

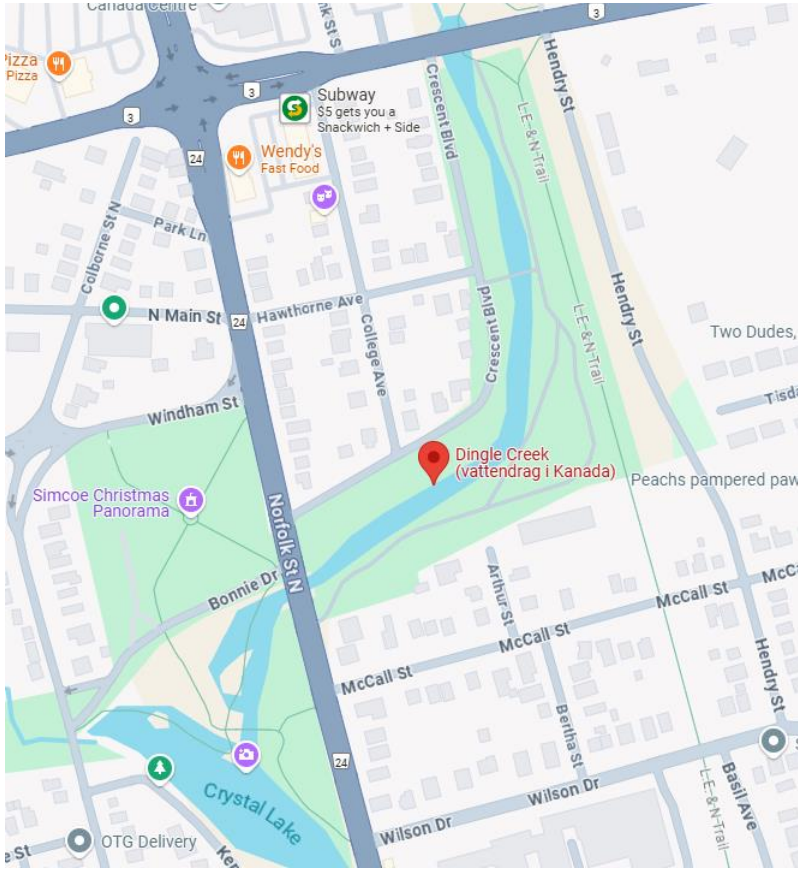
Dingle Creek

“The Forever Drainage Project”

or

“How to Abuse the System”

The Dingle Creek Municipal Drain project, begun by petitions (4) around
2005 may someday be built...
or not.



Commences in a wetland north of Highway 3

- Two branches near the upper end provide outlet for small residential areas
- The major part of work is to improve the existing natural channel through a large residential area built without stormwater management facilities
- Erosion of the channel is substantial

Dingle Creek:

a small natural watercourse in the north part of Simcoe in Norfolk County. Watershed of nearly 1,000 acres, mixed uses, 500+ parcels



NORFOLK COUNTY
(FORMER TOWNSHIP OF
TOBANSAND)



CONCESSION #1

FOURTH STREET EAST

CONCESSION #2

NORFOLK COUNTY
(20-019-99)

CONCESSION #3

CONCESSION #4

CONCESSION #5

CONCESSION #6

CONCESSION #7

NORFOLK COUNTY
(TOWN OF SIMCOE)

SEE DRAWING 103
"TOWN OF SIMCOE"
FOR PROPERTY OWNERSHIP

NORFOLK COUNTY
(FORMER TOWNSHIP OF
WICKHAMSD)

