



**The Corporation of the  
City of Kawartha Lakes**  
322 Kent Street West P.O. Box 9000  
Lindsay, ON K9V 5R8  
Phone: 705-324-9411, Ext. 1167  
Fax: 705-324-2982

## **Memorandum**

**Date:** August 6, 2020  
**To:** Drainage Board  
**From:** Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets  
**Re:** Direction of Engineer to Proceed with Drainage Report  
MacEachern Brown Municipal Drain  
**CC:** Juan Rojas Director of Engineering and Corporate Assets  
Mike Farquhar, Supervisor of Technical Services.

---

### **Recommendation:**

**Recommend that** the memorandum from L. Feitler, Drainage Superintendent - Engineering and Corporate Assets, dated July 14, 2020, regarding the direction of Engineer to proceed with drainage report be received;

**That** the Drainage Board directs the appointed Engineering Firm D. M. Wills to proceed with an Engineer's Report under the provisions of the *Drainage Act, R.S.O. 1990, c. D.17*;

## **Background:**

The City of Kawartha Lakes received a petition for drainage works on September 3<sup>rd</sup>, 2019. A drainage board meeting was held to discuss the petition on September 17<sup>th</sup>, 2019 and subsequently a Council meeting was held on October 22, 2019 where the following resolution was passed:

### **MacEachern / Brown Petition Drain**

Mike Farquhar, Supervisor, Technical Services

### **CR2019-585**

**That** Report ENG2019-023, **MacEachern / Brown Petition Drain**, be received;

**That** Council proceeds with the petition submitted by D.S. & B. Farms Inc., Robert MacEachern and Lynda MacEachern for drainage works by owners for Lot 17 Con 3, Lot 16 Con 3 and Lot 16 Con 2 in the Former Eldon twp., and instruct the City Clerk to proceed with the notices required under Section 5 of the Drainage Act; and

**That** Council appoints and retains, D.M. Wills and Associates Limited, in accordance with the Drainage Act, as the Engineer of Record for the petition and to proceed with the requirements of a petition drain.

There were delays to the on-site meeting due to both weather and health and safety. The on-site meeting was tentatively planned for the spring when existing conditions of the land could be observed. The Corona Virus also delayed the on-site meeting until the gathering limit imposed by the provincial government was lifted to 10 people.

The section 9 on-site meeting was held on July 7<sup>th</sup>, 2020. Both petitioners as well as land owners in the projected watershed were invited to attend. Following the meeting, the Engineer determined the petition is valid under Section 4(1)(b) of the *Drainage Act, R.S.O. 1990, c. D.17*.

Section 4 of the *Drainage Act, R.S.O. 1990, c. D.17* states:

### ***Petition Drains***

#### ***Petition***

**4 (1)** *A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,*

*(a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;*

*(b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;*

*(c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, despite subsection 61 (5);*

*(d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director. R.S.O. 1990, c. D.17, s. 4 (1)*

### **Alternatives:**

1. Proceed with a Preliminary Report containing a sketched plan and an estimate of the cost of the drainage works.

### **Recommendation for appointment of a Drainage Engineer:**

Following a competitive procurement process and Council resolution, D.M. Wills has already been retained as the appointed Engineering firm for the MacEachern-Brown Municipal Drain under Section 8 of the provisions of the *Drainage Act, R.S.O. 1990, c. D.17*;

### **Attachments:**

Appendix A - Section 9 on-site meeting minutes.

Appendix B - Petition for the MacEachern Brown municipal drain.

Appendix C - Letter from Engineering Firm D. M. Wills validating petition.

Appendix D - Site drawing from Engineering Firm D. M. Wills.

Appendix E - Memo to drainage board from Lucas Feitler, Drainage Superintendent dated September 11, 2019.

Appendix F – Emails regarding petition from landowners in estimated watershed.



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**That** Council appoints and retains, D.M. Wills and Associates Limited, in accordance with the Drainage Act, as the Engineer of Record for the petition and to proceed with the requirements of a petition drain.

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PARTNERS IN  
ENGINEERING

## Meeting Minutes

<b>Project Name:</b>	MacEachern Brown Municipal Drain
<b>Project No.:</b>	19-5377
<b>Type of Meeting</b>	On-Site Meeting
<b>Meeting Date:</b>	July 7, 2020
<b>Meeting Time:</b>	11:00 a.m.
<b>Report Date:</b>	July 13, 2020
<b>Recorder:</b>	Mark Hoar for Ken Smith
<b>Meeting Location:</b>	1963 County Road 46, Woodville, Ontario

### Requested Attendees:

Name	Title	Company
• Lucas Feitler	Drainage Superintendent	City of Kawartha Lakes (CKL)
• Mike Farquhar	Supervisor, Tech. Service	CKL
• Ken Smith	Project Manager	D.M. Wills Associates Limited (Wills)
• Mark Hoar	Project Engineer	Wills

### Local Residents:

- Robert MacEachern
- John Mackintosh
- Karen Buck-Mackintosh
- Bill Perry
- Scott Brown
- Christena Mitchell
- Kevin Mitchell
- Garry Hopkins
- Christine Halbot
- Dave Brown

### Purpose of Meeting:

To satisfy Section 9(1) and 9(2) of the Drainage Act for the MacEachern Brown Municipal Drain project.



Item	Description	Action By
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**1. Health and Safety**

- Due to Covid-19 health concerns the meeting started with Health and Safety protocols.
  - Protective masks were offered, social distancing was maintained and hand sanitizer / disinfectant was offered for sign-in.
  - Meeting was relocated to Palestine Road, just west of County Road 46, to reduce exposure to traffic hazards.

**2. Introduction**

- Introductions
  - Ken Smith – Project Manager
  - Mark Hoar – Project Engineer
  - Mike Farquhar – Supervisor, Tech. Service
  - Lucas Feitler – On Site Supervision
  - Local Residents
- The local residents who attended the meeting were asked to identify their properties prior to the distribution of the private maps.

**3. Project History / Background / Goals and Objectives**

- A quick overview of the Drainage Act and was provided.
  - The overall goal is to provide a legal means to facilitate drainage for a property or properties that require drainage.
  - Obtain input to help define the Area Requiring Drainage.
  - The Area Requiring Drainage will need to be conveyed to a sufficient outlet.
  - Once the Area Requiring Drainage is confirmed by the engineer, an engineers report will be prepared for the detailed design of the proposed municipal drain.
- City of Kawartha Lakes indicated that if local residents require additional information on the Municipal Drain Process, the City of Kawartha Lakes Website and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) website are excellent resources.
- There is an existing Agreement for the drain, which was established in 1904. There was a legal requirement for property owners to maintain their portion of the existing award drain. If property owners do not clean out their portions of the award drain, civil court is required to resolve conflicts. Establishing a Municipal drain in place of the award drain puts the onus on the municipality to maintain the drain.
- Two (2) landowners, MacEachern and Brown, are signed on to this petition to date.





Item	Description	Action By
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- OMAFRA grants may be available to help offset the cost of the municipal drain.

#### **4. Description of the Area Requiring Drainage**

- A portion of the existing award drain was recently enclosed with a pipe by a riparian landowner (Browns Property). As a result, some flooding was reported on upstream lands (MacEachern Property). This impact has become the foundation for the petition under consideration. In addition, the drainage course south of Palestine Road has not been maintained causing potential flooding on upstream landowner (Browns Property).
- Wills requested input from residents on the catchment area provided at the meeting, along with a request for residents to contact Wills if the boundary is not shown to be correct.
- Robert MacEachern emphasized that he would like to see flooding conditions return to what they were prior to the construction of the 0.3 m diameter pipe on the Browns Property.
- Scott Brown emphasized that he would like to see the drainage channel downstream of Palestine Road be cleaned out to ensure his property has adequate drainage.

#### **5. Input from Property Owners Outside of Area Requiring Drainage**

- A recommendation from John Mackintosh, property owner two (2) lots south of Palestine Road,
  - Suggested the straightening the existing channel on their property to allow a seamless connection into White's creek.
  - White's creek would appear to be a sufficient outlet as it is a watercourse with defined bed and banks.
  - The existing channel is terminated in a low lying area without a defined outlet. Beavers in the area have been known to be a problem and are exasperating flooding concerns.
- High ground water and high bedrock were mentioned as a possibility by local residents.

#### **6. Questions Asked During the Meeting**

- Who will pay for the construction of the Municipal Drain?
  - CKL and Wills provided an overview of the schedule of assessment is and how costs and rebates are distributed throughout the catchment and how those assessments are proportional to land use and land area.
  - Wills shall prepare the Assessment Schedule and there will be ample time through the court of revision for property owners



Item	Description	Action By
	within the catchment to challenge the findings of the engineers report.	
	<ul style="list-style-type: none"><li>• What is the Time Line for completion of the project?<ul style="list-style-type: none"><li>- The times lines are laid out in accordance with the Drainage Act. The timeline cannot be easily identified due to the number of regulatory processes and appeals processes that may be required.</li><li>- Once the Area Requiring Drainage is defined by the engineer, the completion of the Engineers report will take up to six (6) months, with regulatory review, appeals processes, tendering and construction taking up to two (2) additional years.</li></ul></li></ul>	

The above represents the writer's understanding of the discussion and actions derived from the meeting. If there are any revisions required or omissions in the above, please advise our office as early as possible. The minutes shall be deemed complete and accurate if no response is received within five (5) days of distribution.

Submitted by: Ken Smith, P.Eng.

MJH/KS/kr

# Petition for Drainage Works by Owners Form 1

Drainage Act, R.S.O. 1990, c. D.17, clause 4(1)(a) or (b)

This form is to be used to petition municipal council for a new drainage works under the *Drainage Act*. It is not to be used to request the improvement or modification of an existing drainage works under the *Drainage Act*.

To: The Council of the Corporation of the City of Kawartha Lakes

The area of land described below requires drainage (provide a description of the properties or the portions of properties that require drainage improvements)

Lot 17 Con. 3, Lot 16 Con. 3 & Lot 16 Con 2 require converting of the Budd & Hopkins Award Drains to a Municipal Drain.

RECEIVED  
SEP 03 2019  
OFFICE OF THE CITY CLERK  
KAWARTHA LAKES

In accordance with section 9(2) of the *Drainage Act*, the description of the area requiring drainage will be confirmed or modified by an engineer at the on-site meeting.

As owners of land within the above described area requiring drainage, we hereby petition council under subsection 4(1) of the *Drainage Act* for a drainage works. In accordance with sections 10(4), 43 and 59(1) of the *Drainage Act*, if names are withdrawn from the petition to the point that it is no longer a valid petition, we acknowledge responsibility for costs.

## Purpose of the Petition (To be completed by one of the petitioners. Please type/print)

Contact Person (Last Name)	(First Name)	Telephone Number
Brown	Scott	705 328-8123 ext.
Address		
Road/Street Number	Road/Street Name	
C1510	Thorah Concession Road 1	

## Location of Project

Lot	Concession	Municipality	Former Municipality (if applicable)
16	2	<u>Eldon - Kawartha Lakes</u>	<u>Eldon</u>

What work do you require? (Check all appropriate boxes)

- ☐ Construction of new open channel
- ☐ Construction of new tile drain
- ☒ Deepening or widening of existing watercourse (not currently a municipal drain)
- ☒ Enclosure of existing watercourse (not currently a municipal drain)
- ☒ Other (provide description ▼)

Budd & Hopkins Award Drains

Name of watercourse (if known)

12000 Feet

Estimated length of project

Simcoe clay and Smithfield clay loam

General description of soils in the area

Convert Award Drains to Municipal Drains

What is the purpose of the proposed work? (Check appropriate box)

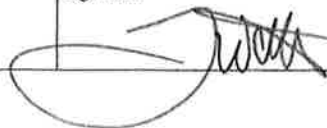
- ☐ Tile drainage only ☐ Surface water drainage only ☒ Both

Petition filed this 3RD day of September, 20 19

Name of Clerk (Last, first name)

WATTS, JOEL

Signature



**Property Owners Signing The Petition**Page **2** of **2**

- Your municipal property tax bill will provide the property description and parcel roll number.
- In rural areas, the property description should be in the form of (part) lot and concession and civic address.
- In urban areas, the property description should be in the form of street address and lot and plan number if available.
- If you have more than two properties, please take copy(ies) of this page and continue to list them all.

