

# THE ESSELTINE DRAIN: ADDENDUM REPORT—BOOK 4

FIRST SITTING OF THE COURT OF REVISION  
ENGINEER'S RECOMMENDATIONS



RC SPENCER ASSOCIATES INC.  
Consulting Engineers

22 December 2017

Project No.: 14-425

**List of Engineer's Recommendations in Response to the First Sitting of the Court of Revision**

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# **Official Appeals Received for the First Sitting of the Court of Revision**

**Entry Number 1**

**Owner:** Harry & Guglielmina Keller

**Roll Number:** 290-23200

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.

**Appeal:**

- 1) The assessed land area affected of 0.69 acres is too large and should be 0.28 acres as established in the East Ruthven Drain assessment.
- 2) The affected property has only recently been connected into Esseltine Drain over the past 4-5 years as a result of the construction of the East Ruthven Drain in 2012 and therefore has not contributed water into the Esseltine Drain to be held responsible for erosion damage downstream over the past 50 to 100 years.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. Keller explained the slope of the land (the land slopes upward at the back and the storm runoff cannot flow up the slope).
- Engineer Zarlenga indicated he will meet Mr. Keller at the site and review the assessment and elevations.
- Mr. Keller also wanted to ensure that his concern regarding the short length of time his property has been connected to the Esseltine Drain would also be considered.
- Mr. Zarlenga indicated he would also review that item.

**Site Attendance:**

- RC Spencer Associates re-attended the Keller property on 14 November 2017 and performed a topographic land survey of the surrounding properties pertinent to the appeal.
- Harry Keller, Lou Zarlenga, Shane Lafontaine (RC Spencer) and Robert Botham (RC Spencer) were all in attendance for this survey.
- The topographic land survey was completed using the Sokkia RC-PR4 Robotic total station.
- RC Spencer Associates coordinated another meeting at the Keller property on 30 November 2017 (Harry Keller, Lou Zarlenga and Shane Lafontaine in attendance) to discuss the results of the topographic land survey performed on 14 November 2017.

**Attachments (Maps/Plans/Aerials):**

**Figure 1) Keller GPS Survey – Overall Aerial:**

- Mr. Keller's property (1810 County Road 34) is highlighted in yellow.
- The Esseltine Drain is identified by the light blue dashed line on the left side of the page.
- The direction of flow is identified by the orange arrows.
- East Ruthven Drain is identified by a pink dashed line and is shown in Mr. Keller's front yard extending westerly to the outlet at the Esseltine Drain.
- East Ruthven drainage area is identified by a pink solid line.

**Figure 2) Keller GPS Survey – Section ‘A-A’:**

- Existing ground profile along the north property limit of the residential properties fronting on County Road 34 westerly toward the outlet at the Esseltine Drain.
- The approximate length of this land survey section is 350m.
- The overall land profile slopes from east to west, with a minor peak located at the rear yard of 1766 C.R. 34 for the DiMenna farm access roadway.

**Figure 3) Keller GPS Survey – Section ‘B-B’:**

- Existing ground profile 55m north of Section ‘A-A’ (north property limit of the properties fronting on County Road 34) westerly toward the outlet at the Esseltine Drain.
- The approximate length of this land survey section is 350m.
- The overall land profile slopes from east to west.

**Figure 4) Keller GPS Survey – Section ‘C-C’:**

- Existing ground profile along the actual drainage path.
- The approximate length of this land survey section is 370m.
- The overall land profile slopes from east to west with an elevation difference of 2.3m from the Keller rear yard to the top of bank at the Esseltine Drain.

**Figure 5) Keller GPS Survey – Section ‘D-D’:**

- Existing ground profile cross-section through 1810 County Road 34 (Keller property) looking west toward the Esseltine Drain.
- The approximate length of this land survey section is 240m.
- The overall land profile slopes from the Keller residence southerly in the front yard toward County Road 34.
- The Keller rear yard has a minor slope to the north toward their rear property limit.
- The DiMenna farm property to the north slopes significantly to the south toward the rear property limit of the Keller residence.

**Figure 6) Keller GPS Survey – Section ‘C-C’ – Ponding:**

- This drawing is a modified version of drawing #4 showing the overland flow route of Section C-C.
- This drawing highlights additional detail of the overland flow on the DiMenna farm property and how the water collects to the low channel shown in red.
- The depressed area located north of the Giesbrecht property with the capacity to intercept a portion of the storm run-off is highlighted in blue.
- The maximum depth of this ponding will be approximately 5” before it will spill over the DiMenna farm access and spill westerly toward the Esseltine Drain.
- The approximate volume of this storm water retained in the low area of the DiMenna farm land is 115 cubic metres.

**Figure 7) Keller Stormwater Modelling Run-Off Volumes:**

- This page provides a summary of various storm events with different return periods and provides the corresponding run-off volumes produced during these events modelled using the standard SCS method for the Fox Sandy Loam soil conditions for this area as per the Soil Map of Essex County.
- These results shows that during very minor events (1" rainfall) the depressed area on the DiMenna farm property may intercept the storm water. Rainfall events creating greater than 115 cubic metres of runoff will be directed overland to the Esseltine Drain. For the major storm events, the run-off produced far exceeds the available capacity of this depressed area.

