## ONTARIO <br> SUPERIOR COURT OF JUSTICE

B ETWEEN:

EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK
Applicants

- and -

HIS MAJESTY THE KING IN RIGHT OF ONTARIO, as represented by the Ministry of Natural Resources and Forestry and ROYAL BANK OF CANADA

Respondents

## APPLICATION RECORD

Hedley, McLachlin \& Attema
Barristers and Solicitors
311 Broad Street East
Dunnville, Ontario
N1A 1G4

Michael J. McLachlin
Tel: 905-774-9988
Fax: 905-774-6637
Email: mmchlachlin@hedleylaw.com
Solicitor for the Applicants

TO: HIS MAJESTY THE KING IN RIGHT OF ONTARIO as represented by THE MINISTRY OF NATURAL RESOURCES AND FORESTRY
720 Bay Street, $11^{\text {th }}$ Floor
Toronto, Ontario
M5G 2K1

ROYAL BANK OF CANADA
10 York Mills Road, $3{ }^{\text {rd }}$ Floor
Toronto, Ontario
M2P 0A2

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## ONTARIO <br> SUPERIOR COURT OF JUSTICE

B ETWEEN:

EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK


IN THE MATTER OF the Beds of Navigable Waters Act, R.S.O. 1990 c.B-4;

And in the matter of the lands legally described as Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971; Township of West Lincoln, being PIN 46056-0355 (LT).

## NOTICE OF APPLICATION

## TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicants. The claim made by the applicants appears on the following page.

THIS APPLICATION will come on for a hearing (choose one of the following)In personBy telephone conference
® By video conference
at the following location
59 Church Street, St. Catharines, ON L2R 7N8
(Courthouse address or telephone conference or video conference details, such as a dial-in number, access code, video link, etc., if applicable)
on Wednesday, August 9, 2023 at 10:00 a.m

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the Application or to be served with any documentation in the Application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

## IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE

APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE: MAY 18 , 2023
ISSUED BY $\qquad$
Local Registrar
Address of Court Office:
59 Church Street
St. Catharines, ON L2R 7N8

TO: HIS MAJESTY THE KING IN RIGHT OF ONTARIO as represented by THE MINISTRY OF NATURAL RESOURCES AND FORESTRY
720 Bay Street, $11^{\text {th }}$ Floor
Toronto, Ontario
M5G 2K1

ROYAL BANK OF CANADA
10 York Mills Road, $3^{\text {rd }}$ Floor
Toronto, Ontario
M2P 0A2

## APPLICATION

## 1. THE APPLICANT MAKES APPLICATION FOR:

(a) An Order declaring that the North Creek as it passes through the property of the Applicants, Evelyn Susan Duck and Jeffrey Lawrence Duck, legally described as Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971; Township of West Lincoln, being PIN 46056-0355 (LT), is navigable within the meaning of the Beds of Navigable Waters Act, R.S.O. 1990, c.B.4.;
(b) An Order that the Crown, as represented by the Ministry of Natural Resources and Forestry for the Province of Ontario, has title of those lands which lie below the low water mark of the said North Creek as it crosses the said lands of the Applicants, being as shown in a draft reference plan survey of Rasch \& Hyde Ltd. dated August 31, 2022;
(c) An Order that the draft reference plan of Rasch \& Hyde Ltd. of the lands described in paragraph 1 (a) and dated August 31, 2022, be deposited as a reference plan in the Land Registry Office for the Registry Division of Niagara North (No. 30);
(d) The costs of this Application on a substantial indemnity scale, if this Application is opposed;
(e) Such further and other relief as this Honourable Court may deem just and proper.

## 2. THE GROUNDS FOR THE APPLICATION ARE:

(a) The grounds more particularly set out in the Affidavit of Evelyn Susan Duck, sworn May 12, 2023, and the Affidavit of Harold Hyde, sworn May 17, 2023;
(b) The Beds of Navigable Waters Act, R.S.O. 1990, c.B.4; and
(c) Rule 14.05 and Rule 38 of the Rules of Civil Procedure.
3. THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Application:
(a) the Affidavit of Evelyn Susan Duck sworn May 12, 2023;
(b) the Affidavit of Harold Hyde sworn 17, 2023; and
(c) such further and other material as counsel may advise and this Honourable Court permit.

DATE OF ISSUE: May 17 , 2023

Hedley, McLachlin \& Attema<br>Barristers and Solicitors<br>311 Broad Street East<br>Dunnville, Ontario<br>N1A 1G4

Michael J. McLachlin
Tel:(905) 774-9988
Fax: (905) 774-6637
Email: mmclachlin@,hedleylaw.com
Solicitor for the Applicants

## Court File No.

## ONTARIO <br> SUPERIOR COURT OF JUSTICE

BETWEEN:
EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK
Applicants

- and -

HIS MAJESTY THE KING IN RIGHT OF ONTARIO, as represented by the Ministry of Natural Resources and Forestry and ROYAL BANK OF CANADA

Respondents
IN THE MATTER OF the Beds of Navigable Waters Act, R.S.O. 1990 c.B-4;
And in the matter of the lands legally described as Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971; Township of West Lincoln, being PIN 46056-0355 (LT)

## AFFIDAVIT OF EVELYN SUSAN DUCK

## I, EVELYN SUSAN DUCK, of the Regional Municipality of Niagara, in the Province of Ontario MAKE OATH AND SAY AS FOLLOWS:

1. I am one of the Applicants in this proceeding and as such have knowledge of the matters hereinafter deposed to.
2. Together with my spouse, Jeffrey Lawrence Duck, I acquired title to the property legally described as Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971;
Township of West Lincoln, being PIN 46056-0355 (LT) by way of the Transfer registered as Instrument RO660971 on January 15, 1993. A copy of the said Transfer registered as Instrument

RO660971 is attached hereto and marked as Exhibit " $A$ " to this affidavit.
3. The Transferor in the said Transfer registered as RO660971, Jan De Groot, was my father. My father had acquired title to the property by way of Instrument RO435478, registered August 12, 1981, a copy of which is attached hereto and marked as Exhibit "B" to this affidavit. The Transferor in RO435478 was Harry De Groot, my grandfather, who in turn had originally acquired title in the property by way of Instrument 19429 registered August 8,1957, a copy of which is also attached hereto and marked as Exhibit " C " to this affidavit,
4. As a youth, I grew up at the property at 7224 Twenty Road, which is located directly across the road from the lands to which this application relate. I was born October 15, 1969. As a consequence, I have been familiar with the subject property for many years, since I was very young.
5. The subject lands are designated in the Land Registry System as PIN 46056-0355 (LT). A copy of the parcel register for the said property is attached hereto and marked as Exhibit "D" to this affidavit. A copy of the Teraview PIN map is attached hereto and marked as Exhibit "E" to this affidavit.
6. Title to the property is subject to a mortgage in favour of Royal Bank of Canada registered as NR445803 on May 2, 2017, a copy which is attached and marked as Exhibit "F" to this affidavit. Royal Bank of Canada is named as a Respondent in the within proceeding as a consequence of its said registered rights in the property.
7. The property which I co-own with my spouse, Jeffrey Lawrence Duck, is traversed by the North Creek, which I have observed to be a substantial watercourse containing, for the majority of the year, a significant flow of water. When the water in the North Creek is not frozen, the Creek is ordinarily of such depth and width that it is not possible to cross it without wading through the creek, swimming or using a canoe or other small water craft. For the majority of the
year, the North Creek, as it passes through the property, is navigable by a small boat.
8. It is not possible to walk from one side of the creek to the other side of the creek. The residence located on the property is along Twenty Road and located on Part 2 on the draft reference plan survey of Rasch \& Hyde Ltd. of August 31, 2022. In order to access the lands which are Part 1 on the said survey (which are farmed by my family) one must exit on to Twenty Road and drive westerly, turning right on to South Grimsby Road 10 and accessing the said lands north of the creek where there is a separate entrance way on to Part 1 on the draft reference plan survey.
9. The creek, as it crosses through our property, is accessible from a public roadway where the creek crosses under South Grimsby Road 10.
10. Throughout our ownership of the property, the creek has regularly been used for recreational purposes. In the summer, family and friends have fished out of the creek and it is not uncommon to see people fishing the creek from the bridge where South Grimsby Road 10 crosses over it. In the past, as a child, family members would traverse the creek by canoe and my daughter also canoed the creek when she was a child.
11. Attached hereto and marked as Exhibit "G" to this affidavit are photographs which I or other family members have taken of the North Creek as it passes through the property. These photographs have been recently taken either from the rear of my residence which is located on the premises of the creek as it passes by or from South Grimsby Road 10 near where the creek crosses under the road.
12. This Affidavit is sworn in support of an Application for a declaration that the North Creek, as it passes through the property owned by myself and Jeffrey Lawrence Duck, is a navigable body of water and that, as such, the creek bed is owned by the Crown. The effect of such an Order would be that the North Creek forms a natural severance between the lands on the
north side of the creek and the lands on the south side of the creek and the lands on either side of North Creek would be separate parcels of land capable of being conveyed independently of one another.
13. I swear this affidavit in support of the within Application and for no other or improper purpose.

## SWORN BEFORE ME



A Commissioner for Taking Affidavits

Exhibit A to the Affidavit of Evelyn Susan Duckjsworn the $12^{\text {th }}$ day of Muley, 2023

Commissioner


## SCHEDJLE "A"

$\square$
part of lot 2, Range 2, of the Gore South of the Twenty Mile Creek, in the said former township of South Gximsby, and containing by admeasurement 47.66 acres be the same more or less, and which said paxcel may be more particularly described as follows:

COMMENCING at an iron pin marking the southeast angle of said Lot 2 ; THENCE NOTth 0 degrees 47 minutes 30 seconds West in and along a fence line marking the easterly limit of Lot 2, aforesaid, 1,512.0 feet to an iron pinz

THENCE North 81 degrees 09 minutes West in and-along a fence line $1,749.9$ feet to an iron pin planted in the easterly limit of a given roadi THENCE South 0 degrees 59 minutes 30 seconds East in the said Easterly limit of the given road as fenced 898.4 feet to an iron tube planted in the southerly limit of said Lot $2 ;$

THENCE SOuth 63 degrees 01 minutes 30 seconds East in the said southerly limit of lot 2 being the noxtherly limit of the road allowance between the former Townships of South Grimsby and Caistor, 1,946.1 feet more or less to the POINT OF COMMENCEMENT.

# Affidavit of Residence and of Value of the Consideration <br> Form 1 - Land Transfer Tax Act 

Part of Lot 2, Range 2, of the Gore south of 3

## 

MAKE OATH AND SAY THAT:

$\square$ (B) A parson in trust for whom the land conveyed in the above-described conveyance is being conveyed;
$\square$ (b) A trustee nameat in the abovedescribed conveyance to whom the land is being conveyed:
Q. (c) A transferee named in the above -described conveyance:
$\square$ (d) The authorized agent or solicitor acting in this transaction for inset names of propopeloy
——dexribed in paragregh(s) (e). (b). (c) above; fares out nedivancas no happibiote paragraphs)
$\square$ (9) The President, Vice-Prasident, Manager, Secretary, Director, or Treasurer authorized to act for finsen namaki of corparationall)

 behalf of Avert name of axial Evelyn Susan Duck who is my spouse described

2. (To be completed where the valve of the consideration for the conveyance exceeds $\$ 100,000$ ).
I have read and considered the definition of "single family residence" set out in clause 1(1) (ja) of the Act. The land conveyed in the abovedescr bed conveyance
$\square$ contains at least one and not more than two single family residences.
$\square$ does not contain a single family residence.
Molar Claus a 2(1)(d) imposes en additional tex et the rate of one-haff of one par cent upon the value of consideration In excess of $\$ 400,000$ where the conveyandes contains at lest one and not more than two single family residences
3. Thieve read and considered the definitions of "nonresident corporation" and "nonresident person" set out respectively in clauses 1(1)(f) and (9) of the Act and each of the following persons to whom or in that for whom the land is being conveyed in the above-deseribed conveyance is a "nonresident corporation" or " "non-resident parson" as sat out in the Act. Nosemations and 5). None
4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

(3) TOTAL CONSIDERATION

6. If the consideration is nominal, is the land subject to any encumbrance? nsa
7. Other remarks and explanations, if necemeary. n/a
Sworn before me at the Village of Smithville
in the Regional Municipality of Niagara
this lift dey of January

Property information Record
A Describe nature of instrument: Deed/Transfer
B. if Address of property being convoyed (M) mneme R.R. \#1, Smithville, Ontario LUR TAO
(ii) Assessment Roll No. man 260203001248900
c. Moiling abdressleal for future Notigesfofovessment under the Assessment Act for property being comment (ese induction ग__ as avo
0. if Registration number for last conveyance of property being conveyed (y mates) 435478
(ill) Legal description of property conveyed: Same as in $\mathbf{D} . \mathrm{If}$ ) above. Yes $\square$ No $\square$ Not known $\square$
E. Names) and addresses) of each transferee's solicitor
Van der Woerd \& Faber, Barristers $\varepsilon$ Solicitors
VIllage Square Mall, Hwy, \#20, Smithville, Ontario LOR 2A0

## Shool Tax Support (Voluntary Election) See reverse for explanation


NOTE As to (c) and (d) the land being transferred will be assigned to the French Public sabot Board or Sector unless otherwise directed in (a) and (b).