Number	Property Description Pt Lot 16, Con. 2
Ward or Geographic Township Eldon	Parcel Roll Number 165116001010102

I hereby petition for drainage for the land described and acknowledge my financial obligations.

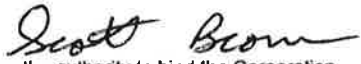
**Ownership**☐ Sole Ownership

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☐ Partnership (Each partner in the ownership of the property must sign the petition form)

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☒ Corporation (The individual with authority to bind the corporation must sign the petition)

Name of Signing Officer (Last, First Name) (Type/Print) <b>Brown Scott</b>	Signature 
Name of Corporation <b>D. S. + B. Farms Inc.</b>	I have the authority to bind the Corporation.
Position Title <b>Vice President Owner</b>	Date (yyyy/mm/dd) <b>2019/08/22</b>

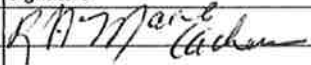
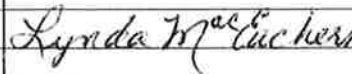
Number	Property Description Pt Lot 16, Con. 3
Ward or Geographic Township Eldon	Parcel Roll Number 165116001014100

I hereby petition for drainage for the land described and acknowledge my financial obligations.

**Ownership**☐ Sole Ownership

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☒ Partnership (Each partner in the ownership of the property must sign the petition form)

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
<b>Robert MacEachern</b>		<b>2019/08/29</b>
<b>MacEachern Robert</b>		
<b>MacEachern Lynda</b>		<b>2019/08/29</b>

☐ Corporation (The individual with authority to bind the corporation must sign the petition)

Name of Signing Officer (Last, First Name) (Type/Print)	Signature
Name of Corporation	I have the authority to bind the Corporation.
Position Title	Date (yyyy/mm/dd)

☐ Check here if additional sheets are attachedClerk initial **Petitioners become financially responsible as soon as they sign a petition.**

- Once the petition is accepted by council, an engineer is appointed to respond to the petition. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 8(1).
- After the meeting to consider the preliminary report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible in equal shares for the costs. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 10(4).
- After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible for the costs in shares proportional to their assessment in the engineer's report. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 43.
- If the project proceeds to completion, a share of the cost of the project will be assessed to the involved properties in relation to the assessment schedule in the engineer's report, as amended on appeal. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 61.

**Notice of Collection of Personal Information**

Any personal information collected on this form is collected under the authority of the *Drainage Act*, R.S.O. 1990, c. D. 17 and will be used for the purposes of administering the Act. Questions concerning the collection of personal information should be directed to: where the form is addressed to a municipality (*municipality to complete*)

and where the form is addressed to a territory without municipal organization, the Drainage Coordinator, Ministry of Agriculture, Food and Rural Affairs, 1 Stone Rd W, Guelph ON N1G 4Y2, 519 826-3552.



PARTNERS IN  
ENGINEERING, PLANNING &  
ENVIRONMENTAL SERVICES

July 13, 2020

The Corporation of the City of Kawartha Lakes  
12 Peel Street  
P.O. Box 9000  
Lindsay, ON  
K9V 5R8

**Attention: Lucas Feitler, Drainage Superintendent**

Dear Mr. Feitler:

**Re: Petition for Municipal Drainage MacEachern - Brown Petition  
Validity of Petition  
D.M. Wills Associates Project No. 19-5377**

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To satisfy Section 9(1) and 9(2) of the Drainage Act for the MacEachern Brown Municipal Drain project, the On-Site Meeting was carried out on July 7, 2020. The purpose of the On-Site Meeting was to determine the Area Requiring Drainage and confirm the Validity of the Petition.

In order to satisfy Section 4 (1) of the Drainage Act, the engineer must evaluate the Validity of the Petition, based on four (4) criteria. The petition is determined to be valid if any of one (1) of the following criteria are satisfied:

- a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;
- b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;
- c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, despite subsection 61 (5); or
- d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director. R.S.O. 1990, c. D.17, s. 4 (1).

Based on the results of the On-Site Meeting, D.M. Wills estimated the Area Requiring Drainage, which is highlighted on the attached figure drawing.

Section 4(1)(a) – Evaluation of the percentage of land owners. A petition is valid when the percentage of number of petitions exceeds 50% of the total number of properties. Within the Area Requiring Drainage, there are



Lucas Feitler  
Page 2 of 2  
July 13, 2020

four (4) land owners and only two (2) signed petitioners, or 50%. Therefore, section 4(1)(a) is Not satisfied.

Section 4(1)(b) – Evaluation of the percentage of land area. A petition is valid when the percentage of area of the signed petitioners exceeds 60% of the total area. The Area Requiring Drainage was estimated at 34.14 ha in size. The area of the two (2) signed petitioners was estimated at 31.98 ha, or 94%. Therefore, Section 4(1)(b) is satisfied.

With Section 4(1)(b) satisfied, a review of Section 4(1)(c) and Section 4(1)(d) is not required.

With Section 4(1)(b) of the Drainage Act satisfied, the petition for the MacEachern Brown Municipal Drain is a valid petition.

If you have any questions or concerns, please don't hesitate to contact the undersigned.

Regards

A handwritten signature in black ink, appearing to read 'Mark Hoar'.

Mark Hoar, P.Eng.  
Senior Water Resources Engineer

MJH/kr

Enclosure



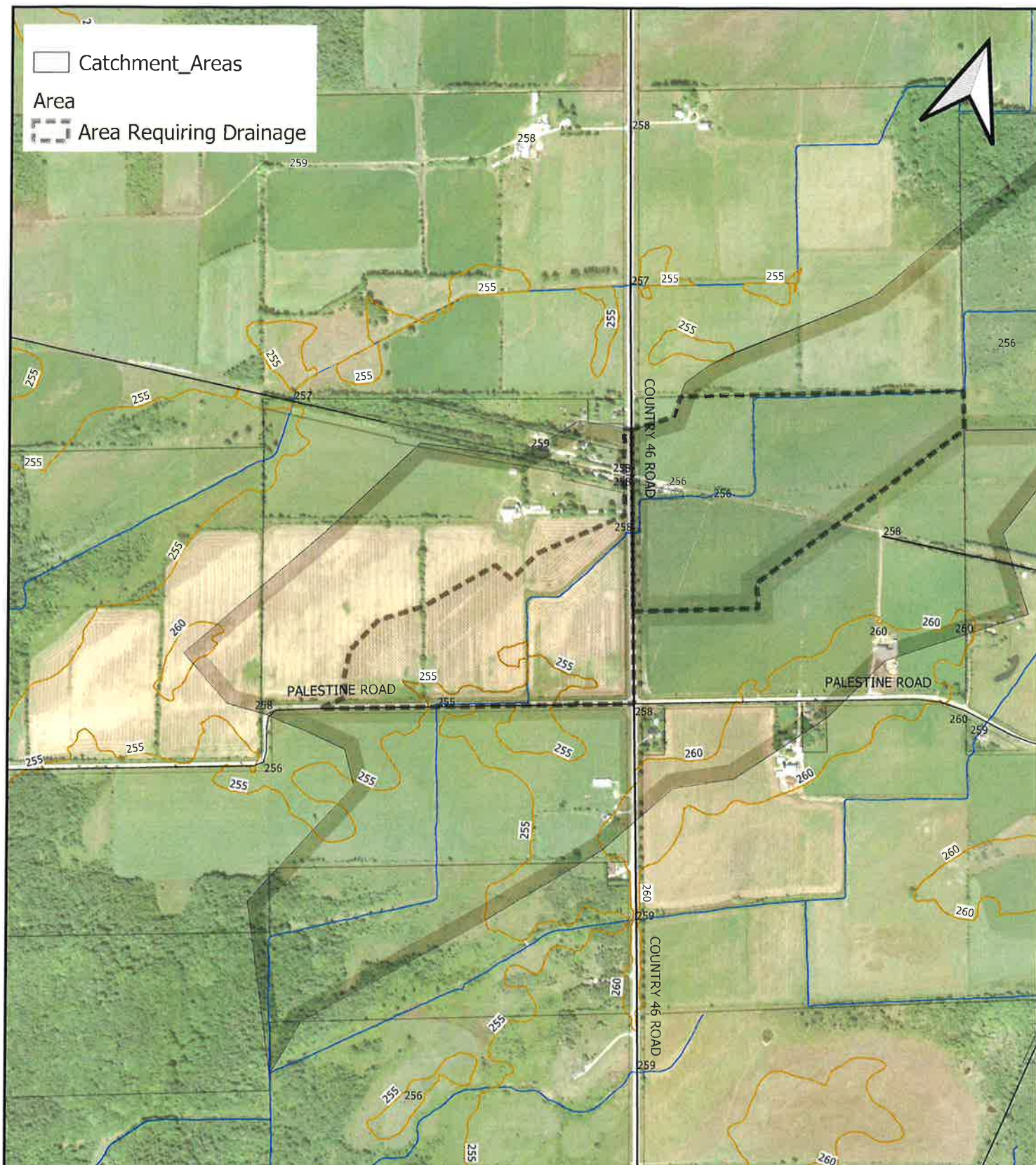


Figure  
Area Requiring Drainage



D.M. Wills Associates  
Limited  
150 Jameson Drive  
Peterborough, Ontario  
K9J 0B9

P. 705.742.2297  
F. 705.741.3568  
E. wills@dmwills.com

Drawn by:  
MJH

Checked by:  
KS

Engineer:  
MJH

Project No.  
19-5377

Scale (Horz):  
  
1:10000

Map Date:  
July 13, 2020

Map File No.  
1 of 1



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## **MEMO**

**Date:** September 11, 2019  
**To:** Drainage Board  
**From:** Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets  
**Re:** Petition for Municipal Drainage  
MacEachern - Brown petition  
**CC:** Juan Rojas Director of Engineering and Corporate Assets  
Mike Farquhar, Supervisor of Technical Services.

---

### **Recommendation:**

**That** the memorandum from the Drainage Superintendent - Engineering and Corporate Assets L. Feiter, dated September 17, 2019, regarding the petition for drainage works by owners of Concession 2, Part Lot 16, Geographic Township of Eldon (being Scott Brown of D.S. & B. Farms Inc.), and Concession 3, Part Lot 16, Geographic Township of Eldon (being Robert and Lynda MacEachern), be received;

**That** Council proceed with the petition submitted by D. S. & B. Farms Inc. and Robert and Lynda MacEachern for drainage works for Concession 2, Part Lot 16, and Concession 3 Part Lot 16 Geographic Township of Eldon to be known as the "MacEachern-Brown Drain" and instruct the City Clerk to proceed with the notices required under Section 5 of the *Drainage Act*;

**That** Staff concurrently continue to pursue with the petitioners options for a mutual drain agreement as per the City Policy; and

**That** pursuant to Section 8(1) of the *Drainage Act, R.S.O. 1990, Chapter D. 17*, staff recommend to Council a Drainage Engineer for the examination of the area requiring drainage and proceed with the requirements of the proposed MacEachern-Brown Drain.





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## **Background:**

The subject area/ land is bounded by Palestine Road to the South, and is separated by Kawartha Lakes Road 46 (refer to Appendix A). There are no existing Municipal Drains within the vicinity. The area of the land identified in the petition is approximately 200 acres in size.

The property is within the Simcoe County Conservation Authority jurisdiction as defined under the Ontario Conservation Act and has an identified watercourse on the property (see appendix B). This existing watercourse has been identified as the Eli Budd Award Drain, awarded construction in 1904.

On September 3, 2019 the City of Kawartha Lakes Clerks department received a petition for Drainage works within the subject area (Appendix C).

The Drainage Superintendent was called to site after a neighbor was concerned that a drainage ditch had been replaced with a covered pipe. A records request was completed and it was determined that the ditch was an existing Award drain. A meeting was held with landowners where legislation governing Award drains was discussed. The following was explained to land owners:

Section 3(18) of the Drainage Act states:

### **Drainage works constructed on requisition**

3 (1)-(17) Repealed: 2010, c. 16, Sched. 1, s. 2 (1).

### **Existing ditches**

(18) Every ditch constructed under *The Ditches and Watercourses Act*, being chapter 109 of the Revised Statutes of Ontario, 1960, shall be maintained in accordance with the award of the engineer providing for such maintenance until such ditch is brought under the provisions of this Act by petition under section 4. 2010, c. 16, Sched. 1, s. 2 (2).

Therefore, the drain must be maintained as per the latest engineer's report until it is petitioned for a municipal drain.