- NOTES:
- BENCHMARK No. 1 ELEV = 211.19
 - 1/8" IN SOUTH SIDE OF CN CLAMP LOCATED ON EAST SIDE OF CREEK BED APPROX. 1/4" SOUTH OF MARKING AGE.
 - BENCHMARK No. 2 ELEV = 215.28
 - 5.18 IN SOUTH SIDE OF LOT 11
 - BENCHMARK No. 3 ELEV = 215.16
 - 5.18 IN SOUTH WEST CORNER OF LOT 13
 - BENCHMARK No. 4 ELEV = 215.90
 - 5.18 IN NEAR NORTH EAST CORNER OF LOT 25
 - BENCHMARK No. 5 ELEV = 224.52
 - 5.18 IN BETWEEN CUL DE SAC AND 49
 - BENCHMARK No. 6 ELEV = 215.81
 - 5.18 IN NEAR SOUTH EAST CORNER OF LOT 28
 - BENCHMARK No. 7 ELEV = 222.76
 - TOP OF 1000mm C.M.P. AT STA. 0+994 (SINGLE CREEK LOWER REAR)
 - BENCHMARK No. 8 ELEV = 226.95
 - TOP OF 1000mm C.M.P. AT STA. 0+994 (SINGLE CREEK LOWER REAR)
 - BENCHMARK No. 9 ELEV = 229.49
 - 11.18 IN NORTH SIDE OF CONCRETE INLET STRUCTURE AT STA. 0+475 (SINGLE CREEK)
 - BENCHMARK No. 10 ELEV = 227.18
 - 11.18 IN NORTH SIDE OF CONCRETE OUTLET PIPE (BRANCH 2) AT STA. 0+475 (SINGLE CREEK)
 - BENCHMARK No. 11 ELEV = 228.75
 - 11.18 IN NORTH FACE OF 400mm DIA. TREE, 2 METRES NORTH OF STA. 0+481 (SINGLE CREEK)
 - BENCHMARK No. 12 ELEV = 228.95
 - TOP OF MONUMENT 4 METRES SOUTH OF STA. 0+200 (HOLLOW NO. 3 MAIN DRAIN)
 - BENCHMARK No. 13 ELEV = 230.00
 - TOP OF MONUMENT 4 METRES NORTH OF STA. 0+453 (HOLLOW NO. 3 UPPER C.S.)
 - BENCHMARK No. 14 ELEV = 229.09
 - 11.18 IN WEST FACE OF 250mm DIA. TREE, 7 METRES SOUTH OF STA. 0+142 (HOLLOW MAIN DRAIN)
 - BENCHMARK No. 15 ELEV = 229.90
 - 11.18 IN WEST FACE OF 300mm DIA. TREE, 4 METRES SOUTH OF STA. 0+163 (HOLLOW BRANCH 2)
 - BENCHMARK No. 16 ELEV = 230.73
 - 11.18 IN NORTHWEST FACE OF 300mm DIA. TREE, 3 METRES EAST OF STA. 0+574 (HOLLOW MAIN DRAIN)
 - BENCHMARK No. 17 ELEV = 232.62
 - 11.18 IN EAST FACE OF 400mm DIA. TREE, 19 METRES WEST OF STA. 0+378 (HOLLOW BRANCH 2)
 - BENCHMARK No. 18 ELEV = 232.44
 - 11.18 IN WEST FACE OF 400mm DIA. TREE, 9 METRES EAST OF STA. 0+476 (HOLLOW MAIN DRAIN)
 - BENCHMARK No. 19 ELEV = 232.84
 - 11.18 IN NORTHWEST FACE OF 800mm DIA. TREE, 2 METRES SOUTH OF STA. 0+414 (HOLLOW BRANCH 1)
 - BENCHMARK No. 20 ELEV = 231.21
 - TOP OF 800mm DIA. C.M.P. AT STA. 1+232 (HOLLOW MAIN DRAIN)

LEGEND:

- DRAIN DRAIN
- EXISTING MAIN DRAIN
- PROPOSED EXISTING MAIN DRAIN
- PROPERTY BOUNDARY
- TOWNSHIP BOUNDARY
- DRAIN DRAIN
- MUNICIPAL DRAIN AREA OF WORK
- UNDEVELOPED BOUNDARY
- BENCHMARK
- BENCHMARK ELEVATION

3. ISSUED FOR TENDER	2019-05-08	R.D.
2. REPEAT SUBMISSION	2018-08-08	R.D.
1. DRAFT ISSUED FOR REVIEW	2014-02-21	R.D.
No. ISSUES AND REVISIONS	DATE	BY



PROJECT: DINGLE CREEK MUNICIPAL DRAIN 2014

DRAWN BY: Dingle Creek Watershed Plan

DEL

DIETRICH ENGINEERING LIMITED
CONSULTING ENGINEERS

10 Alpine Court, Kitchener, ON, N2E 3M7

WALTERFEDY

PROJ. MGR. G.N. | DESIGNED BY: G.N. | DRAWN BY: R.U. | CHECKED BY: M.T.