**Engineer's Recommendation:**

- The south half (front yard) of the Keller property drains toward the East Ruthven Drain along County Road 34 which outlets westerly to the Esseltine Drain.
- It has been determined that the stormwater runoff from the north half (back yard) of the Keller property has the ability to flow northerly toward the rear yard limit, and then westerly toward the Esseltine Drain along the DiMenna farm lands as shown in Section 'C-C' of the aerial map land survey attachments.
- Therefore, we recommend that no revision is required to the assessed area for the Keller property (Roll Number 290-23200).

**Entry Number 2**

**Owner:** Leo & Kathy Probe

**Roll Number:** 290-09200

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.

**Appeal:**

- 1) The fair market value of our property used to calculate the allowance for property for the drain, was based on 2016 property values and may not be valid at this time.
- 2) The allowance calculated for property used for the cable concrete flow channel was .023 hectares (= \$928.00) and should be approximately .028 hectares.
- 3) The allowance for trees that will be affected/removed from our property was 1 tree under 25cm and should be 7 trees under 25cm.
- 4) We have not been advised how much of our property will be severed for the drain project therefore we do not know how much of our property will be affected.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. Probe indicated that he received an email with a cross section sketch on Friday, 3 November 2017, but that there are at least 7 trees that will be affected
- His property has a steel wall that was constructed to prevent erosion and they feel they should receive an allowance for that expense.

**Site Attendance:**

- The Engineer attended the property on 6 December 2017 to meet with Mr. and Mrs. Probe.
- A stake had been previously placed by RC Spencer Associates to indicate the approximate limit of the side slope grading as required for the cable concrete channel installation.

**Attachments (Maps/Plans/Aerials):**

**Figure 8) 1522 Whitewood Cross-Sections (2 Pages):**

- Cross-sections of the Esseltine Drain at Station 0+490, Station 0+500 and Station 0+510 which show the approximate conditions of the Probe property and the location of the proposed cable concrete channel relative to Probe residence.

**Figure 9) Tree Allowances – Leo & Kathy Probe:**

- Replacement Planting/Compensation table from the Esseltine Residential Tree Evaluation Program prepared by BioLogic Incorporated found in Appendix I of the Esseltine Drainage Report.
- This table indicates that the Probe property will have a total of 5 trees removed.
- In compensation for these removals, this study has determined that this property shall receive an equivalent to 6 replacement trees.

- Based on the available area on the property, 5 of these replacement trees will be planted on the Probe property as part of this project.
- The 1 remaining tree which cannot be planted will be paid for as outlined in the Esseltine Drain Report, Chart 4 – Allowances for Damages to Trees in Residential Ravine Area.

**Figure 10) Allowance Determination:**

- Identifies the land used for cable concrete installation and side slope grading in the ravine area.
- Displays the extent of the land that will be incorporated as part of the Esseltine Drain.
- This land will not be severed from the existing property.

**Engineer's Recommendation:**

- 1) The market value for all properties used to calculate the allowances were based on 2016 property assessments as this report was finalized in 2016. The allowances are determined from a nominal rate in relation to the land appraisal value.
  - 2) The area used to calculate the allowance for the property used for the cable concrete flow channel has been verified and the area of 0.023 hectares is correct.
  - 3) All trees will only be cut after a meeting is held with the landowners, the Municipality and the Consulting Engineer to look at the site and be made aware of the reason that each tree needs to be removed. The Allowances will be adjusted with respect to the actual number of tree removals that are required during construction.
  - 4) The property will not be severed, the only change is that the existing natural watercourse will be incorporated as part of the Municipal Drain to allow the Municipality to access the drain for future maintenance as per the attached "14-425 – Allowance Determination."
- Therefore, we recommend that no revision is required to the assessment for the Probe property (Roll Number 290-09200).



**Entry Number 3**

**Owner:** Scott Shilson

**Roll Number:** 290-09800

**Drainage Act Section:** *Section 52(1)* for the construction or improvement of a drain.  
*Section 31* for consideration of an allowance for works previously performed.

**Appeal:**

- 1) Allowance for material used for the Esseltine Drain repair is not realistic.
- 2) Materials disclosed to the Engineer that were classified as erodible, are actually compactible.
- 3) These same materials were used to create an access which will be used on this project. If I had not constructed this access, it would have been a large cost to the project that I am not being compensated for.
- 4) Installation and repair of the drain was not considered, and only a fraction of the material was.
- 5) Topsoil and seeding has not been included (materials would erode without it).

**Site Attendance:**

- Between April 2016 and August 2016, Mr. Lou Zarlenga met with Scott Shilson numerous times at his home (1510 Whitewood Road) adjacent to the Esseltine Drain to discuss his request for an allowance for his expenses relating to repairs to the natural watercourse.
- On 17 August 2016, Lou Zarlenga sent a letter to Mr. Shilson which included a summary of the weigh tickets for the various building materials used by Mr. Shilson in the previous repairs to the natural watercourse.

**Attachments (Maps/Plans/Aerials):**

**Figure 11) Scott Shilson Quantity Check (3 Pages):**

- We considered all of the materials placed into the natural watercourse and have determined that only 472 cubic metres of rock, being a non-erodible material, may be considered as a permanent repair to the natural watercourse.
- In order to determine a value of this non-erodible repair, we have estimated an equivalent volume of permanent repair material (imported clay fill) at an estimated unit cost of \$20.00 per cubic metre to arrive at an allowance equal to \$9,440.00.

