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## Provincial Officer's Report

**Order Number**  
8312-8V6LSG

2241960 Ontario Inc.  
Earthworx Industries  
159 Roseborough Drive  
Port Perry, Ontario  
L9L 2E3

And

Gordon Churchill  
159 Roseborough Drive  
Port Perry, Ontario  
L9L 2E3

And

Claudio Villa  
23 Leora Court  
Richmond Hill, Ontario  
L4C 7N3

And

Natalie Walsh  
2005 Burnham Line  
R.R. No. 8  
Peterborough, Ontario  
K9J 6X9

And

1745491 Ontario Inc.  
Green for Life Environmental East Corporation  
1070 Toy Avenue  
Pickering, Ontario

L1W 3P1

And

Patrick Dovigi  
40 King Street West  
Toronto, Ontario  
M5H 3Y2

And

Dino Chiesa  
40 King Street West  
Toronto, Ontario  
M5H 3Y2

**Site**

171 County Road No. 2 former South Monaghan Township  
Otonabee-South Monaghan, County of Peterborough

**Observations**

**Definitions:**

"Qualified Consultant" means a person who has obtained the appropriate education and training and has demonstrated experience and expertise in the areas relating to the work required to be carried out in this Provincial Officer's Order. The Qualified Consultant shall be a Professional Engineer and/or Professional Geoscientist, of good standing within their respective professional associations, in the Province of Ontario.

"Contaminated Fill" means the fill material that exceeds Table 2 and/or Table 3 soil standards in Ontario Regulation 153/04 for agricultural land use that was deposited at the Site by 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) using 2241960 Ontario Inc. (o/a Earthworx Industries).

**Authority to Issue Order:**

This Order is being issued pursuant to my authority under EPA Section 157.1, EPA Section, 196(1) and EPA Section 157.

I am issuing this Order as I believe on reasonable and probable grounds that 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) using 2241950 Ontario Inc. (o/a Earthworx Industries) contravened Condition 35(g) of Environmental Compliance Approval No.

A680301, by causing processed soil or fill material that does not meet Table 1 Standards for Agriculture or Other Property Use as defined by Section 41 of O.Reg 153/04 to be deposited on agricultural land in violation of EPA section 27.

I am also issuing this Order as I believe on reasonable and probable grounds that the processed soil or fill material which exceeds Table 2 and/or Table 3 soil standards in Ontario Regulation 153/03 for agricultural land use (the Contaminated Fill), that was deposited at the Site by 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) using 2241960 Ontario Inc. (o/a Earthworx Industries) is likely to; adversely affect the growth of some plants, should not be placed on an agricultural field, and that the lead levels in the Contaminated Fill could have a negative impact on sheep. Therefore, I am also issuing this Order under EPA section 157.1 to prevent, decrease or eliminate the adverse effect that may result from the presence or discharge of a contaminant from the processed soil or fill material in and on the Site.

The orderes and their connection to the deposition of the Contaminated Fill are as follows;

2241960 Ontario Inc. (o/a Earthworx) for arranging for the deposition and depositing the Contaminated Fill at the Site.

Gordon Churchill, Claudio Villa and Natalie Walsh are Directors of 2241960 Ontario Inc, and as such are in charge, management and control of the activities of that company.

The Contaminated Fill originated from the Waste Disposal Site (Processing and Transfer) owned and operated by 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) and the deposition of the Contaminated Fill is a violation of Environmental Compliance Approval No. A680301 Condition 35(g) issued to them.

Patrick Dovigi and Dino Chiesa are Directors of 1745491 Ontario Inc., and as such are in charge, management and control of the activities of that company.

### **Summary of Events Leading up to this Order:**

Based on reasonable and probable grounds, it is my understanding that 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) using 2241960 Ontario Inc. (o/a Earthworx Industries) commencing on or about July 22, 2011 deposited approximately 700 dump truck loads of Contaminated Fill material at 171 County Road No. 2, Lot 3, Concession A, former South Monaghan Township, Otonabee-South Monaghan, County of Peterborough (the Site).

