

Ontario's Drainage Legislation



**Grey County
Agricultural
Advisory
Committee
Meeting**

October 19, 2023

Overview – Drainage

Drainage is essential for:

- Agriculture
- Roads
- Residential, Commercial and Industrial properties
- Urban and Rural settings

Consists of a combination of private drainage systems and communal systems which eventually provide outlet to natural watercourses

Roadside ditches are an example of a private drainage system owned and operated by the municipality. The exception to this statements is a roadside ditch constructed under the Drainage Act.



Tile Loan Program



Tile Loan Program

HISTORY: Tile Drainage Act passed in 1878

PURPOSE: Provide owners of agricultural land with access to loans for the installation of tile drainage systems through their local municipality.

TERMS:

- 10 year term loan at fixed 6% interest rate
- can receive a loan of up to 75% of the cost of the work to a maximum of \$50,000

Tile Loan Program

PROCESS:

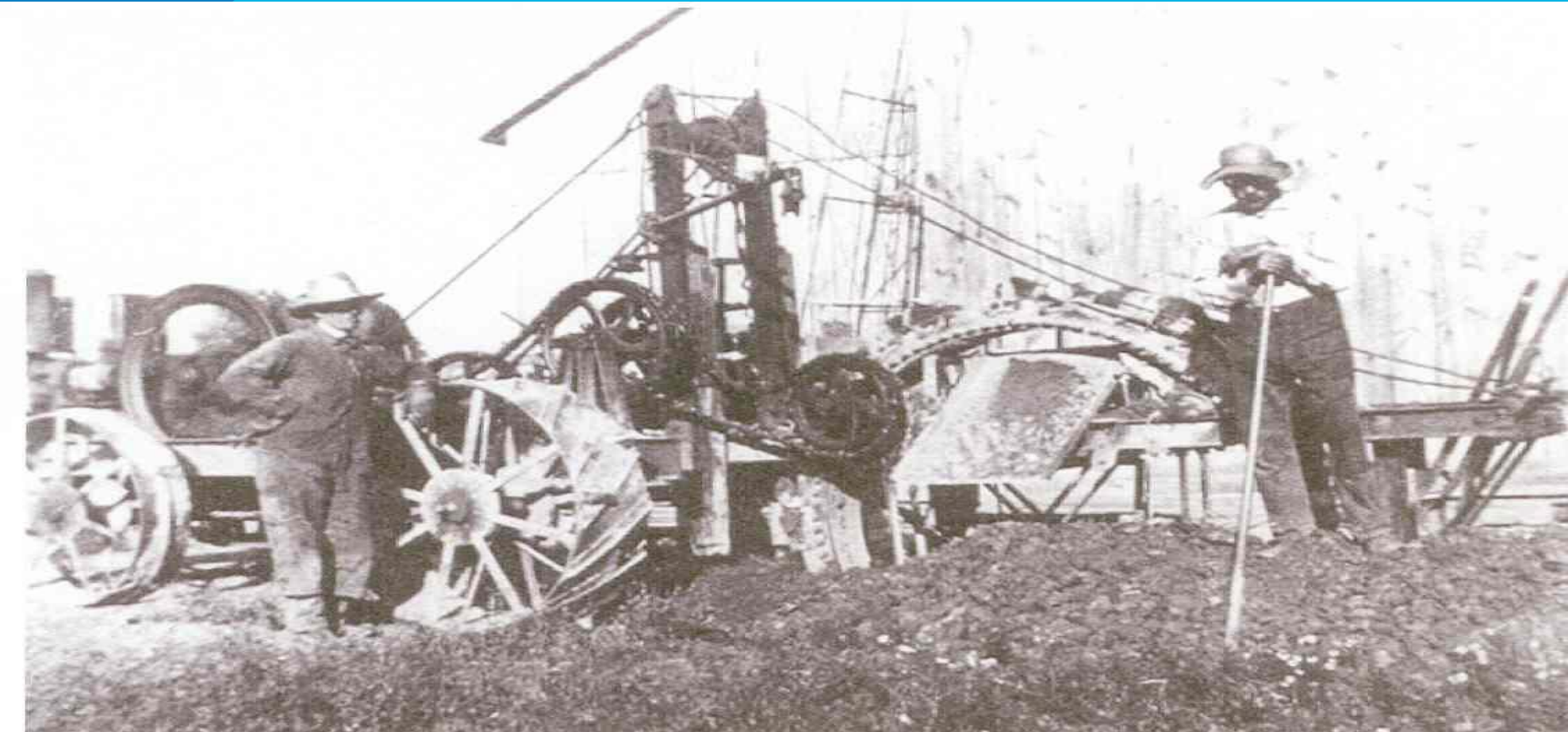
- Owner applies to municipal council for the loan; upon approval, arranges to get drainage work completed
- Municipal tile inspector inspects and certifies that the work has been completed.
- Municipality sells a debenture to the Province; funds extended to municipality who passes it to applicant
- Municipality passes a levying by-law - annual repayments the same status as property taxes
- Municipality collects the repayments from applicant and passes it on to the province.