**Figure 12) Chart 7 – Allowance for Drainage Works Previously Performed:**

- Compensation in the amount of \$9,440.00 for the volume of previously installed approved rock fill material in the existing natural watercourse as this work provides an equivalent reduction in the amount of imported clay fill required for the drain improvements.

**Engineer's Recommendation:**

- We recommend that no revision is required to the assessment for the Shilson property (Roll Number 290-09800).
- The Court of Revision is intended to review assessments; the appeal for an allowance should be considered through the Agriculture, Food and Rural Affairs Appeal Tribunal.

**Entry Number 4**

**Owner:** David Gulyas & Jacqueline Bruno

**Roll Number:** 290-10200

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.

**Appeal:**

- 1) The majority of their land drains to Lake Erie as they have lakefront property which slopes to the lake.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. Gulyas indicated that he is in favour of the project as a whole but had a concern with respect to the amount of land affected and the apportionment (that it is not 80% of the lot affected, but rather 30-40%).

**Site Attendance:**

- A visual site inspection was completed on 14 November 2017 to confirm the drainage area of the property.

**Attachments (Maps/Plans/Aerials):**

**Figure 13) Waterfront Parcels – Map ORIGINAL:**

- Aerial parcel mapping with the drainage limits/assessed areas based on the original Schedule of Assessment (June 17, 2016).

**Figure 14) Waterfront Parcels – Map REVISED:**

- Aerial parcel mapping with the revised drainage limits/assessed areas based on the 14 November 2017 site visit.

**Engineer's Recommendation:**

- The rear yard of the Gulyas property (1502 Whitewood Road) outlets southerly toward Lake Erie and does not fall within the Esseltine Drainage Area.
- The Hectares Affected for this property (Roll No. 290-10200) shall be reduced from 0.298 hectares to approximately 0.109 hectares.

**Entry Number 5**

**Owner:** 1382296 Ontario Limited  
Southshore Greenhouses Inc.  
Mucci Farms Ltd.  
Mucci Farms Ltd.

**Roll Number:** 290-17601  
290-17900  
290-18200  
290-38700

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.  
*Section 22* for the Assessment for Benefit

**Appeal:**

- 1) No consideration has been provided for the existing storm water management ponds, and the restricted rate of flow from these ponds.
- 2) Section 22 Value of Benefit Liability is incongruent with the actual benefit received

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. George Dekker questioned the assessment calculations to the Mucci group of properties and the method of allocation of the Section 22 Value of Benefit Liability.
- He wants to make sure the Mucci properties are allocated on a fair basis and not necessarily on an equal basis.

**Site Attendance:**

- Meeting held on 14 November 2017 at the Mucci Farms Kingsville office.
- George Dekker (Mucci Project Manager), Lou Zarlenga and Shane Lafontaine (RC Spencer) were all in attendance for this meeting.

**Attachments (Maps/Plans/Aerials):**

**Figure 15) DRAINAGE AREA - MUCCI:**

- Identifies the four Mucci properties (Roll No. 290-17601, 290-17900, 290-18200 & 290-38700) situated north of County Road 20 and south of Road 2 East.
- The Mucci properties are highlighted in pink and the Esseltine Drainage Area is highlighted in yellow.

**Figure 16) 2017 MAP – MUCCI:**

- 2017 County of Essex aerial mapping for the Mucci properties used to calculate the land composition for the Schedule of Assessment.

**Figure 17) Mucci 2017 Greenhouse Map Mark-Up:**

- 2017 County of Essex aerial mapping for the Mucci properties with the hard surface greenhouse structures highlighted in green.
- The roof area for the greenhouse structures make up 64% of the total affected area of the four Mucci properties shown in this aerial image.
- The limits of the Esseltine Drain drainage area are highlighted in pink.

**Figure 18) Chart 1 – Land Summary - Mucci Properties:**

- Provides the detailed area breakdown for all four of the Mucci properties as requested by George Dekker.
- All of the values listed in this table are relative to the original Schedule of Assessment dated 17 June 2016.
- Includes a sample calculation to determine the Equivalent Hectares for a parcel.
- Includes a sample calculation to determine the Outlet Liability for a parcel.

**Figure 19) Chart 2 – Assessment Summary - Mucci Properties:**

- This chart highlights the effect of all of the changes that have been initiated through the Court of Revision process.
- The column highlighted in Red shows the Total Assessment for all four of your properties as per the Original Schedule of Assessment dated 17 June 2016.
- The column highlighted in Green shows the Total Assessment for all four of your properties after applying the necessary revisions to all of the other properties to address their Court of Revision appeals.
- The last column highlighted in Blue shows the final recommended Total Assessment for all four of your properties after applying the reduction to the Value of Benefit as outlined in the recommendation below.

**Engineer's Recommendation:**

- 1) Consideration for the Existing Stormwater Management Ponds
  - Pursuant to Section 23(1) of the Drainage Act for Outlet Liability:  
*Lands and roads that use a drainage works as an outlet, or for which, when the drainage works is constructed or improved, an improved outlet is provided either directly or indirectly through the medium of any other drainage works or of a swale, ravine, creek or watercourse, may be assessed for outlet liability.*
  - Accordingly, the assessments have been calculated based on the Equivalent Hectares Method. This is a method of converting parcels within watershed to “equivalent hectares” by multiplying by the respective run-off factor that recognizes the volume and rate of flow of water artificially caused to flow from that parcel.
  - Since the stormwater management facilities are privately owned, there is no verification by government agencies that the outlets are properly maintained and that the facilities are functioning as designed.