I,
of the
in the
make osth and say:
See footnote I am a subscribing witness to the attached instrument and I was present and saw it executed st
by
-See footnote I verily believe that each person whose signature I witnessed is the party of the same name referred to in the instrument.

SWORN before me at the
this
day of
19

A COMMISSIONER POR TAKING APFIDAVITS. ETC.

- Where a party ia unoble to read the insirument ar where a party signs by making his mark or in foreion characters add "after instrument had been read to aimp and he appoarcel fully to understand it". Where nsecuted under a power of attomey insert "(narne of attorney) as attorney for (name of party)": and for noxt elause eubstitute "I verily believe that the pernom whose signature I writnessed was authorized to execute the inatrument as attorney for (name)".


THIS INDENTURE made in duplicate the lst day of JANUARY, 1981.

BETWEEN :
HARRY DE GROOT, of the Township of West Lincoln,
in the Regional Municipality of Niagara, personally
and in his capacity as Executor of the Estate of
ELISABETH DE GROOT, late of the said Township of
West Iincoln,
hereinafter called "GRANTOR"
of the FIRST PART;
AND:
JAN DE GROOT, of the said Township of West Lincoln,
hereinafter called "GRANTEE"
of the SECOND PART;
AND: CORNELIA JOHANNA DE GROOT, spouse of the Grantor, of the same place,
hereinafter called "SPOUSE"
of the THIRD PART.

WHEREAS the said HARRY DE GROOT, ELISABETH DE GROOT and JAN DE GROOT, own the hereinafter described lands in partnership;

AND WHEREAS the said Elisabeth De Groot died on or about the 8 th day of February, 1977;

AND WHEREAS the Surrogate Court of the Judicial District of Niagara North did grant unto the said Harry De Groot Letters Probate of the Estate of Elisabeth De Groot on the 18th day of April, 1978.

AND WHEREAS the said Letters Probate of the said Estate are registered in the Registry office for the Registry givision of "Niagara North as No. H 35409 on the st day of luguat 1981.

AND WHEREAS Certificate for Registration No. 978770 for the Estate of Elisabeth De GRoot was registered in the registry Office for the said Registry Division as No. 366373 on the 28th day of October, 1977;

AND WHEREAS the said Harry De Groot wishes to convey all his interest in the said lands and all interes't of the estate to Jan De Groot.

WITNESSETH that in consideration of other valuable consideration and the sum of ONE DOLLAR of lawful money of Canada now paid by the said Grant'ee to the said Grantor (the receipt whereof is hereby by him acknowledged) he the said grantor DOTH GRANT unto the said Grantee in fee simple

ALL AND SINGULAR that certain parcel or tract of 1 and and premises, situate, lying and being in the Township of West Lincoln, in the Regional Municipality of Niagara, formerly in the Township of Caistor, County of Lincoln, and being composed parts of lots 2 and 3 , in the 7 th Concession of the said Township and Part of lot 2, Range 2, Gore South of the Twenty Mile Creek in the Township of South Grimsby all as more particularly described in Schedule "A" attached hereto.

TO HAVE AND TO HOLD unto the said Grantee, his heirs, executors, administrators, successors and assigns to and for their sole and only use forever.

SUBJECT NEVERTHELESS to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said Grantor COVENANTS with the said Grantee that he has the right to convey the said lands to the said Grantee notwithstanding any act of the said Grantor.

AND that the said Grantee shall have quiet possession of the said lands free from all encumbrances.

AND the said Granter COVENANTS with the said Grantee that he will execute such further assurances of the said lands as may be requisite.

AND the said Granter COVENANTS with the said Grantee that he has done no act to encumber the said lands.

AND the said Granter RELEASES to the said Grantee ALL his claims upon the said lands.

AND THE Spouse of the Third Part consents to this transaction as evidenced by this indenture.

PROVIDED that in construing these presents the words "Granter" and "Grantee" and the pronouns "he", "his" or "him" relating thereto and used therewith shall be read and construed as "Granter" or "Grantors", "Grantee" or "Grantees", and "he", "she", "it" or "they", "his", "her", "its" or "their", or "him", "her", "it"'or "them", respectively, as the number and gender of the party or parties referred to in each case require, and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted.

IN WITNESS WHEREÓF the said parties hereto have hereunto set their hands and seals.
 IN THE PRESENCE OF
 Executor of the Estate of ELISABETH DE GROUT


AII AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being, in the Township of West Lincoln, in the Regional Municipality of Niagara, formerly in the Township of South Grimsby, and formerly in the Township of Caistor, County of Lincoln, and being composed of FIRSTLY:
part of lot 2, Range 2, of the Gore South of the Twenty Mile Creek, in the said former Township of South Grimsby, and containing by admeasurement 47.66 acres be the same more or less, and which said parcel may be more particularly described as follows:

COMMENCING at an iron pin marking the southeast angle of said Lot 2 ; THENCE North 0 degrees 47 minutes 30 seconds West in and along a fence Iine marking the easterly limit of Lot 2 , aforesaid, $1,512.0$ feet to anyer" iron pin;

THENCE North 81 degrees 09 minutes West in and along a fence line 1,749.9
feet to an iron pin planted in the easterly limit of a given road;
THENCE South 0 degrees 59 minutes 30 seconds East in the said Easterly limit of the given road as fenced 898.4 feet to an iron tube planted in the southerly limit of said Lot 2 ;

THENCE South 63 degrees 01 minutes 30 seconds East in the said southerly limit of lot 2 being the northerly Iimit of the road allowance between the former Townships of South Grimsby and Caistor, 1,946.1 feet more or less to the POINT OF COMMENCEMENT. SECONDLY:
part of lots 2 and 3, in the 7 th Concession, of the former Township of Caistor, County of Lincoln, now Township of West Lincoln, Regional Municipality of Niagara, and containing by admeasurement 234.87 acres be the same more or less and which said parcel may be more particularly described as follows:

COMMENCING at an iron pin marking the northwest angle of said lot 3 ; THENCE South 62 degrees 52 minutes east in the northerly limit of said Lot 3 , being the southerly limit of the road allowance between the Townships of South Grimsby and Caistor, commonly known as the Town Line $1,174,5$ feet to an iron pin;

THENCE South 0 degrees 56 minutes 30 seconds East in and along a fence line $2,118.1$ feet to an iron pin;

THENCE South 89 degrees 01 minutes 30 seconds East in and along a fence line 408.5 feet to an iron pin marking an angle therein; THENCE South 88 degrees 30 minutes 30 seconds East continuing in and along the said fence line 268.5 feet to an iron pin; THENCE North 1 degree 49 minutes West in and along a fence line 386.6 . feet to an iron pin;

THENCE North 88 degrees 57 minutes 30 seconds east, in and along a fence line, 33.0 feet to an iron pin;

THENCE North 0 degrees 46 minutes 30 seconds West in and along a fence Iine 1,221.1 feet to an iron pin;

THENCE South 82 degrees 20 minutes 30 seconds East in and along a fence line 422.7 feet to an iron pin planted in the said southerly limit of the Town Line;


THENCE South 63 degrees 01 minutes 30 seconds East in the said southerly limit of the Town line 513.0 feet to an iron pin;

THENCE South 1 degree 17 minutes 30 seconds East in and along a fence line, $3,056.9$ feet to an iron pin marking an angle therein; THENCE South 1 degree 19 minutes East continuing in the said fence line, 1,355.8 feet to an iron pin;
thence North 63 degrees 06 minutes 30 seconds West in and along a fence line, 1,000.2 feet to an iron pin; THENCE North 1 degree 56 minutes 30 seconds West in and along a fence. line marking the limit between lots 2 and 3 aforesaid, 425.0 feet to an iron pin;

THENCE South 88 degrees 12 minutes West in and along a fence line $1,733.5$ feet to an iron pin;

THENCE North 1 degree 08 minutes 30 seconds West in and along a fence line marking the westerly limit of Lot 3 aforesaid, 4,938.4 feet more or less to the POINT OF COMMENCEMENT.

THIRDLY:
the West half of the east half of the north 180 acres of lot 2 , in the 7th Concession, of the said former Township of Caistor, containing by admeasurement 45 acres be the same more or less and which said 45 acres of land are butted and bounded or may be otherwise known as follows: COMMENCIMG at the centre of the northerly limit of the said lot;

THENCE South 62 degrees 30 minutes East 495 feet;
THENCE South 4,449.94 feet;

THENCE North 62 degrees and 30 minutes West 495 feet; THENCE North $4,449.94$ feet to the place of beginning. FOURTHLY:
the East half of the East half of the North 180 acres of, lot 2 of the 7th Concession of the said former Township of Caistor, containing by admeasurement 45 acres more or less, and being more particularly
described as follows:
COMMENCING at the northeast angle of the said lot;
THENCE North 62 degrees 30 minutes West 495 feet;
THENCE South 4,450.16 feet;
THENCE South 62 degrees and 30 minutes East 495 feet;
THENCE North 4,450.16 feet to the place of beginning. .

PIFTHLY: now Township of West Linooln, Regional Ninicipality of part of lot 3, Concession 7, in the former Township of Caistor, Which Niagara said parcel is more particularly described by R. J. Natthews, oLS, of the office of R. Blake Erwin \& Associates as follows:

COMMENCIN G at an iron stake planted in the nontherly limit of former Township Lot No. 3, Concession 7, being the nontheast corner of the herein described lands, distant North 63 degrees 29 minutes West in the northerly limit of said Township Lot No. 3, 343.45 feet from an iron bar marking the northeast corner of said Township Lot No. 3;

THENCE South 1 degree 31 minutes East in and along a fence line, $1,918.56$ feet to an iron stake planted in a fence line;

THENCE North 89 degrees 14 minutes 30 seconds West in and along said fence 407.42 feet to an iron stake planted in a fence line;

THENCE North 1 degree 24 minutes 30 seconds West in and along said fence, 2,117.20 feet to an iron stake planted in the northerly limit of said Township Lot No. 3;

THENCE South 63 degrees 29 minutes East in the northerly limit of said Township Lot No. 3, 90.87 to an iron stake planted in a fence line; THENCE South 21 degrees 57 minutes West in and along said fence line 118.22 feet to an iron stake planted at an angle point in said fence line; THENCE South 64 degrees 29 minutes East in and along said fence line, 162.58 feet to an iron stake;

THENCE North 26 degrees 31 minutes East, 115.0 feet to an iron stake planted In the northerly limit of said Township Lot Number 3;

THENCE South 63 degrees 29 minutes East in the northerly limit of said Township Lot No. 3, 194.0 feet to the point of commencement, containing 18.32 acres.

## The Thaigtry Act

IN THE MATTER of the PLANNING ACT (as amended)

Deed, Morgage Agreement of
Sale, Lease, etc.

To be made
by one of the
by one of
py-his solicitor
AND IN THE MATTER of the TITLE TO parts of lots 2 and 3 , in the
7th Concession of the former Township of Caister,
and part of lot 2 , Range 2 , Gore south of Twenty Mile
Creek, in the Former Township of South Grimsby, now all
in the Township of West Lincoln, Regional Municipality of
Niagara
AND IN THE MATTER OF A DEED
THEREOF, FROM HARRY DE GROOT
TO JAN DE GROUT
DATED hst of January, 1981 ,

## I, WILLIAM NILES CALLAGHAN

of the
City of Hamilton
Municipality of Hamilton-Wentworth
in the Regional

MAKE OATH AND SAY AS FOLLOWS:

1. Lam the solicitor for the grantor named in the above mentioned Instrument, and have knowledge of the matters hereinafter sworn.
2. A consent under Section 29 of The Planning Act, as amended, in respect of the said Instrument is not required because
(a) The present registered owner does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to any land abutting the land affected by the deed

Delete
if not
applicable

State
other
other
reason
if any

SWORN before me
at the City of Hamilton,
in the Regional Municipality of Hamilton-Wentworth
this
10 th
day of August
Leynau 7 Cue Caw


William Niles Callaghan

A Commissioner for Taking Affidavits, etc.

THE MATTER OF THE CONVEVANCE OF (insert briel description of land) ..par.ts.. Lats. 2. \& . 3, . 7.th. Concession Township..of. CAistor, County..of..IIncoln,...and.part..af..Iot. .2.,. Range.. 2 ,....... BY (print names of all transterors in fult)..................Township. South. Gr.imsby r..now. in. Township

 TO (see instruction 1 and print names of all transferees in full) ...JAN. DE. GROOT.

