

ENVIRONMENTAL COMPLIANCE APPROVAL

NUMBER 8279-CAYL2J

Issue Date: January 26, 2022

Michael Borisuk & Barbara Ziegler operating as Frankie's Pumping
1066 Fourth Line
Haldimand County, Ontario
N3W 2G1

Site Location: 37 Concession 2 Walpole, Nanticoke
Lot 7, Concession 3, former Township of Walpole
Haldimand County,
UTM Zone 17, Easting 576341, Northing 4742121
N0A 1L0

You have applied under section 20.2 of Part II.1 of the Environmental Protection Act, R.S.O. 1990, c. E. 19 (Environmental Protection Act) for approval of:

the use and operation of a Hauled Sewage Disposal Site. The Hauled Sewage Disposal Site approved herein may accept Hauled Sewage only, the spreading of which is restricted to the 29.48 hectare spreading area described at Schedule A of this Environmental Compliance Approval.

Note: Use of the site for any other type of waste is not approved under this environmental compliance approval, and requires obtaining a separate approval amending this environmental compliance approval.

For the purpose of this environmental compliance approval, the following definitions apply:

DEFINITIONS

1. **"Act"** means the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended;
2. **"Approval"** means this entire environmental compliance approval including its schedules, issued under section 20.3 of II.1 of the Act;
3. **"CWA"** means the *Clean Water Act*, 2006, S.O. 2006, c. 22, as amended;
4. **"Commercial, community or institutional use"** means any commercial,

community or institutional use, including without limitation the use of land for,

- i. an office building,
- ii. a hotel, motel, hostel or similar type of accommodation,
- iii. an overnight camp or overnight campgrounds,
- iv. indoor recreational or sporting activities,
- v. indoor gatherings for civic, religious or social purposes,
- vi. indoor performing arts activities,
- vii. a railway station, airport passenger terminal or other embarkation or debarkation point for travellers,
- viii. day care centre,
- ix. educational purposes, including a school, college, university, private career college or associated residence,
- x. a health care facility, or
- xi. a penitentiary, jail or other place of custody or detention;

5. **"Company"** or **"Operator"** means Michael Borisuk and Barbara Ziegler operating as Frankie's Pumping., or its agents or assignees;

6. **"Director"** means a person appointed by the Minister pursuant to section 5 of the Act for the purposes of Part II.1 of the Act;

7. **"District Manager"** means the District Manager of the Ministry for the geographic area in which the Site is located;

8. **"Frozen"**, when used in reference to soil, means that a layer of soil with an average minimum depth of five centimetres, located within the top 15 centimetres of the soil, is consolidated by the presence of frozen moisture;

9. **"Hauled Sewage"** is as defined in R.R.O. 1990, Reg. 347, made under the Act, as amended from time to time;
10. **"Incorporation"** means the mixing of hauled sewage into the surface of soil by tillage with a minimum depth of soil disturbance of 10 centimetres;
11. **"Injection"**, in relation to the application of hauled sewage to land, means the placement of hauled sewage below the surface of the soil of the land;
12. **"Maximum Sustained Slope"** means the change in elevation from the top to the bottom of a slope divided by the length of the slope expressed as a percentage, where the slope has a minimum length of 10 metres and where the slope is towards surface water;
13. **"Ministry"** means the Ministry of the Environment, Conservation and Parks;
14. **"NMA"** means the *Nutrient Management Act, 2002*, S.O. 2002, c. 4, as amended;
15. **"OWRA"** means the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended;
16. **"PA"** means the *Pesticides Act*, R.S.O. 1990, c. P11, as amended;
17. **"Pretilled"** means land that is sufficiently disturbed by tillage to disrupt large cracks and pores that could conduct liquid materials into subsurface soil;
18. **"Reg. 347"** means Regulation 347, R.R.O. 1990, General - Waste Management, as amended, made under the Act;
19. **"Residential Area"** means an area in which there are three or more lots of not more than one hectare,
- i. that are adjacent to each other or not separated by anything other than a road allowance or right of way, and
 - ii. on each of which there is a residential building;
20. **"Sensitive use"** means Commercial, community or institutional uses, and locations at which people regularly congregate;
21. **"Site"** means the location at 37 Concession 2 Walpole, Nanticoke, Lot 7,

Concession 3, former Township of Walpole, Haldimand County, UTM Zone 17, Easting 576341, Northing 4742121, N0A 1L0, approved to receive Hauled Sewage under the Approval;

22. **"Snow-covered"**, when used in reference to soil, means that there is a layer of snow with an average minimum depth of five centimetres;

23. **"Surface Water"** means water found in lakes, ponds, rivers, streams, wetlands, swamps, artificial watercourses, intermittent watercourses and seasonally wet areas, including ditches and swales.