Tile Loan Program

Attractions of the Tile Loan Program:

- Simple application process
- Alternate source of financing
- Longer term loan
- Redemption can be made at any time without penalty
- Repayments have the same status as property taxes

Agricultural Tile Drainage Installation Act



Agricultural Tile Drainage Installation Act

HISTORY: Legislation passed in 1973

PURPOSE:

- Protect agricultural property owners.

APPLICATION:

- Act applies to installation of tile drainage systems on agricultural land only

Licenses are required for:

- Tile Drainage Machines
- Tile Drainage Machine Operators
- Tile Drainage Businesses

Agricultural Tile Drainage Installation Act

Three Classes of Operator Licenses:

- Class C:
 - 60 days experience in tile drainage
- Class B:
 - Primary Drainage Course (5 days)
 - 250 hours machine operating experience
- Class A:
 - Advanced Drainage Courses (6 days)
 - 500 hours total machine operating experience
 - Field Test conducted by Provincial Tile Inspector

Agricultural Tile Drainage Installation Act

- **Drainage Machines**
- Every tile drainage machine must be licensed
- Does not apply to backhoes/excavators
- Every new model of machine is tested
- Testing not required for every new machine of an approved model
- New license for a used machine - inspection

Agricultural Tile Drainage Installation Act



Wolfe Plow



Bron Plow



Tait Plow



Wheel Machine

Agricultural Tile Drainage Installation Act

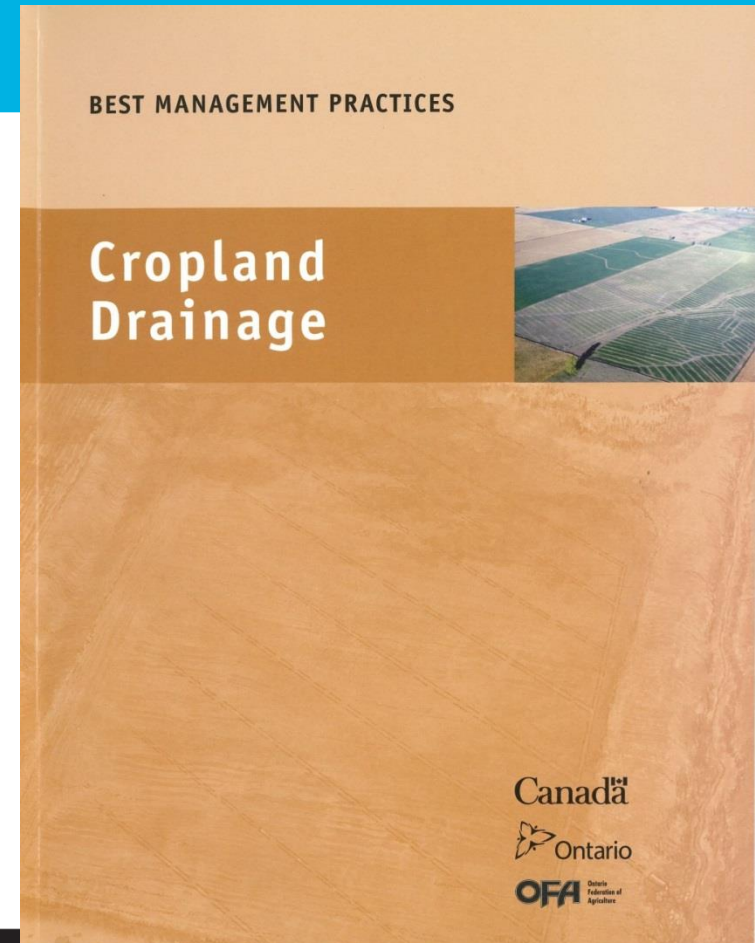
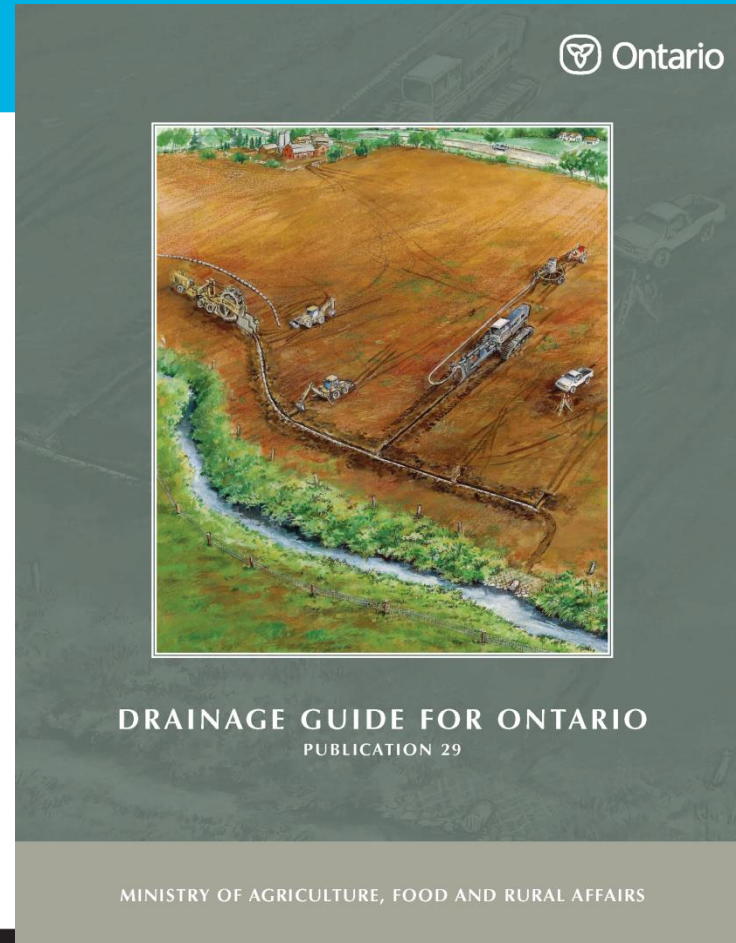
- **Licensed Businesses**
- Requires licensed machine
- Requires licensed Class “A” operator
- Businesses are ultimately responsible to ensure that tile drainage systems are properly designed by their operators and installed by the machines and machine operators.