1. (see instruction 2 and print name(s) in full) ......JAN..DE. GROOT,. . OE . the. Townshi.p. ©.E. West Lincoln, in the Regional Munioipality of Ni-agara. MAKE OATH AND SAY THAT:
2. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 2)
$\square$ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
(b) A trustee named in the above-described conveyance to whom the land is being conveyed;

E] (c) A transferee named in the above-described conveyance;
(d) The authorized agent or solicitor acting in this transaction for
(nisori näné(5) oi principaits)
described in paragraph(s)
(a), (b),
(c) above; (strike out references to inapplicable paragraphs)

The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for
 described in paragraph(s) (a). (b). (c) above; (strike out references to inapplicable paragraphs)
$\square$ (f) A transferee described in paragraph ( ) (insertonly one of paragraph(a),(b)or(c) above, as applicable) and am making this affidavit on my own behalf and on behalf of who is my spouse described in paragraph (
); (insert only one of paragraph (a), (b) or (c) above, as applicable)
and as such, I have personal knowledge of the facts herein deposed to.
2. Thave read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses fand gof subsection 1 of section 1 of the Act. (see instruction 3)
3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act. (see instruction 4)
none.
4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:
(a) Monies paid or to be paid in cash

(b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price)
s...4.35226.,41
(ii) Given back to vendor
(c) Property transferred in exchange (detail below) \$. 10.0., 0.000..0.0
(d) Securities transferred to the value of (detail below) \$......nil.......
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject

all blanks
(f) Other valuable consideration subject to land transfer tax (detail below)

MUST BE INSERT -NIL, SUBJECT TO LAND TRANSFER TAX (total of (a) to ( $f$ ) $)$

(h) VALUE OF ALL CHATTELS - items of tangible personal property

(i) Other consideration for transaction not included in (g) or (h) above
(i) TOTAL CONSIDERATION
5. If consideration is nominal, describe relationship between transleror and transferee and state purpose of conveyance. (see instruction 5) n/a
6. Other remarks and explanations, if necessary nil

SWORN before me at the City of Hamilton;
in the Regional Municipality of Hamilton-Wentworth
this $/>\forall 1$ day of February
1981


A Commissioner to Takihg Aimazus, etc. $1 /$ Caw
A. Describe nature of instrument .. deed.
B. (i) Address of property being conveyed (if available)
$\cdots R_{\text {. }} \cdot R_{n} \cdot$ \#1 $r$ Smi.thvi.1.ee, Ontario
(ii) Assessment Roll \# (/I available) .........h. .. A
C. Mailing address(es) for future Notices of Assessment under The Assessment Act for property being conveyed (see instruction 6)

D. (i) Registration number for last conveyance of property being conveyed (if available) .. 19429
(ii) Legal description of property conveyed: Same as in D.(i) above. Yes这 No $\square$ Not Known $\square$
E. Name(s) and address(es) of each transferee's
solicitor ....W. N. CATTAGHAN, Q.C.
. . MUTRGATROYP, CATJAGHAN
WTYKTNS \& HOVIUSS.
17 FOREST AVENUE
HAMITTON, ONTARTO,
I N N 1 W 9

| For Land Registry Office use only |
| :--- |
| REGISTRATION NO. |
| LAND REGISTRY OFFICE NO. |
| REGISTRATION DATE |

## AFFIDAVIT OF SUBSCRIBING WITNESS

I, WILLIAM NILES CALLAGHAN
of the City of Hamilton,
in the Regional Municipality of Hamilton-Wentworth
make oath and say:
*See footnote I am a subscribing witness to the attached instrument and I was present and saw 'it executed at Florida, U.S.A. by HARRY DE GROOT and CORNELIA JOHANNA DE GROOT
*See footnote I verily believe that each person whose signature I witnessed is the party of the same name referred to in the instrument.


- Where a party is unable to read the instrument or there a party signs by shaking his mark ar in foreign characters add "after instrument had been read to him clause mbintitufe "I verily believe that the person whose signature I soitneaved wars authorised to exceute the instrument an attorney for (name)".


## AFFIDAVIT AS TO AGE AND SPOUSAL STATUS

I x OwE HARRY DE GROOT
of the Township of West Lincoln,
in the Regional Municipality of Niagara,

When I FXXHEX executed the attached instrument,

I WAS / XWEOKRascEACEXAL least eighteen years old;
and within the meaning of section 1 (f) of The Family Law Reform Act, 1978,

##  <br> (a) I was a spouse.

Strike out
inapplicable
clauses
** Not matrimonial hame, etc. see footnote.
(b) Cornelia Johanna De Groot was my spouse.

I am not a non-resident of Canada within the meaning of section 116 of the Income Tax Act Canada. AT THE TIME OF THE DECEASE of ELISABETH DE GROOT, she was at least eighteen years old and was not a nonresident of Canada' within the meaning of Section 116 of the Income Tax Act, Canada.
Resident of Canada, etc.


- Note: Where affidavit made by an attorney substitute: "When I executed the attached instrument ne attorney for (name), ha/ahe ova (spousal atatua, and if applicable. name of other spouse) within the theanimg of section (f) of The Family Law Reform Act, 1973 and when he/ahe eareuted the power of attorney. he/ahe had attained the age of majority".
** Note: Sen Section 42(s) of The Family Late Reform Act, 1978 where spouse dowel not join in or consent; or complete a separate affidavit.


CANADA


1. THAT I was personally present and did see the within Instrument and a duplicate duly signed, sealed and executed by Alice Maud Murgatroyd in two capacities, Frederick Robert Murgatroyd in three capacities, and Margaret I. Furgatroyd, three of the Parties thereto.
2. THAT the said Instrument and duplicate were executed by the said parties at the City of Hamilton, in the County of Nentworth.
3. THAT I know the said parties.

- hann mat I am a subscribing witness to the said Instrument and - tuplicate.


Attachment No. 1 to PD 88 -2023



Attachment No. 1 to PD-38-2023
IN THE MATTER OF THE ES
DOMINION OF CANADA
SUCCESSION DUTY ACT
CONSENT TO THE TRANSFER of PRop















THIS INDENTURE made in duplicate the second day of
February, 1957, In Pursuance of The Short Forms of Conveyances Act and of The Devolution of Estates Act.

## CAISTDR

BETWEEN:
ALICE MAUD INURGATROYD, of the Village of Smithville, in the Gounty of Lincoln, Widow, and FREDERICK ROBERT MURGATROYD, of the City of Hamilton, in the County of lientworth, Queen's Counsel, Executors and Trustees of the Estate of Ellis Ward. Kurgatroyd, late of the Village of Smithville, in the County of Lincoln Gentleman, and the aforesaid
FREDERICK ROBERT MORGATROXD, personally, and as Escecutor of the Estate of Robert Cook Murgatroyd, late of the Village of Smithville, in the County of Lincoln, Gentleman,
hereinafter called the Grantors of the FIRST PART;

HARRY DE GROOT, of the Township of South Grimsby in the County of Lincoln, Farmer, and ELISABETH DE GROOT, his wife, of the same place,
hereinafter called the Grantees of the SECOID PART;

ALICE MAUD MURGATROYD, of the Village of Smithville, in the County of Lincoln, Widow,
hereinafter called the Party of the THIRD PART;

A ND

> MARGARET L, WURGATROYD, of the Town of Burlington, in the County of Halton, wife of the aforesaid Frederick Robert Murgatroyd,
> hereinafter called the Party of the FOURTH PART:

WHEREAS the lands hereinafter described were owned by Robert C. Murgatroyd and Ellis W. Murgatroyd as R. Murgatroyd \& Sons;

AND MHEREAS the said Elilis Mard Murgatroyd died on the 24th day of February, 1944;

AND THEREAS Probate of his Will was granted out of the Surrogate Court of the County of Lincoln on the loth day of July, 1944, to Alice Maud Murgatroyd and Frederick Robert Murgatroyd above named;

AND WHEREAS the said Probate is registered in the Registry Office for the Registry Division of the County of

Fincoln on the 22nd day of July, 1944, as Number 6601 G.R; AND WHEREAS Elilis Ward Murgatroyd and Ellis W. Murgatroyd were one and the same person;

AND WHEREAS the said Robert Cook Murgatroyd died on the 29th day of December, 1944;

AND WHEREAS Probate of his Will was granted out of the Surrogate Court of the County of Lincoln on the 2lst day of May, 2945, to Frederick Robert Murgatroyd above named;

AND WHEREAS the said Probate is registered in the Registry Office for the Registry Division of the County of Lincoln on the 11th day of June, 1945, as Number 6829 G.R.;

AND WHEREAS Robert Cook Murgatroyd and Robert C. Murgatroyd were one and the same person;

AND WHEREAS the said Robert Cook Murgatroyd died unmarried;

AND WHEREAS for the purpose of administering the estates of the said Robert Cook Murgatroyd and the said Ellis Ward Murgatroyd it is necessary to sell the said lands;

NOW THIS INDENTURE WITNESSETH, that in consideration of other valuable consideration and the sum of ONE ( $\$ 1.00$ ) Dollar of lawful money of Canada now paid by the said Grantees to the said Grantors (the receipt whereof is hereby by them acknowledged), the said Grantors DO GRANT unto the said Grantees in fee simple, as joint tenants and not as tenants in common,

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being FIRSTLY:
in the township of South Grimsby, in the County of Lincoln and the Province of Ontario and being composed of part of Lot 2, Range 2 of the Gore South of the 20 Mile Creek and containing by admeasurement 47.66 acres, be the same more or less and which said parcel may be more particularly described as follows:-

## Attachment No. 1 to PD-38-2023.29

## BAISTER

COMMENCING at an iron pin marking the south-east angle of said Lot 2 ; THENCE, north 0 degrees 47 minutes 30 seconds west, in and along a fence line marking the easterly limit of Lot 2, aforesaid, 1,512.0 feet to an iron pin; THENCE, north 81 degrees 09 minutes west, in and along a fence line $1,749.9$ feet to an iron pin planted in the easterly limit of a given road; THENCE, south 0 degrees 59 minutes 30 seconds east, in the said easterly limit of the given road as fenced, 898.4 feet to an iron tube planted in the southerly limit of said Lot 2 ; THENCE, south 63 degrees 01 minutes 30 seconds east, in the said southerly limit of Lot 2 , being the northerly limit of the road allowance between the Townships of South Grimsby and Caistor, 1,946.1 feet more or Iess to the point of commencement.

## SECOIDLI:

in the Township of Caistor, in the County of Lincoln and Province of Ontario, and being composed of Part of Lot 2 and 3, in the Seventh Concession of the said Township and containing by admeasurement 234.87 acres, be the same more or less and which said parcel may be more particularly described as follows:-

COMMENCING at an iron pin marking the north-west angle of said Lot 3; THENCE, south 62 degrees 52 minutes east, in the northerly limit of said Lot 3, being the southerly limit of the road allowance between the Townships of South Grimsby and Caistor, commonly known as the Town Line, 1,174.5 feet to an iron pin; THEINCE, south 0 degrees 56 minutes 30 seconds east, in and along a fence line, 2,118.1 feet to an iron pin; THENCE, south 89 degrees 01 minutes 30 seconds east, in and along a fence line, 408.5 feet to an iron pin marking an angle therein; THENCE, south 88 degrees 30 minutes 30 seconds east, continuing in and along the said fence line, 268.5 feet to an iron pin; THENCE, north 1 degree

## Attachment No. 1 to PD-38-2023 <br> - 4 - CAISTAR

49 minutes west, in and along a fence line, 386.6 feet to an iron pin; THENCE, north 88 degrees 57 minutes 30 seconds east, in and along a fence line, 33.0 feet to an iron pin; THENGE, north 0 degrees 46 minutes 30 seconds west, in and along a fence line, 1,221.1 feet to an iron pin; THENCE, south 82 degrees 20 minutes 30 seconds east, in and along a fence line, 422.7 feet to an iron pin planted in the said southerly limit of the Town line; THENGE, south 63 degrees 01 minutes 30 seconds east, in the said southerly limit of the Town Line, 513.0 feet to an iron pin; THENCE, south 1 degree 17 minutes 30 seconds east, in and along a fence line, $3,056.9$ feet to an iron pin marking an angle therein; THENCE, south 1 degree 19 minutes east, continuing in the said fence line, 1,355.8 feet to an iron pin; THENGE, north 63 degrees 06 minutes 30 seconds west, in and along a fence line, $1,000.2$ feet to an iron pin; THENCE, north 1 degree 56 minutes 30 seconds west, in and along a fence line markins the limit between Lots 2 and 3, aforesaid, 425.0 feet to an iron pin; THENCE, south $8 \delta$ degrees 12 minutes west, in and along a fence line, 1,733.5 feet to an iron pin; THEMCE, north I degree 08 minutes 30 seconds west, in and along a fence line marking the westerly limit of Lot 3 , aforesaid, 4,938.4 feet more or less to the point of commencement.

TO HAVE AND TO HOID unto the said Grantees their heirs and assigns, to and for their sole and only use for ever, as joint tenants and not as tenants in common.

AND the Grantors covenant with the Grantees that they have done no act to encumber the said lands.

AND the Grantors release to the Grantees all their claims upon the said lands.