The first step to initiating maintenance is to send notice to the owner who is not maintaining their section of drain. This notice was served which initiated a site meeting between the land owner in contravention and owner serving notice. If the drain is still not maintained as per the engineer's report then there are three options for the landowner serving notice;

- Initiate a civil lawsuit based on non-compliance with an agreement.
- Initiate an appeal to the drainage referee under subsections 3(18) and paragraph 106(1)(c) of the Drainage Act.
- Petition under section 4 of the drainage act to have the award drain made into a municipal drain.



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City of Kawartha Lakes**  
12 Peel Street P.O. Box 9000  
Lindsay, ON K9V 5R8  
Phone: 705-324-9411, Ext. 1156  
Fax: 705-324-2982

It is up to the land owner to initiate the appeal to the drainage referee and the procedure to follow for appeal is Ontario regulation 232/15 Rules of Practice and Procedure in Proceedings Before the Referee. Recommendation was made that all land owners to seek their own legal advice for clarify and next steps.

Subsequent meetings where held with the applicants representative and City staff on site to review options for a mutual drain, municipal drain or alterations to the award drain. This situation was also discussed with the current Drainage Coordinator for OMAFRA. It was of the opinion that upon appeal, the Drainage Referee would change the Award to a Municipal drain and therefore the petitioning process initiated as per Section 4(1) of the Ontario Drainage Act. It was determined to be too costly and time consuming to pursue the appeal process and a petition was submitted to the Clerk's office on September 3<sup>rd</sup>, 2019.

### **Alternatives:**

As an option for required drainage the City firstly promotes the use of a Mutual agreement through the City's policy for Agricultural Tile discharge to roadside ditches prior to pursuing a petition for a Municipal drain under the Ontario Drainage Act. At this point in time the Drainage Superintendent has currently presented this option to the petitioners and explained its avenues in comparison to petitioning for a Municipal Drain under the Drainage Act. At this current time the petitioners wish to carry on with the process under the Drainage Act for the petition. Staff will leave the door open for pursuing a mutual agreement up until the prescribed time the petitioner has under the Drainage Act for removing their names and abandoning the petition.

### **Recommendation for appointment of a Drainage Engineer:**

Currently the City has a pool of Drainage Engineers which list in the following.

Burnside Engineering  
Tulloch Engineering  
K-Smart Engineering  
R. D. Dobbin Engineering  
DM Wills Engineering.

### **Attachments:**



## Lucas Feitler

---

**From:** Lucas Feitler  
**Sent:** Monday, July 20, 2020 3:00 PM  
**To:** [REDACTED]  
**Cc:** Mike Farquhar  
**Subject:** RE: Drainage Act information

Hi Karen,

You're welcome, please see my answers below. I have also tried to include the Drainage Act sections that correspond with my answers.

is this project already approved to go ahead?

The simple answer, Yes.

A petition has been submitted to council which initiates the procedures of the Drainage Act. The City of Kawartha Lakes has a Drainage Board that can also make decisions on City Council's behalf. The Drainage Board and City Council elected to proceed and accept the petition. If a municipality decides to accept a petition, it must appoint an engineer to determine the validity of said petition (section 8). So far the Engineer has conducted the on-site meeting and determined the petition is valid. Under section 9(5)) of the Drainage Act, the Drainage Board must now instruct the engineer to proceed with a report or preliminary report.

The Municipality must follow the procedure as it is laid out in the Drainage Act.

We are currently arranging this Drainage Board meeting. Please let me know if you would like to view or participate as this meeting can be livestreamed.

who is paying for D.M. Wills engineering company?

Throughout the design and construction phase, and until the drainage costs can be levied to assessed owners, the fees are paid by the Municipality. Once all construction and appeal periods have expired, costs are assessed to land owners. If requested by the land owner, the fees can be debentured over a period of 10 years. The engineering fees form part of the drainage works and are therefore paid by the watershed (section 70)

who is responsible to contact the Lake Simcoe Conservation Authority, the Planning and Development Environmental Regulations and related Watershed departments, and the Planning and Regulations dept.? And, at what point in the process are they involved?

It is the Municipalities' responsibility to notify the local Conservation Authority when a petition is submitted to Council (Section 5(1)(b)). This notification was sent to the General Manager of Planning and Development on November 1<sup>st</sup>, 2019.

In addition, the same Section 9 'On-Site' meeting invitation, that was sent to yourself, was sent to the General Manager of Planning and Development.

Once the design is completed, Lake Simcoe Conservation Authority will have to review. They must approve and issue a permit to complete the work. No construction will begin without approval from the Lake Simcoe Conservation Authority.

Thank you,

**Lucas Feitler**

Senior Engineering Technician, Municipal Drainage Superintendent  
Engineering and Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1167 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



**From:** karen buckmackintosh [REDACTED]  
**Sent:** Friday, July 17, 2020 1:27 PM  
**To:** Lucas Feitler <lfeitler@kawarthalakes.ca>  
**Subject:** Re: Drainage Act information

Lucas

Thank you for this information.

Can you please clarify a couple of things.

- is this project already approved to go ahead?
- who is paying for D.M. Wills engineering company?
- who is responsible to contact the Lake Simcoe Conservation Authority, the Planning and Development Environmental Regulations and related Watershed departments, and the Planning and Regulations dept.? And, at what point in the process are they involved?

Sincerely,  
Karen Buck-Mackintosh

On Wed, Jul 15, 2020 at 3:29 PM Lucas Feitler <lfeitler@kawarthalakes.ca> wrote:

Hello Karen Buck-Mackintosh,

Thank you for attending last week's on-site meeting for the MacEachern-Brown municipal drain.

The *Drainage Act, R.S.O. 1990, c. D.17* contains a detailed and specific procedure for land owners to obtain a legal outlet for their water. As discussed on site, I wanted to reach out and provide some additional informational sheets regarding municipal drains.

I have attached two factsheets from the Ontario Ministry and Agriculture, Food and Rural Affairs (OMAFRA) to this email. For a better understanding of the Drainage Act, I recommend that you read

through these, as well as visit OMAFRA's website at <http://www.omafra.gov.on.ca/english/landuse/drain-pub.htm>. This website is a great resource for drainage information and legislation. I highlight and recommend reading over the following additional factsheets from OMAFRA's website; Drainage Act Appeals, Duties of the Landowner Under the Drainage Act, and Municipal Drains and the Land Owner.

Should you have any general questions related to the *Drainage Act, R.S.O. 1990, c. D.17* please do not hesitate to contact me. If you have specific questions or requests related to the MacEachern-Brown drain, please direct them to Ken Smith at D. M. Wills Associates Limited. He can be reached by calling their office at (705) 742-2297 or alternatively by emailing [ksmith@dmwills.com](mailto:ksmith@dmwills.com).

Thank you,

**Lucas Feitler**  
Municipal Drainage Superintendent  
Engineering and Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1167 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



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**Lucas Feitler**

---

**From:** [REDACTED]  
**Sent:** Wednesday, July 15, 2020 5:11 PM  
**To:** Lucas Feitler  
**Subject:** Re: Drainage Act information

Hello Lucas,

Thank you for coming out to the site to explain all the particulars to myself and all the neighbours.

"Climate Change" has not been factored into the equation, this will be the 5th drought in 8 years on record. Will this drain be the bane of the whole area's crops being burned off in the scorching heat and lack of rain? And who will be responsible for this catastrophe?

Mr. Brown voluntarily filled in his portion of an awarded ditch and caused all the trouble with Mr. MacEachern, this is a litigation matter rather than shared expense on neighbouring farms that clearly don't want this drain and cannot afford this extravagant expense, people have been bankrupted for less.

We clearly do not want our lands drained into a desert during these times of climate insecurity. We do not want any type of ditching system that renders our crops without the moisture to grow. Over a 33 year period we have carefully nurtured a 55 ac. ecological reserve on lot 17, conc.3 to hold back any runoff and sequester the water for a slow release over severe drought years. This proposed municipal drain will devastate the whole area in a dry year.

Please feel free to forward on this email to council, neighbour's or anyone else involved in this case.

Thank you for your consideration in this matter and have a good day.

Yours very truly,

Christine Halbot & Fraser Currie

On 2020-07-15 15:41, Lucas Feitler wrote:

Hello Christine Halbot,

Thank you for attending last week's on-site meeting for the MacEachern-Brown municipal drain.

The *Drainage Act, R.S.O. 1990, c. D.17* contains a detailed and specific procedure for land owners to obtain a legal outlet for their water. As discussed on site, I wanted to reach out and provide some additional informational sheets regarding municipal drains.

I have attached two factsheets from the Ontario Ministry and Agriculture, Food and Rural Affairs (OMAFRA) to this email. For a better understanding of the Drainage Act, I recommend that you read

through these, as well as visit OMAFRA's website at <http://www.omafra.gov.on.ca/english/landuse/drain-pub.htm>. This website is a great resource for drainage information and legislation. I highlight and recommend reading over the following additional factsheets from OMAFRA's website; Drainage Act Appeals, Duties of the Landowner Under the Drainage Act, and Municipal Drains and the Land Owner.

Should you have any general questions related to the *Drainage Act, R.S.O. 1990, c. D.17* please do not hesitate to contact me. If you have specific questions or requests related to the MacEachern-Brown drain, please direct them to Ken Smith at D. M. Wills Associates Limited. He can be reached by calling their office at (705) 742-2297 or alternatively by emailing [ksmith@dmwills.com](mailto:ksmith@dmwills.com).

Thank you,

**Lucas Feitler**  
Municipal Drainage Superintendent  
Engineering and Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1167 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



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Fax: 705-324-2982

## **Memorandum**

**Date:** September 3, 2020

**To:** Drainage Board

**From:** Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets

**Re:** Request for Drain Improvement – Section 78  
Hugh Davidson Municipal Drain

**CC:** Juan Rojas Director of Engineering and Corporate Assets  
Mike Farquhar, Supervisor of Technical Services.

---

### **Recommendation:**

**Recommend That** the memorandum from the Drainage Superintendent - Engineering and Corporate Assets L. Feiter, dated September 3, 2020, regarding the Request for Drain Improvement for the Hugh Davidson Municipal Drain by owners Ed Bagshaw of Concession 8, PT W1/2 Lot 19, geographic Township of Mariposa, be received;

**That** the City proceed with the Request for Drain Improvement submitted by Ed Bagshaw for an improvement to the Hugh Davidson Municipal Drain and the City Clerk proceed by sending notices required under Section 5 and 78 of the Drainage Act, R.S.O. 1990, Chapter D. 17;

**That** pursuant to Section 8(1) and 78(2) of the Drainage Act, R.S.O. 1990, Chapter D. 17, and subject to any objection from Kawartha Conservation, that     (insert engineer)     be appointed as the Drainage Engineer on a date 30 days from the notice to the Kawartha Conservation for the examination of the drainage works and to proceed with the requirements of the proposed improvement under section 78 of the Drainage Act, R.S.O. 1990, Chapter D. 17.



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**Background:**

During last year's inspections the Drainage Superintendent walked the Hugh Davidson Municipal Drain. Fill had been brought in and was placed beside the open section of the drain. The Drainage Superintendent met with the land owner, Ed Bagshaw who stated he wished to enclose the drain on his property. The Superintendent explained that this was a municipal drain and that this request would have to follow the procedures of the *Drainage Act, R.S.O. 1990, Chapter D. 17*.

The Superintendent explained that in the past, enclosing municipal drains have not been approved by local Conservation Authorities. Ed Bagshaw has since met on site with the aquatic biologist from Kawartha Region Conservation Authority to review the enclosure. I contacted the biologist who confirmed he has no issues with the proposed work and plans on issuing a permit for this specific enclosure.

Ed Bagshaw supplied a "Notice of Request for Drain Improvement, subs 78(1)" on August 18, 2020 to the City Clerk's Office. The Drainage Act requires the City to respond to this notice within 30 days.

Unlike a section 4 petition drain, proceeding with a section 78 improvement to a drain is entirely at the discretion of Council, and in Kawartha Lakes, the Drainage Board.