Agricultural Tile Drainage Installation Act

- **The Provincial Tile Drainage Inspector**
- Appointed by the province
- Has authority to inspect workmanship of the contractor & machines & operators
- Inspector's report can be grounds to suspend or revoke licenses

Agricultural Tile Drainage Installation Act

Technical Documents



Agricultural Tile Drainage Installation Act

- **Approvals**
- No permits or approvals are required for agricultural property owners to install a tile drainage system
- Some conservation authorities require approvals/permits to connect the system to an outlet

Outlet Drainage:



Common Law:

Courts have indicated:

- Potential liability if natural watercourses are modified
- Surface water has no right of drainage
- Potential liability for collected surface water.

Outlet Drainage:



Overriding the Limitations of Common Law

Drainage Act was passed to provide property owners with a process to solve drainage problems.

- Built predominantly on private land
- Funded through a levy on the lands in the watershed of the drain
- Municipal infrastructure

The Drainage Act

The Petition Drain Process:

1. Property owner(s) petition municipal council for a solution to drainage problems
2. Council accepts petition and appoints an engineer
3. Engineer conducts an on-site meeting with owners
4. Engineer performs field survey & drain design
5. Engineer obtains any approvals, produces final report and submits it to municipal council

The Drainage Act

The Petition Drain Process:

6. Municipal council hosts meeting with owners
7. Owners have right to appeal financial, technical and legal aspects of the report
8. After appeals, council adopts the Report by By-law
9. By-law authorizes the construction of the drain (end product is known as a “municipal drain”).
10. Costs are levied to the property owners

The Drainage Act

Features of a Municipal Drain:

- Legal existence through a municipal by-law that adopts an engineer's report
- Municipal infrastructure – after it is built, the municipality is responsible for management (potential liability if they don't perform their duties)
- Predominantly built on private land, but the municipality acquires a right of entry onto land
- Provincial grants available.

The Drainage Act

Approvals and Issues:

Communal Outlet Drainage System:

- Fisheries Act (federal)
 - *Drains Action Working Group*
- Species at Risk Act (federal)
- Conservation Authorities Act (provincial)
 - *Drainage Act & S.28 Resolution Team*
- Endangered Species Act (provincial)

Contact Information:

Tim Brook

Drainage Program Coordinator

timothy.brook@ontario.ca

519-766-3651

Andy Kester

Drainage Analyst / Inspector

andy.kester@ontario.ca

519-835-6074

Kaleta Ataw

Drainage Analyst

kaleta.ataw@ontario.ca

226-979-7096

Becky Curran

Administrative Service Representative

becky.curran@ontario.ca

226-971-2784