AND the Party of the Third Part hereby disclaims dower in the said lands.

Attachment No. 1 to pD-38-202sAISTDR
sOUTH $\frac{19429}{\text { GRIMSBY }}$

AND the Party of the Fourth Part hereby bars her dower in the said lands.

IN IITNESS WHEREOF the Parties hereto have hereunto set their hands and seals.


## CAISTER

 PART OF $\angle O T 2$, RANGE 2, IN THE GORE SOUTH OF THE $20-M:$ CREEEA IN THE TWA OF SOUZH GAPIMSBY, COUNTY OF LINCOLN.Sote:" Mound fror Mins Plorted are stown BEARINGS ore meferred to the Gorbrming Lime (NlOIVIV) as strom ar o plam of itsm THP of Cinstors by snostan-H000, RL.S. and soted Feb. 1851 (ndudicipal Surney)


This affidavit may
be made by the purchaser or vendor or by any one acting for them attorney or by an agent accredited
in writing by the. purchaser or vendor or by the solicitor of cither of them.
3. The true amount of the monies in cash and the value of any property or security included in the consideration is as follows:
(a) Monies paid in cash $\qquad$
$\qquad$
(b) Property transferred in exchange; Equity value $\$$. $\qquad$
Encumbrances $\$$ $\qquad$
$\qquad$
(c) Securities transferred to the value of $\qquad$ 5
(d) Balances of existing encumbrances with interest owing at date of transfer $\$ \ldots . . ., \ldots . . . . . . . . . . . . . . . . . .$.
(c) Monies secured by mortgage under this transaction $\qquad$ \$... be filled
(f) Liens, annuities and maintenance charges to which transfer is subject $\underline{S}$
$\qquad$ be filled

Total consideration $\qquad$ s.34000
4. If-eonsideration-ie-nomineh is-the-trarsfer for natural to re amt affection? $\qquad$




A Commissioner, etc.

The Registry Act

I, FREDERICK ROBERT MURGATROYD, one of the Grathtors in the within instrument named make oath and say:

THAT at the time of the execution and delivery by me of the within instrument I was legally married to Margaret L. Kurgatroyd, the person joining therein as my wife to bar her dower and was of the full age of twenty -one years.

 day
A. D. 1957.


A Commissioner, etc.

Exhibit D to the Affidavit of Evelyn Susan Duck sworn the $12^{\text {th }}$ day of (ilay, 2023






| Properties |  |  |  |  |  |  |
| :--- | :--- | :--- | :--- | :---: | :---: | :---: |
| PIN | 46056-0355 LT | Interest/Estate | Fee Simple |  |  |  |
| Description | PT LT 2 RANGE 2 SOUTH GRIMSBY AS IN RO660971; WEST LINCOLN |  |  |  |  |  |
| Address | 7395 20 ROAD |  |  |  |  |  |
|  | GRIMSBY |  |  |  |  |  |

## Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

| Name | DUCK, EVELYN SUSAN |
| :--- | :--- |
| Address for Service | 7395 20 ROAD, WEST LINCOLN, ON, |
|  | LOR 2A0 |

I am at least 18 years of age.
DUCK, JEFFREY LAWRENCE and I are spouses of one another and are both parties to this document
This document is not authorized under Power of Attorney by this party.

| Name | DUCK, JEFFREY LAWRENCE |
| :--- | :--- |
| Address for Service | 7395 20 ROAD, WEST LINCOLN, ON, |
|  | LOR 2A0 |

I am at least 18 years of age.
DUCK, EVELYN SUSAN and I are spouses of one another and are both parties to this document
This document is not authorized under Power of Attorney by this party.


## Additional Provisions

Schedule Form 5 - Land Registration Reform Act (Ontario) - Prime Rate
ADDITIONAL PROPERTY IDENTIFIERS AND OTHER INFORMATION
Recitals:
(A)We are lending money or providing other forms of credit (either now or in the future) to EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK or either of them who is referred to in this Schedule and the Standard Charge Terms as the "Customer". If more than one person is the Customer, the term "Customer" refers to all such persons.
(B)In this document, we use the word "you" to describe the person who has signed, authorized or promised to be bound by this Mortgage. If more than one person has signed, authorized or promised to be bound by this Mortgage, then all of those persons will be jointly and

## Additional Provisions

severally liable to comply with all Promises under this Mortgage.
(C)In this document, we use the word "we" or "us" to describe the financial institution lending money or providing other forms of credit to the Customer, which is the same as the mortgagee under this Mortgage.
(D)The term "Customer Liabilities" means all debts and other obligations the Customer owes to us, including:
1.All the Customer's debts and obligations, whether the debts are owing now or in the future, whether the debts are absolute or contingent, and whether they are due now or at some time in the future;
2.Any extensions, renewals or amendments of the debts or obligations;
3.Debts and obligations incurred or arising inside Canada or anywhere else;
4.Debts and obligations incurred with others; and
5.Obligations the Customer incurred as principal debtor or as a guarantor or surety.
(E)If the Customer Liabilities are reduced, or increased, or paid off, and then incurred again, the Customer Liabilities include all of those liabilities, up to the Principal Amount.
(F)Unless otherwise defined, any capitalized terms mean the same as they do in the set of standard charge terms that apply to this Mortgage.

This Mortgage
(1)You have agreed to grant this Mortgage of your Property as a continuing security for payment of all the Customer Liabilities.
(2)The parties agree that this Mortgage will secure an amount up to $\$ 700,000.00$ (the "Principal Amount") (together with interest and compound interest at the Interest Rate and our Costs). This Mortgage will not secure any amount of the aggregate principal part of the Customer Liabilities that exceeds this amount.
(3)You promise to pay us, on demand, the Customer Liabilities not to exceed the Principal Amount, together with interest on the amount demanded at a rate equal to the Prime Rate per annum in effect from time to time, plus SEVEN per cent ( $7.00000 \%$ ) per annum (the "Interest Rate"). This interest will be calculated monthly, not in advance and is payable on demand, before and after Default and judgment. Interest will be charged on overdue interest at the Interest Rate.

| Signed By |  |  |  |  |
| :--- | :--- | :--- | :--- | :--- |
| Nicole Susan Craig | 4 Hughson St. South, Suite 901 <br> Hamilton <br> L8N 3Z1 | acting for <br> Chargor(s) | Signed | 20170502 |


| Submitted By |  |  |
| :---: | :---: | :---: |
| First Canadian Title Company Limited | 4 Hughson St. South, Suite 901 Hamilton <br> L8N $3 Z 1$ | 20170502 |
| Tel 905-577-4663 |  |  |
| Fax 905-525-1985 |  |  |


| Fees/Taxes/Payment |  |
| :--- | :--- |
| Statutory Registration Fee | $\$ 63.35$ |
| Total Paid | $\$ 63.35$ |

## File Number





## Attachment No. 1 to PD-38-2023



## Attachment No. 1 to PD-38-2023



- O ग! A Hoう



## Court File No.

## ONTARIO <br> SUPERIOR COURT OF JUSTICE

BETWEEN:
EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK
Applicants

- and -

HIS MAJESTY THE KING IN RIGHT OF ONTARIO, as represented by the Ministry of Natural Resources and Forestry and ROYAL BANK OF CANADA

Respondents
IN THE MATTER OF the Beds of Navigable Waters Act, R.S.O. 1990 c.B-4;
And in the matter of the lands legally described as Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971; Township of West Lincoln, being PIN 46056-0355 (LT)

## AFFIDAVIT OF HAROLD HYDE

I, HAROLD HYDE, of the Regional Municipality of Niagara, in the Province of Ontario MAKE OATH AND SAY AS FOLLOWS:

1. I have been a Professional Land Surveyor since 1999. I have surveyed the lands to which this court Application relates and as such have knowledge of the matters hereinafter deposed to,
2. Evelyn Susan Duck and Jeffrey Lawrence Duck are the registered owners of the lands and premises legally described as:

Part of Lot 2, Range 2, Former Township of South Grimsby as in RO660971; Township of West Lincoln, being PIN 46056-0355 (LT);

The said lands are referred to herein as the "Property".
3. The Property of the Applicants is traversed by a branch of the North Creek, which enters the property along its westerly boundary and travels, in a meandering fashion, through the Property eventually exiting the Property along the northerly boundary.
4. Attached hereto and marked as Exhibit "A" to this Affidavit is a copy of a draft Reference Plan which I have prepared, which was completed on April 6, 2021 and which draft plan is dated August 31, 2022. The said draft plan shows the location of the said North Creek as it passes through the Property of the Applicants. The Property is shown as Parts 1 and 2, Part 1 being the lands north and west of the Creek and Part 2 being the lands east and south of the Creek.
5. Attached hereto and marked as Exhibit "B" to this Affidavit is an aerial image taken from Niagara Navigator website on which I have made notations to illustrate the location from which other images attached to this affidavit have been taken.
6. Attached hereto and marked as Exhibit "C" to this Affidavit is an aerial image taken from the Niagara Navigator website and noted as being taken in 1954-55 showing that portion of the North Creek lying within the subject lands. The water in the creek is clearly visible in both images which are Exhibit B and C, extending across the entire parcel as it meanders through the property.
7. Attached hereto and marked as Exhibit "D" are five photographs taken by myself or my employees of the subject property. Attached hereto and marked as Exhibit "E" are three images obtained from Google Maps showing the nature of the creek as it crosses South Grimsby Road

10 looking both east and west as well as where it crosses South Grimsby Road 8, looking west. South Grimsby Road 8 is the next road to the east of the subject property a very short distance downstream. The image looks westerly in the direction of the Property.
8. Attached hereto and marked as Exhibit "F" to this Affidavit is a copy of part of the Tremaine Map, prepared by George R. Tremaine in 1862, for the area in which the Property is located. On the map I have marked at points A and B the westerly and easterly boundaries, respectively, of the property today. The significance of this map is that it shows that in the 1860s the Creek was a significant watercourse.
9. The Tremaine Map which is attached as Exhibit F also reveals the existence of a sawmill a short distance downstream from the Property, where the Creek passes through the property of the McCollom family.
10. Attached hereto and marked as Exhibit "G" to this Affidavit are excerpts from the Historical Atlas of Lincoln and Welland Counties, originally printed by H. R. Page \& Co. in 1876. This diagram again shows the North Creek as passing through the properties, again indicating that it is a significant watercourse at the time of preparation of the atlas.
11. Attached hereto and marked as Exhibit "H" to this affidavit are old maps of Gainsborough Township and Grimsby Township acquired from the Ministry of Natural Resources. Both maps are signed by Thomas Ridout and dated September of 1811. These maps are not actual Crown Plans, but are common in many of the early Townships in the Niagara Peninsula. The plans do show many structures, road allowances, streams and settler names. The plans are of very poor quality and difficult to copy. Consequently, I have marked on both plans the North Creek in yellow, On the Gainsborough map I have marked the location of the McCollom sawmill shown on the Tremaine Map. The fact that the North Creek is shown on these plans confirms the significance of the Creek in the early settlement of these Townships.
12. Attached hereto and marked as Exhibit "I" to this affidavit is an excerpt of pages 254257 of "West Lincoln: Our Links With the Past, 1784-1984" a book published by West Lincoln Historical Society in 1985. In the excerpt, the author states:
"The Twenty Mile Creek (Jordan River) was one of the streams which provided a route for relatively easy travel. Entirely above the escarpment as it flows through West Lincoln, with few portages it was navigable by canoes and small boats. So were, in part, its tributaries, the Sixteen Mile Creek and North Creek".
13. Attached hereto and marked as Exhibit "J" are Registry Office property index maps of the land in the area of the property on which it can be seen that there are two other sections of the North Creek a short distance downstream from the subject property for which court orders have been made determining that the North Creek is navigable and that the bed of the creek as it crossed through those properties, was vested in the Crown. Attached hereto and marked as Exhibit " $K$ " is a copy of the court order of the Honourable Justice P. J. Flynn dated February 9, 2017, determining that the portion of the creek as it passed through the property of Carolyn Langley and Robert Mous was vested in the Crown.
14. Attached hereto and marked as Exhibit "L" is a copy of the Order of the Honourable Justice J.W. Quinn dated July 2, 2015, determining that the portion of the creek as it passed through the property of John Ivan Vuckovic, Evica Vuckovic also known as Eva Vuckovic and Green Horizon Ag. Inc. was vested in the Crown.
15. In addition to the foregoing, there is also the recent decision of the Honourable Justice M. D. Parayeski dated May 2, 2023 determining that a portion of the North Creek located a short distance upstream from the subject property is also navigable, which Order indicates it was made on consent of the parties to that proceeding. A copy of this Order is attached hereto and marked as Exhibit "M" to this affidavit.
16. The North Creek as it passes through the Property of the Applicants is a significant watercourse. During the preparation of the draft reference plan survey, I attended at the property on multiple occasions and generally observed the Creek to have a width of approximately 10 to 16 metres and a depth of approximately 1.0-1.5 metres. On those occasions, the Creek would certainly have been capable of travel by canoe or small boat.
17. Over the course of my career I have had many occasions to review and research the history of lands located within the Niagara Peninsula, including the historical purposes for which the lands were used. There are many texts and historical resources which refer to the importance of watercourses like the North Creek to early settlement and travel, as well as the importance of these watercourses for commercial purposes.
18. Timber was an important industry in the nineteenth century. Logs cut in an area would be floated downstream to sawmills wherever possible. The fact that a sawmill was located, for many decades, a short distance downstream from the Property in this case indicates that the North Creek was likely used for the floating of logs downstream to that sawmill. It is apparent from the historical maps and documents which are attached to this affidavit that the North Creek was a significant Creek at the time of original settlement of the area and at the time that the Crown patent in connection with the Property was issued.
19. It was very common during early settlement of lands in the Niagara Region that settlers would utilize watercourses such as the North Creek in order to access their property. Page 10 of the Historical Atlas excerpt attached hereto as Exhibit "N" describes early settlement in the area of the Property and contains numerous references to the early owners of the lands utilizing the watercourses to settle their property. For example, the Historical Atlas specifically contains the following passage:
"In 1787, Richard Griffin, with a family of seven sons and four daughters, from what was then called Nine Partners, N.Y., settled on the Jordan ( 20 mile creek) now Smithville.