It is also my understanding that the Contaminated Fill deposited at the Site exceeds Table 2 and/or Table 3 soil standards in Ontario Regulation 153/04 for agricultural land use. It is my understanding that depositing or causing the deposition of this Contaminated Fill on the Site is a violation of condition 35 (g) of Provisional Certificate of Approval (Waste Disposal Site), now an Environmental Compliance Approval No. A680301.

It is my understanding that Mr. Ruco Braat (the Property Owner) is the owner of the Site. It is

also my understanding that the Property Owner arranged with 2241960 Ontario Inc. (o/a Earthworx Industries) to bring the Contaminated Fill to the Site and accepted the fill material based on the premise that the material was clean fill material which was acceptable for his agricultural property. Mr. Braat was assured by 2241960 Ontario Inc. (o/a Earthworx Industries) that the fill material was appropriate for agricultural land, but was not supplied with any sample results that verified the quality of the fill material.

It is my understanding that 1745491 Ontario Inc. (o/a Green for Life Environmental East Corporation) completed a "Soil Reuse & Destination Profile" dated July 22, 2011, for the fill material that was deposited at the Site, and that document indicated that the Site was "Industrial/Commercial" and that the fill material met Table 2 standards in Ontario Regulation 153/04. The "Soil Reuse & Destination Profile" did not indicate that the receiving Site was a residential and agricultural site, despite the provision in the document to do so. The Site includes a residence and several barns. The "Soil Resuse and Destination Profile" document was signed by Sean Goldberg an employee of 1745941 Ontario Inc. (o/a Green for Life Environmental East Corporation).

It is my understanding that subsequent to the Contaminated Fill being deposited at the Site, two random samples of the fill material were taken and received at SGS Canada Inc. laboratory located in Lakefield Ontario, on August 26, 2011 and September 20, 2011, respectively . The fill material was analysed by SGS Canada Inc., which is accredited under ISO - 17025 to complete the analysis.

The results of the laboratory testing by SGS Canada Inc. show high concentrations of the following metals: Cadmium, Copper, Lead and Zinc. The results are above the Ministry's standards for agricultural property. Of particular concern are the copper concentrations as the Property Owner is a sheep farmer and the Property Owner has indicated that elevated copper concentrations can be detrimental to the health of sheep. The Property Owner has indicated that he would not have accepted the fill material if it was known that the fill material contained elevated metals levels.

Ministry staff believed that it was in the public interest that the Company undertake additional detailed testing of the fill material at the Site to verify that the fill material met the appropriate Ministry criteria for the Site. Therefore, on November 10, 2011, Provincial Officer's Order No. 1231-8MYS4V was served to Natalie Walsh, Vice President of 2241960 Ontario Inc. at her residence. The Order required 2241960 Ontario Inc. to:

1. By November 16, 2011, 2241960 Ontario Inc. shall submit to the undersigned Provincial Officer an Action Plan. The Action Plan shall be authored by a qualified consultant/ person and shall include, but not necessarily be limited to the following information:
  - a detailed description of the necessary action(s) that need to be undertaken to properly characterize the soil material that 2241960 Ontario Inc. deposited at the above site,
  - a detailed sampling plan and description of work,
  - a detailed schedule of work that provides dates of when the work will be completed by no later than November 23, 2011.,
2. Upon receiving written notice of the acceptance or alteration of the Action Plan by the Ministry, 2241960 Ontario Inc. shall forthwith implement the Action Plan. The Action Plan shall

be carried out in the specified time-frames contained in the Action Plan. and,  
3. Within seven (7) days of the completion of the action(s) specified in the Ministry approved Action Plan, 2241960 Ontario Inc. shall submit to the undersigned Provincial Officer a report authored by a qualified consultant/ person detailing all of the results and findings from the work completed to implement the Action Plan.