You are hereby notified that this environmental compliance approval is issued to you subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

1.0 GENERAL

1.1 Compliance

1. The requirements of this Approval are severable. If any requirement of this Approval, or the application of any requirement of this Approval to any circumstance, is held invalid or unenforceable, the application of such requirement to other circumstances and the remainder of this Approval shall not be affected thereby.
2. The requirements specified in this Approval are the requirements under the Act. The issuance of this Approval in no way abrogates the Company's legal obligations to take all reasonable steps to avoid violating other applicable provisions of this legislation and other legislation and regulations.
3. The Company shall ensure compliance with all the conditions of this Approval and shall ensure that any person authorized to carry out work on or operate any aspect of the Site, is notified of this Approval and the conditions herein and shall take all reasonable measures to ensure any such person complies with the same.
4. Any person authorized to carry out work on or operate any aspect of the Site shall comply with the conditions of this Approval.

1.2 Other Legal Obligations

1. The issuance of, and compliance with the conditions of the Approval does not:
 - a. relieve any person of any obligation to comply with any provision

of any applicable statute, regulation, by-law or other legal requirement; or

- b. limit in any way the authority of the Ministry to require that certain actions be taken or to require the Company to furnish any further information related to compliance with the Approval.

2. Despite the Company or any other person fulfilling any obligations imposed by this Approval, the person remains responsible for any contravention of any other condition of this Approval or any applicable statute, regulation, or other legal requirement resulting from any act or omission that caused the adverse effect or impairment of water quality.

1.3 Operate, etc. in Accordance

1. Except as otherwise provided by this Approval, the Site shall be operated in accordance with the application for an environmental compliance approval dated January 20, 2021, and with the supporting documentation submitted to the Ministry as part of the application, all listed in Schedule "A".
2. The Company, any owner of the property comprising the Site shall ensure the Site is operated in accordance with these conditions.
3. Where there is a conflict between a provision of any document referred to in Schedule "A", and the other conditions of this Approval, the other conditions of this Approval shall take precedence.
4. Where there is a conflict between the documents listed in Schedule "A", the document bearing the most recent date shall prevail.
5. The Company shall ensure that the Site is constructed and operated in accordance with these conditions.
6. The Company shall ensure that any communication/correspondence made in relation to the Site or to the Approval includes reference to the Approval number.

1.4 Change of Owner

1. The Company shall notify the Director and District Manager in writing of any of the following changes within thirty (30) days of the occurrence of any change in:
 - a. the Company;
 - b. the address or contact information of the new Company;
 - c. the owner of the property comprising the Site;
 - d. change of partners where the Company is or at any time becomes a

partnership, and a copy of the most recent declaration filed under the Business Names Act, 1991 shall be included in the notification to the Director; and

e. any change of name of the corporation where the Company is or at any time becomes a corporation, and a copy of the most current "Initial Notice or Notice of Change" (Form 1 or 2 of Ontario Regulation 182, as amended from time to time), filed under the Corporations Information Act shall be included in the notification to the Director.

2. In the event of any change in ownership of the Site, the Company shall forthwith notify in writing the succeeding owner of the existence of the Approval, and provide the successor with an up-to-date copy of the Approval and a copy of such notice shall forthwith be forwarded to the Director and District Manager.

1.5 Information

1. Any information requested by the Ministry, concerning the operation of the Site and its operation under this Approval, including but not limited to any records required to be kept by this Approval shall, upon request, be provided to the Ministry in a timely manner and in a format specified by the Ministry.
2. The receipt of any information by the Ministry or the failure of the Ministry to prosecute any person or to require any person to take any action, under this Approval or under any statute, regulation or other legal requirement, in relation to the information, shall not be construed as:
 - a. an approval, waiver, or justification by the Ministry of any act or omission of any person that contravenes any term or condition of this Approval or any statute, regulation or other legal requirement; or
 - b. acceptance by the Ministry of the information's completeness or accuracy.
3. The Company shall ensure that a copy of this Approval, in its entirety and the documentation listed in Schedule "A", are retained at the Company's office at all times.