Before removing the whole family to the new home, they encamped at the mouth of the stream for a few weeks, while Abraham and Edward, two of the elder sons, followed the stream on Monday to their lands, where working to clear the ground and erect dwellings until Saturday returned to the encampment by the same crooked route. Soon however the whole family moved into their new mansion in the forest, each son and daughter almost immediately selected lots for themselves, settled in life and soon began amongst other duties to replenish the earth.

Charles Mereidth Thomas Harris, Thomas North, and Lieutenent Monroe, began their improvements soon after; Robert Lounsbury, Dr. Utter, John Beam, Solomon Hill, Wm. Lawrence, John Beamer, from N. Jersey; Peter Bronslaugh, from Virginia; D. Palmer, and others, including the Merritts, from Katskill, in what is known as the "Merritt settlement" and some of the McCollums, John Harris, Wm. and Thomas Bridgman, along the 20 mile creek".

The above passage refers to the sawmill established a short distance downstream from the Property. It would seem very likely that the North Creek was used by settlers in this area in order to access the lands which they settled.
20. Altached hereto and marked as Exhibit "O" to this Affidavit is a copy of the original Crown Patent issued to what appears to be William Chewith for all of the lands that are Lot 2, second range in the Gore south of 20 Mile Creek. These lands are now referred to as Part of Lot 2, Range 2, in the geographic Township of South Grimsby. What later became South Grimsby and North Grimsby Townships were originally one township simply known as "Grimsby". A review of the patent discloses that there is no explicit grant of the bed of any creeks, streams or other waterways or navigable waters relating to the lands patented.
21. I swear this Affidavit in support of the within Application for a declaration that the North Creek, as it passes through the Property of the Applicants, is a navigable body of water and that, as such, the said Creek bed is owned by the Crown, and for no other or improper
purpose.




Exhibit B to the Affidavit of Harold Hyde sulorn





Exhibit D to the Affidavit of Harold Hyde sw orn


## Attachment No. 1 to PD-38-2023

P4





## Attachment No. 1 to PD-38-2023



## G1

## Grimsby Road 10; looking N/W



## G2

## Grimsby Road 10; looking S/E

Write a description for your map.


## G3

## Grimsby Road 8; looking west

Write a description for your map.



Exhibit F to the Affidavit of Harold Hyde sworn


Tremane map (1862)




Exhibit H to the Affidavit of Harold Hyde sjvgrn



Exhibit I to the Affidavit of Harold Hyde sworm


# WEST LINCOLN OUR LINKS WITH THIE PAST 1784-1984 

## CHAPMDR VII

## Transportation in West Lincoln

## Waterways

It was the waterways of West Lincoln which provided a ready made means of transportation for the early settlers, long before most of the roads were cleared through the woods. The Twenty Mile Creek (Jordan River) was one of the streams which provided a route for relatively easy travel. Entirely above the escarpment as it flows through West Lincoln, with few portages it was navigable by canoes and small boats. So also were, in part, its tributaries, the Sixteen Mile Creek and North's Creek. The forests and swamps helped to keep a more even flow of water in these streams than today, so that canoes probably had some use of them even in the summer. Their winter ice provided the luxury of smooth travel for sleighs and cutters.


One river provides a waterway through the length of the township. This is the Welland River, also known by the Indian name Chippewa (Chippawa) Creek. From its source in the Ancaster hills, it flows a distance of some sixty miles (considerably farther if one includes all its windings) to empty into the Niagara River a few miles above Niagara Falls. The river and the footpaths on either side had been used by the Indians since ancient times, as indicated by the artifacts found along its banks. Up this river came many of West Lincoln's very early settlers, by canoes, small boats and rafts. The lower reaches of some of its tributaries within the township were large enough for small craft. Such were the Beaver Creek (and seasonally its tributaries the Black Ash and Parker Creeks) and Sucker Creek. These tributary streams were probably of fairly limited use for transportation, although they certainly were useful to pioneers for fishing and hunting and as a supply of water for livestock.

The slowly winding Welland River, on the other hand, was a much travelled waterway. The upper reaches were, with occasional portage, suitable for smaller craft. Hundreds of thousands of board feet of timber were carried on its spring flood waters as logs were sent on their way to Port Davidson or Wellandport. There they might be sawed into lumber and the lumber shipped on by boat, as downstream from Port Davidson the water was deep enough that the river became a commercial waterway. Probably more commonly they were assembled into rafts to be floated downstream to the mouth of the Welland where small steam tugboats would tow them up the Niagara River to Buffalo or to Tonawanda.

Historically the Welland River has been linked with the Welland Canal. The first canal, built in 1829, came from Port Dalhousie only so far as the Welland River at Port Robinson. From there, ships went down the Welland to the upper Niagara River. To supply enough water to raise ships over the height of land at Allanburg, a dam was built at Dunnville on the Grand River, and a feeder canal was dug across Wainfleet to carry this water to the Welland Canal at Port Robinson. The aqueduct was the means by which the feeder canal crossed over the Welland River. It was a trough-like structure of white pine timber
and plank ${ }^{1}$. The river still flowed unhindered beneath the aqueduct, and there was no interference with its traffic. This traffic must have been considerable, as then a wooden lock was built near the aqueduct to join the river to the feeder canal. Of course, this gave river traffic access via the feeder canal to the Welland Canal, which in 1833 was extended to Port Colborne. The second Welland Canal, $1850^{2}$, continued this connection, replacing the wooden lock with one of cut stone, and somewhat later even adding another lock. The connection between river and canal was important to allow river traffic to develop the land upstream. The arrangement continued until 1926, when the two stone locks were torn down and the Welland Canal deepened ${ }^{3}$. This ended forever the shipping on the Welland River, which, at any rate, by then had been pretty well lost to the railways.

But the old Welland River had had its time of glory! It had developed commercial traffic to the Niagara River even before the building of the Welland Canal. This traffic had been increased many fold by the locks connecting river and canal, and was important roughly till the end of the century.

During this time ports developed upstream from Welland. The closest to Welland within what is now West Lincoln was known first as Port Fanny, later as Candasville. This river port developed into a small hamlet (See Hamlets, Candasville in this book).


The Welland River as it appears today near the site of old Candasville.
Photo, West Lincoln Historical Society

A few miles farther upstream was "The Narrows", soon to be known as Wellandport. Still farther west was Port Davidson, where the Canboro Road was bridged across the river (See Hamlets of Gainsboro' in this book). Many logs were sent downstream from Port Davidson, and it is said that here scows could pick up half loads of lumber or cordwood, finishing the load at Wellandport where the water was deeper.

At Wellandport the river and its riverbank roads were met by the early constructed Canboro Road which connected Niagara with Canboro. Dilly C. Holmes, on his retirement after long service as postmaster of Wellandport, wrote a letter in 1899 to the Welland Tribune. In it he tells us some about the river traffic, "... There were large quantities of lumber being sawn here. About 1841 two or three boats came up the river from Buffalo to take this lumber away, and being the first boats, many of the settlers went out to see them. In coming up they had taken all the bridges out to get through. This caused great excitement. On seeing the boats some suggested that the place be called Welland Port. My friend, Samuel Wiggins, who lived to be 87 years old, told me these particulars."

Mr. Harold Hodgkins remembers that his grandmother (born c.1866) used to tell him about the small tugboats that went up and down the river. Family accounts lead him to believe that at least some of them were built by the Ross family business in Port Robinson.

There is some interesting documentation of the shipments from Wellandport and of the boats which took the loads. The wheat purchase book of Samuel Holmes is a valuable source of information. It records purchases and shipments out for the years 1855 to 1873 (See also the Hamlet of Wellandport in this book). We learn that a scow loaded wheat in 1855, its master being George Grant. Other boats which loaded grain there in 1855 and 1856 were the "boat Empire" and the "Mary Alice". ${ }^{4}$ It would be interesting to know more about just what type of boats these were, but attempts to learn more about them

Toheat Purchase accounts.


Part of a page of the Wheat Purchase Account of Samuel Holmes. Courtesy of the Freure and Holmes families
have not been successful. However, the St. Catharines Museum has a record of a scow "Victoria" which may very well have been the same one as took wheat from Wellandport in 1872 and 1873. Built at Weeland in 1870 by Moses Betts, it was a square sterned wooden scow with the registration number 90709 . Its overall length was 109 ft ., breadth 23 ft ., depth 6.5 ft ., and its gross tonnage was 156 . The original owner was Allan J. Holloway of Bertie Township. Although "Victoria" was a very popular name for ships at that time, this particular Victoria would seem very likely to have been the one which came to Wellandport, as it is the only scow registered by that name which was built so close by and at that time.


Receipt for grain shipped out by scow.
Courtesy of the Freure and Holmes families

Besides grain, great quantities of lumber, cordwood and barrel staves were shipped out. In 1899, D.C. Holmes wrote that a scow would carry from 200 to 250 cords of wood. He also noted that supplies for Mr. Humphrey's Store were "bought at old Niagara and Buffalo, carried here by boats or sleighs on the river'".

Mrs. Hazel Ulman recalled that the blocks for the new basement under Wellandport Methodist

Church in 1911 were brought by boat and unloaded on the north shore of the river. They had come from Dunnville via the Feeder Canal to Welland and then up the Chippewa to Wellandport. This probably was the last delivery of freight to Wellandport by water. The railways made river and canal transport seem slow and awkward. According to the late Mrs. Reva Fulsom the last "large"' ship to use the river at Wellandport was a show boat which, in 1912, came up the river, tied up at the fairgrounds, and the crew pitched a show tent. Without realizing it, they were marking the end of an era.

By 1925, when the new Welland Canal was built, it no longer was judged necessary to provide a lock to connect the river and the canal. The river itself endured the indignity of being run under the canal by six large siphon tubes. The river commerce was indeed finished.

Today it is pleasure craft which ply the waters of the Welland. Many of them start from the Chippawa Conservation Park, which is on the Wainfleet side of the river west of Wellandport. In winter, the roar of snowmobiles has replaced the bells of cutters and sleighs. The streams and the river have remained a recreational and fresh water resource, and the task and concern for some time has been to protect and conserve this resource.
Ellenor Black
References: 1, 2, 3. Adams, J.R. ed., Souvenir Booklet for Welland Centennial, 1858-1958, pp. 8, 9 \& 15.
4. The Wheat Purchase Book of Samuel Holmes, by kind permission of the Freure and Holmes families.

## Railways

Many residents of West Lincoln cherish memories of the bygone era when one could go to a local station - to Grassie, Smithville, St. Ann's, Silverdale Station, Vaughan Station or Port Davidson - and catch a train for places near or far. There are memories of the mailbags being picked up or thrown off, sometimes even without the train's stopping - of farmers loading wheat - of housewives going to Hamilton market with baskets of produce - of farmers' sons driving cattle to the station stockyard. Some recall businessmen going to Hamilton, Welland or Buffalo, or young men boarding the train to go "'out West" to work in the wheat harvest.

All this had come to pass following an act passed by the Ontario Legislature in 1884 granting the T.H.\&B. Railway the right to build ${ }^{1}$. An interesting comment is made by Norman S. Helm, in the book of which he is author, In the Shadow of Giants, the Story of the Toronto Hamilton and Buffalo Railway. The author notes, "Clause 7 contained what were some of the earliest rumblings of what we would refer to today as environmental awareness. The clause read in part, 'The said company shall have power...to make use for the purposes of the said railway, of the water of any stream or watercourse, at or by which the said railway passes, doing, however, no unnecessary damage thereto and not impairing the usefulness of such stream or watercourse.' '"

Train service began in this West Lincoln area on December 30, 1895, when the main line from Hamilton to Welland was completed. The main purpose of the line was to complete connections from Toronto and Hamilton to Welland and on to the United States. In so doing, it provided service through the midpart of the peninsula, passing through the old townships of South Grimsby and Gainsboro'. Frank E. Page in The Story of Smithville, notes that the Township Council (of South Grimsby) passed a bonus bylaw in order to ensure that the railway would come through Smithville (rather than about a mile north of it) and to specify a certain number of trains daily each way to stop at Smithville. Mr. Robert Murgatroyd Sr., who had fought hard to gain the service for Smithville, became one of the Provisional Directors of the new railway. A timetable shows that by the spring of 1896 there were two Hamilton to Buffalo "Express" (passenger) trains daily each way, and one "mixed" (passenger and freight) train which ran daily each way ${ }^{2}$.