- The local greenhouse industry development has occurred over the past 20 years, most of which was not subject to current stormwater management criteria.
- In the calculation of the Outlet Assessment, we considered applying a weighting factor to account for the reduction to the peak flow as a result of the stormwater management facilities. However, based on the observed site conditions and flows in the Esseltine Drain, it was determined that the effect of the stormwater ponds was not significant as to warrant a reduction to the assessment.
- The Outlet Liability for the residential properties which outlet to a stormwater management facility were also assessed using the same methodology, based on the artificial volume of runoff created by each parcel, with no reduction in relation to the outlet flow of the stormwater management facility.
- Therefore, we recommend that no revision is required to the Outlet Assessment for the Mucci properties.

2) Section 22 Value of Benefit Liability:

- Please note that the assessment of costs of a drainage project is not an exact science nor does it involve the application of specific formulas.
  - Many of the decisions on assessment are based entirely on the judgement and experience of the Engineer and the condition of the drain and the lands which make use of the drain at the time the investigation and survey were carried out.
  - The Mucci properties will benefit from improved appearance in relation to the removal of the brush and trees, cable concrete (from Station 0+550 to 0+650), excavation, grading, compaction and topsoil placement for an improved cross-section from Station 0+650 to 1+815.
  - The Mucci properties will benefit from the improved control of surface water as a result of the improved cross-section of the drain adjacent to these properties and immediately downstream of these properties.
  - The total cost for the works performed adjacent to the Mucci properties from Station 0+550 to 1+815 (not including Special Benefit items) was approximately \$450,000.
  - Please note that in consideration for all of the above noted items, we have assessed the Benefit at a portion of the total project cost that we believe to be reasonable for the “derived benefit” for each property.
  - The Value of Benefit for the properties north of the cable concrete installation (north of Station 0+650) shall be reduced by approximately 35%.
  - The Total Value of Benefit for the project will be equal to 20% of the Total Project Cost (excluding Special Benefit and Special Assessments).
  - This revision results in a Value of Benefit that is more consistent for the larger agricultural properties to the north.
- 3) The Special Benefit for 290-18200 has been corrected to \$6,000 as outlined in the report. This value was incorrectly included as \$6,600 in the original Schedule of Assessment.

**Entry Number 6**

**Owner:** John & Jennifer Fittler

**Roll Number:** 340-01350

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high, other land or road has been assessed too low, and due consideration has not been given as to type of use of land.

**Appeal:**

- 1) This assessment does not fairly take into account output liability and the damage done to this drain by the greenhouse businesses.
- 2) The categories of assessment which were established for this report need to be revisited to fairly assess each farm operation and their contributions to the drain.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. Fittler explained that he has been operating a no-till farming operation for the past 25 years.
- Mr. Fittler presented an audio-visual presentation with handouts.
- Mr. Fittler summarized a 1989 drainage assessment paper entitled "Drainage Assessment Revisited" which speaks to fairness to all concerned and reads in part "that the assessment of costs of a drainage project is not an exact science nor does it involve the application of specific formulas".
- Mr. Fittler spoke about rate of flow and volume of water, stating that studies have been undertaken to compare conventional tillage and no-till for runoff and soil erosion that show that water runoff and soil erosion can be reduced by 40 to 80 per cent by leaving 0.5 to 0.9 tons/acre of crop residue on the surface compared to bare soil.
- Mr. Fittler stated that he has spent money trying to protect the ditches from soil erosion and he feels he's being penalized.
- Mr. Fittler stated that there is an elevation drop from the Bowling Alley to County Road 20; and there is something happening from that drop that is causing the accumulation of water.
- Mr. Fittler presented a video of his 'walk' of the Esseltine Drain to show the slight runoff after various storm events at the top of the drain (his lands) vs. the bottom (rapids of fast-flowing water).
- Mr. Fittler stated he is a corn, soy bean and wheat farmer and is not contributing to this volume of water. He asked Council to consider his presentation as set out in the handout material.
- Administration was asked to research the matter of no-till to explore how that reduces the flow, so that that information would be available as this matter goes forward.

**Site Attendance:**

- RC Spencer Associates attended the Fittler property on 13 March 2017 and performed a topographic land survey of the property using the Sokkia RC-PR4 Robotic total station.
- John Fittler, Lou Zarlenga and Marvel Hormiz (RC Spencer) were all in attendance for this survey.

**Attachments (Maps/Plans/Aerials):**

**Figure 20) Fittler EXISTING:**

- Aerial parcel mapping with the drainage limits/assessed area for the Fittler property based on the original Schedule of Assessment (June 17, 2016).

**Figure 21) Fittler REVISED:**

- Aerial parcel mapping with the revised drainage limits/assessed area for the Fittler property based on the topographic land survey completed on 13 March 2017.