2.0 SPILL PREVENTION AND COMPLAINT PROCEDURES

1. Prior to operating the Site, the Company shall develop written procedures covering the following:

- a. spill prevention procedures, including procedures to clean up spills when they occur;
 - b. procedures for reporting to the Ministry, and municipal authorities as required;
 - c. inspection programs for the Site;
 - d. complaint procedures for receiving and responding to public complaints, including what steps the Company took to determine the cause of the complaint and what corrective measures were taken to alleviate the cause and prevent its recurrence;
 - e. a list of the personnel responsible for the operation of the Site, along with the training these personnel have received; and,
 - f. a list of equipment, material and personnel that will be available to deal with spills.
2. The Company shall ensure that all personnel involved in the operation of the Site are aware of the requirements of the Approval and are trained in the procedures outlined in Condition 2.1, above.

3.0 OPERATIONS

1. (i) The Company shall take steps to minimize and ameliorate any adverse effect on the natural environment or impairment of water quality resulting from the Site, including such accelerated or additional monitoring as may be necessary to determine the nature and extent of the effect or impairment.
(ii) Despite the Company or any other person fulfilling any obligations imposed by this Approval, the person remains responsible for any contravention of any other condition of this Approval or any applicable statute, regulation, or other legal requirement resulting from any act or omission that caused the adverse effect to the natural environment or impairment of water quality.
2. The Owner shall operate and maintain the Site such that vermin, vectors, odour, dust, litter, noise or traffic do not result in an adverse effect.
3. Spills and upsets that cause an adverse effect, spills that are likely to enter or enter any waters, as defined in the OWRA, directly or through drainage structures, or spills of greater than 100 litres on land accessible by the public shall be immediately reported to the Ministry's Spills Action Centre at (416) 325-3000 or 1-800-268-6060 and the Company shall take appropriate remedial action to limit the impact. Information regarding all spills shall be recorded in the log book, referred to in Condition 6.1 of this Approval.
4. The storage and/or land application of Hauled Sewage is subject to the setbacks

defined in Schedule "B" of the Approval.

5. To avoid run-off from the Site,

a. Hauled Sewage shall be immediately incorporated or injected into the soil upon its application, or the soil shall be pretilled within 48 hours prior the Hauled Sewage spreading at the Site;

b. No Hauled Sewage shall be spread or disposed of at the Site when the ground is Frozen, ice-covered or Snow-covered;

c. No Hauled Sewage shall be spread at the Site when there is ponded water on the intended spreading area at the Site;

d. No Hauled Sewage shall be spread at the Site when conditions are such that Hauled Sewage, or water contaminated by Hauled Sewage, may runoff or discharge from the Site. Conditions which may lead to such runoff or discharge from the Site include precipitation events, snowmelt and flooded or saturated spreading areas.

6. Spreading of Hauled Sewage is prohibited in areas at the Site with a Maximum Sustained Slope of greater than 9%.

7. Spreading of Hauled Sewage is prohibited in any areas at the Site where the activity is or would be a Significant Drinking Water Threat as defined under the CWA.

8. Prior to spreading of Hauled Sewage at the Site, the Operator shall ensure the useable spreading area is clearly flagged, digitally designated in GPS such that the designation is readily available upon the request of a Provincial Officer, or similarly marked so as to clearly identify setbacks from sensitive features and any areas where spreading is prohibited pursuant to Condition 3 of the Approval.

9. Hauled Sewage shall only be spread at the Site at the lower of fifteen (15) litres per square metre per seven (7) days or such other lower rate that ensures that ponding at, puddling on, or runoff from the Site does not occur.

10. No processed organic waste, grease trap waste or other waste, other than Hauled Sewage, shall be stored, spread or disposed of at the Site.

11. Hauled sewage shall only be spread at the site during the time periods indicated in the table below.

Table 1: Allowable Duration of Application of Hauled Sewage

Maximum Sustained Slope	Soil Permeability ¹	Allowable Duration of Application
		Southern Ontario
0 to 3%	Any soils where Percolation Time ² > 1 minute per cm	April 1 to November 30
3 to 6%	Rapid to moderately rapid	April 1 to November 30
3 to 6%	Moderate to slow	May 1 to November 30
6 to 9%	Rapid to moderately rapid	May 1 to November 30
6 to 9%	Moderate to slow	May 1 to November 30 (but only for application by injection or spreading and immediate incorporation)

Notes:

¹The Company (or qualified consultant) is responsible for ensuring that the soil permeability of the soils is properly classified in accordance with currently accepted engineering and hydrogeological practices and submitting documentation as to the classification.

² Percolation Time means the average time in minutes that is required for water to drop one (1) centimetre during a soil percolation test as determined by the test or other appropriate means.