GRASSIE STATION was the first inside South Grimsby Township as the trains came from the west. Grassie was a "flag-stop". To signal the approaching trains, there was a large pole with several boards, the "flags", near the top. The station agent pulled levers to raise various colours, and the train engineer knew what they meant. At country stations, one man was both the station master and dispatcher. The dispatcher sent and received messages by telegraph, station to station. The last station master at Grassie was Mr. Angus Johnson.




Exhibit K to the Affidavit of Harold Hyde swo $n$


Commissioner

## ONTARIO <br> SUPERIOR COURT OF JUSTICE

| THE HONOURABLE | ) THURSDAY THE $9^{\text {Th }}$ DAY |
| :--- | :--- |
| JUSTTICE Prat. PhyN | ) OFFEBRUARY, 2017 |

CAROLYN LANGLEX and ROBERT MOUS
Applicants

$$
- \text { and - }
$$

THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO, as represented by the Ministry of the Attorney General and CIBC MORTGAGES INC. and THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
Respondents


#### Abstract

IN THE MATTER OF the Beds of Navigable Waters Act, R.S.O. 1990 c.B-4; and in the matter of the lands legally described as Part of Lot 14, Concession 9, Former Township of South Grimsby as in RO273224; Township of West Lincoln, being PIN 46055-0262 (LT);

And in the matter of an Application to interpret the provisions of By-Law 79 - 14, being a zoning by-law of The Township of West Lincoln.


## ORDER

THIS APPLICATION made by the Applicants for an Order declaring that the North Creek which passes through the property of the Applicants legally described as Part of Lot 14, Concession 9. Former Township of South Grimsby as in RO273224; Township of West Lincoln, being PIN 46055-0262 (LT), is navigable within the meaning of the Beds of Navigable Waters Act, R.S.O. 1990, c.B.4; and for an Order declaring that the lands of the Applicants designated as Parts 1 and 2 on a draft reference plan of Rasch \& Hyde Ltd. and which each are part of the lands
which are Part of Lot 14, Concession 9, Former Township of South Grimsby as in RO273224; Township of West Lincoln, being parts of PIN 46055-0262 (LT), each constitute a "Lot" as defined in zoning by-law 79-14 of The Township of West Lincoln, was heard this day at the Courthouse, 59 Church Street; St. Catharines, Ontario,

ON READING the Application Record of the Applicant and on hearing the submissions of counsel for the Applicants, no one appearing for the Respondents although properly served,

1. THIS COURT ORDERS AND DECLARES that the North Creek as it passes through the property of the Applicants, Carolyn Langley and Robert Mous, legally described as Part of Lot 14, Concession 9, Former Township of South Grimsby as in RO273224; Township of West Lincoln, being PIN $46055-0262$ (LT), is navigable within the meaning of the Beds of Navigable Waters Act, R.S.O. 1990, c.B.4.

## 2. THIS COURT ORDERS AND DECLARES that the Crown, as represented by the

 Ministry of the Attomey General for the Province of Ontario, has title of those lands which lie below the low water mark of the said North Creek as it crosses the said lands of the Applicants, being as shown in a draft reference plan of Rasch \& Hyde Ltd. dated October 14, 2016 and attached to this Order.3. THIS COURT ORDERS AND DECLARES that the lands designated as Part 1 on the draft reference plan of Rasch \& Hyde Ltd. completed on September 19, 2016 and dated October 14, 2016 and being part of the lands which are Part of Lot 14, Concession 9, Former Township of South Grimsby as in RO273224; Township of West Lincoln, being part of PIN 46055-0262 (LT) constitute a "Lot" as defined in section 3.64 of Zoning By-Law 79-14 of The Township of West Lincoln and specifically, pursuant to subsection 3.64 (a) (ii) of the said zoning by-law.

## 3

4. THIS COURT ORDERS AND DECLARES that the lands designated as Part 2 on the draft reference plan of Rasch \& Hyde Ltd. completed on September 19, 2016 and dated October 14, 2016 and being part of the lands which are Part of Lot 14, Concession 9, Former Township of South Grimsby as in RO273224; Township of West Lincoln, being part of PIN 46055-0262 (LI) constitute a "Lot" as defined in section 3.64 of Zoning By-Law 79-14 of The Township of West Lincoln and specifically, pursuant to subsection 3.64 (a) (ii) of the said zoning by-law.
5. THIS COURT ORDERS that the draft reference plan of Rasch \& Hyde Ltd. dated October 14, 2016, as attached to this Order, be deposited as a reference plan in the Land Registry Office for the Registry Division of Niagara North (No, 30)



Attachment No. 1 to PD-38-2023


Exhibit L to the Affidavit of Harold Hyde sworn


ONTARIO
SUPERIOR COURT OF JUSTICE
the honourable MR,
Justice Jiw. QuinN $\quad\left\{\begin{array}{l}\text { thursday the 2nd day }\end{array}\right.$

## BETWEEN:

JOHN IVAN VUCKOVIC, EVICA VUCKOVIC ALSO KNOWN AS EVA VUCKOVIC AND GREEN HORIZON AG. INC.


Respondents

IN THE MATTER OF the Beds of Navigable Waters Act, R,S.O. 1990 c.B-4; and in the matter of the lands legally described as Part of Lot 13, Concession 9 former Township of South Grimsby, as in ROS71395;Township of West Lincoln, being PIN 46055-0048 (LT) and the lands legally described as Part Lots 12 and 13, Concession 9 former Township of South Grimsby, as in RO529754 except Part 1 30R14482; subject to SG6899; Township of West Lincoln being PIN 46055-T519 (LT)

## ORDER

THIS APPLICATION made by the Applicants for an Order declaring that the North
Creek which passes through the property of the Applicants legally described as Part of Lot 13, Concession 9 former Township of South Grimsby, as in RO571395;Township of West Lincoln, being PIN 46055-0048 (LT) and the lands legally described as Pait Lots 12 and 13,

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-2
$$

Concession 9 former Township of South Grimsby, as in RO529754 except Part 1 30R 14482; subject to SG6899; Township of West Lincoln being PIN 46055-IS19 (LT), is navigable within the meaning of the Beds of Navigable Waters Act, R,S.O. 1990, c.B.4; was heard this day at the Courthouse, 59 Church Street, St. Catharine, Ontario.

ON READING the Application Record of the Applicant and on hearing the submissions of counsel for the Applicants, no one appearing for the Respondents although properly served,

1. THIS COURT ORDERS AND DECLARES that the North Creek, as it passes through the property of the Applicants legally described as Part of Lot 13, Concession 9 former Township of South Grimsby, as in RO571395; Township of West Lincoln, being PIN 46055-0048 (LT) and the lands legally described as Part Lots 12 and 13, Concession 9 former Township of South Grimsby, as in RO529754 except Part 1 30R14482; subject to SG6899;Township of West Lincoln being PIN 46055-1519 (LT), is navigable within the meaning of the Beds of Navigable Waters Act, R.S.O. 1990, c. B.4.

## 2. THIS COURT ORDERS AND DECLARES that the Crown as represented by the

 Ministry of the Attorney General for the Province of Ontario, has title of those lands which lie below the low water mark of the said North Creek as it crosses the said lands of the Applicant, being as shown in a survey of Rasch \& Hyde Ltd. dated April 29, 2015 and attached to this Order.3. THIS COURT ORDERS that the said survey of Rasch \& Hyde Ltd. dated April 29, 2015, as attached to this Order, be deposited as a reference plan in the Land Registry Office for the Registry Division of Niagara North (No. 30).


Attachment No. 1 to PD-38-2023



## ORDER



Exhibit M to the Affidavit of Harold Hyde sworn


Commissioner

Court File No. CV-22-00060970-0000
ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR.
JUSTICE M. D, PARAYESKI
)
)
)

TUESDAY, THE 2ND DAY OF
MAY, 2023

## BETWEEN:

KELLY ANN STAPLES and MARK STEPHEN STAPLES

- and -

HIS MAJESTY THE KING IN RIGHT OF ONTARIO, as represented by the Ministry of Natural Resources and Forestry, BANK OF MONTREAL and THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

IN THE MATTER OF the Beds of Navigable Waters Act, R.S.O. 1990 c.B.4;
And in the matter of the lands legally described as Part of Lot 4, Range 2, Former Township of South Grimsby as in RO709924; Township of West Lincoln, being PIN 46056-0370 (LT);

## ORDER

THIS APPLICATION made by the Applicants for an Order declaring that the North Creek as it passes through the property of the Applicants legally described as Part of Lot 4, Range 2, Former Township of South Grimsby as in RO709924; Township of West Lincoln, being PIN 46056-0370 (LT), was navigable within the meaning of the Beds of Navigable Waters Act, R.S.O, 1990, c.B.4, at the time of the original Crown grant; was heard this day at the Courthouse, 59 Church Street, St. Catharines, Ontario.

ON READING the Application Record of the Applicants, the Supplemental Affidavit of Harold Hyde, and the Consent filed,

1. THIS COURT ORDERS AND DECLARES that the North Creek as it passes through the property of the Applicants, Kelly Ann Staples and Mark Stephen Staples, legally described as Part of Lot 4, Range 2, Former Township of South Grimsby as in R0709924; Township of West Lincoln, being PIN 46056-0370 (LT), was navigable within the meaning of the Beds of Navigable Waters Act, R.S.O. 1990, c.B.4, at the time of the original Crown grant.
2. THIS COURT ORDERS AND DECLARES that His Majesty the King in Right of Ontario, as represented by the Ministry of Natural Resources and Forestry, has title of those lands which lie below the water's edge at the original location of said North Creek as it passes through the said lands of the Applicants, being as shown in a draft reference plan of Rasch \& Hyde Ltd. dated February 16, 2023 and attached to this Order.
3. THIS COURT ORDERS that the draft reference plan of Rasch \& Hyde Ltd. dated February 16, 2023, as attached to this Order, be deposited as a reference plan in the Land Registry Office for the Registry Division of Niagara North (No. 30).
4. THIS COURT ORDERS that this Application, as it relates to the claims of the Applicants set out in paragraph 1 (d) and 1 (e) of the Application, is discontinued by the Applicants, on a without prejudice basis.
5. THIS COURT ORDERS that the name of the Respondent, identified in the Notice of Application as "Her Majesty the Queen in Right of Ontario, as represented by the Ministry of Northern Development, Mines, Natural Resources and Forestry" be amended to "His Majesty the King in Right of Ontario, as represented by the Ministry of Natural Resources and Forestry".
6. THIS COURT ORDERS that there shall be no costs of this Application.