**Engineer's Recommendation:**

- The properties of Roll No. 340-01300 & 340-01400 as listed in the original Schedule of Assessment have since been consolidated into the single property which is the subject of this appeal (Roll No. 340-01350). The total assessed area for 340-01300 & 340-01400 in the original Schedule of Assessment was 14.670 hectares.
- The Hectares Affected for this consolidated property (Roll No. 340-01350) will be reduced to 11.433 hectares as a result of the topographic land survey of this property completed by RC Spencer on 13 March 2017.
- This results in an effective reduction of 3.237 hectares (8.0 acres) to the assessment for this property.
- Through discussions with the Ontario Ministry of Agriculture, Food and Rural Affairs and the Essex Region Conservation Authority we have concluded that there is no accepted standard in Ontario which proves that the total runoff volume from no-till farms are any less than for traditional farming.
- Therefore, with respect to the request to reduce the runoff coefficient for this property (C=1 for agricultural land) to a lower value as a result of Mr. Fittler's no-till farming practices, we have concluded that no revision is required for this property (Roll No. 340-01350).



**Entry Number 7**

**Owner:** Carolyn Stockwell

**Roll Number:** 290-27100

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high, other land or road has been assessed too low, and due consideration has not been given as to type of use of land.  
*Section 15* for Sufficient Outlet

**Appeal:**

- 1) Much of the cost is attributable to the urban development in the southerly reaches of the watershed, and intensification of some agricultural uses in the northerly reaches. Those changes are not fully accounted for in the assessments.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Solicitor Paul Courey was in attendance representing Ms. Stockwell. Ms. Stockwell was also in attendance.
- Mr. Courey stated that in his opinion this is not a drain improvement project; the Drain ends 873 metres before the lake, the ravine is eroding, and there is no language in the report that says there is a problem with the drain.
- Solicitor Courey's opinion is that the only assessment to the owners presently, should be as the drain presently exists (Station 0+873 northward).
- He suggested that the engineer "charge the drain with work done on the drain, and charge the ravine with work that is done on the ravine".

**Site Attendance:**

- RC Spencer Associates attended the Stockwell property on 27 March 2017 and performed a topographic land survey of the property using the Sokkia RC-PR4 Robotic total station.
- Carolyn Stockwell, Lou Zarlenga and Marvel Hormiz (RC Spencer) were all in attendance for this survey.

**Attachments (Maps/Plans/Aerials):**

**Figure 22) Stockwell Overland Flow:**

- This plan shows the
- Ms. Stockwell's property (1777 Road 3E) is highlighted in pink.
- The Esseltine Drain is identified by the light blue dashed line on the left side of the page.
- The direction of overland flow is identified by the yellow arrows.
- The field survey indicates that the storm runoff from the Stockwell property drains overland toward the southwest corner of the property and continues overland to outlet into the Esseltine Drain on the DiMenna farm property (1696 County Road 34).

**Engineer's Recommendation:**

- *Section 1* of the *Drainage Act* defines "sufficient outlet" as a point at which water can be discharged safely so that it will do no damage to lands or roads.
- As identified in Section 2.0 in the Esseltine Drain Report, the work on the Esseltine Drain will include extending the existing Esseltine Drain situated north of County Road 20 (Seacliff Drive) to a sufficient outlet into Lake Erie.
- *Section 15* of the *Drainage Act* identifies that every drainage works constructed under this Act shall be continued to a sufficient outlet.
- Therefore, the Engineer has a duty to extend the drain to a sufficient outlet.
- Where the work is necessary in order to carry the drain to a "sufficient outlet" so that the water can be discharged safely and will do no injury to lands or roads, they are assessable for Outlet Liability.
- It has been determined that the stormwater runoff from the Stockwell property has the ability to flow southwest toward the Esseltine Drain along the DiMenna farm lands as shown in the "Stockwell Overland Flow" aerial map land survey attachment.
- Therefore, we recommend that no revision is required to the assessed area for the Stockwell property (Roll Number 290-27100).

## **Additional Appeals Received at the First Sitting of the Court of Revision**

**Entry Number 8**

**Owner:** Jennifer & Jason Cope

**Roll Number:** 290-09300

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.

**Appeal:**

- 1) Objects to drain and objects to removal of trees.

**Comments at Court of Revision (Monday, November 6, 2017):**

- Mr. and Mrs. Cope were not in attendance at this Court of Revision.

**Attachments (Maps/Plans/Aerials):**

**Figure 23) Esseltine Drain – Tree Removals:**

- Highlights the trees in their current location represented by a dot for each tree.
- The white dots indicate trees which are going to remain and will not be affected by construction.
- The yellow dots represent trees which may be removed as required for the installation of cable concrete and earth grading.

**Figure 24) 1520 Whitewood Cross-Section:**

- Cross-section of the Esseltine Drain at Station 0+480 which shows the approximate conditions of the Cope property and the location of the proposed cable concrete channel relative to Cope residence.

**Engineer's Recommendation:**

- The Municipality took the initiative to undertake this project under the Drainage Act as a means to stop further erosion and bank failures primarily in the ravine area south of County Road 20.
- Only selected trees that will be in the way of the actual grading and/or cable concrete placement shall be removed.
- All trees will only be cut after a meeting is held with the landowners, the Municipality and the Consulting Engineer to look at the site and be made aware of the reason that each tree needs to be removed.
- We will take extreme diligence in protecting the existing trees during construction so that they are not affected.

**Entry Number 9**

**Owner:** Cristina Porrone

**Roll Number:** 290-22100

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.  
*Section 22* for the Assessment for Benefit

**Appeal:**

- 1) Why are some people paying more or less? Everyone should be treated the same.