2241960 Ontario Inc., did not comply with Provincial Officer's Order No. 1231-8MYS4V, or request a review of the Order. Non-compliance of the Order has been referred to the Ministry's Investigation and Enforcement Branch. The Investigation and Enforcement Branch requested the assistance of the Ministry's Environmental Monitoring and Reporting Branch (Terrestrial Assessment Unit) in conducting a screening level soil survey to the quality of the fill material deposited by 2241960 Ontario Inc. (Earthworx Industries) on the Braat property. The Ministry's Environmental Monitoring and Reporting Branch's (EMRB) "Assessment of Fill Material on the Braat Farm, Bailieboro, Ontario (2012)" May 14, 2012 report, a copy of which is attached hereto as Attachment A, concluded in part that "Overall, the fill material deposited on the Braat farm was contaminated with metals and organic compounds at concentrations that are likely to adversely affect the growth of some plants."

Greg Faaren P. Geo, hydrogeologist with the Ministry's Eastern Region Technical Support section provided the following comments regarding the EMRB report;

"I had a look at the information you sent regarding the soil sent to the Braat Farm in Bailieboro. The report from EMRB states that several samples exceeded the MOE Table 2 standards for metals and/or PAHs. The metals exceedances included cadmium, copper, lead and zinc at concentrations that also exceed the MOE Table 3 commercial/industrial standards as well as the Table 2 standards. I also note that several of the PAH analyses also exceed the 2011 MOE Table 3 standards. The report also indicates that the soil also contains trace amounts of waste including copper wire, coal, rubber, glass, asbestos, slag, paint chips and cotton fibre. It is my opinion that this material should not be placed on an agricultural field. It is recommended that this material be removed from the Braat Farm property and appropriately disposed off."

Christoph Wand, a Beef Cattle and Sheep Nutritionist with the Ontario Ministry of Agriculture, Food and Rural Affairs provided the following comments regarding the EMRB report;

"Beyond the well documented issues around copper sensitivity that sheep are prone to, there are several heavy metals in the fill material that are also at levels of concern, to my understanding. Of specific concern to me are Cadmium, and Lead which are significantly elevated in the fill material relative to the hay field soil tests provided in the Braat farm case reports. Lead toxicity could result in neurological issues and death, and both cadmium and lead can be accumulated in the body. Reference: <http://www.ncbi.nlm.nih.gov/pubmed/12798097> ."

I reasonably believe that the requirements specified in this Order are necessary or advisable so as to prevent or reduce the risk of a discharge of a contaminant into the natural environment from the Site and to prevent, decrease or eliminate an adverse effect that may result from the discharge of a contaminant from the operations on the Site.

I reasonably believe that the Contaminated Fill deposited by the 1745491 Ontario Inc. (o/a Green for Life Environmental East Company) using 2241960 Ontario Inc. (o/a Earthworx Industries) at

the Site may cause adverse effects such as impairment of the quality of the natural environment for any use that can be made of it, injury or damage to property, harm or material discomfort to any person, impairment of the safety of any person, loss of enjoyment of normal use of property and interference with the normal conduct of business.

I reasonably believe that it is necessary to issue this Order to ensure compliance with Provisional Certificate of Approval (Waste Disposal Site) No. A680301.

I reasonably believe that it is in the public interest that this Order be issued to ensure the protection of public health and the natural environment.

**Offence(s)**

<b>Suspected Violation(s)/Offence(s):</b>	
<b>Act - Regulation - Section, Description {General Offence}</b> 1) EPA - 27 (1), No person shall use, operate, establish, alter, enlarge or extend a waste management system or a waste disposal site except under and in accordance with an environmental compliance approval {186 (1)}	



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Doug Johnston  
Provincial Officer  
Badge Number:  
Date: 2012/07/25  
District Office: Peterborough District Office