Attachment No. 1 to PD-38-2023


Exhibit N to the Affidavit of
Harold Hyde sworn
the $17^{\text {th }}$ day of May, 2023
Commissioner

## GRIMEBY,

Townsbio regnires our partioular attention. It an what of the county, bounded on the the north-western of Clintoc, on the south by Gaiasborough east by the townebip of Clintornbrook and Salkifeel, and on tha and Caistor, on the west by containe upwards of 38.000 acros. north by Lake Ontario, and oonatioe ap on the south by the 20 mile ereek or River Jordan, It is watgred on the south "Kenochdaw," menning "Loul River, the Indian name beitg huntors having in days of yore often both Indian and white plenished their magathille and Morse's. Rapids, with occasions found mostly at Smithviler Jordan forms the boundary batween veins of silver. Caistor for nearly five miles, after which Grimaby Grimsby and about five minsborough about three fourths of a minelves into the 20 , into Gainseral tributary streams empty thomsen the saw mill of the largeat being the 8 mile ereek on which through a portion of James Aill, Esq.i also, north creek runs two branchés, the westthe south part. The 40 mile creek has twaltleet, runs easterly to ern whioh rises in the township of Salteet, rastern branch; on lot No. 10, con. 4, where it unites winer's saw mill at the place the two branches so united is Beamersuntain gorge, (the mill where the stream leaps down the Anterwatering the village of having been built about 1800). After whe mountain ealled Grimsby it flows into Inke Ontario. "Mount Dorchester," by Royal Proolamaip, at the distance of length of the north part of the lalse. This boll of land forns a from one to two miles from tho tho mountain to the lake; along gradual slope from the batain it is somewhat hilly, sloping is the summit of the mountain flat land, some parts of which is southerly into acesful cultivation, except in dry season, in other too wet for suocesen the land is handsomely rolling, and in the 20 mile oreck the lane soil though somewhat variable or less parts gently elopiog. an excellent quather portions clay, black and light ang the 20 sand with an under lay of limestone, especially sand and loam, anile creek. Below ine mountanatalio red clay which in brolken with patches or strips of that metalic red cunds Lako Ontario. portions and at unequal distances surron finely timberod and This township like its neighbors addition of chestnut along the with the same varieties wirn the valley of tho 20 mile creek oaiks mountain and the lake. In thasuring from 5 to 6 feet in diameter, and pines have been cut measurigg 60 to 70 feet and the and as straight as a candle, high; some of the stumps of these latter from 100 to 175 feet high, some. The sassafras tree in giants of the forest are yet grows below the mountain to the most places only a shrub, grows 18 inches to two and half feet heigth of 75 to 80 feet, and fild plums, crab apples, and the several in diametar ;wild grapes, in great abundance. The widan hogs kinds of berries grow bere rabbits, woodebucks or ground higs were deer, msos, foxes, 7 ynx and squirrls, black, red, wolvos, bears otor, mink and the flying squirrel, and along tho brounds at the mouth of and musltrat. There aro good fishing grounds ald the 40 mile creek.
In 1780, Henry Nelles and two of his sons fort Niagara, (thon the Mohawk River, N. Y., journeying gake beach in search of a called Newark) westward along thight at the mouth of the 40 place for a home, stopping over "This land is good and this is mile creek, he said to his sons "ettle boyond this in one day." far enough west, nobody willed on the Grand River where He however subsequently setcle The excellent quality of the the village of York now stands. soil, salubrity of climate and pleasip make it very i
south portions of this culture is rarely equalled. its adaptation to fruit culturem New Jersey, settled on lot No.10, In 1782, John Greene, from Nuilding both a grist mill and saw con. 1, and soon soon ground. most of
mill, where he son
mill, where he Forie, York and Kingston.
gara, Fort Erie, You sen Eenry above mentioned, settled. Capt. Robert Nelles, son of in , his brother Abraham (afteron lot No. 11, con 1, in 170r) in 1784, and William Nelles in wards Legislative Councillor) 1787. Roberl Nelles was a person was often employed in carryance, was a valiant warrior, American Revolution, of a higa ing despatches during the umer difficult circumstances, On confidental character, and one occasion the 14 surrounded by a superior force of ContinenWere so driven and suld only escape by swimming the tals, that they could. Nolles and one Indian only made River near its mouth. and escaped though the buliets whizozen the opposite shors, Their clothes were in an few mand heat of their on them and no means of drying them exelles became a memon them andil they got to Fort Niagara. Neiles solomon Hill, of bodie日, untimont in 1808, (in company with sellence in Grimaly smithyille) and lived at hie comiortable places of position and Smithrille) and lived a ming fille to 1 gruat.

Trom 1784 to 1790, several Loyalists auch as Androw Petsct From 1784 to Judga Pottit, and othere of the Pettitwamily, Sumith, Walker, Nixon
mountrin and Che In 17B7, Bichard Gritn, dattlod on the Jortian. ( 20 mile eroes) now thoy oneamped a bottlod on the whole fimily to the nuw hom,
removing they
Abraham and the month of the stream
Edward, two of the alder cons, followod the stream on Monday
Elom the ground and eroct to their lande, wh to
dwellings until Saturday returned to the enoamproont by the dwellings until saturd. Sonn however the whole family movetor same orvokn mansion in the forest, each son setion in lifo into tasir immodiatoly solected lola for themsolvestentis the earth. almost inm begun amonget other duties to ropienth, und LterCharles Mereidth, Thomas Earris, Rents noos after; Robert tenent. Blorroe, began their improme Solomon Bill, Wm. LawLounsbury, Dr. Uter, Jobn Soam, Jorsay; Pelor Bropslaugh, from rence, John Beamer, from N, Jorsay finding the Morritits, from Virginia; D: Palmer, and others, he "Merrittsottlemont," and Katskill, in what is known as Harrie, Wm. and Thomas Bridg. some of the MoCollums, Jonn. William Walker, from Virginis, man, along the 20 mile creer. Whencossion, and 11,13 , 14,15 , obtainod lots 1 and 8 in the 16 and 17 in the 7 th concessiontain on lot 16, when the rosd up pioneers, settied on only a zigzag path; up this patin ; he also bis ozen singly while he carried the yoke and chais provisions, carried on his back up the saroe steep ascent, implements of carried on aed graiu, plough, harrow and farm furniture,
Is the children of the Pettilt family (latel in deceased) were brought from New Jersey to Grimer also rode. a basket each side of the horse on which the mod in what is now The Muir's and some othor families setthe Coons, Halsteade, called the Muir's settlement, in 1815. in the south-west part Buckbees, St, Johns, and others sotle
in the 8th and 9 th concessions in 1825 . Lewis, Wilson, Wileox, Among other early settlers were Woolverton, Hiokson, Lawrence, Mory's and others. Morris Intire. Russ, Palmer, Perry father of twenty-five healihy Terryburry is said to be the rather of triplets.
children, none of them twins or triplets. The first mills, as already stated, wers bills, built by Nathaniel John Greon. Tho next 30 mile cyeels. The next in order or Griffin, in 1794, on 1816 by Smith Grifin, on tho Jordan, time were built in 18 ith Griffin was the firsit merchant in smilk20) Smithville. Smith Gre of $1812-15$, brougbt all his goods ville, and during the $\begin{aligned} & \text { anghing, the distance being, as the roads } \\ & \text { fromen }\end{aligned}$ from Montral by sleigiles. Henry INelles and William Crooks, were, nearly 00 micos. the war.
the war.
The first regular religious service in the township was the Church of England, preformed by Judgo Pettitt, in tho buildin own and occesionally in his neighe stone church now stands on of the $\log$ church in 1794, whore the stond church (Mothodist) was lot No. 11 -built in 1812. The second church (2rstresident Methobuill in 1802, on the mountain, 30 milecrel, dist minister Rev. Elijah wairen, Smithville in 1821, where third church (Methodist), built at sis. First resident church the present brick churoh now stanas. Non, nt Grimsby, in 1827 ; of Bngland minister, Rev. Wm, Sampson, Rov. Robert Addison, prior to W. Sampeon's incumbency, to Grimsby. Rev. D. W. of Niagara, made pastoral 1816, the first resident ministor in Eastman, (Presbyterian) in 1816 , Tho first school house made of logs in 1794, a the Townsbip. The arst litile east of the viluage 30 mile oreek, teachor Johts Frenchi school house erec was built at Smithville. In 1818, ono buitt in 1795 anothis it Woolvetons, and noother on the mountain noar boasthe late in 1810. The first white chil
William Nixon, Esq., in 1792 . Grimsby has now (including two villages 14 publion Methodist two high schools, generally 2 or 3 private churches, 2 M. . . churchee, 2 Roman Catholist, 1 Disciple, and land, 1 Presbyterian, 1 Baptist, 1 Univered largo sums for im1 Union. This Township has expend miles of masademized provem

It may also boast of producing as many public men as any rural municipality of ite sizo, whioh may be put down as folows, viz : sixmembers of Parimeloven doctors, eight surveyors twenty ministers of the Gospel, elorai tpainter and entomologist and engineers, six ars (Mr. Pettit) to the First.
Grimsby furnished Canads. In 1803, Soloman Iill, of Parliament of Upper from Ooeymans, N. Y., (a very clever Smithville, formerly from Nolles, were elected above seven speaker,) and Colonel Robert was held four days; eaoh candiother candidates. tosy a guinea oach morning, at the open date was required to pay years afterwards, two other citizens, ing of the polls. viz., Wimas In 1830, Abraham Nelles, Esq. ly members of parliament Council.
was called to the Logislaino Simcoe, predicted that the village His. Excellency, Governor of Grimsby, would, in a county town, as it had great natural mibiatration, Most unfortunstely. "the prodictiona of hes readvantages. Most unvetations of others, have not been re coliency
alized.

Oin pillage is beatifally gitated botween tho MounQrimeby vilage is besulv dolightfally romentio appearance, tain and the Late, beving adrod inhabitinita. Fes \& donrohes i containing and, Methodies, Prosbytoriant, Romma (wo aurvey O. of Eing poas residont ministers, thres dociors, Baptist, conveyancer, and high school, one pubuce one Méchanics' Institato, containings, neaxy 1,00 public brll, two Gechanics ode lodgo of Guod Toroplary, in pub, two snvi mills taverns, ono bretrory, one fruit camnolne worls. Threofmert two grist mille, one foundry
hant shops, 杖 luntc boot and shoes shope W. Ruilway, and on d Tre inexhan, Autible qui Sraithritle in tho antij stouated on toats, and is aurcon hortioultural country dish, Epincopal Mol Diaciple; a high a public school, two a mechanics' inatitn chants and general druggists and stati shoes and clothing mill, one carding mill and shingle factorios, one pot machine works, shops, iwo coop tailors, ${ }^{\text {q. WO }}$ dooto two painters, one $c$ two painters, one one bakor of Smith whom the County

Is the extrome contains 32,739 Chipparsa or W Oreandry. Tho boundry.
oliefly
clay. obietly pino, ash, beech pino, ash, bears, squirrels, otter squire first 88 mond," who in in tho wilds o near the bank and laill his gl and cleared so to IJenry D descendants The Dochs Townshir, ob of Honry, wh in attending $1794-5-6$ fou Mathew Lym settlod. In 1817 t viz, Josoph Lymburner, son, glliot, C John Tico B. Smith, Joseph Gall
childron, no Ryan posse some of the Once why during tho with the A yelled, Yan Byan. Bu disarmed, to surrond his promis ingerintow aftor Rys aftor Rya which was which tho tre: at thital. acquittai. Jon. 2 , on Tho fire No. 2 OO newspape
The firl spring o jutthom nemer tho dor, drug Thas of had froig siang In in stabl oould on es the Sansl
wool. 1 $\underline{\square}$

Wooten pitchforks; many of them made their own boots and shoes; and somo toined their own leather, Matrons a pail of butter on wonld walk ton or twolve milos, with ${ }^{\text {a }}$ pail of battor on ench arin, to Griffin's 6tore, and weLaw end law euita wers cour lit
hike the Isralites, at a wertain very litile known in those days; man did what was right in his oriod of their history, "every of those noblo pioneera, it can be said, they soldom did wirong:
Onistor has now a population of 2,327, sud her sssessed value of property $86 \$ 390,000$. She has 9 , and her sasossad
Bohoole, 5 eaw mille 9 public sohools, 5 eaw mills and one griat mill.