This specific request is made to improve the effectiveness of a single landowner's use of drain. However, this drain has been largely unmaintained and monitored for the past 40 years. Therefore, Engineering recommends proceeding with a new engineer's report to address the following additional concerns:

- The drain is not as per design. The Taylor road crossing has been altered and catch basins have been installed. The 'C.Farr' land has been enclosed. It is unknown if this enclosure is sized correctly. No records exist of this work being completed and it is unknown if it was approved by the drainage superintendent at the time the previous work was done. The scope and cost of work to get the drain back to its original condition, as per the latest engineer's report, would be quite large.
- The infrastructure on Highway 7 likely does not meet current M.T.O. standards.
- Additional land has been brought into the drain through tiling, from outside the drainage shed of the drain. The extent is currently unknown but outlets are visible.
- There is significant erosion, vegetation and fallen trees in brush area. A cleanout is required regardless of improvement request.



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For the above reasons Engineering recommends proceeding with a new engineer's report

**Alternatives:**

1. Do not proceed with an improvement.
2. Initiate procedures to abandon the drain under section 84(2) of the *Drainage Act, R.S.O. 1990, c. D.17.*

**Recommendation for appointment of a Drainage Engineer:**

Currently the City has a pool of Drainage Engineers who are listed below. Should the City decide to proceed, and depending on availability the Engineer firm, an engineer should be selected from this list, and appointed on a date 30 days after the required notice is sent to Kawartha Conservation:

Burnside Engineering.  
Tulloch Engineering.  
M. Gerrits Consulting.  
R. D. Dobbin Engineering.  
DM Wills Engineering.  
K. Smart Engineering.

**Attachments:**

Drain report and drawings

Improvement request

H. M. GIBSON LTD.  
CONSULTING ENGINEERS

H. M. GIBSON, B.A.Sc., P.ENG., D.L.S.

1291 COMMISSIONERS RD., W.  
LONDON, ONTARIO, N6K 1C9  
471-7900

July 29, 1977

File No. 11-30

The Reeve and Members,  
Municipal Council,  
Township of Mariposa

Gentlemen:

Hugh Davidson Municipal Drain

In accordance with your instructions pursuant to a petition signed by Hugh Davidson, owner of the NE $\frac{1}{4}$  of Lot 20, Concession 8 and others comprising the majority in number of the owners in an area requiring drainage, I have made an examination and survey of the area and submit herewith report, plan, profile, specifications and assessments for a work to be known as the Hugh Davidson Municipal Drain.

The Hugh Davidson Drain presently consists of a tile drain across part of the N $\frac{1}{2}$  of Lot 20, Concession 8 with the tile terminating at approximately mid point of the NW $\frac{1}{4}$  of Lot 20. From this point downstream to the line between the East and West halves of Lot 19, Concession 8 it consists of a shallow open ditch which terminates in a pond at Station 37+00.

It was found that the tile drain is quite shallow and is considerably undersized by present Ministry of Agriculture standards. The open ditch is too shallow for the tile and does little more than conduct surface run-off.

I recommend that a new tile drain be constructed across Lot 20, Concession 8 starting on the North side of Highway #7 and outletting on the West side of the 19/20 sideroad. From this point I recommend that an open drain be constructed following the existing course from Station 26+26 to 38+49. From Station 38+49 to Station 64+31 the drain shall follow the low run to an outlet in the Mariposa Brook at the line between the East and West halves of Lot 18, Concession 8.

I have made an allowance for severance, payable to the owners, in lieu of constructing farm bridges. This allowance is sufficient to supply and install culverts of the recommended size. Should an owner wish to have a culvert installed as part of the work, he shall notify the municipality prior to letting of tenders, in which case the allowance shall not be paid to the owner.

The side slopes of the open drain shall be seeded down with a suitable grass mix.

This work may be done by the municipality, or with the approval of Council, by an individual owner or owners. The cost of such seeding shall be a charge to the drainage area. In the event that the work is done by the owners, payment shall be at a fixed rate per acre which is set by Council. The area requiring seeding is slightly in excess of 2 acres.

The plan shows the location of the work and the lands affected by it; the profile and specifications show the dimensions, grades, disposal of material and other particulars of the work.

It is considered equitable to make an allowance for Severance instead of providing for the construction, enlargement or other improvement of farm bridges rendered necessary by the work.

Attention is drawn to Section 80 and Section 82 of the Drainage Act 1975 regarding responsibilities of owners with respect to obstructions.

Should repairs, underpinning or other alterations be required for the Highway Bridge on Highway No. 7 I assess the cost thereof including any necessary expenses incidental thereto against the Ministry of Transportation and Communications having control of said road.

I determine the amounts to be paid in allowance to owners entitled thereto under the Drainage Act 1975 as follows:

# ALLOWANCES

Con.	Lot or Part	Owner	Damage to Lands & Crops (if any) Sec. 30	Severance Sec. 33	Ditch already constructed Sec. 31	Land taken for ditch Sec. 29
8	E <sup>1</sup> / <sub>2</sub> 18	K & B Rich	290.00	350.00		725.00
	N pt W <sup>1</sup> / <sub>2</sub> 19	K & B Rich	230.00	280.00		580.00
	N pt E <sup>1</sup> / <sub>2</sub> 19	C. Farr	245.00	280.00	490.00	620.00
	NW <sup>1</sup> / <sub>4</sub> 20	E. Haines	330.00			
	NE <sup>1</sup> / <sub>4</sub> 20	H. Davidson	180.00			
9	E <sup>1</sup> / <sub>2</sub> 20	B. VanDenBerg	30.00			
			<u>1,305.00</u>	<u>910.00</u>	<u>490.00</u>	<u>1,925.00</u>

TOTAL ALLOWANCES - \$4,630.00

MY ESTIMATE OF THE COST of the work is as follows:

MAIN DRAIN OPEN

6,600 cu. yds. of excavation including removal of brush, trees and boulders up to $\frac{1}{2}$ cu. yd. and levelling of excavated material and construction of silt basins at Stations 30+00 to 31+00, 44+00 to 45+00, 53+00 to 54+00 and 62+00 to 63+00	5,280.00
Clearing of brush, trees, logs and stumps Station 38+49 to 64+31	940.00

MAIN DRAIN CLOSED

370 lin. ft. of 14" dia. #1 Field Tile	555.00
Dig, lay and backfill	675.00
1,287 lin. ft. of 12" dia. #1 Field Tile	1,495.00
Dig, lay and backfill	2,010.00
793 lin. ft. of 10" dia. #1 Field Tile	700.00
Dig, lay and backfill	1,035.00
19/20 Sideroad	
40 lin. ft. of 15" dia. 14 ga. C.M.P.	215.00
Installation of C.M.P. complete with granular base and backfill	300.00
Outlet structure Sta. 26+26	
20 lin. ft. of 15" dia. 16 ga. C.M.P. complete with rodent grate	100.00
Installation of C.M.P. complete with heavy field stone rip rap (3 cu. yds.)	200.00
Work on Hwy.No.7 right-of-way Sta. 0+00 - 1+20	
20 lin. ft. of 12" dia. 16 ga. C.M.P.	70.00
Installation of C.M.P.	30.00
80 lin. ft. of 12-3/4" dia. 0.25" wall steel casing	530.00
Installation of casing by boring	3,200.00
20 lin. ft. of 12" dia. 16 ga. C.M.P.	70.00
Installation of C.M.P.	30.00
2 Catchbasins Sta. 0+00 and 9+13	500.00
Survey, Plan, Report, Assistance & Expenses	2,730.00
Allowances under the Drainage Act 1975	4,630.00
Supervision of construction (by Engineer)	1,365.00
Contingencies	700.00
Total Estimated Cost	<u>\$27,360.00</u>

This sum of \$27,360.00 I assess against the lands and roads affected according to the annexed Schedule of Assessment.

Whether or not the Ministry of Transportation and Communications elects to do the work on Highway Number 7 Station 0+00 to Station 1+20 it shall be assessed the actual cost of the work as a special assessment in addition to the Benefit and Outlet assessments.

After construction, the drain shall be maintained by the Municipality of the Township of Mariposa at the expense of all the lands and roads assessed herein and in the same relative proportion until said assessment shall be varied according to the provisions of the Drainage Act, with the exception that the special assessment against Highway Number 7 shall not apply.



*H. M. Gibson*  
H.M. Gibson, P. Eng., O.L.S.

#### RECOMMENDED CULVERT SIZES

Con.	Lot or Part	Owner	Ft. diameter or equivalent sq. ft. of opening
8	E $\frac{1}{2}$ 18	K & B Rich	24'x36" dia. 14 ga.C.M.P.
	NW pt 19	K & B Rich	24'x30" dia. 14 ga.C.M.P.
	NE pt 19	C. Farr	24'x30" dia. 14 ga.C.M.P.



\* Denotes non-agricultural lands

TOWNSHIP OF MARIPOSA - SCHEDULE OF ASSESSMENT - HUGH DAVIDSON MUNICIPAL DRAIN - Project No. 11-30

Con.	Lot or Part	Approx. Acres Affected	Owner	MAIN DRAIN OPEN		MAIN DRAIN CLOSED		Special Assessment
				Benefit Liability	Outlet Liability	Benefit Liability	Outlet Liability	
8	E $\frac{1}{2}$ 18	22	K & B Rich	3,120.00				
	N pt W $\frac{1}{2}$ 19	22	K & B Rich	3,075.00	81.00			
	N pt E $\frac{1}{2}$ 19	32	C. Farr	3,300.00	252.00			
	S pt 19	5	J. McMorrow		21.00			
	S $\frac{1}{2}$ 20	11	L. Hope		150.00		39.00	
	Pt NW $\frac{1}{4}$ 20	45	E. Haines	300.00	615.00	3,300.00	144.00	
*	Pt NW $\frac{1}{4}$ 20	F	<del>R. Barclay G. Bos</del>		15.00		39.00	
	NE $\frac{1}{4}$ 20, N $\frac{1}{2}$ 21	21	H. Davidson		288.00	2,235.00	474.00	
* 9	Pt SW $\frac{1}{4}$ 20	F	L. Foster		15.00		39.00	
*	Pt SW $\frac{1}{4}$ 20	F	T. Hannah		15.00		39.00	
*	Pt SW $\frac{1}{4}$ 20	F	R. Deschamps		15.00		39.00	
	Pt SW $\frac{1}{4}$ 20	5	C. Everson		69.00		126.00	
	SE $\frac{1}{4}$ 20	24	B. VanDenBerg		330.00	585.00	600.00	
*	Pt SE $\frac{1}{4}$ 21	1	Victoria County Bd. of Education		15.00		39.00	
	Pt SE $\frac{1}{4}$ 21	5	Doug Appelton		69.00		126.00	
	Total Lands			9,795.00	1,950.00	6,120.00	1,704.00	
	Sideroad 19/20	2.5	Twp. of Mariposa	180.00	135.00	750.00		
	Highway No. 7	5.5	Min. of Tpt. & Comm.		450.00	1,185.00	1,251.00	3,840.00
	Total Roads			180.00	585.00	1,935.00	1,251.00	3,840.00
	Total Lands and Roads			9,975.00	2,535.00	8,055.00	2,955.00	3,840.00
			TOTAL ASSESSMENT	-	\$27,360.00			

H.M. GIBSON LIMITED

1291 Commissioners Rd. W.,  
London, Ontario  
N6K 1C9

SPECIFICATIONS

1. EXTENT OF WORK: These specifications and the report, plan and profile of the same date apply to and govern the construction of:

3,801 lineal feet of OPEN DRAIN (6,600 cu. yds.)  
2,630 lineal feet of CLOSED DRAIN  
2 catchbasins

2. INSTRUCTIONS TO BIDDERS: Tenders will be received and contracts awarded only in the form of a lump sum for the completion of the whole work in accordance with the plan, profile and specifications or of such portions as specified in the Tender call.

Each bidder shall file a sealed proposal and with it a certified cheque for a sum equal to ten percent (10%) of the bid price, made payable to the Municipality. If a person making such a proposal fails to enter into a contract pursuant to the requirements of the Council within fourteen days of acceptance of the proposal, the aforesaid cheque shall be forfeited to the Municipality. All certified cheques, except that of the bidder to whom the work is awarded, will be returned within ten days after the contract is awarded. The certified cheque of the bidder to whom the work is awarded, will be returned with the final payment of the work.

The bidders must examine for themselves the plans, profiles and specifications, and the location of the proposed work, and exercise their own judgement as to the extent of the work to be done. The Contractor must assume all risks of variance in any computation by whomsoever made, of statements of amounts or quantities necessary to complete the work required by the contract.

If any doubt exists in the mind of any person tendering as to the exact meaning of any portion of these specifications or this plan or profile, it must be removed before signing the contract agreement; thereafter the Contractor will be bound by the decision of the Engineer on all points.