**Site Attendance/Meetings:**

- Meeting held on 31 October 2017 at the RC Spencer Associates Inc. Windsor office.
- Mr. and Mrs. Porrone, Lou Zarlenga and Shane Lafontaine (RC Spencer) were all in attendance for this meeting.
- The purpose of the meeting was to discuss the Porrone's concerns with the Schedule of Assessment in the Esseltine Drain Report for their property (Roll No. 290-22100).

**Attachments (Maps/Plans/Aerials):**

**Figure 25) Drainage Area – Porrone:**

- Identifies the location of the Porrone property (Roll No. 290-22100) highlighted in pink in relation to the Esseltine drainage area highlighted in yellow.
- Shows the portion of the Porrone property abutting the Esseltine Drain from Station 1+616 to Station 2+156.

**Engineer's Recommendation:**

- The calculation for the Value of Benefit for the properties north of the cable concrete installation (north of Station 0+650) shall be reduced by approximately 35%.
- The Total Value of Benefit for the project will be equal to 20% of the Total Project Cost (excluding Special Benefit and Special Assessments).
- This revision results in a Value of Benefit that is more consistent for the larger agricultural properties to the north.

**Entry Number 10**

**Owner:** Erieview Acres Inc.  
2269029 Ontario Limited

**Roll Number:** 290-18350  
290-18400

**Drainage Act Section:** *Section 76(4)* for the development of a new assessment schedule for the drain on the grounds that my/our land has been assessed too high.

**Appeal:**

- 1) Both of Rob Hansen's properties identified above drain 100 percent to the Fleming Wigle Drain and to the Kiwanis Camp.

**Site Attendance:**

- Meeting held on 14 November 2017 at Erieview Acres' Kingsville office located at 1930 Seacliff Drive/County Road 20.
- Rob Hansen and Lou Zarlenga were in attendance for this meeting.
- RC Spencer Associates also attended the site on 14 November 2017 to perform a topographic land survey of the surrounding properties pertinent to the appeal.
- Lou Zarlenga, Shane Lafontaine (RC Spencer) and Robert Botham (RC Spencer) were all in attendance for this survey.
- The topographic land survey was completed using the Sokkia RC-PR4 Robotic total station.

**Attachments (Maps/Plans/Aerials):**

**Figure 26) Drainage Area – ORIGINAL:**

- The original (June 2016) drainage area and lands affected map for the Esseltine Drain.

**Figure 27) Drainage Area – REVISED:**

- The revised drainage area and lands affected map for the Esseltine Drain as modified to remove the two above noted properties from the assessed area.

**Figure 28) Rob Hansen – Bruce D. Crozier Letter (2 Pages):**

- The letter prepared by Bruce D. Crozier on 10 November 2010 which indicates that the entire 2269029 Ontario Limited property (12.32 hectares) is assessed to the Fleming Wigle Drain.
- This letter was previously initiated in order to allow the expansion of your building to proceed. Our findings are in accordance with the information outlined in this Bruce D. Crozier letter.

**Engineer's Recommendation:**

- These two properties shall be completely removed from the Schedule of Assessment as their stormwater runoff drains to the Fleming Wigle Drain.
- This decision is a result of the topographic land survey completed on 14 November 2017 and the above noted letter prepared by Bruce D. Crozier.

## **Additional Revisions Not Discussed at the First Sitting of the Court of Revision**



**Entry Number 11**

**Owner:** Fiorina Capussi

**Roll Number:** 290-08300

**Site Attendance:**

- RC Spencer Associates attended the site on 14 November 2017 to perform a topographic land survey of the surrounding properties.
- Lou Zarlenga, Shane Lafontaine (RC Spencer) and Robert Botham (RC Spencer) were all in attendance for this survey.
- The topographic land survey was completed using the Sokkia RC-PR4 Robotic total station.

**Attachments (Maps/Plans/Aerials):**

**Figure 26) Drainage Area – ORIGINAL:**

- The original (June 2016) drainage area and lands affected map for the Esseltine Drain.

**Figure 27) Drainage Area – REVISED:**

- The revised drainage area and lands affected map for the Esseltine Drain as modified to remove the above noted property from the assessed area.

**Engineer's Recommendation:**

- The Capussi property (Roll No. 290-08300) shall be completely removed from the Schedule of Assessment as their stormwater runoff drains to the Fleming Wigle Drain.

**Entry Number 12**

**Owner:** Maxine & Joseph Knight

**Roll Number:** 290-18300

**Site Attendance:**

- RC Spencer Associates attended the site on 14 November 2017 to perform a topographic land survey of the surrounding properties.
- Lou Zarlenga, Shane Lafontaine (RC Spencer) and Robert Botham (RC Spencer) were all in attendance for this survey.
- The topographic land survey was completed using the Sokkia RC-PR4 Robotic total station.

**Attachments (Maps/Plans/Aerials):**

**Figure 26) Drainage Area – ORIGINAL:**

- The original (June 2016) drainage area and lands affected map for the Esseltine Drain.

**Figure 27) Drainage Area – REVISED:**

- The revised drainage area and lands affected map for the Esseltine Drain as modified to remove the above noted property from the assessed area.

**Engineer's Recommendation:**

- The Knight property (Roll No. 290-18300) shall be completely removed from the Schedule of Assessment as their stormwater runoff drains to the Fleming Wigle Drain.