## QANEBOROUGH.

Is bounded on the bouth by tho river Welland; on the woat, by the Township of Culstor; on tbe north, by the Townabips of Grimsby nod Clinton; and on the enst, by Polham; and contains 38,451 acres. The land is, as a wholo, gently
rolling : flong the laree strenms, rolling: flong the large strenms, quite rolling, and in the
centre, more Lovel. Severni small centre, more lovel. Several suall btreams, the laygeet, the Big Resver, empty finto the Welland River on tbe nouth; and Noxth's Creels oriptien info the 20 Mile Creok, on the north. The 16 Mile Creek runs through two thirds of the nownhip. The 20 Mile Oreek ends on lot No. 30 , on the north side, runnitg eastwardly some soven miles, where it runs into tho Townehip of Clinton, The eoil is genorally alsy, and olay loum; along the Welland and the 80 Mile Oreelies, tho ints are a rich alluvial. It has been a well timbored townsbipi mostly pide with a large proportion of The wild animale, the knme as in Colsickery and ironwood. ing. Townships. The Welland or "Cbiapora" other ndjoiniinf Townships. The Welland or "Cbippava" (Psople of the Niagner River at its moutb; for whon the westerly winds drivo the waters of Lalke Erie buifeient to westerly watera of Niagara, the watera of the Welland flow ewell the sometimes for several hours, the distance of thitty miles and raising the stream from one to two feet high Immens quantities of timber are flosted down this stream from Cnis or, and other places aunually. Steam tugboata po nearly an far ny the efreatn as the weatorn boundry of go nearly ship, generally underatood th the "Deep Water" termina tion.
The first settlers wore along the Welland, on the south ide, and along the 20 or Jordan on the north. Among the former, were John Dochstader, in 1782, at the south-west angle of the Township; and who was soon followed by the Hodges, Dils, McDowoll, John Barker, Philip Henry, the Robins, Heaslips and others; extending down the river, along the broken front, and in the first and second concesMost of tho first and others, in 1795 to 1800.
anoes from the month of the Welland their new homes in canoes from the mouth of the Welland at Niagara River; it was the best highway in summer in canoes and boats, and
in winter with sleighs on the ice.
The first school bouse in this part of the Township, village of W ellandport; and the flrst one mile weat of the "Nappertandy." The first church in 1835, on lot No. 2, Ood. 1, sometimes known as the" Loo Jail" : on lot No. 2, at Heaslips's in 1835, both Melhodist. And the first mill in 1816, at what was then called the Narrows, (now villare of Wellandport,) so named from the narrows, (now village of land, only a few rods wide, where the Big Beaver crage naxrowly escaped uniting with the Welland, but wns com pelled to run noarly two miles further before doing it Tho Big Beavor was daramed, and a cut or race mede through the narrow ridge, whero the mill was erected, discharged the water from the mill wheel into the Welland The Mill is no longer standing, and the waters of Bi Beaver Creek run as beforo the mill was built.
In the north part of the Township, the Snyders, Deans, Felkers, Roys, Rozells, John Wrong, Johnsons, Robt. Com fort, Lanes, Gee, Kennedys, Clendening acd others, some from Now Jersey, others from New Yorls and Pennaylvania, commenced, in 1793-4, settlements along the 20 Mile Creek or Jordan River. Snyder commenced his mills in 1794, on "Sny. 23, con. 6, and for many years the place was known as "Snyder's Mills"; but now the village of "St. Anns." The first school house in this part of the Township, was of logs, near Gee, Bridgo, erected in 1798, Not long after frst teacher was John Kennedy, father and th first teacher was JohnKennedy, father of Jacob Kennedy, Esq., The first ohurch beeve and a leading man in the Township. , by the Proabyterians a Moge, in 1799, on lot No. 19, con.
 in 181S-19, commenced tbe same vear, on lot No 13, Con, 6. The firet resident minister was Rer, on No, 13, Con Sone of those new buildings, and saureole the memory them remaina. The Prosbyterians liave now a mood churoh nod commodious hhode, at St. Anng. The Methodiste heve a good briok church and sheds, on Jot No. 15, about one mile distant ${ }_{i}$ and the Epfecopal Methodist a lilre one, on lot No. 11.
In 1788-9, ocourred a searcity of provitiona, (at the and of lroown as the ${ }^{\text {b Hangry year." The cry for " bread / bread I }}$ " could not be mot; great suffering provailed throughout the
country, many people were compelled to lipe on roote, it bads and baric of trees, snd ocoasionally game; batam, nima $A_{2}$ and money to boy il still more
In 1796, a aweoping Torando, geasarally known as The Hurricane," passed through tho entire length of the Provinoe and in the northern parts of Oaistor, Gainsborough ond Pol ham, trowed a swarth of himber from bne and a haif to two miles wide. In those drys, the inhabitants had 60 me times their own mills; perbapt a stump or biook of wood so hollowed out that the grsin was pounded in is aufliciently to matse "borning" or "mush," hones thoy wore onlled "horning blooks." Sometimes the exploring sottler would run through the forest, until ha found some favorite syot for intered tho Triseme of Two of the adventarous pass had entered the Towoship. Two of the adventarous pionsers Poter Dila and John Mitenor, cama from Buffalo to the mouth
of the Cbippawn, travered the country from the month of the Weiland to its eonrce ; thence sonth-to the Grand River thence down tho rivor to ite north nt Inke Erie; thonoes dover to Niagara; nad thence to the north of The Weiland; and thence up the strenm, to those fertile laods in Gainalond; and where thoy solected their respeotive homes, on the banks of Where thoy solected their respeotiv,
Mention should be made that the centre part of the Townabip was considerod vory interior to the lands on sither the outh or th border, so much so that the remaric whe axes." Tiwarde of forty reat ago a and other Germads, berty yeare ago, a man memed Sundigy oro are some of the ban to bettle on those hards; and now The Township lis alavan and formers in the Townahip. yis: 2 Preabyterian, 2 Unitod Brobren 3 Epietve charohes, dise, 1 Evangeliat, and 4 Mothodibt: has producod 11 mivis ters of the Gospel, $I$ doctore ond 3 surgronsead 11 miojsoftizeos altained great longevity ; the most romaritable of hor worthy man maroed Dyor, who reporb says, wha 107 yenis old at bib death; and unny others may be dhased as octoisenaris ang or centonariana. This Townehip has 6 post Offcea, yiz as Si, Anne, Biomarck, Bosedono, Blcho, Wellasdport and CandheaFile.
The village of St duine containf about 160 inherbitants two merchat anopet baw mill, grigt mill, tavert, vich class soool The rias school house and an crango hiall.
tains about 200 . shops, ono ingerciant one drug sore two ohural, one blacksmith, two pbysicians, chanics shoss, County fairs nre agricultural hall and grounds, where the situated, on the north branoh of tho Wellago is handsomely of the County, and surround by a The inhabitants expect their by a good agricaltural country Town of the County of Monk.

## THI TOWNSHIP OF HUMBERSTONE.

The Township of Humberstone is about $7 \frac{1}{2}$ miles long and 6 It wna first sottled in about 32,000 acres.
1t whs dirst settled in the year 1785, whea land in the town ship was selling at ten conts per acre. In 1817 it contained 75 inen in vine to one gist and one savt mill; and land had inhabin value to $\frac{2}{2}$ a 1 lars per acre. In 1850 , it contained 279 es, and 8 public as, and 8 public schools; and the population amounted to 2,337. The population now ( 1875 ,) amounts to 3,200 , exclu1870 and Coltiva contains about 200 inhabitants.
60 dollars per acre. Tbe greator is now worth from 40 to 60 dollars por acre. The greator portion of the soil is loam
Th

The Welland Onnal, projected in the yoar: 1818, by the Inte 1on. Willinm H. Merritt, and commenced in 1824, is out through the western portion of the township; and the villages of Petersburg and Port Colborne are situated on it.
Port Colborne contains 4 churches, 1 public sohool, 1 R. C. separate school, a village hall, 1 grist mill, 1 saw mill, 3 planBanlr, Montreal and Door factories, a branch of the Imperial sive grain clevator, belonging to the Welland and an extenpany, capable of transforring 45,000 bushels of grain por howr rom vespels to cars.
Port Colborne is the southern terminus of the Welland Railway, and it is an important station on the Buffilo and Goderich Divialon of the Grand Trunk Railway.
(the (the Poot Office is called Humberstone) is aboati one trill north of Port Colborne. It contafine 3 churches, 1 public aohool 1 Lutharsn school, a townahip hall, a tompernace hull, 1 1 machina hhop, nod dealk and soat fatory, 1 foundry, 1 saw mill 1 planigg mill and ansh and door factory, a cabinet ahops, 3 wagon and carriage factories, 1 sbingle factory and planing 7 milos diatant fromi Wallant the lound Raflway, and is about milea from St. Catherines. The County Town, and zbout 29 milea from St. Catherines. The populacian is about 700 . about 4 miles onst of the village in a Memnonile charch; and sohool. In the enstern part of the township shese is slao a griat and aave mill.

The Loop Inine of the arough tiro northara portio atution of this ruilway in 4 Thich is nboul 5 malles bork azaters portion of tho (owne The porthe the portio lower than tha rempining marth lands vibiol yivid lar cranberrica.
The townahip contrine fro lands, of whith 800 ot 800 Ontario Peat Oomparitial of peal eanal ie nocomplimpant will be 7ery einy lo inin no donbt tecome very valuin no The grenter portion of the eouthern portion of of the southern porlion of tho tow singular conienl-shaped ill, the townebipiplice was formerly nid is still e plansure parties.

## OLI

This good, if nob the boa Ningara Petionala is bounded 1outh, and 2 small part of PO oug $4_{i}$ on the west by Grimsby tario, abd eembaing ajout 25,60 or River Jordan, runs throogh Doan's grles abd savm mille, an riseb in Grimbey, and jounting Milo Creel 1 try on lot No.5, CoD stroams fill inta the Crosir, B Tho general fuco of the. moderatoly rolling, ercopt $M$. or less billy and frempi or less bily and irrogular, an
 yot variable, being composed
and clay; a large portion of tbe a limestone base. The wholo tive being well adapted to the base of the mountain some the village of Beamsville is th "ioe spring," where ioe is four summer, but nove in the winte Mile Creels were once worked abandoned since the War: A lea township about 3 miles from S. years ago, (the Government dollars to assiet it ,) but the met quantities to be romunerativo. bered, principally with oalk an such as boech, maple, olm, a some parte black wainut;
native fruite native fruits are grapos, orab ourrant, goosebearry, xaspberry in abundance. The wild anir raccoons, bears, wolves, foxes
and all the varieties of squirrol otter, mink, and muskof liam Waller a Loyalist fiom and four dargets wildest state. All his the further weat Abous sods ex Henry's Tuffords, Culps, Konklo Mariett, Clouse, Zinmermain House, Hawn, and others, all fit mountain, commencing in 1788 . were the Books, Tooler, Lind Dawdy, Hitchcock, Burtram, N. Yoriz and N. Jensey. In 17? Mayers, who in $1800-1-2$-and by the Grobbs, Hipples, Husn Germans from Buoks Co., Ponne Tho first grist mill was built ir Where Dean mills now stand: con. 8 , with saw and grist mill. on Mud Creelc where Huntem after J. Book built'z saw mill on con. 9 and tho following year on lot No. 20, highoz up Lho sam built a griat mill alongalde of it. Tbe firet Sokiool house, uned ell buill in 1790 whers Beamaville : anotbor in the Hemry nelghborbo Orook eatilorgent on lot No, 15, a MoLenas noar whare tha greegert
The first ohuroh built in 1776 : the village of Deambvillo (Torma The Kannonites bail6 a chmoch of Fivet resident miniztor Eier. Wy rireaching in tho townhify whs The p, on $0 t 16$ broken front 81 the Lalke, so grout las been the os


# PROVINCE. OF UPPER-CANADA. ${ }^{131}$ 

Prom on
名作"

## GEORGE the THIRD by the grace of GOD of the United Kingdom of GreatBritain and Ireland, King, Defender of the Faith.

To all to whom there Prefents fall come,-GREETING.


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$\square$

## 


 A Grim.


## Chive of Tamatave


homanenaing in port of the peri, econce (Finger of the tout boelesingle







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## Regeosno

4 chan
1805.
TO HAVE AND to HOLD the fid parcel or trad of land hereby given and granted to heme the fid Prillearn Circue/th mir heirs and affigns for ever; Giving neverthelels to vs, our heirs and fucceffors, all mines of Gold, Silver, Copper, Tin, Lead, Iron and Coal that shall or may be hereafter found on any part of the fid parcel or tract of land hereby given and granted as aforefaid; and faving, and referving to us, our heirs and fueceffors, all white Pine Trees that fall, or may y now, or hereafter grow or be growing, on any part of the find parcel or tenet of land hereby granted ar aforefiad. Provided always, that no part of the parcel or tract of land hereby given and granted to the fid Well e ans. Checeeith

Weals or his lawful Deputy and hat heirs, be within any refervation heretofore made, and marked for us, our heirs and fucceffors, any thing herein contained to the contrary notwithftanding.
h. 5 heirs or ar-

Provided alto, that the fid Mcluanse figs; shall and do within three years erect and build, or cause to be crested and built, in and apo ns ing bouffe ( he the find Shale ans Chewed or their own right lawfully pofferfed of an house in our fid Province) and be therein, or cause some perron to his aligns not having built, or not being in her or their own right lawfully politented of
be therein refident for and during the pace of one year, thence next enfaing the building of the fame.


Attachment No. 1 to PD-38-2023
 their entry in to, and polfeffion of the Antic, take the oaths preferibea by taw, before fame one of the Magillater of out fid Provider; and a certificate of fuck oaths having been fo taken fall caufe to be recorded in the Secretary's Office of the Paid Province.

In default of all, or any of which conditions, limitations and reftritions, this fid Grant, and every thing herein contained, fall be, and we hereby declare the fame to be null and void, to ail intents and purposes whatsoever, and the land hereby granted, and every part and parcel thereof, fall revert to, and become veiled in vs, oar lairs and fueceffors in like manner as if the fame had never been granted; any thing herein contained to the contrary in any wife notwithftanding.
AND WHEREAS, by an aft of the Parliament of Great-Britain, paffed in the thirty-firft year of his Majefly's reign, entitled, "An Aft to repeal certain parts of an act "pallid in the Fourteenth year of his Majefly's reign, entitled, "An act for making more effectual provifion for the Government of the Province of Quebec, ia North.Ameri"ca, and to make further provifion, for the Government of the fid Province," it is declated, "That no grant.efolands hereafter made fall be valid or effectual unleft the " fame fall contain a feceification of the lands to be allotted and appropriated folly to the maintertarce of a proteftant clergy within the fad Province;" in refpet of the lands to be thereby granted; Now know ye, that we have cauled an allotment, or appropriation of
twenty EiptL ADsesmo four Ceumtis
 (ul Mainly $\qquad$





By Command of his
Crate in (nuncio vitypnie 1805
60 bricicienca in Council.


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Attachment No. 1 to PD-38-2023


GニXH GTOXVH HO LIAVGIASV
PROCEEDING COMMENCED AT: St. Catharines
OI\&VLNO HO LHDIX NI ONIX GHL ALSGrVW SIH
Court File No.
(Short title of proceeding)

Attachment No. 1 to PD-38-2023
EVELYN SUSAN DUCK and JEFFREY LAWRENCE DUCK
Applicants