3. ERRORS: The Contractor shall satisfy himself before the commencement of any part of the work, of the meaning of all stakes, marks and any apparent errors which he may find shall be immediately reported to the Engineer for correction before the work is commenced. Should the Contractor attempt to correct the mistakes, he will be held liable to bring the work back to the proper grade.
4. TERMINATION OF CONTRACT: Time shall be deemed the essence of this contract. All the work included in the contract must be concluded on or before the date fixed at the time the contract is awarded. The Contractor further agrees that if at any time the Engineer shall be of the opinion and shall so certify in writing to the Municipal Council, that the said work or any part thereof is unnecessarily delayed or that the said Contractor is violating any of the conditions of this contract, or is executing same in bad faith, or if the said work is not fully completed within the time named in the contract for its completion, the Council shall have the power, five days after receiving notice of the Engineer, to notify the said Contractor to discontinue all further work and terminate all future performance thereof by the Contractor but reserving all claims against the Contractor for breach of contract by written notice to be served upon the Contractor, either personally, or at his residence, or by registered mail, or with his agent in charge of the work. Thereupon the Contractor shall discontinue said work, and the Council shall have the power to procure labour, tools, material and machinery, by contract or otherwise, and to complete said work, and to charge the expense thereof, including other damages of every name and nature, to the aforesaid Contractor. The expense so charged shall be deducted by the Council out of such moneys as may then be due, or may at any time thereafter become due to the said Contractor under or by virtue of this Agreement. In case such expense is less than the amount which would have been payable under the contract if the work had been completed by said Contractor, he shall receive the difference, and in the case such expense shall exceed the sum, he shall pay the amount of such excess to the Municipality.

5. **ALTERATIONS:** The Engineer may make minor changes in the work as it progresses, an amount proportionate to the amount contained in the tender being added to or deducted from the contract price to cover such changes. No change will be made unless ordered by the Engineer in writing.
6. **SPECIAL CONDITIONS:** If the Contractor should encounter any conditions of any sort which may not have been known to the Engineer, and were not provided for by these plans and specifications, and which would make necessary alterations to the plans and specifications in order that the work be completed in a satisfactory and workmanlike manner, the Contractor shall immediately notify the Engineer who will make the necessary alterations. Failure of the Contractor to so notify the Engineer shall not relieve the Contractor of the responsibility of fully completing the work and maintaining it for a period of one year after completion of construction.
7. **HIGHWAYS, UTILITIES, ETC.:** The Contractor shall, before performing any work affecting the land or property of the Ministry of Transportation and Communications, or any Railway, Telephone, or Pipeline Company or Public Utility, obtain at his expense any necessary permits. The Contractor shall further agree to perform the work affecting said lands or property in accordance with the specifications of such Ministry, Company or Utility, as though said specifications were hereto attached.
8. **DAMAGES, LIABILITY:** The Contractor shall pay all losses, damages or claims received by the Municipality and he shall protect and save harmless the Municipality against liability for any accidents, damages, casualty, losses or claims directly or indirectly arising out of the Contract, or manner of performance thereof by the Contractor, his agents, employees or sub-contractors. The Contractor will be solely liable for all injuries and/or accidents to workmen, and/or public and/or property and shall furnish the Municipality with proof of his insurance against all liabilities prior to obtaining the Contract.

The Contractor shall be held liable for any expenses or damages occasioned by fences being left open or improperly closed, insufficient guarding and lighting or bad workmanship at places where a drain runs along or across a road allowance or any negligence in carrying on the work. Any such expense or damages may be deducted by the Engineer from the amount of the contract or may be recovered by the Municipality from the Contractor or his sureties.

9. **PAYMENT:** Progress payment in cash equal to about 80% of the value of the work done and materials incorporated in the work will be made to the Contractor on the written certificate of the Engineer. An additional 17% will be paid 30 days after the final acceptance by the Engineer, and 3% of the contract price may be reserved by the Municipality for one year. After the completion of the work, any part of this reserve may be used to make good defects developed within that time from faulty workmanship, materials supplied by the Contractor and loose backfill, provided that written notice shall first be given the Contractor so that he may promptly make good such defects if he so desires.
10. **FINAL INSPECTION:** All the work included in the contract must at the time of completion and final inspection have the full dimensions and cross-sections. Final inspection will be made by the Engineer within 30 days after he has received notice in writing from the Contractor that the work is completed or as soon thereafter as weather conditions permit.
11. **STAKES:** Stakes are set one hundred feet apart throughout the course of the work or as shown on the accompanying plan and profile. The Contractor shall be held liable for the cost of replacing any stakes or bench marks destroyed during the course of construction and the drainage area shall be liable for the cost of replacing stakes or marks destroyed before commencement of construction.
12. **LINE:** The drain shall run in straight lines throughout each course except that at intersections of courses it shall run on a curve of at least 50 feet radius. The centre line of the present drain shall in general be the centre line of the finished work but the present courses shall be lined out and all sloping and widening necessary shall be done in such manner as to make the finished work uniform.
13. **PROFILE:** The drain is to be excavated to regular grade lines as shown on the profile. These grade lines are governed entirely by the bench-marks and show the bottom of the finished drain. In the case of tile drains the grade line is that of the inner side of the invert. The profile shows, for the convenience of the Contractor and others, the approximate depths from the surface of the ground at points where the numbered stakes are set and from the average bottom of the present drain as taken at the time of survey but the bench-marks must govern. The depths are indicated on the profile in feet and tenths of feet.

14. EXCAVATION: Both sides of an open drain are to be sloped one foot horizontally to one foot vertically, or as otherwise shown on the accompanying profile. The drain shall have the full specified bottom width at the grade line.
15. EXCAVATED MATERIAL: A clear berm or margin of at least six feet shall be left between the top edge of the ditch and the spoil bank. No excavated material is to be left in any ditches, depressions, furrows or tiles intended to conduct water into the open drain. In no case shall the side of the spoil bank nearest the ditch have a slope greater than one and one half to one. Excavated material shall in general be placed on the lower side of the drain or on the side opposite trees and fences. The spoil shall be deposited, spread and levelled so that the land on which it lies may be cultivated with adjacent lands by use of ordinary farm machinery. This shall mean the spreading of material to a maximum depth of 12 inches. If the Contractor obtains a statement in writing, signed by the owner of the lands affected that he does not wish the spoil to be levelled, the Engineer may release the Contractor from obligation in that regard. Disposal of the material shall be to the satisfaction of the Engineer or the Commissioner appointed to be in charge of the work.
16. ROADS: Where a drain is removed from the road allowance, the new channel shall be constructed entirely on farm lands and the excavated material shall be placed in the abandoned channel. Excess material, if any, not required for such filling, shall be placed on the adjoining farm lands. On road allowances, disposal of excavated material, levelling, backfilling, installation of culverts and catch basins, and all other work shall be performed as directed by the Superintendent in charge of the road concerned and to his satisfaction.

Any corrugated metal pipe culverts laid under the travelled portion of any road allowance shall be laid on six inches of pit run gravel and shall be backfilled to the road surface with pit run gravel. Any paved road surface shall be restored with a similar paving material to the satisfaction of the road authority having jurisdiction.
17. CLEARING - TILE DRAINS: All brush, timber, logs and stumps shall be cleared back a minimum of 50 feet on each side of the drain, unless otherwise specified on the profile. All cleared material shall be piled for use or disposal by the owner.

## 17. Continued

**CLEARING - OPEN DRAINS:** Brush, timber, logs, stumps or stones or any other obstructions in the course of the work, and any brush along the banks thereof shall be removed to a sufficient distance to be clear of the excavated material, or to the width as shown on the profile. No brush or trees are to be left inside the slopes of the drain whether they come within the limits of the excavation or not. Brush removed from the drain and banks thereof shall be piled to the satisfaction of the Engineer. Contractors will be permitted to cut standing timber along the banks of the drain to the extent that may in the opinion of the Engineer be reasonably necessary for the operation of the excavating equipment. Timber necessarily cut by the Contractor shall be left on the property where found for the use or disposal of the owner.

18. **FENCES:** The Contractor will be permitted to remove fences to the extent necessary to enable him to excavate the drain and dispose of the material. Any such fences must be carefully handled so as to cause no unnecessary damage, and shall be replaced by the Contractor in as good condition as found so far as material permits. Fences shall be properly stretched and fastened. Replacing of the fences shall be to the satisfaction of the Engineer or the Commissioner appointed to be in charge of the work. When authorized by the Engineer, the Contractor shall supply new materials to repair a fence, the cost of such material being an additional expense to the drainage area.
19. **EXCAVATION AT BRIDGE SITES:** The Contractor shall be required to excavate the drain to full depths and as nearly as possible to the full widths and slopes at the sites of all bridges. Temporary bridges may be removed for this purpose and the material left at the side of the drain for the subsequent use of the owner in rebuilding. Bridges of a permanent character are not to be unnecessarily disturbed, the excavation at these bridges being made if necessary by hand, tractor, or other suitable means.
20. **BRIDGES:** All bridges hereafter constructed or reconstructed, in order not to be regarded as obstructions, shall have openings of clear width equal to twice the specified bottom width of the drain.
21. **ALLOWANCES FOR DAMAGES:** The damages for which allowances are made include damages for lands on which the excavation is actually made and those on which excavated material, timber, brush or other obstructions may be deposited.

22. **TILE AND LAYING:** All tile shall be sound, of first quality and conform to the requirements of ASTM C412. They shall be laid carefully on a smooth bottom with joints fitting tightly. The grade shall be made by using horizontal sight-bars at stakes above and below the point where the tile is being laid.
23. **LATERAL TILE DRAINS:** The Contractor shall guard against damaging outlets of tributary drains and he shall connect tributary drains to the main tile as work progresses. The cost of such connections shall be an extra to the contract.
24. **MAIN OUTLETS:** Any Main, Award or Municipal Drains encountered shall be connected to this drain constructed under these specifications. Any existing tile drains which have an outlet in the upstream end of this drain, or an old drain which may be replaced by this drain, shall be connected to this drain. These connections shall be made by the Contractor as part of this contract.
25. **FILLING:** As the laying of the tile progresses, partial filling is to be made at the sides sufficient to hold the tile in place. After the work is inspected by the Engineer or the Commissioner in charge of the work, the remainder of the excavated material shall be used to restore and maintain the natural surface of the ground. Care shall be taken to backfill the excavated material evenly on either side of the tile to prevent movement of the tile. All backfill material shall be free of stones larger than 4 inches in diameter.
26. **PROTECTION:** The protection at the outlet of a tile drain shall be a length of corrugated metal pipe fitted with a rodent-proof grate. The grate shall be hinged at the top to permit the exit of foreign material from the tile. The pipe shall be protected with hand placed rip rap (sacked concrete or heavy field stone, as directed) and shall extend along bottom of the open drain as directed and in a manner satisfactory to the Engineer. Where heavy overflow is likely to occur, the rip rap shall be extended up the sides to prevent the water cutting around the protection. Protection for the ends of culverts shall be in accordance with the plans, profiles and special specifications provided.
27. **CATCHBASINS:** Shall be constructed in accordance with the plans provided. If there are no existing drains to be connected to the catchbasin at the top end of the drain, a plugged tile shall be placed in the upstream wall, with the same diameter and at the same elevation as the outlet



## 27. Continued

- tile. Where the catchbasin is on a road allowance the Contractor shall obtain from the Road Superintendent approval of the location of the catchbasin, the grate to be used and the elevation at which the top shall be set. All tile entering the catchbasin shall be tightly cemented into the wall.
28. UNSTABLE SOIL: If during the construction of the drain quick sand, fine sand, silt or other unstable soil conditions are encountered the Contractor shall immediately notify the Engineer or Commissioner in charge of the work. The basis of payment for such extra work shall be set by the Engineer.
29. EXCESS TILE: If the tile are supplied by the Municipality, at the end of the job the Contractor shall stockpile all excess tile in one readily accessible location for pick-up by the Municipality.
30. LIVESTOCK: It shall be the responsibility of each owner to keep his livestock clear of the construction area. Loss or damage to livestock in the construction area shall not be the liability of the Contractor except through negligence or carelessness on the part of the Contractor and/or his agents.
31. TRENCH WIDTH: The minimum width of trench shall be not less than the outside diameter of the drain tile plus six (6) inches, except where authorized in writing by the Engineer.
32. RODENT GRATES: Rodent Grates shall be an integral part of the Corrugated Metal Culvert at the outlet. These grates shall be of a style and type acceptable to the Engineer.