**Entry Number 13**

**Owner:** Kristopher Klassen & Jennifer Ellwood

**Roll Number:** 340-01405

**Attachments (Maps/Plans/Aerials):**

**Figure 29) Aerial Map Mark-Up – Kristopher Klassen:**

- The strip of land which was originally intended to be used as a driveway and is now being farmed (0.175 hectares) has been highlighted in light blue.
- The remainder of the lot (0.331 hectares) which shall remain designated as residential lands has been highlighted in light green.

**Engineer's Recommendation:**

- A portion of this property (Roll No. 340-01405) that was originally intended to be used as a driveway is now being farmed.
- This property shares the driveway with the neighbouring Fittler property (Roll No. 340-01350).
- We recommend that this area which is being farmed (0.175 hectares) shall be assessed using the agricultural runoff coefficient (C=1)
- The remainder of the lot (0.331 hectares) shall continue to be assessed at the residential runoff coefficient (C=3).

**Entry Number 14**

**Owner:** Gary & Pamela Atkinson

**Roll Number:** 300-32700

**Site Attendance:**

- Lou Zarlenga and Marvel Hormiz (RC Spencer) attended the site on 21 March 2017 to perform a field investigation to determine the outlet for the stormwater runoff for this property located at 1573 County Road 34.
- A sewer camera inspection was completed by Hurricane SMS Inc. on 18 May, 2017 for the enclosed portion of the Esseltine Drain located along the east side of County Road 34.
- Based on this investigation work, it was determined that this property did not have any private connections to this portion of the enclosed Esseltine Drain.

**Attachments (Maps/Plans/Aerials):**

**Figure 30) DRAINAGE AREA – C.R. 34 REVISION:**

- Identifies the four properties (including Roll No. 300-32700) situated at the southeast corner of the County Road 34 and Road 3 East intersection which shall be removed from the Esseltine Drainage Area.

**Engineer's Recommendation:**

- This property does not have any private connections to drain its runoff to the enclosed portion of the Esseltine Drain along the east side of County Road 34.
- The road profile for both County Road 34 and Road 3 East in this area are significantly higher than the Atkinson property such that it would not be possible for overland storm runoff for this property to enter the Esseltine Drain.
- We recommend that this property (Roll No. 300-32700) shall be removed from the Schedule of Assessment for the Esseltine Drain.

**Entry Number 15**

**Owner:** Brian & Jose Bermudes

**Roll Number:** 300-32601

**Site Attendance:**

- Lou Zarlenga and Marvel Hormiz (RC Spencer) attended the site on 21 March 2017 to perform a field investigation to determine the outlet for the stormwater runoff for this property located at 1575 County Road 34.
- A sewer camera inspection was completed by Hurricane SMS Inc. on 18 May, 2017 for the enclosed portion of the Esseltine Drain located along the east side of County Road 34.
- Based on this investigation work, it was determined that this property did not have any private connections to this portion of the enclosed Esseltine Drain.

**Attachments (Maps/Plans/Aerials):**

**Figure 30) DRAINAGE AREA – C.R. 34 REVISION:**

- Identifies the four properties (including Roll No. 300-32601) situated at the southeast corner of the County Road 34 and Road 3 East intersection which shall be removed from the Esseltine Drainage Area.

**Engineer's Recommendation:**

- This property does not have any private connections to drain its runoff to the enclosed portion of the Esseltine Drain along the east side of County Road 34.
- The road profile for both County Road 34 and Road 3 East in this area are significantly higher than the Bermudes property such that it would not be possible for overland storm runoff for this property to enter the Esseltine Drain.
- We recommend that this property (Roll No. 300-32601) shall be removed from the Schedule of Assessment for the Esseltine Drain.

**Entry Number 16**

**Owner:** Jacob & Eva Friesen

**Roll Number:** 300-32701

**Site Attendance:**

- Lou Zarlenga and Marvel Hormiz (RC Spencer) attended the site on 21 March 2017 to perform a field investigation to determine the outlet for the stormwater runoff for this property located at 1567 Road 3 East.
- A sewer camera inspection was completed by Hurricane SMS Inc. on 18 May, 2017 for the enclosed portion of the Esseltine Drain located along the east side of County Road 34.
- Based on this investigation work, it was determined that this property did not have any private connections to this portion of the enclosed Esseltine Drain.

**Attachments (Maps/Plans/Aerials):**

**Figure 30) DRAINAGE AREA – C.R. 34 REVISION:**

- Identifies the four properties (including Roll No. 300-32701) situated at the southeast corner of the County Road 34 and Road 3 East intersection which shall be removed from the Esseltine Drainage Area.

**Engineer's Recommendation:**

- This property does not have any private connections to drain its runoff to the enclosed portion of the Esseltine Drain along the east side of County Road 34.
- The road profile for both County Road 34 and Road 3 East in this area are significantly higher than the Friesen property such that it would not be possible for overland storm runoff for this property to enter the Esseltine Drain.
- We recommend that this property (Roll No. 300-32701) shall be removed from the Schedule of Assessment for the Esseltine Drain.

**Entry Number 17**

**Owner:** Harry & Melisa O'Brien

**Roll Number:** 300-32800

**Site Attendance:**

- Lou Zarlenga and Marvel Hormiz (RC Spencer) attended the site on 21 March 2017 to perform a field investigation to determine the outlet for the stormwater runoff for this property located at 1557 Road 3 East.
- A sewer camera inspection was completed by Hurricane SMS Inc. on 18 May, 2017 for the enclosed portion of the Esseltine Drain located along the east side of County Road 34.
- Based on this investigation work, it was determined that this property did not have any private connections to this portion of the enclosed Esseltine Drain.

