an opportunity to impress upon all citizens as well as other municipalities that compliance with the *Fisheries Act* is mandatory and is vital to safeguard the environment.
23. The Town of Trenton recognizes the importance of complying with the *Fisheries Act* in order to protect fish and fish habitat. The Town of Trenton takes full responsibility for this violation of the *Fisheries Act*. We are committed to making sure this does not happen again, through further work on our wastewater and storm water systems.

Anyone requiring a newsletter printed in larger font, call Town Hall at 902-752-5311. The newsletter is available online at: www.trenton.ca.