4.0 STORAGE

1. No Hauled Sewage shall be stored pursuant to this Approval at the Site.

5.0 AGRICULTURAL USE OF SPREADING AREAS

1. It is the responsibility of the Company to ensure that the future intended uses of the Site are known and to make decisions for spreading based on this information. The use of the area used for the spreading of Hauled Sewage at the Site is limited as follows:
 - a. harvest of crops for domestic consumption for this area shall not occur within twelve (12) months, and only after working the Hauled Sewage into the soil;

- b. grazing of livestock shall not occur at this area within six (6) months of Hauled Sewage application;
- c. feed crop harvests shall not occur at this area within three (3) weeks of Hauled Sewage application; and
- d. commercial sod harvest shall not occur at this area within twelve (12) months of Hauled Sewage application.

6.0 RECORD KEEPING

1. The Company shall maintain written records in a log book detailing the following:

- a. a complete and up-to-date record showing, where, when and how much Hauled Sewage was spread, stored or disposed of at the Site;
- b. the nature of any spill or upset occurring at the Site and the actions taken to clean-up the spill or upset and the steps taken to prevent a re-occurrence; and
- c. all complaints received related to the Site or its operations and any actions taken to address complaints.

2. All records and monitoring data required by the conditions of this Approval must be kept on the premises of the Company for a minimum period of five (5) years from the date of their creation.

3. It is a condition of this Approval under the Act that the Company must forthwith, upon the request of a Provincial Officer or other authorized ministry employee, permit Provincial Officers to carry out inspections authorized by section 156, 157 or 158 of the Act, section 15, 16 or 17 of the Ontario Water Resources Act, R.S.O. 1990 or section 19 or 20 of the PA of any place, other than any room actually used as a dwelling, to which this Approval relates.

7.0 CESSATION DATE OF WASTE ACCEPTANCE

- 1. The Company shall not accept Hauled Sewage at the Site after the date listed as the cessation of waste acceptance date below.

2. By no later than six (6) months prior to the cessation of waste acceptance date, the Company shall notify the Director of whether it intends to cease operations at the Site or whether it intends to submit an application to the Ministry for an amendment to the Approval to extend the cessation of waste acceptance date.
3. The cessation of waste acceptance date for this Approval is December 1, 2024

SCHEDULE "A"

This Schedule "A" forms part of the Approval:

1. Application for Approval of Hauled Sewage (septage), Sewage Biosolids and Other Wastes, dated January 20, 2021, and signed by Michael Borisuk and Barbara Ziegler of the Company.
2. Emails dated January 21, 2021, March 9 and March 25, 2021, April 16, 2021, June 1, 2021, January 17 and January 21, 2022, providing additional information and supporting documents, from James Kaspersetz on behalf of the Company.
3. Emails dated January 17 and January 21, 2022, providing confirmation that the proponent agrees to immediately incorporate/inject the hauled sewage to avoid runoff, from James Kaspersetz on behalf of the Company.

SCHEDULE "B"

SITE SETBACK REQUIREMENTS

This Schedule "B" forms part of this Approval:

1. The portion of the Site approved for spreading or storage is subject to the following setbacks:
 - a. a minimum of 450 metres from sensitive uses, unless the Hauled Sewage is injected or incorporated into the soil within 24 hours of application, in which case the separation distance may be reduced to 100 metres;
 - b. a minimum of 450 metres from a residential area, unless the Hauled Sewage is injected or incorporated into the soil within 24 hours of application, in which case the separation distance may be reduced to 100 metres;
 - c. a minimum of 90 metres from a single residence, unless the Hauled Sewage is injected or incorporated into the soil within 24 hours of application, in which case the separation distance may be reduced to 50 metres;

- d. a minimum of 30 metres from a public roadway unless the Hauled Sewage is injected or incorporated into the soil within 24 hours of application, in which case the separation distance may be reduced to 15 metres;
- e. a minimum of 90 meters from private water wells;
- f. a minimum of 100 metres from municipal drinking water wells; and
- g. setbacks to surface waters as detailed in the Table 2 below.

Table 2: Setbacks from surface waters

Maximum Sustained Slope	Setbacks for sites where Hauled Sewage is immediately Incorporated or Injected into the soil
0 - 3%	60 metres
3 - 6%	120 metres
6 - 9%	180 metres
greater than 9%	No spreading, Injection, Incorporation and/or storage of Hauled Sewage permitted

Notes:

¹ The Company (or qualified consultant) is responsible for ensuring that the soil permeability of the soils is properly classified in accordance with currently accepted engineering and hydrogeological practices and submitting documentation as to the classification.