IN ADDITION

Lateral Tile - All lateral tile encountered during construction shall be connected to the new tile. The cost of such connections shall be an extra to the contract.

Clearing Widths - Open Work - 70 feet on spoil side. Closed portion - 50 feet on each side of drain, unless otherwise directed by the Engineer.

Open Drain - Side Slopes  $1\frac{1}{2}:1$  ; Bottom width - 3 feet throughout.

Sediment Basins - Shall be constructed in accordance with the attached drawings.

Seeding & Mulching - The grass seed mix shall contain a minimum of three varieties, suitable to the area, NOT including canary grass and shall be approved by Council.

M.T.C. Right-of-way - All disturbed areas on the right-of-way shall be restored to current M.T.C. specifications. The cost of the restoration shall be a direct charge to the M.T.C.

## SPECIFICATIONS FOR MUNICIPAL DRAINS CROSSING TOWNSHIP ROADS

1. The Township will supply no labour, equipment or materials for the construction of the road crossing, with the sole exception of patching an existing asphalt surface.
2. The excavated material removed from the travelled portion of the road and four feet (4') or the full width of the gravelled shoulder, whichever is greater, on each side of the travelled portion, shall be removed. Excavated material may be spread on the right-of-way with the consent of the Township Road Superintendent.
3. The granular backfill material for the excavation on the travelled portion and four feet (4'), or the full shoulder width, on either side shall be acceptable to the Township Road Superintendent, and shall be thoroughly compacted in layers not exceeding 12 inches with a MECHANICAL VIBRATING COMPACTOR.
4. The Township will place the asphalt patch over the excavation on existing asphalt covered roads.
5. The excavated material from the trench beyond a point four feet (4') from the travelled portion, or beyond the outside edge of the gravel shoulder, may be replaced in the trench in the case of covered drains. This material shall be compacted by hand tamping in layers not exceeding 24 inches. The finished work shall be left in a clean and orderly manner, flush with or slightly higher than the adjacent ground.
6. The location on the right-of-way and the elevation of the top of catchbasins, inlets, and junction boxes on the right-of-way shall be as required by the Township Road Superintendent.
7. The Contractor shall give the Township Road Superintendent at least two (2) days notice before he commences any work on the right-of-way of any Township Road.
8. If at all possible, the Contractor shall keep the road open to traffic at all times. The Contractor shall provide suitable warning signs and/or flagmen to the satisfaction of the Township Road Superintendent to notify the motorists of work on the road ahead. If it is necessary to close the road to through traffic, the Contractor shall provide for and adequately sign the detour road route.

H.M. Gibson Limited  
Consulting Engineers

# Notice of Request for Drain Improvement

Drainage Act, R.S.O. 1990, c. D.17, subs. 78(1)

To: The Council of the Corporation of the City of KAWARTHA LAKES

Re: HUGH DAVIDSON DRAIN  
(Name of Drain)

In accordance with section 78(1) of the *Drainage Act*, take notice that I/we, as owner(s) of land affected, request that the above mentioned drain be improved.

The work being requested is (check all appropriate boxes):

- ☐ Changing the course of the drainage works;
- ☐ Making a new outlet for the whole or any part of the drainage works;
- ☐ Constructing a tile drain under the bed of the whole or any part of the drainage works;
- ☐ Constructing, reconstructing or extending bridges or culverts;
- ☐ Constructing, reconstructing or extending embankments, walls, dykes, dams, reservoirs, pumping stations or other protective works in connection with the drainage works;
- ☐ Otherwise improving, extending to an outlet or altering the drainage works;
- ☒ Covering all or part of the drainage works; and/or
- ☐ Consolidating two or more drainage works.

Provide a more specific description of the proposed drain improvement you are requesting:

## Property Owners:

- Your municipal property tax bill will provide the property description and parcel roll number.
- In rural areas, the property description should be in the form of (part) lot and concession and civic address.
- In urban areas, the property description should be in the form of street address and lot and plan number, if available.

Property Description

Conc 8 PTW 1/2 lot 19

Ward or Geographic Township

4 / Mariposa

Parcel Roll Number

1100302  
1651 ~~00000000~~ 3400 0000

If property is owned in partnership, all partners must be listed. If property is owned by a corporation, list the corporation's name and the name and corporate position of the authorized officer. Only the owner(s) of the property may request a drain improvement.

RECEIVED

AUG 18 2020

OFFICE OF THE CITY CLERK  
KAWARTHA LAKES

**Sole Ownership****Individual or Sole Ownership**

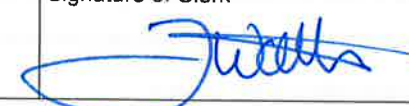
Name (Last Name, First Name) <i>Ed Bagshaw</i>	Signature 	Date (yyyy/mm/dd) <i>2020/08/17</i>
--	--	-------------------------------------

Enter the mailing address and primary contact information of property owner below:

Last Name <i>Bagshaw</i>		First Name <i>Ed</i>	Middle Initial
<b>Mailing Address</b>			
Unit Number	Street/Road Number <i>1299</i>	Street/Road Name <i>Elm Tree Rd.</i>	PO Box
City/Town <i>Lindsay</i>		Province <i>Ont.</i>	Postal Code <i>K9V 4R2</i>
Telephone Number <i>705-324-4498</i>	Cell Phone Number (Optional)	Email Address (Optional) <i>frmed @ i-zoom.net</i>	

To be completed by recipient municipality:

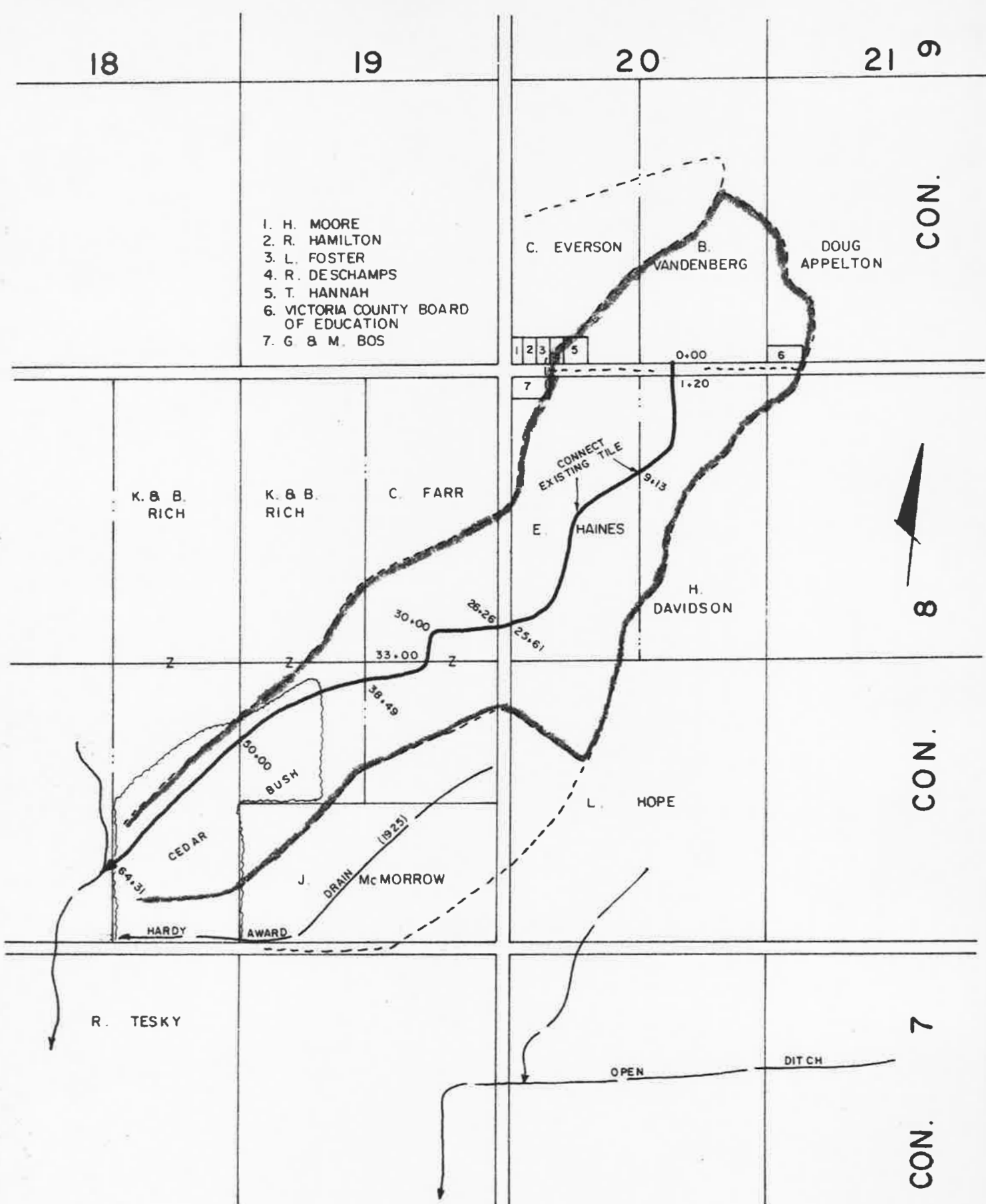
Notice filed this 18 day of AUGUST 20 20

Name of Clerk (Last Name, First Name) <i>WATTS, JOEL</i>	Signature of Clerk 
--	--

RECEIVED

AUG 18 2020

OFFICE OF THE CLERK  
MUNICIPALITY OF LINDSAY



H. M. GIBSON LTD. CONSULTING ENGINEERS KINCARDINE : LONDON	
<b>HUGH DAVIDSON DRAIN TOWNSHIP OF MARIPOSA</b>	
Scale: 1 in = 1000 ft.	File No.
Date: 29 JULY 1977	11 - 30



4.8 RD. FENCE  
8.7 0.60 C. ROAD  
4.8 1420 S. RD. FENCE

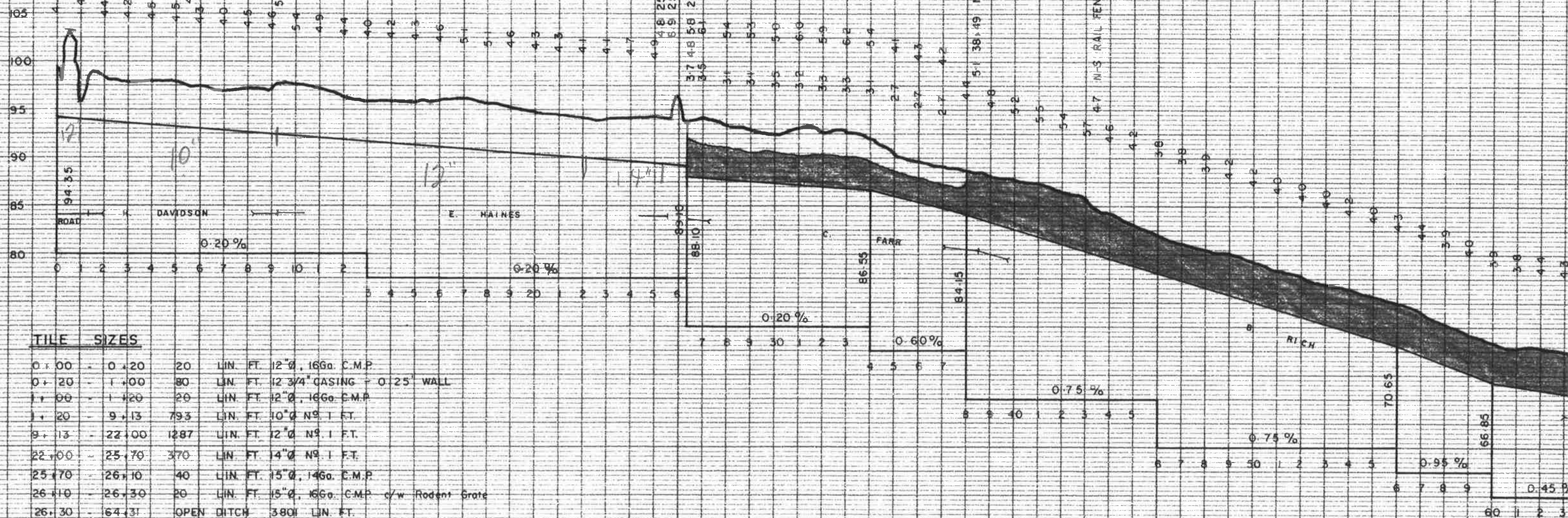
4.2 5.78 E-W FENCE  
4.0  
4.5  
4.6 5.4 9.13 N-S FENCE