DRAWING SCALE: AS NOTED | DATE: APRIL 4, 2014 | PROJECT NO.: 6532 | DRAWING NO.: 102

NO.	NAME	DATE
1	M. BENTON	10/17/10
2	J. GIL	10/17/10
3	M. BENTON	10/17/10
4	M. BENTON	10/17/10
5	D. DENTON	10/17/10
6	C. GATEL	10/17/10
7	M. BENTON	10/17/10
8	D. RAYBITE & THE B. BAYSON	10/17/10
9	D. RAYBITE & THE B. BAYSON	10/17/10
10	M. BENTON	10/17/10
11	WOODSTOCK HOLDINGS INC.	10/17/10
12	WOODSTOCK HOLDINGS INC.	10/17/10
13	A. G. SIMPSON	10/17/10
14	A. G. SIMPSON	10/17/10
15	M. BENTON	10/17/10
16	M. BENTON	10/17/10
17	M. BENTON	10/17/10
18	M. BENTON	10/17/10
19	M. BENTON	10/17/10
20	M. BENTON	10/17/10
21	M. BENTON	10/17/10



Bill Dietrich of Dietrich Engineering Ltd. appointed in 2005 to produce a report.

Report completed April 2014. Extensive enviro. and restoration work planned. Estimated cost 3.3 million

Prior to completion of report, Bill retained me as his lawyer in 2008, distinct from Norfolk's lawyer, as he anticipated trouble.

He was right.

Consideration of the report involved at least two large, raucous public meetings one year apart.

The statutory process to add or withdraw names from the petition(s) was conducted in private by the Clerk, based on privacy (and maybe intimidation) concerns.

Dietrich calculated the charges to each of the petitioners if the petition failed. After that process, petitions were declared valid

And then....

- Report adopted by provisional by-law
- Nine appeals to Court of Revision – denied
- Three late appeals - Court of Revision refused
- Four appeals filed with AFRAAT
- Allegations of negligence, malfeasance and failure to uphold s. 11 duty by one Appellant

- That appellant also filed an appeal to the Referee, s. 47
- That Appellant's net assessment was approx. \$(1000)
- October 2015 to January 2017
 - Prehearing Conference at Referee
 - Motion by Appellant to the Referee to recuse himself
 - Motion by Norfolk and Dietrich to dismiss the Motion and appeal succeeded
 - Costs of \$19,000 awarded against Appellant
- Court staff requested police officer attendance twice

-in the meantime, Appellant ceased to be an owner of land in the watershed. County staff discovered that he had conveyed his property to his wife.

-He claimed the Family Law Act gave him a right of possession and he pays some bills, so he was still “an affected owner” under the Drainage Act.

-Wrong in law.

- His wife never participated in any process.

- He alleged assault by me, after his vocal cursing of me at the public meeting. Police were present. No charges.
- Tribunal dismissed his (her) appeal. He had walked out of the Hearing. See [Dingle Creek Municipal Drain \(RE\)](#), 2018 ONAFRAAT 8 (CanLII). Big issue re Witness vs. Advocate
- Complaint by him to Law Society Ontario about me. No action.
- Two appeals to Divisional Court by him dismissed with costs.
- He is/ was suing two municipalities where he was formerly employed, plus some staff, council members and even some of their spouses. Outcome unknown

- When it was over, I delivered two Banker's Boxes of documents to my client, only a handful of which had anything to do with any legitimate dispute of the report

- Costs incurred were rather distressing – both via Dietrich to Norfolk for me, and Norfolk directly for their counsel

- I feel for the several hundred assessed owners who paid for all this unjustifiable legal process

- not sure of status of collection of cost awards

- last I knew the tender process had some delays and I am unsure whether the Drain is built yet.

Moral of the Story?

- a legal system should be judged by how fairly it treats not only good persons with valid complaints, but how fairly it treats everyone, even the worst actors.
- courts must give everyone a chance, but unfortunately there are a lot of “courts” and at times each starts over.

BUT

- courts should recognize, prevent and punish abuse of the Drainage Act system
- the fairness pendulum has swung too far
- the forgotten people are those assessed to pay all these costs. It is not the municipality.