The reasons for the imposition of these terms and conditions are as follows:

REASONS

1. The reason for Section 1.0 (General) conditions is to clarify the legal rights and responsibilities of the Company.
2. The reason for Section 2.0 (Spill Prevention and Complaint Procedures) conditions is to ensure that the Company's and/or Operator staff can identify Site problems and deal promptly and effectively with any spills and upsets, and any public complaints that may occur.
3. The reasons for Section 3.0 (Operations) conditions are:
 - a. to ensure that the Site is operated in a manner which does not result in an adverse effect to the health and safety of the environment or people.
 - b. to ensure that only the area reviewed and recommended in the Site assessment, subject to the listed setbacks, is used for spreading.
 - c. to ensure that land application restrictions are established based on the slope of land, type of soil and the period of use in any calendar year to promote the

seepage of Hauled Sewage down into the underlying overburden.

- d. the prohibitions will prevent Hauled Sewage spreading when there is a risk of runoff.
- e. to ensure that the type and amount of Hauled Sewage accepted for spreading on agricultural lands, and the spreading activities, are in accordance with that approved under this Approval.
- f. to ensure that loading rates on the soil are strictly controlled under the sludge utilization program for Hauled Sewage. Fields used for this program cannot be used for processed organic waste spreading and vice versa.

4. The reason for Section 4.0 (Storage) condition is to ensure Hauled Sewage is stored in a manner that minimizes the likelihood of spills and that does not present a hazard to the health and safety of the environment or people.

5. The reason for Section 5.0 (Agricultural Use of Spreading Sites) conditions is to ensure that there is an adequate time lapse between the use of an area for disposal of Hauled Sewage and the use of the area for the specified land uses so that animals and harvest crops are not exposed to residual substances of concern associated with the Hauled Sewage disposal.

6. The reason for Section 6.0 (Record Keeping) conditions is to ensure that the Site is operated in accordance with the application and supporting information submitted by the Company, and not in a manner which the Director has not been asked to consider.

7. The reason for Section 7.0 (Cessation Date of Waste Acceptance) conditions is to ensure a periodic review of the instrument occurs to ensure the Site operations and associated impacts have not resulted in adverse effects on the land as a consequence of continuous long-term use.

Upon issuance of the environmental compliance approval, I hereby revoke Approval No.

17-HAM-70567 issued on November 8, 2017.

In accordance with Section 139 of the *Environmental Protection Act*, you may by written notice served upon me, the Ontario Land Tribunal and in accordance with Section 47 of the *Environmental Bill of Rights*, 1993, the Minister of the Environment, Conservation and Parks, within 15 days after receipt of this notice, require a hearing by the Tribunal. The Minister of the Environment, Conservation and Parks will place notice of your appeal on the Environmental Registry. Section 142 of the *Environmental Protection Act* provides that the notice requiring the hearing ("the Notice") shall state:

- a. The portions of the environmental compliance approval or each term or condition in the environmental compliance approval in respect of which the hearing is required, and;
- b. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

The Notice should also include:

1. The name of the appellant;
2. The address of the appellant;
3. The environmental compliance approval number;
4. The date of the environmental compliance approval;
5. The name of the Director, and;
6. The municipality or municipalities within which the project is to be engaged in.

And the Notice should be signed and dated by the appellant.

This Notice must be served upon:

Registrar*
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, Ontario
M5G 1E5
OLT.Registrar@ontario.ca

and

The Minister of the Environment,
Conservation and Parks
777 Bay Street, 5th Floor
Toronto, Ontario
M7A 2J3

and

The Director appointed for the purposes of
Part II.1 of the *Environmental Protection Act*
Ministry of the Environment, Conservation
and Parks
135 St. Clair Avenue West, 1st Floor
Toronto, Ontario
M4V 1P5

*** Further information on the Ontario Land Tribunal's requirements for an appeal can be obtained directly from the Tribunal at: Tel: (416) 212-6349 or 1 (866) 448-2248, or www.olt.gov.on.ca**

This instrument is subject to Section 38 of the *Environmental Bill of Rights*, 1993, that allows residents of Ontario to seek leave to appeal the decision on this instrument. Residents of Ontario may seek leave to appeal within 15 days from the date this decision is placed on the Environmental Registry. By accessing the Environmental Registry at <https://ero.ontario.ca/>, you can determine when the leave to appeal period ends.

The above noted activity is approved under s.20.3 of Part II.1 of the *Environmental Protection Act*.

DATED AT TORONTO this 26th day of January,
2022

Mohsen Keyvani, P.Eng.
Director
appointed for the purposes of Part
II.1 of the *Environmental
Protection Act*

RP/

c: District Manager, MECP Hamilton - District

James Kaspersetz, Ontario Environmental Assessments