4.9 4.8 25.61 E. RD. FENCE  
8.9 25.90 C. RD.  
3.7 4.8 5.8 26.26 W. RD. FENCE

4.4 5.1 38.49 N-S FENCE

5.7 4.7 N-S RAIL FENCE

20.4 acres

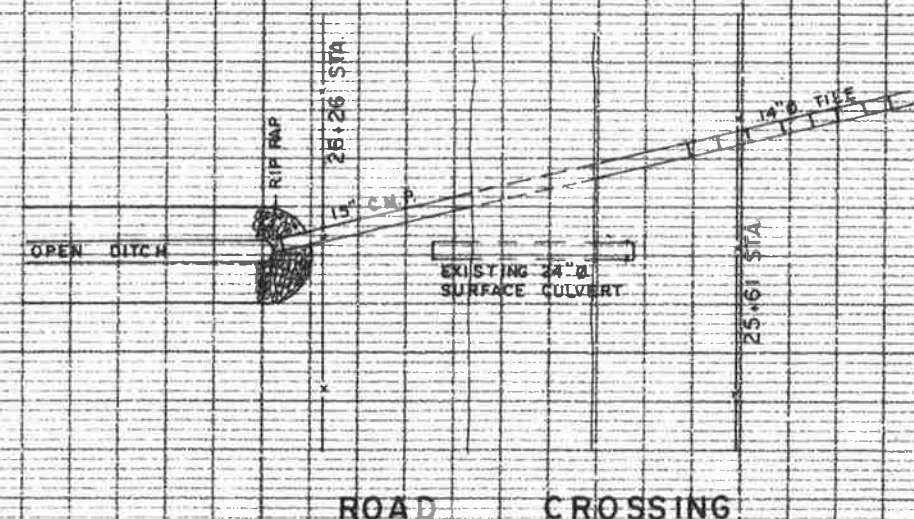


**TILE SIZES**

0+00 - 0+20	20	LIN. FT. 12"Ø, 16Ga. C.M.P.
0+20 - 1+00	80	LIN. FT. 12 3/4" CASING - 0.25' WALL
1+00 - 1+20	20	LIN. FT. 12"Ø, 16Ga. C.M.P.
1+20 - 9+13	793	LIN. FT. 10"Ø N9.1 FT.
9+13 - 22+00	1287	LIN. FT. 12"Ø N9.1 FT.
22+00 - 25+70	370	LIN. FT. 14"Ø N9.1 FT.
25+70 - 26+10	40	LIN. FT. 15"Ø, 14Ga. C.M.P.
26+10 - 26+30	20	LIN. FT. 15"Ø, 16Ga. C.M.P. c/w Rodent Grate
26+30 - 64+31	OPEN DITCH	380' LIN. FT.

CATCHBASINS STA 0+00, STA 9+13

SIDE SLOPE 1 1/2 : 1  
3' BOTTOM THROUGHOUT





# Petition for Drainage Works by Owners Form 1

Drainage Act, R.S.O. 1990, c. D.17, clause 4(1)(a) or (b)

This form is to be used to petition municipal council for a new drainage works under the *Drainage Act*. It is not to be used to request the improvement or modification of an existing drainage works under the *Drainage Act*.

To: The Council of the Corporation of the City of Kawartha Lakes

The area of land described below requires drainage (provide a description of the properties or the portions of properties that require drainage improvements)

Lot 17 Con. 3, Lot 16 Con. 3 & Lot 16 Con 2 require converting of the Budd & Hopkins Award Drains to a Municipal Drain.

RECEIVED  
SEP 03 2019  
OFFICE OF THE CITY CLERK  
KAWARTHA LAKES

In accordance with section 9(2) of the *Drainage Act*, the description of the area requiring drainage will be confirmed or modified by an engineer at the on-site meeting.

As owners of land within the above described area requiring drainage, we hereby petition council under subsection 4(1) of the *Drainage Act* for a drainage works. In accordance with sections 10(4), 43 and 59(1) of the *Drainage Act*, if names are withdrawn from the petition to the point that it is no longer a valid petition, we acknowledge responsibility for costs.

## Purpose of the Petition (To be completed by one of the petitioners. Please type/print)

Contact Person (Last Name)	(First Name)	Telephone Number
Brown	Scott	705 328-8123 ext.
Address		
Road/Street Number	Road/Street Name	
C1510	Thorah Concession Road 1	

## Location of Project

Lot	Concession	Municipality	Former Municipality (if applicable)
16	2	<u>Eldon - Kawartha Lakes</u>	<u>Eldon</u>

What work do you require? (Check all appropriate boxes)

- ☐ Construction of new open channel  
☐ Construction of new tile drain  
☒ Deepening or widening of existing watercourse (not currently a municipal drain)  
☒ Enclosure of existing watercourse (not currently a municipal drain)  
☒ Other (provide description ▼)

Budd & Hopkins Award Drains

Name of watercourse (if known)

12000 Feet

Estimated length of project

Simcoe clay and Smithfield clay loam

General description of soils in the area

Convert Award Drains to Municipal Drains

What is the purpose of the proposed work? (Check appropriate box)

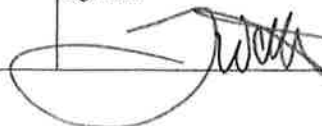
- ☐ Tile drainage only ☐ Surface water drainage only ☒ Both

Petition filed this 3RD day of September, 20 19

Name of Clerk (Last, first name)

WATTS, JOEL

Signature



**Property Owners Signing The Petition**Page **2** of **2**

- Your municipal property tax bill will provide the property description and parcel roll number.
- In rural areas, the property description should be in the form of (part) lot and concession and civic address.
- In urban areas, the property description should be in the form of street address and lot and plan number if available.
- If you have more than two properties, please take copy(ies) of this page and continue to list them all.

Number	Property Description Pt Lot 16, Con. 2
Ward or Geographic Township Eldon	Parcel Roll Number 165116001010102

I hereby petition for drainage for the land described and acknowledge my financial obligations.

**Ownership**☐ Sole Ownership

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☐ Partnership (Each partner in the ownership of the property must sign the petition form)

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☒ Corporation (The individual with authority to bind the corporation must sign the petition)

Name of Signing Officer (Last, First Name) (Type/Print)

Signature

Brown Scott  
Name of Corporation  
D. S. + B. Farms Inc.Scott Brown  
I have the authority to bind the Corporation.Position Title  
Vice President OwnerDate (yyyy/mm/dd)  
2019/08/22

Number	Property Description Pt Lot 16, Con. 3
Ward or Geographic Township Eldon	Parcel Roll Number 165116001014100

I hereby petition for drainage for the land described and acknowledge my financial obligations.

**Ownership**☐ Sole Ownership

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

☒ Partnership (Each partner in the ownership of the property must sign the petition form)

Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
--	-----------	-------------------

Robert MacEachern	Robert MacEachern	2019/08/29
MacEachern Robert		
MacEachern Lynda	Lynda MacEachern	2019/08/29

☐ Corporation (The individual with authority to bind the corporation must sign the petition)

Name of Signing Officer (Last, First Name) (Type/Print)

Signature

Name of Corporation

I have the authority to bind the Corporation.

Position Title

Date (yyyy/mm/dd)

☐ Check here if additional sheets are attached

Clerk initial

**Petitioners become financially responsible as soon as they sign a petition.**

- Once the petition is accepted by council, an engineer is appointed to respond to the petition. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 8(1).
- After the meeting to consider the preliminary report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible in equal shares for the costs. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 10(4).
- After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible for the costs in shares proportional to their assessment in the engineer's report. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 43.
- If the project proceeds to completion, a share of the cost of the project will be assessed to the involved properties in relation to the assessment schedule in the engineer's report, as amended on appeal. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 61.

**Notice of Collection of Personal Information**

Any personal information collected on this form is collected under the authority of the *Drainage Act*, R.S.O. 1990, c. D. 17 and will be used for the purposes of administering the Act. Questions concerning the collection of personal information should be directed to: where the form is addressed to a municipality (*municipality to complete*)

and where the form is addressed to a territory without municipal organization, the Drainage Coordinator, Ministry of Agriculture, Food and Rural Affairs, 1 Stone Rd W, Guelph ON N1G 4Y2, 519 826-3552.



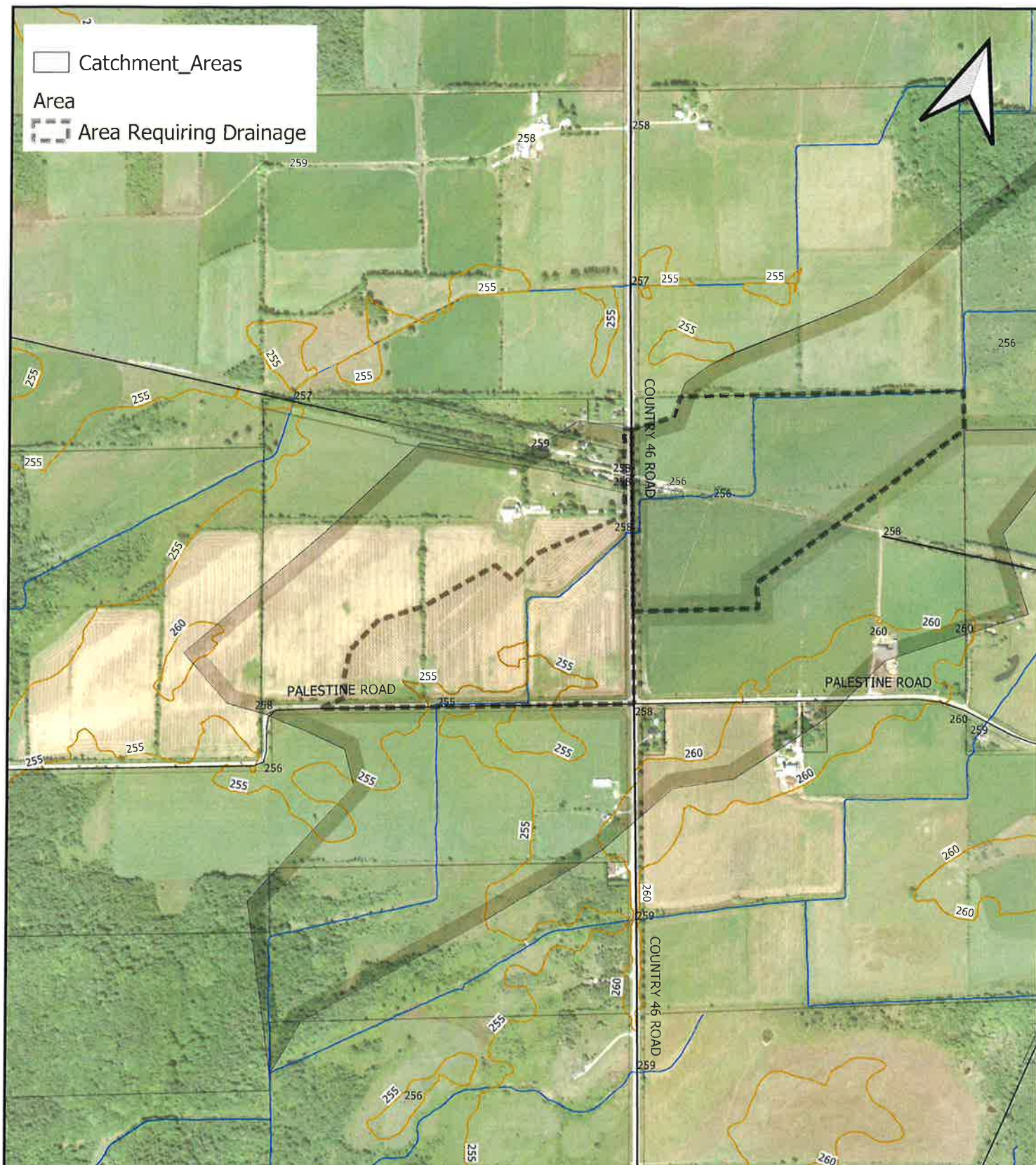


Figure  
Area Requiring Drainage



D.M. Wills Associates  
Limited  
150 Jameson Drive  
Peterborough, Ontario  
K9J 0B9

P. 705.742.2297  
F. 705.741.3568  
E. wills@dmwills.com

Drawn by:	MJH	Scale (Horz):
Checked by:	KS	1:10000
Engineer:	MJH	Map Date:
Project No.	19-5377	July 13, 2020
		Map File No.
		1 of 1



**The Corporation of the  
City of Kawartha Lakes**  
12 Peel Street P.O. Box 9000  
Lindsay, ON K9V 5R8  
Phone: 705-324-9411, Ext. 1156  
Fax: 705-324-2982

## **MEMO**

**Date:** September 11, 2019  
**To:** Drainage Board  
**From:** Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets  
**Re:** Petition for Municipal Drainage  
MacEachern - Brown petition  
**CC:** Juan Rojas Director of Engineering and Corporate Assets  
Mike Farquhar, Supervisor of Technical Services.