**Attachments (Maps/Plans/Aerials):**

**Figure 30) DRAINAGE AREA – C.R. 34 REVISION:**

- Identifies the four properties (including Roll No. 300-32800) situated at the southeast corner of the County Road 34 and Road 3 East intersection which shall be removed from the Esseltine Drainage Area.

**Engineer's Recommendation:**

- This property does not have any private connections to drain its runoff to the enclosed portion of the Esseltine Drain along the east side of County Road 34.
- The road profile for both County Road 34 and Road 3 East in this area are significantly higher than the O'Brien property such that it would not be possible for overland storm runoff for this property to enter the Esseltine Drain.
- We recommend that this property (Roll No. 300-32800) shall be removed from the Schedule of Assessment for the Esseltine Drain.

**Entry Number 18**

**Owner:** Jean Jane Towle

**Roll Number:** 290-10400

**Site Attendance:**

- A visual site inspection was completed on 14 November 2017 to confirm the drainage area of the property.

**Attachments (Maps/Plans/Aerials):**

**Figure 13) Waterfront Parcels – Map ORIGINAL:**

- Aerial parcel mapping with the drainage limits/assessed areas based on the original Schedule of Assessment (June 17, 2016).

**Figure 14) Waterfront Parcels – Map REVISED:**

- Aerial parcel mapping with the revised drainage limits/assessed areas based on the 14 November 2017 site visit.

**Engineer's Recommendation:**

- The majority of the Towle property (1498 Whitewood Road) outlets southerly toward Lake Erie and does not fall within the Esseltine Drainage Area.
- The Hectares Affected for this property (Roll No. 290-10400) shall be reduced from 0.337 hectares to approximately 0.012 hectares.



**Entry Number 19**

**Owner:** John & Louise Wiebe

**Roll Number:** 290-10300

**Site Attendance:**

- A visual site inspection was completed on 14 November 2017 to confirm the drainage area of the property.

**Attachments (Maps/Plans/Aerials):**

**Figure 13) Waterfront Parcels – Map ORIGINAL:**

- Aerial parcel mapping with the drainage limits/assessed areas based on the original Schedule of Assessment (June 17, 2016).

**Figure 14) Waterfront Parcels – Map REVISED:**

- Aerial parcel mapping with the revised drainage limits/assessed areas based on the 14 November 2017 site visit.

**Engineer's Recommendation:**

- The rear yard of the Wiebe property (1500 Whitewood Road) outlets southerly toward Lake Erie and does not fall within the Esseltine Drainage Area.
- The Hectares Affected for this property (Roll No. 290-10300) shall be reduced from 0.377 hectares to approximately 0.142 hectares.

**Entry Number 20**

**Owner:** Jean-Marc Joseph & Isabella Pinsonneault

**Roll Number:** 290-10100

**Site Attendance:**

- A visual site inspection was completed on 14 November 2017 to confirm the drainage area of the property.

**Attachments (Maps/Plans/Aerials):**

**Figure 13) Waterfront Parcels – Map ORIGINAL:**

- Aerial parcel mapping with the drainage limits/assessed areas based on the original Schedule of Assessment (June 17, 2016).

**Figure 14) Waterfront Parcels – Map REVISED:**

- Aerial parcel mapping with the revised drainage limits/assessed areas based on the 14 November 2017 site visit.

**Engineer's Recommendation:**

- The rear yard of the Pinsonneault property (1504 Whitewood Road) outlets southerly toward Lake Erie and does not fall within the Esseltine Drainage Area.
- The Hectares Affected for this property (Roll No. 290-10100) shall be reduced from 0.874 hectares to approximately 0.672 hectares.

**Entry Number 21**

**Owner:** Excalibur Plastics Ltd.

**Roll Number:** 300-32200

**Site Attendance:**

- RC Spencer Associates coordinated a meeting at the Excalibur Plastics property on 30 November 2017 to discuss the Schedule of Assessment for the Esseltine Drain and conduct a field investigation of the property.
- Richard Colasanti, Carly Colasanti, Lou Zarlenga and Shane Lafontaine were all in attendance at this meeting.
- Robert Botham (RC Spencer) attended the site on 2 December 2017 to perform a topographic land survey of the surrounding properties.
- The topographic land survey was completed using the Sokkia RC-PR4 Robotic total station.

**Attachments (Maps/Plans/Aerials):**

**Figure 31) SURVEY – EXCALIBUR:**

- Aerial parcel mapping including the topographic information from the GPS land survey completed on 2 December 2017.
- The direction of stormwater flow is indicated by the yellow arrows.
- The original drainage limit boundary is indicated by a light blue dashed line.
- The revised drainage limit boundary is indicated by the solid green line.

**Figure 32) DRAINAGE AREA – EXCALIBUR:**

- Indicates the revised limits of the drainage area map for the Esseltine Drain.
- The area highlighted in pink (0.704 hectares) shall be removed from the assessment for 1587 County Road 34 (Excalibur Plastics).

**Engineer's Recommendation:**

- The Hectares Affected for the Excalibur Plastics property (Roll No. 300-32200) shall be reduced from 0.765 hectares to 0.061 hectares.