

Road Salt Leads to Environmental Hyper-Tension

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Some might think that spreading road salt is a typical Canadian winter pastime, just like snowshoeing or snowball fights. As Mr. Bousfield found out, the storage and use of salt can lead to serious consequences. Mr. Bousfield recently pled guilty to discharging a contaminant, namely road salt, contrary to the Environmental Protection Act. Municipalities and other property owners who regularly apply salt should take note.

Regulatory Charges

Mr. Bousfield stored road salt in an outdoor, non-waterproof structure on his property. The structure was located at the edge of Mr. Bousfield's property line with his neighbour. Mr. Bousfield's neighbour had a row of mature cedar trees immediately adjacent to the salt storage structure.

The Ministry of the Environment and Climate Changed (MOECC) investigated, and later alleged that water runoff from the salt storage structure caused the trees closest to the structure to start turning brown. The MOECC charged Mr. Bousfield for discharging a "contaminant" that caused or was likely to cause an adverse effect. The MOECC's expert opined at trial that the salt migrated to the rooting zone of some cedars and likely led to their injury or death.

Mr. Bousfield pled guilty to the charge against him and was fined \$5,000 plus the mandatory 25% victim fine surcharge. Mr. Bousfield also paid \$16,000 to his neighbour as restitution for the damaged trees.

Civil Liability

Improper road salt storage and dispersal can be a lightning rod for environmental liability. Along with regulatory prosecutions, there have been several recent civil cases resulting from damage due to road salt contamination.

In 2015, the Superior Court awarded damages in *Steadman v. Corp. of the County of Lambton*. Joseph Steadman began to suspect damage to his crop caused by the County's use of road salt in the mid-1990s.

The Steadmans discovered that the County's application of road salt was more than 50 percent higher than the Ontario Ministry of Transportation recommendations. Environmental investigations determined that the crop damage was caused by runoff and blowing salt from the adjacent municipal road.

The Court accepted that road salting serves a public interest of maintaining road safety. However, the court found that neither the social utility of the activity (including public safety) nor the lack of negligence in the application of salt precluded liability in nuisance. The Court awarded damages in the amount of \$45,000 for 15 years of crop losses, \$56,700 for diminution of property value, and \$5,652 for the Plaintiffs' costs in investigating the claim.

Impacts on Drinking Water

The impact of road salt on municipal drinking water systems continues to grow as an area of environmental concern. Sodium and chloride from winter salt has found its way into municipal drinking water sources, attracting regulatory attention under the *Clean Water Act*, through source protection plans.

In source protection regions, where salt is a significant drinking water threat, provincially trained and certified Risk Management Officers have the authority to negotiate Risk Management Plans (RMPs) with owners of roads and parking lots, and ultimately order measures if negotiations fail. RMPs may include measures to minimize salt usage while maintaining road safety, require best practices and salt application training.

There are practical steps that municipalities and property owners who apply road salt can take. The 'Smart About Salt Council' is a not-for-profit organization which offers training to improve winter salting practices. The Council recognizes and certifies industry leaders through its certification program.

When storing, using or discharging any contaminant - road salt included - whether you're a municipality or a property owner, consider taking steps to reduce your blood pressure.

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