---

### **Recommendation:**

**That** the memorandum from the Drainage Superintendent - Engineering and Corporate Assets L. Feiter, dated September 17, 2019, regarding the petition for drainage works by owners of Concession 2, Part Lot 16, Geographic Township of Eldon (being Scott Brown of D.S. & B. Farms Inc.), and Concession 3, Part Lot 16, Geographic Township of Eldon (being Robert and Lynda MacEachern), be received;

**That** Council proceed with the petition submitted by D. S. & B. Farms Inc. and Robert and Lynda MacEachern for drainage works for Concession 2, Part Lot 16, and Concession 3 Part Lot 16 Geographic Township of Eldon to be known as the "MacEachern-Brown Drain" and instruct the City Clerk to proceed with the notices required under Section 5 of the *Drainage Act*;

**That** Staff concurrently continue to pursue with the petitioners options for a mutual drain agreement as per the City Policy; and

**That** pursuant to Section 8(1) of the *Drainage Act, R.S.O. 1990, Chapter D. 17*, staff recommend to Council a Drainage Engineer for the examination of the area requiring drainage and proceed with the requirements of the proposed MacEachern-Brown Drain.



**The Corporation of the  
City of Kawartha Lakes**  
12 Peel Street P.O. Box 9000  
Lindsay, ON K9V 5R8  
Phone: 705-324-9411, Ext. 1156  
Fax: 705-324-2982

## **Background:**

The subject area/ land is bounded by Palestine Road to the South, and is separated by Kawartha Lakes Road 46 (refer to Appendix A). There are no existing Municipal Drains within the vicinity. The area of the land identified in the petition is approximately 200 acres in size.

The property is within the Simcoe County Conservation Authority jurisdiction as defined under the Ontario Conservation Act and has an identified watercourse on the property (see appendix B). This existing watercourse has been identified as the Eli Budd Award Drain, awarded construction in 1904.

On September 3, 2019 the City of Kawartha Lakes Clerks department received a petition for Drainage works within the subject area (Appendix C).

The Drainage Superintendent was called to site after a neighbor was concerned that a drainage ditch had been replaced with a covered pipe. A records request was completed and it was determined that the ditch was an existing Award drain. A meeting was held with landowners where legislation governing Award drains was discussed. The following was explained to land owners:

Section 3(18) of the Drainage Act states:

### **Drainage works constructed on requisition**

3 (1)-(17) Repealed: 2010, c. 16, Sched. 1, s. 2 (1).

### **Existing ditches**

(18) Every ditch constructed under *The Ditches and Watercourses Act*, being chapter 109 of the Revised Statutes of Ontario, 1960, shall be maintained in accordance with the award of the engineer providing for such maintenance until such ditch is brought under the provisions of this Act by petition under section 4. 2010, c. 16, Sched. 1, s. 2 (2).

Therefore, the drain must be maintained as per the latest engineer's report until it is petitioned for a municipal drain.

The first step to initiating maintenance is to send notice to the owner who is not maintaining their section of drain. This notice was served which initiated a site meeting between the land owner in contravention and owner serving notice. If the drain is still not maintained as per the engineer's report then there are three options for the landowner serving notice;

- Initiate a civil lawsuit based on non-compliance with an agreement.
- Initiate an appeal to the drainage referee under subsections 3(18) and paragraph 106(1)(c) of the Drainage Act.
- Petition under section 4 of the drainage act to have the award drain made into a municipal drain.



**The Corporation of the  
City of Kawartha Lakes**  
12 Peel Street P.O. Box 9000  
Lindsay, ON K9V 5R8  
Phone: 705-324-9411, Ext. 1156  
Fax: 705-324-2982

It is up to the land owner to initiate the appeal to the drainage referee and the procedure to follow for appeal is Ontario regulation 232/15 Rules of Practice and Procedure in Proceedings Before the Referee. Recommendation was made that all land owners to seek their own legal advice for clarify and next steps.

Subsequent meetings where held with the applicants representative and City staff on site to review options for a mutual drain, municipal drain or alterations to the award drain. This situation was also discussed with the current Drainage Coordinator for OMAFRA. It was of the opinion that upon appeal, the Drainage Referee would change the Award to a Municipal drain and therefore the petitioning process initiated as per Section 4(1) of the Ontario Drainage Act. It was determined to be too costly and time consuming to pursue the appeal process and a petition was submitted to the Clerk's office on September 3<sup>rd</sup>, 2019.

### **Alternatives:**

As an option for required drainage the City firstly promotes the use of a Mutual agreement through the City's policy for Agricultural Tile discharge to roadside ditches prior to pursuing a petition for a Municipal drain under the Ontario Drainage Act. At this point in time the Drainage Superintendent has currently presented this option to the petitioners and explained its avenues in comparison to petitioning for a Municipal Drain under the Drainage Act. At this current time the petitioners wish to carry on with the process under the Drainage Act for the petition. Staff will leave the door open for pursuing a mutual agreement up until the prescribed time the petitioner has under the Drainage Act for removing their names and abandoning the petition.

### **Recommendation for appointment of a Drainage Engineer:**

Currently the City has a pool of Drainage Engineers which list in the following.

Burnside Engineering  
Tulloch Engineering  
K-Smart Engineering  
R. D. Dobbin Engineering  
DM Wills Engineering.

### **Attachments:**

## Lucas Feitler

---

**From:** Lucas Feitler  
**Sent:** Monday, July 20, 2020 3:00 PM  
**To:** [REDACTED]  
**Cc:** Mike Farquhar  
**Subject:** RE: Drainage Act information

Hi Karen,

You're welcome, please see my answers below. I have also tried to include the Drainage Act sections that correspond with my answers.

is this project already approved to go ahead?

The simple answer, Yes.

A petition has been submitted to council which initiates the procedures of the Drainage Act. The City of Kawartha Lakes has a Drainage Board that can also make decisions on City Council's behalf. The Drainage Board and City Council elected to proceed and accept the petition. If a municipality decides to accept a petition, it must appoint an engineer to determine the validity of said petition (section 8). So far the Engineer has conducted the on-site meeting and determined the petition is valid. Under section 9(5)) of the Drainage Act, the Drainage Board must now instruct the engineer to proceed with a report or preliminary report.

The Municipality must follow the procedure as it is laid out in the Drainage Act.

We are currently arranging this Drainage Board meeting. Please let me know if you would like to view or participate as this meeting can be livestreamed.

who is paying for D.M. Wills engineering company?

Throughout the design and construction phase, and until the drainage costs can be levied to assessed owners, the fees are paid by the Municipality. Once all construction and appeal periods have expired, costs are assessed to land owners. If requested by the land owner, the fees can be debentured over a period of 10 years. The engineering fees form part of the drainage works and are therefore paid by the watershed (section 70)

who is responsible to contact the Lake Simcoe Conservation Authority, the Planning and Development Environmental Regulations and related Watershed departments, and the Planning and Regulations dept.? And, at what point in the process are they involved?

It is the Municipalities' responsibility to notify the local Conservation Authority when a petition is submitted to Council (Section 5(1)(b)). This notification was sent to the General Manager of Planning and Development on November 1<sup>st</sup>, 2019.

In addition, the same Section 9 'On-Site' meeting invitation, that was sent to yourself, was sent to the General Manager of Planning and Development.

Once the design is completed, Lake Simcoe Conservation Authority will have to review. They must approve and issue a permit to complete the work. No construction will begin without approval from the Lake Simcoe Conservation Authority.



Thank you,

**Lucas Feitler**

Senior Engineering Technician, Municipal Drainage Superintendent  
Engineering and Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1167 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



**From:** karen buckmackintosh [REDACTED]  
**Sent:** Friday, July 17, 2020 1:27 PM  
**To:** Lucas Feitler <lfeitler@kawarthalakes.ca>  
**Subject:** Re: Drainage Act information

Lucas

Thank you for this information.

Can you please clarify a couple of things.

- is this project already approved to go ahead?
- who is paying for D.M. Wills engineering company?
- who is responsible to contact the Lake Simcoe Conservation Authority, the Planning and Development Environmental Regulations and related Watershed departments, and the Planning and Regulations dept.? And, at what point in the process are they involved?

Sincerely,  
Karen Buck-Mackintosh

On Wed, Jul 15, 2020 at 3:29 PM Lucas Feitler <lfeitler@kawarthalakes.ca> wrote:

Hello Karen Buck-Mackintosh,

Thank you for attending last week's on-site meeting for the MacEachern-Brown municipal drain.

The *Drainage Act*, R.S.O. 1990, c. D.17 contains a detailed and specific procedure for land owners to obtain a legal outlet for their water. As discussed on site, I wanted to reach out and provide some additional informational sheets regarding municipal drains.

I have attached two factsheets from the Ontario Ministry and Agriculture, Food and Rural Affairs (OMAFRA) to this email. For a better understanding of the Drainage Act, I recommend that you read

through these, as well as visit OMAFRA's website at <http://www.omafra.gov.on.ca/english/landuse/drain-pub.htm>. This website is a great resource for drainage information and legislation. I highlight and recommend reading over the following additional factsheets from OMAFRA's website; Drainage Act Appeals, Duties of the Landowner Under the Drainage Act, and Municipal Drains and the Land Owner.

Should you have any general questions related to the *Drainage Act, R.S.O. 1990, c. D.17* please do not hesitate to contact me. If you have specific questions or requests related to the MacEachern-Brown drain, please direct them to Ken Smith at D. M. Wills Associates Limited. He can be reached by calling their office at (705) 742-2297 or alternatively by emailing [ksmith@dmwills.com](mailto:ksmith@dmwills.com).

Thank you,

**Lucas Feitler**  
Municipal Drainage Superintendent  
Engineering and Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1167 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



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**Lucas Feitler**

---

**From:** [REDACTED]  
**Sent:** Wednesday, July 15, 2020 5:11 PM  
**To:** Lucas Feitler  
**Subject:** Re: Drainage Act information

Hello Lucas,

Thank you for coming out to the site to explain all the particulars to myself and all the neighbours.

"Climate Change" has not been factored into the equation, this will be the 5th drought in 8 years on record. Will this drain be the bane of the whole area's crops being burned off in the scorching heat and lack of rain? And who will be responsible for this catastrophe?

Mr. Brown voluntarily filled in his portion of an awarded ditch and caused all the trouble with Mr. MacEachern, this is a litigation matter rather than shared expense on neighbouring farms that clearly don't want this drain and cannot afford this extravagant expense, people have been bankrupted for less.

We clearly do not want our lands drained into a desert during these times of climate insecurity. We do not want any type of ditching system that renders our crops without the moisture to grow. Over a 33 year period we have carefully nurtured a 55 ac. ecological reserve on lot 17, conc.3 to hold back any runoff and sequester the water for a slow release over severe drought years. This proposed municipal drain will devastate the whole area in a dry year.

Please feel free to forward on this email to council, neighbour's or anyone else involved in this case.

Thank you for your consideration in this matter and have a good day.

Yours very truly,

Christine Halbot & Fraser Currie

On 2020-07-15 15:41, Lucas Feitler wrote:

Hello Christine Halbot,

Thank you for attending last week's on-site meeting for the MacEachern-Brown municipal drain.

The *Drainage Act, R.S.O. 1990, c. D.17* contains a detailed and specific procedure for land owners to obtain a legal outlet for their water. As discussed on site, I wanted to reach out and provide some additional informational sheets regarding municipal drains.

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Thank you,

**Lucas Feitler**  
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